

# **Scripps College's Discrimination and Harassment Policies and Grievance Procedures**

**Title IX Coordinator**

**Sally Steffen**

McAlister Center  
Lower Level, Room 10  
(909) 607-7142  
ssteffen@scrippscollege.edu

**Deputy Title IX Coordinator**

**Section 504 Coordinator for Faculty and Staff**

**Jennifer Berklas**, Director of Human Resources  
Vita Nova Hall 120  
(909) 607-7976  
jberklas@scrippscollege.edu

**Deputy Title IX Coordinator**

**Gretchen Edwalds-Gilbert**

Associate Dean of Faculty  
Balch Hall 134  
(909) 607-7068  
gedwalds@kecksci.claremont.edu

**Deputy Title IX Coordinator**

**Section 504 Coordinator for Students**

**Leslie Schnyder**

Assistant Dean for Academic Resources and Services  
Dean of Students Office  
Balch Hall  
(909) 621-8277  
sdelator@scrippscollege.edu

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## INTRODUCTION

### I. General Policy Statement

As a community dedicated to the education of women and the advancement of learning, Scripps College (the “College”) seeks to maintain an environment in which individuals can live, learn and work free from discrimination and harassment, including sexual violence, sexual misconduct, dating violence, domestic violence, or stalking. The College regards such behavior as inimical to its educational purposes and to the respect for individuals that it holds to be essential in all aspects of its institutional life. Members of the Scripps community, defined as all individuals permanently or temporarily employed by, studying at or officially connected with the College, should be aware that the College is strongly opposed to all forms of discrimination and harassment and that such behavior is prohibited by College policy and, in some instances, by civil and criminal laws.

All forms of harassment and discrimination on the basis of sex, gender identity and expression, pregnancy, religion, creed, color, race, national or ethnic origin, ancestry, immigration status, sexual orientation, medical condition, physical or mental disability, age, marital status, veteran status, family care leave status, or any other basis prohibited by state or federal law destroy the foundation for respect and violate the sense of community vital to the College’s educational enterprise. Sexual violence and sexual misconduct offenses are a form of sexual harassment and are strictly prohibited by the College. This policy also prohibits dating violence, domestic violence, and stalking. Retaliation against a person who reports, complains about, or participates in the investigation of a complaint of discrimination or harassment is likewise prohibited.

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

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

As an educational institution, the College is committed to the principle of free expression and the exploration of ideas in an atmosphere of civility and mutual respect. The College also recognizes that the educational process can often be disturbing and unsettling, particularly when one’s current ideas or values are being challenged. This means that the learning, working, and living environments might not always be comfortable for all members of the college community. The College does not proscribe speech simply because it is offensive. In determining whether an act constitutes discrimination or harassment, the context must be carefully reviewed and full consideration must be given to protection of individual rights, freedom of speech, and academic freedom.

### II. Jurisdiction

The policies and procedures set forth herein apply to all College faculty, staff, and students. These policies and procedures also apply to third parties (such as campus visitors or vendors) who may have contact with members of the College community either on the College’s campus or at other College events and programs. For purposes of these policies and grievance procedures, a Complainant is the student, faculty, or staff asserting that such person has been the subject of a policy violation. The College also may be a Complainant. A Respondent under these policies and procedures is the person alleged to have engaged in conduct that

constitutes a violation of these policies. If the alleged perpetrator is an employee or student from one of the other Claremont Colleges or the Claremont University Consortium, the College will investigate the matter and take steps to stop the conduct and remedy its affects to the extent reasonably possible. However, the grievance or other relevant procedures related to any disciplinary action against the Respondent will be those of the Respondent's home institution.

The grievance procedures set forth below are administrative in nature and are separate and distinct from the criminal and civil legal systems. Pursuing resolution through these procedures does not preclude someone from pursuing legal action now or in the future. If the conduct in question is alleged to be a violation of both College policy and public law, the College may proceed with its normal process, regardless of action or inaction by outside authorities. Decisions made or sanctions imposed through these or other College procedures are not subject to change because criminal or civil charges arising from the same conduct are dismissed, reduced, or rejected in favor of or against the Respondent.

In the event of a conflict with any other Scripps College policy or Claremont Colleges intercampus policy, the policies and procedures set forth below will prevail.

## **CIVIL RIGHTS RELATED POLICIES**

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

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

- A. Title IX of the Higher Education Amendments of 1972;
- B. The Violence Against Women Reauthorization Act of 2013;
- C. Title VI of the Civil Rights Act of 1964;
- D. Title VII of the Civil Rights Act of 1964;
- E. California SB 967 ("Yes Means Yes");
- F. California Fair Employment and Housing Act ("FEHA");
- G. California Unruh Civil Rights Act;
- H. Family Educational Rights and Privacy Act of 1974;
- I. Section 504 of the Rehabilitation Act of 1973;
- J. Americans with Disabilities Act (the "ADA");
- K. Age Discrimination in Employment Act of 1967, as amended by the Older Worker's Benefit Protection Act ("ADEA");
- L. Any other applicable federal, state, or local law addressing nondiscrimination and/or equal employment opportunity.

Inquiries concerning the application of these laws to the College should be referred to the Title IX

Coordinator or, if applicable, the Section 504 Coordinator.

## II. **Equal Employment Opportunity**

The College prides itself in being an open, competitive, and equal opportunity employer. The College is committed to a policy of equal employment opportunities for all applicants and employees and complies with all applicable state and federal laws on the matter. The College does not unlawfully discriminate on the basis of race, color, creed, religion, national or ethnic origin, ancestry, immigration status, sex, age, sexual orientation, gender identity and expression, marital status, pregnancy, physical or mental disability, medical condition, family care leave status, veteran's status, or any other category protected by law. The College also prohibits the harassment of any employee on any of these bases. The College also makes reasonable accommodations for disabled employees. This policy applies to all areas of employment including recruitment, hiring, training, promotion, compensation, benefits, transfer, and social and recreational programs. It is the responsibility of every manager and employee to follow this policy conscientiously. Employees with questions regarding this policy should discuss them with the Director of Human Resources or their supervisor.

## III. **Harassment Policy**

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

### B. **Unlawful Harassment Defined**

#### 1. *Unlawful Harassment in General*

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

To count as harassment under this policy, such conduct must:

- be based upon one or more of the categories mentioned above;
- be offensive to the individual complaining of harassment and offensive to a reasonable person; and

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

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

## 2. *Sexual Harassment*

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

Examples of sexual harassment may include such conduct as:

- a. Physical assault or other unwelcome touching;
- b. Direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades, or letters of recommendations;
- c. Direct propositions of a sexual nature;
- d. Subtle pressure for sexual activity, an element of which may be repeated requests for private meetings without an academic and employment purpose;
- e. A pattern of conduct that would discomfort or humiliate, or both, a reasonable person at whom the conduct was directed that includes one or more of the following: (1) unnecessary touching, patting, hugging, or brushing against a person's body; (2) remarks of a sexual nature about a person's clothing or body, whether or not intended to be complimentary; (3) remarks about sexual activity or speculations about previous sexual experience; or (4) other comments of a sexual nature, including sexually explicit statements, questions, jokes or anecdotes;
- f. Certain visual displays of sexually-oriented images outside the educational context;
- g. Letters, notes or electronic mail containing comments, words or images as described in (e) above.

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

## IV. **Sexual Misconduct, Relationship Misconduct, and Stalking Policy**

- A. The expectations of our community regarding sexual consent 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.

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

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

Non-Consensual Sexual Contact is:

- any intentional sexual touching,
- however slight,
- with any object,
- by a person upon a person,
- 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.

\* The use of force is not “worse” than the subjective experience of violation of someone who has sex without consent. However, the use of physical force constitutes a stand-alone non-sexual offense and in cases involving force the Respondent will face additional charges for the assaultive behavior.

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

Non-Consensual Sexual Intercourse is:

- any sexual intercourse however slight,
- with any object,
- by a person upon a person,
- 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.

3. **Other Conduct:** The following alleged conduct will be addressed through the Grievance Procedures outlined herein.

- a. Dating violence (as defined by the Violence Against Women Act) is violence committed by a person
  - i. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  - ii. where the existence of such a relationship shall be determined based on a consideration of (1) the length of the relationship, (2) the type of the relationship, and (3) the frequency of interaction between the persons involved in the relationship
- b. Domestic violence (as defined by the Violence Against Women Act) is the use of physical, sexual or emotional abuse or threats to control another person who is a current or former spouse or other intimate partner. It includes felony or misdemeanor crimes of violence committed by a

current or former spouse 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, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, 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.

- c. "Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
  - (1) fear for his or her safety or the safety of others; or
  - (2) suffer substantial emotional distress

4. **Sexual Exploitation:** Sexual Exploitation is a form of sexual misconduct which occurs when a person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

- a. Invasion of sexual privacy;
- b. Prostituting another person;
- c. Non-consensual video or audio-taping of sexual activity;
- d. Going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex);
- e. Engaging in voyeurism;
- f. knowingly transmitting a sexually transmitted infection, a sexually transmitted disease, or HIV to another person;
- g. Exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;
- h. Sexually-based stalking.

5. **Sexual Assault:** "Sexual assault" (as defined by the Violence Against Women Act) means an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Generally, a sexual assault has been committed when an individual engages in sexual activity without the explicit consent of the other individual involved. Sexual activity is any touching of a sexual or other intimate part of a person for the purpose of gratifying sexual desire of either party. This includes coerced touching of the actor by the victim as well as the touching of the victim by the actor, whether directly or through clothing. Charges of Sexual Assault within the jurisdiction of this Policy will be processed as Non-Consensual Sexual Contact or Non-Consensual Sexual Intercourse depending upon the nature of the factual allegations.

B. **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 and clear permission regarding willingness to engage in (and the conditions of) sexual activity. In order to give effective consent, one must be of legal age and have the capacity to give consent. The legal age of consent in the state of California is 18 years.

- 1. Consent to any one form of sexual activity does not imply consent to any other form(s) of sexual



activity.

2. A previous relationship or prior consent does not imply consent to future sexual acts.
3. Consent can be withdrawn. Thus, even if a person agreed to sexual interaction or continued sexual interaction, that person has the right to change their mind, irrespective of how much sexual interaction may have already taken place.
4. **Force and Coercion:** Consent obtained through force is not consent. Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force includes the use of threats, intimidation (implied threats) and/or coercion to produce consent. Coercion is unreasonable pressure for sexual activity (“Have sex with me or I’ll hit you. Okay, don’t hit me; I’ll do what you want.”). Coercive behavior differs from seductive behavior based on the type of pressure used to get consent. When someone makes it clear that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

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

5. **Capacity/Incapacitation:** 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). Sexual activity with someone who one should have known to be -- or based on the circumstances should reasonably have known to be -- mentally or physically incapacitated (i.e. by alcohol or other drug use, unconsciousness, asleep, or blacked out), constitutes a violation of this policy.
  - a. **Incapacitation due to alcohol or other drugs:** Because alcohol or other drug use can place an individual’s capacity to consent in question, sober sex is less likely to raise such questions. Being under the influence of alcohol or other drugs does not in and of itself indicate incapacitation. When alcohol or other drugs, including date rape drugs (such as Rohypnol, Ketamine, GHB, etc.), are involved, a person will be considered unable to give valid consent if they cannot fully understand the details of a sexual interaction (the who, what, when, where, why, or how) because they lack the capacity to reasonably understand the situation. Administering a date rape drug to another individual is a violation of this policy. More information on these drugs can be found at <http://www.911rape.org/>.
  - b. **Incapacitation due to other reasons:** This policy also covers a person whose incapacity results from mental or physical disabilities, sleep, unconsciousness, or involuntary physical restraint.
6. **Invalid Excuses.** In any proceedings under these policies and procedures, a Respondent may not assert as an excuse to an alleged lack of consent that the Respondent believed that the Complainant consented under any of the following circumstances:
  - a. The Respondent’s belief in affirmative consent arose from the intoxication or recklessness of the Respondent;
  - b. The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented; or
  - c. If the Respondent knew or should reasonably have known that the Complainant was unable to consent to the sexual activity under any of the following circumstances:
    1. The Complainant was asleep or unconscious;

2. The Complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the Complainant could not understand the fact, nature, or extent of the sexual activity; or
3. The Complainant was unable to communicate due to a mental or physical condition.

## V. California Law

- A. Conduct in violation of this policy also may constitute criminal conduct under the laws of the State of California. The following is a partial review of the California statutes covering rape, domestic violence, and stalking. In California, dating violence is included within the definition of domestic violence. This discussion intended only for purposes of information and guidance, does not cover all acts that may constitute criminal sexual behavior or all parts of the sex crime statutes, and should not be construed as legal advice.
- B. **Rape.** Under California Penal Code Section 261, "Rape" includes an act of sexual intercourse:
  - Where it is accomplished against a person's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another.
  - Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused. Under California law, a person is prevented from resisting if he or she is so intoxicated that he or she cannot give legal consent. In order to give legal consent, a person must be able to exercise reasonable judgment. In other words, the person must be able to understand and weigh the physical nature of the act, its moral character, and probable consequences. Legal consent is consent given freely by someone who knows the nature of the act involved.
  - Where a person is at the time unconscious of the nature of the act, and this is known to the accused. "Unconscious of the nature of the act" includes being incapable of resisting because the victim was unconscious or asleep or was not aware, knowing, perceiving, or cognizant that the act occurred.
- C. **Domestic Violence.** Under California Penal Code Section 13700, "Domestic Violence" means abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship. For purposes of this subdivision, "cohabitant" means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to, (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) whether the parties hold themselves out as husband and wife, (5) the continuity of the relationship, and (6) the length of the relationship.
- D. **Stalking.** Under California Penal Code Section 646.9, Stalking is the willful, malicious, and repeated following or willful and malicious harassing of another person and making a credible threat with the intent to place another person in reasonable fear for his or her safety, or the safety of his or her immediate family.

## VI. Consenting Relationships

- A. The College strongly discourages and considers inappropriate consenting sexual relationships between individuals associated with the College, in the case where one of whom exercises institutional authority over the other.
- B. Where such relationships involve the active and immediate exercise of authority, as in the case of a faculty member and a student currently studying under the faculty member or a staff member and an immediate subordinate, the College has the right to take disciplinary action.
- C. In the case of a sexual relationship in which the parties believe that the restrictions of the preceding points do not apply, it is the obligation of the individual in authority to take all necessary steps to remove himself or herself from professional actions affecting the other individual. Failure to do so may result in disciplinary action. These requirements also apply where a sexual relationship occurred in the past.

**VII. Retaliation Policy**

Any attempt by a student, faculty, or staff member to penalize, intimidate, or retaliate in any way against a person who makes a report of or who is otherwise involved in reporting, an investigation of, or a hearing for alleged violations of the College's discrimination, harassment and/or sexual misconduct policies is prohibited. Disregarding interim measures, no contact orders, or other orders resulting from a process under this policy or the policy of another Claremont College shall be considered retaliation. Persons who believe that they have been retaliated against for making a complaint/report or for cooperating in an investigation or hearing should immediately contact the Title IX Coordinator. Any person who retaliates against a person who has cooperated in an investigation and/or hearing, or otherwise violates this provision, is in violation of College policy and will be subject to disciplinary action.

**VIII. False Reporting Policy**

It is a violation of College policy to file a knowingly false or malicious complaint of alleged discrimination, harassment and/or sexual misconduct. A complaint against such conduct may be pursued using the steps followed for discrimination, harassment, and sexual misconduct related complaints as outlined in these policies and procedures. A complaint filed in good faith under this provision shall not constitute retaliation.

**IX. Handling of Related Violations of Other College Policies**

Any individual who participates as a Complainant or witness in an investigation of sexual assault, domestic violence, dating violence, or stalking, will not be subject to disciplinary sanctions for a violation of the College's student conduct policy at or near the time of the incident, unless the College determines that the violation was egregious, including but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

**GRIEVANCE PROCEDURES**

**I. Introduction**

These grievance procedures have been adopted by the College to provide a prompt and equitable method for reporting, investigating, and resolving complaints of alleged violations of the College's discrimination, harassment, and sexual misconduct policies when they involve College faculty, staff, students, and/or third parties. In the event allegations against a Respondent also involve potential violations of other College policies, the College may consolidate the investigation and judicial process with respect to such other alleged policy violations into the process undertaken pursuant to these Grievance Procedures.

Anyone who believes they have been subjected to discrimination, harassment, sexual misconduct, dating violence, domestic violence, and/or stalking is encouraged to report such conduct pursuant to the procedures set forth below. The College will act on any report of alleged discrimination, harassment,

sexual misconduct, dating violence, domestic violence, or stalking pursuant to these grievance procedures. Any responsible College employee (e.g., faculty member, administrative staff members, resident assistant, etc.) who receives information of alleged discrimination, harassment, and/or sexual misconduct is expected to file a report with one of the College representatives set forth below.

## II. **Reporting an Alleged Violation**

### A. **Reporting to the College**

1. Individuals who believe that they have been the subject of or have witnessed alleged discrimination, harassment, sexual misconduct, dating violence, domestic violence, and/or stalking are encouraged to contact the appropriate College representative listed below. The College encourages individuals to report all such instances whether or not the perpetrator is known to the reporting party. If the perpetrator is not known to the reporting party, an aspect of the investigation conducted by the College will include efforts to identify the perpetrator. A report may be made to any one of the individuals listed regardless if you are a student, faculty member, staff member, or third party. Under no circumstances is an individual required to report discrimination, harassment, and/or sexual misconduct to a supervisor or academic instructor who is the alleged perpetrator.

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**Sally Steffen**

McAlister Center  
Lower Level, Room 10  
(909) 607-7142  
ssteffen@scrippscollege.edu

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**Section 504 Coordinator for Faculty and Staff:**

**Jennifer Berklas**

Director of Human Resources  
Office of Human Resources  
Vita Nova Hall 120  
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Dean of Students Office  
Balch Hall  
(909) 621-8277  
sdelator@scrippscollege.edu

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

Upon receipt of a report, the College will activate these grievance procedures.<sup>1</sup> The Title IX office will provide the reporting party written information about on and off campus support resources that are available, the importance of preserving evidence, coordination with law enforcement, and the identification and location of witnesses. Prompt reporting is encouraged because facts often become more difficult to establish as times passes. However, the College will investigate and take appropriate action in response to all reports regardless of when the alleged conduct occurred. The ability of the College to respond to the conduct is limited if the Respondent is no longer a member of the College community. If a College staff member, faculty member or student leaves the College with a pending complaint against them, they will not be permitted to return to the College until the case is resolved through these grievance procedures.

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

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

If at any point the Complainant requests confidentiality with respect to the Respondent and/or decides not to pursue action by the College, the College will make all reasonable attempts to comply with this request. In these situations, the College’s ability to investigate and respond to the conduct may be limited. The College will weigh the Complainant’s request for confidentiality with the College’s commitment to provide a reasonably safe and non-discriminatory environment. If the College cannot maintain a Complainant’s confidentiality, the Complainant will be notified by the Title IX Coordinator.

Certain employees of the College, known as Responsible Employees, have an obligation to report to the Title IX Coordinator information they receive about potential violations of this policy. Such employees include the President and her direct reports (Senior Staff), Office of Student Affairs Staff, including Resident Assistants, Faculty, the Human Resources Office, and Campus Safety. Responsible employees will protect the privacy of individuals and disclose the information only to the Title IX Coordinator or Deputy Coordinator.

The Scripps Title IX website contains a detailed explanation of privacy, confidentiality, and anonymity in the context of reporting an incident of sexual violence or seeking support as a result of an incident of sexual violence. <http://www.scrippscollege.edu/titleix/>

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

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

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<sup>1</sup> In matters of alleged disability discrimination or harassment based upon disability, the Section 504 Coordinators shall be responsible for managing the matter pursuant to these grievance procedures.

**Rima Shah**  
Director, EmPOWER Center  
The Claremont Colleges  
1030 N. Dartmouth Ave  
Claremont, CA 91711  
(909) 607-2689

Monsour Counseling and Psychological Services  
Tranquada Student Services Center, 1st floor  
757 College Way  
909-621-8202 (during business hours and to reach on-call therapist)

Student Health Services staff  
Tranquada Student Services Center, 1st floor  
757 College Way  
909-621-8222, 909-607-2000 (after-hours emergency)

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

Scripps Advocates for Survivors of Sexual Assault  
Warm line – 909-214-2138, 8:00 p.m. to 8:00 a.m., 7 days a week, when school is in session

Individuals who have experienced sexual misconduct or relationship misconduct may also seek confidential support from local community partners:

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

**House of Ruth (Claremont, CA)**  
877-988-5559

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

1. These grievance procedures are administrative in nature and are separate and distinct from the criminal and civil legal systems. Pursuing resolution through these procedures does not preclude someone from pursuing legal action now or in the future.
2. **Reporting Potential Criminal Violations to Claremont Police Department (“CPD”):** In cases involving potential criminal misconduct, individuals are encouraged to file a report with the CPD. The College’s grievance procedures and the legal system work independently from one another and the College may proceed with its process, regardless of action or inaction by outside authorities. Decisions made or sanctions imposed through these grievance procedures are not subject to change because criminal or civil charges arising from the same conduct are dismissed, reduced, or rejected in favor of or against the Respondent.
3. **Reporting to State and Federal Enforcement Agencies:** In addition to the College’s internal remedies, employees and students should also be aware that the Federal Equal Employment Opportunity Commission (“EEOC”) and the California Department of Fair Employment and Housing (“DFEH”) investigate and prosecute complaints of prohibited harassment and discrimination in

employment. These agencies may be contacted at the addresses listed below:

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

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

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

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

- C. **Initial Assessment.** Following the report of an incident or conduct that may be a violation of this policy, the Title IX Coordinator or a Deputy Coordinator shall conduct an initial assessment of the report. The assessment shall include a preliminary interview of the subject of the conduct pursuant to an established interview protocol. The assessment shall also include a determination by the Title IX Coordinator or Deputy Coordinator as to whether there is probable cause to believe that a violation of the policy may have occurred.

### III. Truthfulness

All participants in an investigation and/or hearing are expected to cooperate fully and provide the truth in all meetings and/or hearings related to these grievance procedures.

### IV. Informal Process

- A. If both parties agree, the parties involved in a complaint of discrimination or harassment (but not sexual misconduct) may participate in an informal process by any means the Title IX Coordinator may suggest (such as mediation by an agreed-upon third party). If both parties agree, the parties involved in a complaint of sexual misconduct may participate in an informal process in an attempt to reach agreement on any material facts by any means the Title IX Coordinator may suggest. No party is required to participate in any informal process with respect to any complaint, and the College does not believe an informal process is appropriate for complaints that include allegations of sexual assault.

- B. The informal proceedings shall commence immediately and be completed within 10 business days<sup>2</sup> of the date of the complaint. This time frame is exclusive of semester breaks and/or College holidays that may extend the time allowed for completing the informal procedures.
- C. In cases that do not involve an allegation of sexual misconduct, in the event there is a resolution that involves, in the opinion of the Title IX Coordinator, an admission of wrongdoing, then the Title IX Coordinator will prepare a written statement of the case and the agreed resolution, including the proposed sanction. The Title IX Coordinator will discuss this statement with the Vice President responsible for the Respondent. Upon the agreement of the Vice President, the statement may then be signed by the Complainant, the Respondent, and the Vice President, and the sanction or other agreed resolution may be implemented. There is no agreement unless and until the statement has been signed by the Complainant, the Respondent, and the applicable Vice President. In cases that involve an allegation of sexual misconduct, in the event there is an agreement by the parties on any facts material to the complaint, the Title IX Coordinator will prepare a written statement of such agreed upon facts. The statement may then be signed by the Complainant and the Respondent. There is no agreement upon a fact unless and until the statement has been signed by both the Complainant and the Respondent. The Title IX Coordinator shall provide the agreed statement to the investigation team.
- D. The Title IX Coordinator may decline to provide means for an informal process of a complaint in any circumstance in which the Title IX Coordinator determines that an informal process is not an appropriate mechanism for such complaint.

V. **Investigation and Hearing Procedures for Complaints By or Against Students**

A. **Investigation Procedures**

1. The Title IX Coordinator will select two investigators from a pool of internal trained investigators or, in the discretion of the Title IX Coordinator, assign the investigation to one or more outside professionals with experience in conducting investigations. The investigator(s) will meet with the Complainant to review the complaint, related policies, and these grievance procedures. If the Complainant is a student, faculty member, or staff member from one of the other Claremont Colleges, the Title IX Coordinator shall assign the investigation to an outside professional.
2. If the Complainant requests confidentiality or requests that the complaint not be pursued, the College will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality. However, such a request for confidentiality may limit the College's ability to respond to the complaint. The College may also weigh the Complainant's request for confidentiality against such factors as the seriousness of the alleged conduct, whether there have been other complaints of a similar nature against the same individual, the Respondent's rights to receive information about allegations if the information is maintained by the school as an "education record" under the Family Educational Rights and Privacy Act ("FERPA"), and other factors otherwise required by applicable law.
3. Subject to the considerations described in subsection 2 above, every complaint alleging discrimination, harassment, or sexual misconduct will be investigated promptly and thoroughly. The Investigator(s) will conduct interviews as needed with all appropriate individuals, including the Complainant and Respondent, and will gather any pertinent evidentiary materials. Such

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<sup>2</sup> For purposes of these Policies and Procedures, a business day is a day on which the College holds classes or exams. In matters involving staff members only, a business day also includes any day that is not a College holiday or closure.



investigation, among other things, shall seek the identification and location of witnesses and whether alcohol or drugs were involved in the incident.

4. After concluding the investigation, the Investigator(s) will draft an Investigation Report setting forth the alleged policy violations, summarizing witnesses interviewed and evidentiary materials gathered, and stating conclusions concerning any violations of College policy. The Investigator(s) will normally complete the investigation within 15 business days, except in instances where the volume of witnesses, the proximity to a holiday break or the end of an academic term, or other circumstances compel a longer timeframe for the investigation.
5. The Investigator(s) will provide the Investigation Report to the Title IX Coordinator who will review the Report. The Title IX Coordinator may refer back to the Investigator(s) any questions that the Title IX Coordinator has concerning the Report's contents or conclusions. After the Investigator(s) successfully answer or resolve the Title IX Coordinator's questions or concerns, if any, the Investigator(s) shall submit a final Report to the Title IX Coordinator which shall include a conclusion as to whether the investigator(s) find it more likely than not that the Respondent's conduct constituted a policy violation. If the Investigator(s) cannot reach consensus on such conclusion, the Title IX Coordinator, or designee, shall review the interviews and other evidence marshaled during the investigation and determine whether the Respondent's conduct constitutes a policy violation.
6. After receipt of the final Investigation Report, the Title IX Coordinator will meet with the Complainant and Respondent, separately, to discuss the conclusion of the investigation and provide each a copy of the Investigation Report. To protect the integrity of the investigation and hearing process, these documents should be kept confidential by the parties involved and not shared with witnesses or persons not involved in the matter. However, Complainants and Respondents are not prohibited from sharing these documents with family, counsel, or a support person/advisor as defined below.
7. If the investigation concludes that Respondent's conduct constituted a policy violation, the Respondent may elect to either (i) proceed to the Administrative Panel for determination of a sanction or (ii) proceed to a Title IX Hearing Board Panel. Within 3 business days after delivery of the Investigation Report by the Title IX Coordinator, Respondent shall notify the Title IX Coordinator in writing the Respondent's election. Failure of the Respondent to submit a timely election shall waive the Respondent's right to request a hearing and shall be deemed to be an election to proceed to an Administrative Panel for determination of a sanction. If the investigation concludes that the Respondent's conduct did not constitute a policy violation, the Complainant may elect to either (i) allow the matter to be closed or (ii) proceed to a Title IX Hearing Board Panel. Within 3 business days after delivery of the Investigation Report by the Title IX Coordinator, Complainant shall notify the Title IX Coordinator in writing of the Complainant's election. Failure of the Complainant to submit a timely election shall waive the right to request a hearing and shall be deemed to be an election to allow the matter to be closed.

## **B. Hearing Procedures**

1. The Title IX Hearing Board shall be a separate body from any other Judicial Board of the College. Panels of the Title IX Hearing Board (a "Title IX Panel") shall hear cases concerning claims of discrimination, harassment, sexual misconduct, dating violence, domestic violence, or stalking in which a student is either the Complainant or Respondent. All faculty and staff members in the pool of trained investigators shall be eligible for assignment to a Title IX Panel. In addition to internal panel members, the Title IX Panel will include and be chaired by a retired California state or federal judge. In consideration of the burden placed on Title IX Panel members during the hearing and the

potential repercussions to student interactions during and after a hearing procedure, students shall not be assigned as members of a Title IX Panel. The Title IX Panel shall consist of two members of the investigator pool selected by the Title IX Coordinator and who were not involved in the investigation of Complainant's claims and a retired judge selected by the Title IX Coordinator. In the event the Complainant or Respondent is a faculty member, at least one member of Title IX Panel shall be a faculty member. In the event the Complainant or Respondent is a staff member, at least one member of the Title IX Panel shall be a staff member. The Title IX Coordinator or one of the Deputy Coordinators shall attend hearings before a Title IX Panel, but shall not have a vote.

2. If a timely election to proceed to a Title IX Panel has been made, the Title IX Coordinator shall prepare a Statement of Alleged Policy Violations based upon the information provided during the investigation process by Complainant and the Investigation Report. The Title IX Coordinator shall then select a Title IX Panel and refer the written complaint, if any, the Investigation Report, and Statement of Alleged Policy Violations to the Title IX Panel. Selection of the Title IX Panel will normally commence within 3 business days of receiving a timely election from a Respondent or Complainant. The Complainant and Respondent will be informed of the composition of the Title IX Panel. The Complainant and Respondent may challenge a panel member based upon a conflict of interest. A conflict of interest occurs where an individual's personal interests or relationships conflict with their ability to be a neutral fact finder in a particular case. For example, if a member has also served as an advisor for a party to a complaint or has a close personal relationship with one of the parties, there may be a conflict of interest. The Title IX Coordinator will make the final determination as to whether or not such a conflict of interest exists. Individuals removed from the Title IX Panel as a result of a challenge based on an allegation of a conflict of interest will be replaced by another member of the investigator pool or an outside professional as determined by the Title IX Coordinator. Normally, within 5 business days of their selection, the members of the Title IX Panel will meet to discuss the complaint, the response (if any), the Investigation Report, and the Statement of Alleged Policy Violations.
3. In cases before a Title IX Panel, the evidentiary standard of preponderance of evidence will be used, whether it is more likely than not that the Respondent's conduct constitutes a violation of policy as set forth in the Statement of Alleged Policy Violation.
4. The Title IX Panel will conduct a prompt, thorough, and unbiased hearing. It will invite the Complainant and Respondent to appear before it, and will hear and question witnesses, if there are any. The Complainant and Respondent may be present at the hearing if they choose or they may choose to participate in the hearing by phone. However, neither party shall be allowed to directly question or cross-examine the other during the hearing. Questions may be submitted to the Chair by both parties, who will then decide whether those questions are relevant to the matter and in compliance with Title IX requirements. Further, the Complainant shall be offered the opportunity to participate in the hearing without being in the presence of the Respondent, or accommodations can be made so the Complainant may participate in the hearing without facing the Respondent. The Title IX Panel will conduct a hearing and will review whatever information it deems necessary to assist it in reaching a determination as to the merits of the charge, including information obtained by the Investigator(s) during the investigation. Within the timeframe specified by the Chair, both parties may provide, for the Chair's consideration, the names of any witnesses they suggest be called.
5. If the Chair determines that "new" evidence that did not come to light during the investigation has been presented during the hearing, the Chair may adjourn the hearing for a period that the Chair deems appropriate to enable the Complainant and/or Respondent to respond to such evidence. Evidence is considered "new" only if the Chair concludes the evidence is relevant and important and could not with a reasonable effort have been discovered earlier by the party.

6. The Panel will base its determination of whether behavior constitutes a violation of policy on the evidence presented.
  7. The hearings will be closed, except to the principals. Each principal may have an advisor/support person of the participant's choosing. The advisor may consult with the party but may not address the hearing Title IX Panel. Once the hearings have ended and the process of deliberation has begun, meetings of the Title IX Panel will be closed to all but Panel members and the Title IX Coordinator or a Deputy Coordinator. All proceedings will be confidential and will not be discussed outside the process. Any witnesses and advisors must keep the hearing proceedings strictly confidential. To protect the integrity of the investigation and hearing process, the parties should also keep the hearing proceedings confidential. However, Complainants and Respondents are not prohibited from sharing details of the hearing proceedings with family, counsel, advisor/support person, or other advisors of their choosing. The Title IX Panel may only find responsibility for claims or portions of claims that appear on the Statement of Alleged Policy Violations prepared by the Title IX Coordinator.
  8. Decisions of the Title IX Panel will be by majority vote and limited to the issue of whether, in the Title IX Panel's judgment, a Respondent's conduct constitutes a violation of policy as set forth in the Statement of Alleged Policy Violation. As soon as a decision on the case is reached, it will be summarized in writing. The form and content of the Title IX Panel's written decision, which shall contain factual findings and a written summary of the basis for the conclusion, shall be agreed upon and signed by all Title IX Panel members. A confidential copy of the Title IX Panel's decision will be given to the Complainant and the Respondent and will be placed in permanent confidential records of the Title IX Coordinator. The details of the Title IX Panel's findings may be limited in the copy of the Title IX Panel's report given to Complainant due to Respondent's FERPA or other applicable privacy rights.
  9. A hearing on a complaint will normally be held within 15 business days of receipt of the Statement of Alleged Policy Violations and Investigation Report, although the process may sometimes take longer.
- C. **Sanction.** In the event (i) the Respondent elects to proceed to a sanction determination following presentation of the Investigators' Report or (ii) a Title IX Panel finds the Respondent responsible for a policy violation, the matter shall proceed to an Administrative Panel for determination of a sanction. The Administrative Panel shall consist of the Vice President for Academic Affairs, the Vice President for Enrollment, and the Associate Dean of Students. In the event one of the designated Administrative Panel members is unavailable, the Director of Human Resources shall become a member of the Administrative Panel. Sanctions for students may include educational requirements, written reprimand, loss of housing privileges, probation, suspension, and/or dismissal from the College. Sanctions for staff members may include educational requirements, written reprimand, probation, suspension, and/or termination of employment. Sanctions for faculty members may include educational requirements, written reprimand, and/or initiation of a dismissal proceeding pursuant to procedures set forth in the Faculty Handbook. The Administrative Panel (i) will have access to the complete record of the case, (ii) will determine any sanctions to be imposed or corrective action to be taken, and (iii) may consider both the gravity of the offense and the Respondent's prior conduct record in determining sanctions to be imposed on the Respondent. The Administrative Panel will communicate the decision in writing to the parties within 10 business days. The Complainant's copy of the report of the details of the sanction(s) imposed on Respondent may be limited due to Respondent's FERPA or other applicable privacy rights. The Dean of Students office or the Director of Human Resources, as the case may be, will also enter the decision in the permanent record of an individual found to have violated this policy. The sanction(s) imposed will be implemented following the Administrative Panel's decision and will be in effect pending the outcome of any appeal.

**VI. Investigation Procedures for Complaints of Discrimination, Harassment, or Sexual Misconduct that Do Not Involve a Student as Complainant or Respondent:**

**A. Investigation Process**

1. Upon receipt of a complaint, the Title IX Coordinator or Deputy Coordinator will consult with the Complainant.
2. If the Complainant requests confidentiality or requests that the complaint not be pursued, the College will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality. However, such a request for confidentiality may limit the College's ability to respond to the complaint. The College may also weigh the Complainant's request for confidentiality against such factors as the seriousness of the alleged conduct, whether there have been other complaints of a similar nature against the same individual, and other factors otherwise required by applicable law.
3. The Title IX Coordinator or Deputy Coordinator may, after speaking with Complainant, determine that the conduct complained about clearly does not constitute harassment, discrimination, or sexual misconduct and so inform the Complainant.
4. Subject to the considerations described in subsections 2 and 3 above, every complaint will be investigated, including any alleged instances of retaliation or intentional false claims. The Title IX Coordinator shall appoint two investigators to conduct the investigation, which may, in the discretion of the Title IX Coordinator include an outside professional with experience in conducting investigations. If the matter involves a faculty member as either Complainant or Respondent, at least one of the assigned investigators shall be a faculty member. If the matter involves a staff member as either Complainant or Respondent, at least one of the assigned investigators shall be a staff member. If the Complainant is a faculty or staff member from one of the other Claremont College's, one of the investigators may be from the Complainant's home college.
5. As part of the investigation process, the investigators may ask, but not require, the Complainant to submit a signed, written statement concerning the allegations. This statement should contain all relevant details, such as the names of the people involved, the names of any witnesses, and the times and locations of the alleged harassing behavior.
6. The Investigators will conduct interviews as needed with all appropriate individuals, including the Complainant and Respondent, and will gather any pertinent evidentiary materials. The Investigators will normally complete their investigation within 15 business days, except in instances where the volume of witnesses, the proximity to a holiday break or the end of an academic term, or other circumstances compel a longer timeframe for the investigation.
7. Upon completion of an investigation, the Investigators will prepare an Investigation Report including a conclusion as to whether it is more likely than not that the Respondent's conduct constitutes a policy violation. If the Investigators cannot reach consensus on the issue, the Title IX Coordinator, or designee, shall review the interviews and other evidence marshaled during the investigation and determine whether the Respondent's conduct constitutes a policy violation.
8. To protect the integrity of the investigation, the Investigator's Report should be kept confidential by the parties involved and not shared with witnesses or persons not involved in the matter. However, Complainants and Respondents are not prohibited from sharing these documents with family, counsel, a support person/advisor as defined below.

9. In cases where, after investigations, it is determined that the Respondent is responsible for a violation of this policy, the Title IX Coordinator shall submit the report the appropriate Vice President for further action under section B below.
- B. **Sanction.** If the investigation determines that a staff member Respondent is responsible for a violation of this policy, the sanction shall be determined by the Vice President to whom the Respondent reports, in consultation with the Director of Human Resources. Sanctions for staff members may include educational requirements, written reprimand, probation, suspension, and/or termination of employment. If the investigation determines that a faculty member Respondent is responsible for a violation of this policy, the sanction shall be determined by the Vice President for Academic Affairs, in consultation with the Director of Human Resources. Sanctions for faculty members may include educational requirements, written reprimand, and/or initiation of a dismissal proceeding pursuant to procedures set forth in the Faculty Handbook. The Vice President (i) will have access to the complete record of the case, (ii) will determine any sanctions to be imposed or corrective action to be taken, and (iii) may consider both the gravity of the offense and the Respondent's prior conduct record in determining sanctions to be imposed on the Respondent. The Vice President will communicate the decision in writing to the parties within 10 business days. The Complainant's copy of the report of the details of the sanction(s) imposed on Respondent may be limited due to Respondent's privacy rights. The Director of Human Resources will also enter the decision in the permanent record of an individual found to have violated this policy. The sanction(s) imposed will be implemented following the Vice President's decision and will be in effect pending the outcome of any appeal
- VII. **Interim Measures:** The College may take whatever measures deemed necessary in response to an allegation in order to protect an individual's rights and personal safety and the safety of the College community. Such measures include, but are not limited to, an interim suspension (immediate, temporary suspension pending the outcome of grievance process), a no contact order (an order that an individual refrain from direct or indirect contact with another person or persons), restrictions on access to campus or areas of campus, and/or appropriate changes in academic schedule. Interim measures may include reporting the matter to the local police. Failure by the Respondent to adhere to the parameters of any interim measure is a violation of College policy and may lead to additional disciplinary action.
- VIII. **Support Person/Advisor:** The Complainant and Respondent may each have a support person present with them at all meetings and any hearing associated with a complaint and in which the respective individual is participating. The Support Person/Advisor may be any person of the participant's choosing, including an attorney. The Support Person/Advisor may attend, but shall not participate in, meetings or the hearing. If the participant chooses to have an attorney serve as the Support Person/Advisor, such attorney will be at that individual's expense.
- IX. **Appeal Procedures**
- A. **Appeal Rights.** In cases handled under section V above, either the Complainant or Respondent may appeal (i) an adverse ruling of the Title IX Panel or (ii) a sanction determined by the Administrative Panel. In cases handled under Section VI above, either the Complainant or Respondent may appeal (i) an adverse ruling of an Investigation Report or (ii) a sanction imposed by a Vice President. Appeals shall be made to the Vice President of Student Affairs of the College, except that appeals by staff members of the Office of Student Affairs shall be made to the Vice President/Board Secretary ("Appeal Officer"). An appeal is not intended to be a new investigation or a full re-hearing of the complaint. Unless the Appeal Officer directs otherwise, an appeal is confined to a review of the written documentation and record of the investigation and/or hearing and pertinent documentation regarding the grounds for appeal. Appeal decisions are to be deferential to the Investigators, the Title IX Panel, the Administrative Panel, or the applicable Vice President.

Written notice of intention to appeal and written reasons for the appeal shall be provided within 10 business days of the decision from which the Complainant or Respondent is appealing.

Appeal of the decision(s) may be made on only three grounds. Any or all may be cited in the appeal.

1. **Improper Judicial Procedure.** The party may appeal if the procedures outlined in the Discrimination and Harassment policies were violated. The Appeal Officer shall consider whether provisions of the policies were violated in such a clear manner as to deny the appellant consideration of their position during the process. If the Appeal Officer accepts an appeal made on the grounds of improper judicial procedure, the Appeal Officer shall remand the matter to the appropriate step in the process and may provide specific directives or explanations for guidance.
2. **New Evidence.** During the standard investigation and hearing process, sufficient time is allowed to gather all available evidence. However, in extraordinary circumstances a party may appeal if new evidence becomes available. The Appeal Officer must consider:
  - a) Whether the evidence was genuinely unavailable and could not have been made available through the appellant's diligent efforts at the time of the original investigation or hearing; and
  - b) Whether the evidence would have led to a different conclusion had it been available.

If the Appeal Officer answers in the affirmative to both of these questions, the Appeal Officer will grant the appeal and remand the matter to the appropriate step in the process and may provide specific directions or explanations for the guidance.

3. **Disproportionate Sanction.** The Appeal Officer may adjust (increase or decrease) the sanction of a Respondent if the Appeal Officer determines that the sanction imposed for violation of the policy was disproportionate to the conduct found to have occurred.

Written notice of any appeal decision shall be provided to both parties and the Title IX Coordinator, normally within 15 business days after the appeal request has been submitted by a party, unless unforeseen events or unusual circumstances compel a longer review period. If further proceedings will occur as a result of the appeal decision, the Title IX Coordinator shall so inform all participants. The Appeal Officer's decisions concerning all appeals are final.

All sanctions imposed will be in effect while an appeal is under review. A request may be made to the Appeal Officer for special consideration in exigent circumstances, but the presumptive stance of the College is that the sanctions will stand. Graduation, study abroad, internships/externships, etc. do NOT in and of themselves constitute exigent circumstances, and students may not be able to participate in those activities during an appeal. In cases where the appeal results in reinstatement to the College or of privileges, all reasonable attempts will be made to restore the individual to their prior status, recognizing that some opportunities lost may be irretrievable.

#### X. **Record Retention**

- A. Records of investigations and hearings are maintained by the College for five (5) years as indicated below.

1. **Students:** If the Respondent is a student, the records will be maintained for five (5) years past the student's graduation or if the student leaves the College before graduation, for five (5) years past their original expected graduation date.

2. **Faculty or Staff:** If the Respondent is a faculty or staff member, the records will be maintained for five (5) years past the conclusion of the investigation and any hearing, or the end of employment with the College, whichever is later.

## XI. **Special Provisions**

- A. **College as Complainant:** As necessary, the College reserves the right to initiate a complaint, to serve as Complainant, and to initiate grievance proceedings without a formal complaint by the subject of the misconduct.
- B. **Alcohol and substance use:** The use of alcohol or other drugs will never function as a defense for any behavior that violates College policy.
- C. **Past Sexual History:** The past sexual history of a party will not be admissible by the other party in an investigation or hearing. The past sexual interactions of the parties to the complaint will generally not be admissible by the other party in an investigation or hearing unless such information is determined to be highly relevant by the Title IX Coordinator. If the party believes the past sexual interaction of the parties to the complaint is relevant to the investigation and/or hearing they must submit a written request to the Title IX Coordinator explaining the nature of the information and why the information is relevant to the investigation and/or hearing. The Title IX Coordinator will review the request and render a decision within 2 business days.
- D. **Respondent's Prior Conduct History:** Generally, any previous College policy violation(s) by the Respondent are not admissible as information about the present allegation. However, the Title IX Coordinator may supply information about previous behavior and/or complaints to the Investigator(s) or a Title IX Panel if:
  1. The Respondent was previously found to be responsible for a similar violation; and
  2. The information indicates a pattern of behavior by the Respondent and substantial conformity with the present allegation.

A Respondent's prior conduct will be taken into consideration by the Administrative Panel or appropriate Vice President when determining what sanction to impose.

## XII. **The College's External Reporting Obligations**

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

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

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

## B. FERPA

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



**Appendix A**  
**Sexual Assault, Dating/Domestic Violence, and Stalking**  
**Prevention and Risk Reduction**

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

1. Clearly communicate your intentions to your sexual partner and give them a chance to clearly communicate their intentions to you.
2. Understand and respect personal boundaries. Do not pressure a potential partner.
3. **DON'T MAKE ASSUMPTIONS** about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity then you **DO NOT** have consent and you should stop.
4. If you think you are receiving unclear or conflicting messages from your partner, this is a clear indication that you should stop, defuse any sexual tension and communicate better.
5. Don't take advantage of someone's drunkenness, drugged, or otherwise incapacitated state, even if they did it to themselves.
6. Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.
7. Understand that consent to some form of sexual behavior does not automatically equal consent to any other form of sexual behavior.
8. Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language. If you are not sure, stop.

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

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

**Appendix B**  
**Frequently Asked Questions: Sexual Assault, Dating/Domestic  
Violence and Stalking**

1. Does information about a complaint remain confidential?

The confidentiality of all parties to a complaint of sexual misconduct must be respected, insofar as it does not interfere with the College's obligation to fully investigate allegations of sexual misconduct. Where confidentiality is not strictly kept, it will still be tightly controlled on a need-to-know basis. Dissemination of information and/or written materials to persons not involved in the complaint procedure is not permitted. Violations of the privacy of the Complainant or the Respondent may lead to disciplinary action by the College. In all complaints of sexual misconduct, all parties will be informed of the outcome. In some instances, the College may choose to make a brief public announcement of the nature of the violation and the action taken, without using the name or identifiable information of the alleged victim. Certain College administrators may be informed of the outcome within the bounds of student privacy (e.g., the President, Dean of Students, Director of Campus Safety, Title IX Coordinator). If there is a report of alleged sexual misconduct to the College and there is evidence that a felony has occurred, local police will be notified if the Complainant consents. This does not mean charges will be automatically filed or that a Complainant must speak with the police. The College also must statistically report the occurrence on campus of major violent crimes, including certain sex offenses, in an annual report of campus crime statistics. This statistical report does not include personally identifiable information.

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

Students can access Monsour Counseling and Psychological Services for one-one-one counseling, and Monsour also hosts a support group for survivors of sexual assault. In addition, counseling is provided for free by a certified sexual assault counselor at the CUC EmPOWER Center. Pregnancy and STI testing and counseling is available at CUC Student Health Services, and lab fees may apply. Emergency contraception is available for \$20 at Student Health Services. If you are accessing community and non-institutional services, payment for these services may be covered by your health insurance plan; please check your coverage. If you have elected coverage under the Claremont College's Student Health Insurance Plan ("SHIP"), payment for these services may also be covered under this insurance plan. For more information, visit [here](#).

3. Will my parents or guardian be told?

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

4. Do I have to name the alleged perpetrator?

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

5. Will the alleged perpetrator know my identity?

Yes, if you file a formal complaint. Sexual misconduct is a serious offense and the Respondent has the right to know the identity of the complainant/alleged victim. If there is a hearing, the College does provide alternative testimony options so that the parties do not have to interact with each other directly.

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

DO NOT contact the Complainant. You may want to speak with someone in the campus community or elsewhere who can act as your support person/advisor. The Title IX Coordinator can explain the College's grievance procedures for addressing sexual misconduct complaints and can discuss support options with you. For example, you may also want to seek confidential counseling through the counseling center or seek support through off campus services in the community. See below regarding legal representation.

7. What about legal advice?

If you are a party in a college proceeding, you are entitled to a support person of your choosing, including an attorney. However, should you elect to have an attorney support person, that person is not permitted to intervene in the proceeding. Complainants do not need private legal counsel to pursue criminal prosecution because representation will be handled by the District Attorney's office. However, you may want to retain an attorney if you are considering filing a civil action. Respondents may want to retain legal counsel given the potential for criminal and/or civil action.

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

If you are the Complainant, you may request a room change through the Title IX Coordinator who will facilitate with the Dean of Students room change to the first available, suitable room. If you want the Respondent to move, you must be willing to pursue a formal complaint. Again, if there is a formal complaint, no contact orders can be imposed.

Other accommodations available might include:

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

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

Physical evidence of a criminal sexual assault must be collected from the alleged victim's person within 96 hours, though evidence can often be obtained from towels, sheets, clothes, etc. for much longer periods of time. Scripps strongly recommends that students interested in exploring evidence preservation, contact Project Sister Family Services' 24/7 hotline at (909) 626-4357. PSFS will explain and help guide you through process, including whether evidence preservation is an option. Of course, if you want assistance from the College, contact Campus Safety at (909) 607-2000 and ask to speak to on-call dean. Click [here](#) for more information on the evidence preservation process.

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

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

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

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

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

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

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

If you believe that you have experienced sexual misconduct, but are unsure of whether it was a violation of the College policy, you should contact the College's Title IX Coordinator who can explain the policy and resolution options. If you would like to speak with someone in confidence to explore the incident, you may want to first speak with a counselor at Monsour Counseling and Psychological Services or the EmPOWER Center, a chaplain from the McAlister Center, or a rape crisis hotline. Scripps Advocates for Survivors of Sexual Assault are a trained student group who are available through a warm line to assist students who have experienced sexual assault or misconduct (909-214-2138).

**Appendix C**  
**What to Do if You Have Experienced Sexual Assault, Dating/Domestic  
Violence or Stalking**

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

1. **Get away from your attacker and to a safe place as soon as possible.** Call 911 or Campus Safety.
2. **Seek medical attention** to assess and treat any injuries, screen for pregnancy and any sexually transmitted infections, and collect evidence (if you wish to do so). Visit [here](#) for more information on evidence preservation.
3. **Seek support:** Don't be afraid to ask for help and support; feelings of shame, guilt, fear, and shock are normal. Call a trusted friend or family member or one of the on and off campus resources listed below:

**Title IX Coordinator:** Sally Steffen, Title IX Coordinator, 909-607-7142. Sally is available to talk to you about your reporting and support options. You can learn more about your options without sharing details about the incident, including the identity of the other party.

**On-Call Deans** (For assistance after business hours and weekends): Call Campus Safety at 909-607-2000 and ask to speak to the on-call dean.

**Scripps Advocates for Survivors of Sexual Assault**, (909) 214-2138, 8:00pm-8:00am, 7 days a week, when school is in session: Scripps Advocates are students at Scripps. Sometimes talking to a peer may feel like a comfortable first step. You may speak anonymously (in other words, you don't need to reveal who you are to the warm line) to an advocate, who will help guide you to support resources. Even if you choose to reveal your identity to an advocate, they will not need to reveal your identity to college officials in the absence of imminent risk to self or others.

**Monsour Counseling and Psychological Services (including the on-call therapist):** 909-621-8202

**EmPOWER Center, 1030 Dartmouth Ave, Claremont:** The Center's mission is to create a culture where all members of The Claremont Colleges respect and look out for each other, and where students impacted by sexual violence, dating/domestic violence, and stalking receive holistic support and care. The Center provides free, confidential advocacy and support to 7C students impacted by sexual violence, dating/domestic violence, and stalking. Students interested in receiving counseling may call **(909) 607-0690** to make an appointment. The Director of the EmPOWER Center, Rima Shah, is a confidential resource. She can be reached at [RShahEmPOWER@cuc.claremont.edu](mailto:RShahEmPOWER@cuc.claremont.edu) or 909-607-2689.

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

**Academic Support:** Experience tells us that it is not uncommon for students to discover they need academic support in the aftermath of a Title IX incident. If you feel such support would be helpful for you, you may contact your Primary Contact Dean (PCD), the Title IX Coordinator, or Deputy Title IX Coordinator, Leslie Schynder. You're not required to disclose the full circumstances of the incident in order to obtain academic support, though sometimes limiting what you disclose could interfere with her ability to fully and comprehensively assess and address your needs. If you choose instead to speak directly to your professors, please know that they are responsible employees and have a legal obligation to report what you disclose to them to a member of the Title IX team.

**Community Partners:**

**Project Sister Sexual Assault 24/7 Crisis Hotline (Pomona, CA):** Provides services to the women, children, and men survivors of sexual assault and abuse and their families in the East San Gabriel and Inland Valleys in Southern California. PSFS' services include a 24-hour hotline; advocacy and accompaniment to local hospitals, law enforcement interviews and legal proceedings. Among their services, PSFS can explain and help support you through the process for evidence preservation, should that be a priority for you.

800-656-4673

909-626-HELP (909-626-4357)

**House of Ruth 24/7 Hotline (for dating and domestic violence) (Claremont, CA).** Confidential counseling, anonymous 24/7 hotline, emergency and transitional shelter. Free services, available in English and Spanish.

877-988-5559 (toll-free hotline); 909-623-4364 (Pomona Outreach Office)

**Appendix D**  
**Scripps College Prevention and Outreach**

Scripps College is continually evaluating and developing prevention and outreach programs and educational materials designed to educate the community about the issues of sexual assault, dating/domestic violence and stalking, train college personnel responsible for implementing the College's Title IX policy, and train college personnel responsible for reporting instances of sexual violence. Below are some examples of the College's prevention and outreach programs and materials:

- New Student Orientation Sexual Assault, Dating Violence and Stalking and Title IX awareness programming
- Know Your IX programming
- Numerous educational and prevention programming at the EmPOWER Center
- Teal Dot Bystander Intervention Programs (coordinated by the EmPOWER Center)
- Scripps Advocates for Survivors of Sexual Assault educational programming
- Title IX Resources Wallet Cards
- Options for Students Following an incident poster flow chart
- Comprehensive Title IX website with support and reporting resources
- Information on support and reporting resources available via the LiveSafe App
- Student Affairs First Responder Training
- Title IX Coordinators and Investigator Training
- Campus Security Authority Clery Act Training
- Responsible Employee Response to Sexual Violence Training
- Responsible Employee "At a Glance" resource card
- Responsible Employee stickers
- Claremont Colleges Title IX Working Group
- Claremont Colleges Clery Act Working Group