



TITLE IX: SEXUAL MISCONDUCT POLICY AND PROCEDURES

TITLE IX: SEXUAL MISCONDUCT POLICY

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TITLE IX: SEXUAL MISCONDUCT POLICY

I. POLICY STATEMENT

IBMC College (the “College”) is committed to providing a learning, working, and living environment that promotes personal integrity, civility, and mutual respect in an environment free of discrimination on the basis of sex. The College considers sex discrimination in all its forms to be a serious offense. Sex discrimination constitutes a violation of this policy, is unacceptable, and will not be tolerated.

Sexual harassment, whether verbal, physical, or visual, that is based on sex is a form of prohibited sex discrimination. Sexual harassment also includes sexual violence and discrimination on the basis of pregnancy. The specific definitions of sexual harassment and sexual violence, including examples of such conduct, are set forth below.

II. SCOPE

This policy applies to administrators, faculty, and other College employees; students; applicants for employment; customers; third-party contractors; and all other persons that participate in the College’s educational programs and activities, including third-party visitors on campus (the “College Community”). The College’s prohibition on sex discrimination and sexual harassment extends to all aspects of its educational programs and activities, including, but not limited to, admissions, employment, academics, athletics, housing, and student services.

III. TITLE IX STATEMENT

It is the policy of the College to comply with Title IX of the Education Amendments of 1972 and its implementing regulations, which prohibit discrimination based on sex in the College’s educational programs and activities. Title IX and its implementing regulations also prohibit retaliation for asserting claims of sex discrimination. The College has designated certain officials to oversee compliance with Title IX.¹ Specifically, the College has designated the following Title IX Coordinator to coordinate its compliance with Title IX and to receive inquiries regarding Title IX, including complaints of sex discrimination:

Barbara Kearns
Regional Director of Regulatory Affairs & Compliance
2315 Main Street
Longmont, CO 80501
970-223-2669 x1505
bkearns@ibmc.edu

¹ At the time of publication of this policy, the officials named serve in the roles identified. If during the course of the 2020-21 year the officials leave their current employment role, the person who assumes their role also will assume their campus security authority related responsibilities. The College updates this policy on an annual basis.

The College has also designated the following Deputy Title IX Coordinators to coordinate Title IX compliance at specific campuses and to receive inquiries regarding Title IX, including complaints of sex discrimination, for the specified campuses:

Deputy Title IX Coordinator (Fort Collins)

Steve Steele
Campus President
3842 South Mason Street
Fort Collins, CO 80525
970-223-2669
ssteele@ibmc.edu

Deputy Title IX Coordinator (Longmont)

Rich Laub
Campus President
2315 Main Street
Longmont, CO 80501
303-651-6819
ewulf@ibmc.edu

Deputy Title IX Coordinator (Greeley)

Mary Matsutani
Campus President
2863 35th Avenue
Greeley, CO 80634
970-356-4733
mmatsutani@ibmc.edu

A person may also file a complaint of sex discrimination with the United States Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by visiting <https://stopsexualassaultinschools.org/filing-complaints/> or by calling 1-800-421-3481.

IV. SEXUAL HARASSMENT

A. Definition of Sexual Harassment

Sexual advances, requests for sexual favors, and other verbal, physical, or visual conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made or threatened to be made, either explicitly or implicitly, a term or condition of an individual's employment or education;
- Submission to or rejection of such conduct by an individual is used or threatened to be used as the basis for academic or employment decisions affecting that individual; or
- Such conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance or creating what a reasonable person would perceive as an intimidating, hostile, or offensive employment, education, or living environment.

B. Examples of Sexual Harassment

Some examples of sexual harassment include:

- Pressure for a dating, romantic, or intimate relationship
- Unwelcome touching, kissing, hugging, or massaging
- Pressure for sexual activity
- Unnecessary references to parts of the body
- Sexual innuendos or sexual humor
- Obscene gestures
- Sexual graffiti, pictures, or posters
- Sexually explicit profanity
- Asking about, or telling about, sexual fantasies
- E-mail and Internet use that violates this policy
- Sexual violence (as defined below)

Further examples of sexual harassment may be found in the Frequently Asked Questions (see page 11 below).

C. Sexual Violence

1. The Definition of Sexual Violence

Sexual violence is a form of prohibited sexual harassment. Sexual violence includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent because of his or her temporary or permanent mental or physical incapacity or because of his or her youth.

2. Examples of Sexual Violence

Some examples of sexual violence include:

- Rape or sexual assault: sexual intercourse (anal, oral, or vaginal) by a man or woman upon a man or woman without consent
- Unwilling sexual penetration (anal, vaginal, or oral) with any object or body part that is committed by force, threat, or intimidation
- Sexual touching with an object or body part, by a man or woman upon a man or woman, without consent
- Sexual touching with an object or body part, by a man or woman upon a man or woman, committed by force, threat, or intimidation
- Prostituting another student or employee
- Non-consensual video or audio-taping of sexual activity
- Knowingly transmitting a sexually transmitted disease to another

Further examples of sexual violence may be found in the Frequently Asked Questions (see page 11 below).

D. Sexual Misconduct

Collectively, sex discrimination, sexual harassment, and sexual violence will be referred to as “sexual misconduct” through the remainder of this policy and the complaint resolution procedures.

E. Definition of Consent

Lack of consent is a critical factor in determining whether sexual violence has occurred. Consent is informed, freely given, and mutually understood. Consent requires an affirmative act or statement by each participant. Consent is not passive.

- If coercion, intimidation, threats, and/or physical force are used, there is no consent.
- If a person is mentally or physically incapacitated or impaired by alcohol or drugs such that the person cannot understand the fact, nature, or extent of the sexual situation, there is no consent.
- If a person is asleep or unconscious, there is no consent.
- Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
- Consent can be withdrawn. A person who initially consents to sexual activity is deemed not to have consented to any sexual activity that occurs after he or she withdraws consent.

F. Domestic Violence, Dating Violence, and Stalking

The crimes of domestic violence, dating violence and stalking can also constitute a form of sexual misconduct when motivated by a person’s sex. These crimes, no matter the motivation behind them, are a violation of this policy.

1. Domestic Violence

“Domestic violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of a victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse or the victim under the domestic or family violence laws of the jurisdiction, 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.

- For state law definitions covering domestic violence see:
 - Colorado Revised Statutes § 18-6-800.3

2. Dating Violence

“Dating violence” means violence committed by a person:

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship.

(ii) The type of relationship.

(iii) The frequency of interaction between the persons involved in the relationship.

- For state law definitions covering dating violence see:
 - Colorado Revised Statutes § 18-6-800.3

3. Stalking

“Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(A) fear for his or her safety or the safety of others; or

(B) suffer substantial emotional distress.

- For state law definitions covering domestic violence see:
 - Colorado Revised Statutes § 18-3-601 and 18-3-602

V. ROLES AND RESPONSIBILITIES

A. Title IX Coordinator

It is the responsibility of the Title IX Coordinator to coordinate dissemination of information and education and training programs to: (1) assist members of the College community in understanding that sexual misconduct is prohibited by this policy; (2) ensure that investigators are trained to respond to and investigate complaints of sexual misconduct; (3) ensure that employees and students are aware of the procedures for reporting and addressing complaints of sexual misconduct; and (4) to implement the Complaint Resolution Procedures or to designate appropriate persons for implementing the Complaint Resolution Procedures. The appropriate Title IX Deputy Coordinator is also responsible for implementing the Complaint Resolution Procedures for the campus to which the complaint pertains.

B. Administrators, Deans, Department Chairs, and Other Managers

It is the responsibility of administrators, directors of education, student success coordinators, and other managers (i.e., those that formally supervise other employees) to:

- Inform employees under their direction or supervision of this policy
- Work with the Title IX Coordinator or appropriate Deputy Title IX Coordinator to implement education and training programs for employees and students

- Notify the Title IX Coordinator or appropriate Deputy Title IX Coordinator for their campus promptly if they receive reports, witness, or otherwise learn of complaints of sexual misconduct.
- Implement any corrective actions that are imposed as a result of findings of a violation of this policy

C. All Employees

It is the responsibility of all employees to review this policy and comply with it.

D. Students

It is the responsibility of all students to review this policy and comply with it.

E. The College

When the College is aware that a member of the College Community may have been subjected to or affected by conduct that violates this policy, the College will take prompt action, including a review of the matter and, if necessary, an investigation and appropriate steps to stop and remedy the sexual misconduct. The College will act in accordance with its Procedures to Resolve Complaints under the College's Title IX Policy (see page 16 below).

VI. COMPLAINTS

A. Making a Complaint

1. Faculty and Employees

All College faculty and employees have a duty to report sexual misconduct to the Title IX Coordinator or appropriate Deputy Title IX Coordinator.

2. Students and Other Persons

Students who wish to report sexual misconduct should file a complaint with the Title IX Coordinator or appropriate Deputy Title IX Coordinator. Students and other persons may also file a complaint with the United States Department of Education's Office for Civil Rights, as set forth in Section III above.

3. Content of the Complaint

So that the College has sufficient information to investigate a complaint, the complaint should include: (1) the date(s) and time(s) of the alleged conduct; (2) the names of all person(s) involved in the alleged conduct, including possible witnesses; (3) all details outlining what happened; and (4) contact information for the complainant so that the College may follow up appropriately.

A complainant will be given a copy of the document titled “Explanation of Rights and Options After Filing a Complaint Under the Title IX: Sexual Misconduct Policy.”

4. Conduct that Constitutes a Crime

Any person who wishes to make a complaint of sexual misconduct that also constitutes a crime—including sexual violence, domestic violence, dating violence, or stalking—is encouraged to make a complaint to local law enforcement. If requested, the College will assist the complainant in notifying the appropriate law enforcement authorities. **In the event of an emergency, please contact 911.** A victim may decline to notify such authorities.

5. Special Guidance Concerning Complaints of Sexual Violence, Domestic Violence, Dating Violence, or Stalking

If you are the victim of sexual violence, domestic violence, dating violence, or stalking, do not blame yourself. These crimes are never the victim’s fault. When physical violence of a sexual nature has perpetrated against you, the College recommends that you immediately go to the emergency room of a local hospital and contact local law enforcement, in addition to making a prompt complaint under this policy.

If you are the victim of sexual violence, domestic violence, or dating violence, do everything possible to preserve evidence by making certain that the crime scene is not disturbed. Preservation of evidence may be necessary for proof of the crime or in obtaining a protection order. Victims of sexual violence, domestic violence, or dating violence should not bathe, urinate, douche, brush teeth, or drink liquids until after they are examined and, if necessary, a rape examination is completed. Clothes should not be changed. When necessary, seek immediate medical attention at an area hospital and take a full change of clothing, including shoes, for use after a medical examination.

It is also important to take steps to preserve evidence in cases of stalking, to the extent such evidence exists. In cases of stalking, evidence is more likely to be in the form of letters, emails, text messages, etc. rather than evidence of physical contact and violence.

Once a complaint of sexual violence, domestic violence, dating violence, or stalking is made, the complainant has several options such as, but not limited to:

- contacting parents or a relative
- seeking legal advice
- seeking personal counseling (always recommended)
- pursuing legal action against the perpetrator
- pursuing disciplinary action
- requesting that no further action be taken

6. Vendors, Contractors, and Third-Parties

This policy applies to the conduct of vendors, contractors, and third parties. Persons who believe they have been subject to sexual misconduct in violation of this policy should make a complaint in the manner set forth in this section.

7. Retaliation

It is a violation of this policy to retaliate against any member of the College Community who reports or assists in making a complaint of sexual misconduct or who participates in the investigation of a complaint in any way. Persons who believe they have been retaliated against in violation of this policy should make a complaint in the manner set forth in this section.

8. Protecting the Complainant

Pending final outcome of an investigation in accordance with the Complaint Resolution Procedures, the College will take steps to protect the complainant from further discrimination or harassment. This may include assisting and allowing the complainant to change his or her academic, transportation or work situation if options to do so are reasonably available (e.g., changes to academic schedule). Such changes may be available regardless of whether the victim chooses to report the crime to campus police or local law enforcement.

If a complainant has obtained a temporary restraining order or other no contact order against the alleged perpetrator from a criminal, civil, or tribal court, the complainant should provide such information to the Title IX Coordinator. The College will take all reasonable and legal action to implement the order.

B. Timing of Complaints

The College encourages persons to make complaints of sexual misconduct as soon as possible because late reporting may limit the College's ability to investigate and respond to the conduct complained of.

C. Investigation and Confidentiality

All complaints of sexual misconduct will be promptly and thoroughly investigated in accordance with the Complaint Resolution Procedures (see page 16 below), and the College will take disciplinary action where appropriate. The College will make reasonable and appropriate efforts to preserve an individual's privacy and protect the confidentiality of information when investigating and resolving a complaint. However, because of laws relating to reporting and other state and federal laws, the College cannot guarantee confidentiality to those who make complaints.

In the event a complainant requests confidentiality or asks that a complaint not be investigated, the College will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an

investigation. If a complainant insists that his or her name not be disclosed to the alleged perpetrator, the College's ability to respond may be limited. The College reserves the right to initiate an investigation despite a complainant's request for confidentiality in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the College Community.

D. Resolution

If a complaint of sexual misconduct is found to be substantiated, the College will take appropriate corrective and remedial action. Students, faculty, and employees found to be in violation of this policy will be subject to discipline up to and including written reprimand, suspension, demotion, termination, or expulsion. Affiliates and program participants may be removed from College programs and/or prevented from returning to campus. Remedial steps may also include counseling for the complainant, academic, transportation, work, or living accommodations for the complainant, separation of the parties, and training for the respondent and other persons.

E. Bad Faith Complaints

While the College encourages all good faith complaints of sexual misconduct, the College has the responsibility to balance the rights of all parties. Therefore, if the College's investigation reveals that a complaint was knowingly false, the complaint will be dismissed and the person who filed the knowingly false complaint may be subject to discipline.

VII. ACADEMIC FREEDOM

While the College is committed to the principles of free inquiry and free expression, sexual misconduct is neither legally protected expression nor the proper exercise of academic freedom.

VIII. EDUCATION

Because the College recognizes that the prevention of sexual misconduct, as well as domestic violence, dating violence, and stalking, is important, it offers educational programming to a variety of groups such as: campus personnel; incoming students and new employees participating in orientation; and members of student organizations. Among other elements, such training will cover relevant definitions, procedures, and sanctions; will provide safe and positive options for bystander intervention; and will provide risk reduction information, including recognizing warning signs of abusive behavior and how to avoid potential attacks. To learn more about education resources, please contact the Title IX Coordinator or appropriate Deputy Title IX Coordinator for your campus.

FREQUENTLY ASKED QUESTIONS

1. What are some additional examples of sexual harassment?

Sexual harassment is a form of prohibited sex discrimination. The College's policies protect men and women equally from sexual harassment, including harassment by members of the same sex. Staff, faculty, and students are protected from sexual harassment by any other staff, faculty, student, or contractor. Examples of kinds of conduct that constitute sexual harassment include, but are not limited to, the following:

- Engaging in unwelcome sexual advances
- Leering or staring at someone in a sexual way, such as staring at a person's breasts or groin
- Sending sexually explicit emails or text messages
- Telling unwelcome, sexually-explicit jokes
- Displaying sexually suggestive or lewd photographs, videos, or graffiti
- Making unwelcome and unwanted physical contact, such as rubbing, touching, pinching, or patting
- Making unwelcome and suggestive sounds, such as "cat calls" or whistling
- Commenting on a person's dress in a sexual manner
- Making sexual gestures
- Repeatedly asking someone for a date after the person has expressed disinterest
- Giving unwelcome personal gifts such as flowers, chocolates, or lingerie that suggest the desire for a romantic relationship
- Telling another person of one's sexual fantasies, sexual preferences, or sexual activities
- Commenting on a person's body, gender, sexual relationships, or sexual activities
- Using sexually explicit profanity

2. What should I do if I have been sexually harassed?

The College encourages you to report sexual harassment as soon as possible. Ignoring sexual harassment does not make it go away. And delayed reporting may limit the College's ability to investigate and remedy the sexual harassment.

If you are a student, you may report sexual harassment to the Title IX Coordinator or appropriate Deputy Title IX Coordinator for your campus. If you are the victim of sexual harassment that constitutes a crime, the College encourages you to also file a complaint with local law enforcement and to press charges.

You always have the option to directly confront the person that is harassing you. Sometimes, individuals are not aware that their behavior is offensive and quickly

apologize and change their behavior once it is brought to their attention. However, you are not required or expected to confront your harasser prior to filing a complaint.

3. What are some additional examples of sexual violence?

Sexual violence is a form of prohibited sexual harassment. Sexual violence includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to use of drugs and/or alcohol or to an intellectual or other disability. Examples of kinds of conduct that constitute sexual violence include, but are not limited to, the following:

- The use of force or coercion to effect sexual intercourse or some other form of sexual contact with a person who has not given consent
- Having sexual intercourse with a person who is unconscious because of drug or alcohol use
- Hazing that involves penetrating a person's vagina or anus with an object
- Use of the "date rape drug" to effect sexual intercourse or some other form of sexual contact with a person
- One partner in a romantic relationship forcing the other to have sexual intercourse without the partner's consent
- Exceeding the scope of consent by engaging in a different form of sexual activity than a person has consented to
- Groping a person's breasts or groin on the dance floor or at a bar
- Knowingly transmitting a sexually transmitted disease such as HIV to another person through sexual activity
- Coercing someone into having sexual intercourse by threatening to expose their secrets
- Secretly videotaping sexual activity where the other party has not consented

4. What constitutes "consent" for purposes of sexual violence?

Lack of consent is a critical factor in determining whether sexual violence has occurred. Consent is informed, freely given, and mutually understood. Consent requires an affirmative act or statement by each participant. Consent is not passive.

- If coercion, intimidation, threats, and/or physical force are used, there is no consent.
- If a person is mentally or physically incapacitated or impaired by alcohol or drugs such that the person cannot understand the fact, nature, or extent of the sexual situation, there is no consent.
- If a person is asleep or unconscious, there is no consent.
- Consent to one form of sexual activity does not imply consent to other forms of sexual activity.

- Consent can be withdrawn. A person who initially consents to sexual activity is deemed not to have consented to any sexual activity that occurs after he or she withdraws consent.

5. What should I do if I am a victim of sexual violence, domestic violence, dating violence, or stalking?

Don't blame yourself. These crimes are never the victim's fault. Please contact the Title IX Coordinator or appropriate Deputy Title IX Coordinator for your campus as soon as possible for information on options and resources available to you. You may also wish to call local law enforcement (911 if emergency), or the National Sexual Assault Hotline at 800-656-HOPE or My Life Expert, a confidential 24/7 hotline which provides instant access to professionally trained counselors and is available to students at all IBMC campuses. (My Life Expert Hotline: 1-800-756-3124)

If you are the victim of sexual violence, domestic violence, or dating violence, do everything possible to preserve evidence by making certain that the crime scene is not disturbed. Preservation of evidence may be necessary for proof of the crime or in obtaining a protection order. Victims of sexual violence, domestic violence, or dating violence should not bathe, urinate, douche, brush teeth, or drink liquids until after they are examined and, if necessary, a rape examination is completed. Clothes should not be changed. When necessary, seek immediate medical attention at an area hospital and take a full change of clothing, including shoes, for use after a medical examination.

It is also important to take steps to preserve evidence in cases of stalking, to the extent such evidence exists. In cases of stalking, evidence is more likely to be in the form of letters, emails, text messages, etc. rather than evidence of physical contact and violence.

6. Can I make a complaint of sexual violence against my boyfriend or girlfriend?

Anyone can commit sexual violence, even if you and that person are in a romantic relationship. The critical factor is consent. If your boyfriend or girlfriend perpetrates a sexual act against you without your consent, such conduct constitutes sexual violence, and you may make a complaint. This type of conduct and other types of conduct perpetrated by your boyfriend or girlfriend may also be classified as domestic violence or dating violence.

7. What should I do if someone who is not a College student or employee engages in sexual misconduct against me?

The College's policies protect you from sexual misconduct perpetrated by vendors, contractors, and other third parties that you encounter in your College learning and employment environment. If you believe that you have been subject to conduct that violates these policies, you should report the sexual misconduct just as if it were committed by a College student or employee.

8. What should I do if a student or College employee engages in sexual misconduct against me but we are off campus?

It is possible for off-campus conduct between College employees or students to contribute to a hostile working or academic environment or otherwise violate the College's policies. You may make a complaint of sexual misconduct even if the conduct occurs off-campus.

9. What should I do if I observe sexual misconduct, but it is not directed at me?

Anyone that witnesses sexual misconduct, even it is directed at someone else, can still feel uncomfortable and harassed. If you are a student and witness conduct that you believe constitutes sexual misconduct, please make a complaint in the same manner as if the conduct was directed against you. If you are an employee or staff member of the College, it is your duty to report conduct that constitutes sexual misconduct.

10. What is the role of the Title IX Coordinator?

The Title IX Coordinator oversees the College's compliance with Title IX and receives inquiries regarding Title IX, including complaints of sexual misconduct. The Title IX Coordinator has received special training on the College's policies and procedures pertaining to sexual misconduct, and is available to answer questions about those policies and procedures, respond to complaints, and assist you in identifying other resources to aid in your situation. The Title IX Coordinator is assisted by several Deputy Title IX Coordinators who are assigned to particular campuses. The Deputy Title IX Coordinators are responsible for implementing the Complaint Resolution Procedures for complaints pertaining to the campuses to which they are assigned.

11. If I make a complaint of sexual misconduct, will it be treated confidentially?

The College will take reasonable and appropriate steps to preserve the confidentiality of the parties to the complaint and to protect the confidentiality of information gathered during the investigation. However, the College has an obligation to provide a safe and non-discriminatory environment for all students and employees. Therefore, no unconditional promises of confidentiality can be provided. The professional counselors, however, available through the My Life Expert 24/7 hotline are not employed by the College and hold professional licenses requiring confidentiality.

12. Who is typically involved in investigating a complaint of sexual misconduct?

The College's Title IX Coordinator or the appropriate Deputy Title IX Coordinator for the campus pertaining to the complaint will be involved in investigating complaints of sexual harassment. The Title IX Coordinator or Deputy Title IX Coordinator may appoint another member of the staff to investigate and resolve the complaint. The process of gathering evidence will necessarily require the involvement of the complainant, the respondent, and any witnesses to the incident that gave rise to the complaint. In sum, it will involve those persons necessary to fairly and completely investigate the complaint and resolve it.

13. What are the possible outcomes of an investigation into a complaint?

The outcome will be determined based on the totality of the evidence using a preponderance of the evidence standard (i.e., it is more likely than not). If the preponderance of the evidence does not support a finding that the incident occurred, then the complaint is resolved in favor of the accused. If, however, the preponderance of the evidence supports that sexual misconduct occurred, the actions taken by the College will include those necessary to maintain an environment free from discrimination and harassment and to protect the safety and well-being of the complainant and other members of the College community. Such actions will also include reasonable steps to correct the effects of such conduct on the complainant and others and to prevent the recurrence of discrimination, harassment, and retaliation. Examples of such action include: no-contact orders, classroom reassignment, the provision of counseling or other support services, training, and discipline for the perpetrator, including up to termination, expulsion, or other appropriate institutional sanctions.

14. May I have a support person/advisor with me in the investigation process?

During the investigation process, both a complainant and a respondent may ask a support person/advisor to accompany him or her at all stages of the process. In cases involving multiple complainants or respondents, the support person/advisor cannot be another complainant or respondent. The support person/advisor does not serve as an advocate on behalf of the complainant or respondent, may not be actively involved in any proceedings, and he or she must agree to maintain the confidentiality of the process.

15. What should I do if I am retaliated against for making a complaint of sexual misconduct?

The College's Title IX: Sexual Misconduct Policy prohibits retaliation against any person for making a good faith complaint of sexual misconduct and/or cooperating in the investigation of (including testifying as a witness to) such complaint. Retaliation is a serious violation that can subject the offender to sanctions independent of the merits of the underlying allegation of sexual misconduct. If you feel you are the victim of retaliation in violation of this policy, you should report the retaliation just as you would a complaint of sexual misconduct.

16. How does the College handle a bad faith allegation of sexual misconduct?

A bad faith allegation of sexual misconduct occurs when the accuser intentionally reports information or incidents that he or she knows to be untrue. Failure to prove a complaint of sexual misconduct is not equivalent to a bad faith allegation. The College may impose sanctions against an individual who knowingly makes false allegations of sexual misconduct.

PROCEDURES TO RESOLVE COMPLAINTS UNDER THE COLLEGE'S TITLE IX POLICY

I. GENERAL PRINCIPLES

A. Administration

For purposes of these procedures, "Investigating Officer" means the Title IX Coordinator, the appropriate Deputy Title IX Coordinator for the campus to which the complaint pertains, and/or his or her designee. The Investigating Officer shall have responsibility for administering these complaint resolution procedures.

B. Promptness, Fairness and Impartiality

These procedures provide for prompt, fair, and impartial investigations and resolutions. The Investigating Officer shall discharge his or her obligations under these complaint resolution procedures fairly and impartially. If the Investigating Officer determines that he or she cannot apply these procedures fairly and impartially because of the identity of a complainant, respondent, or witness, or due to any other conflict of interest, the Investigating Officer shall designate another appropriate individual to administer these procedures.

C. Training

These procedures will be implemented by officials who receive annual training on the issues related to sexual misconduct, domestic violence, dating violence, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

II. INVESTIGATION AND RESOLUTION OF THE COMPLAINT

A. Commencement of the Investigation

Once a complaint is made, the Investigating Officer will commence an investigation of it as soon as practicable, but not later than seven (7) days after the complaint is made. The purpose of the investigation is to determine whether it is more likely than not that the alleged behavior occurred and, if so, whether it constitutes sexual misconduct. During the course of the investigation, the Investigating Officer may receive counsel from College administrators, the College's attorneys, or other parties as needed.

In certain narrow circumstances, the Investigating Officer may commence an investigation even if the complainant requests that the matter not be pursued. In such a circumstance, the Investigating Officer will take all reasonable steps to investigate and respond to the matter in a manner that is informed by the complainant's articulated concerns.

B. Content of the Investigation

During the investigation, the complainant will have the opportunity to describe his or her allegations and present supporting witnesses or other evidence. The respondent will have the opportunity to respond to the allegations and present supporting witnesses or other evidence. The Investigating Officer will review the statements and evidence presented and may, depending on the circumstances, interview others with relevant knowledge, review documentary materials, and take any other appropriate action to gather and consider information relevant to the complaint. All parties and witnesses involved in the investigation are expected to cooperate and provide complete and truthful information.

C. Support Person/Advisor

During the investigation process, both a complainant and a respondent may ask a support person/advisor to accompany him or her at all stages of the process. In cases involving multiple complainants or respondents, the support person/advisor cannot be another complainant or respondent. The support person/advisor does not serve as an advocate on behalf of the complainant or respondent, may not be actively involved in any proceedings, and he or she must agree to maintain the confidentiality of the process.

D. Interim Measures

At any time during the investigation, the Investigating Officer may determine that interim remedies or protections for the parties involved or witnesses are appropriate. These interim remedies may include separating the parties, placing limitations on contact between the parties, suspension, or making alternative class-placement or workplace arrangements. Failure to comply with the terms of these interim remedies or protections may constitute a separate violation of the Title IX: Sexual Misconduct Policy.

E. Pending Criminal Investigation

Some instances of sexual misconduct may also constitute criminal conduct. In such instances, the complainant is also encouraged to file a report with the appropriate law enforcement authorities and, if requested, the College will assist the complainant in doing so. The pendency of a criminal investigation, however, does not relieve the College of its responsibilities under Title IX. Therefore, to the extent doing so does not interfere with any criminal investigation, the College will proceed with its own investigation and resolution of the complaint.

F. Resolution

At the conclusion of the investigation, the Investigating Officer will prepare a written report. The written report will explain the scope of the investigation, identify findings of fact, and state whether any allegations in the complaint were found to be substantiated by a preponderance of the evidence.

If the written report determines that sexual misconduct occurred, the Investigating Officer shall set forth in an addendum to the written report those steps necessary to maintain an

environment free from discrimination and harassment and to protect the safety and well-being of the complainant and other members of the College Community. Such actions will also include reasonable steps to correct the effects of such conduct on the complainant and others and to prevent the recurrence of discrimination, harassment, and retaliation. Examples of such action include: no-contact orders, classroom reassignment, the provision of counseling or other support services, training, and discipline for the perpetrator, including up to termination, expulsion, or other appropriate institutional sanctions.

The complainant and the respondent will receive a copy of the written report and any addendum within three (3) days of its completion. If necessary, the version of the addendum provided to the complainant and/or respondent will be redacted to ensure that information concerning any remedial and/or disciplinary measures is disclosed in a manner consistent with Title IX, the Family Educational Rights and Privacy Act (“FERPA”), and the Clery Act, as explained by the April 4, 2011 Dear Colleague Letter issued by the U.S. Department of Education, available at:

<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>.

The written report of the Investigating Officer shall be final subject only to the right of appeal set forth in Section IV below.

G. Special Procedure Concerning Complaints Against The Chief Executive Officer, President, The Title IX Coordinator, A Deputy Title IX Coordinator, Or Other Administrators Ranked Higher Than The Title IX Coordinator

If a complaint involves alleged conduct on the part of the College’s Chief Executive Officer (CEO), the College’s Owners/Co-Founders will designate the Investigating Officer. Based on the information gathered by the investigation, the Founding Members will prepare and issue the written report determining the complaint. The determination of the Founding Members is final and not subject to appeal.

If a complaint involves alleged conduct on the part of the Title IX Coordinator or any administrator ranked higher than the Title IX Coordinator, the College’s CEO will designate the Investigating Officer. Based on the information gathered by the investigation, the CEO will prepare and issue the written report determining the complaint. The determination of the CEO is final and not subject to appeal.

If a complaint involves alleged conduct on the part of a Deputy Title IX Coordinator, the Title IX Coordinator will be the Investigating Officer. Based on the information gathered by the investigation, the Title IX Coordinator will prepare and issue the written report determining the complaint. Deputy Title IX Coordinators have the right to appeal as outlined in Section IV, below.

H. Informal Resolution

Informal means of resolution, such as mediation, may be used in lieu of the formal investigation and determination procedure. However, informal means may only be used with the complainant's voluntary cooperation and the involvement of the Title IX Coordinator or appropriate Deputy Title IX Coordinator at the campus to which the complaint pertains. The complainant, however, will not be required to work out the problem directly with the respondent. Moreover, the complainant may terminate any such informal means at any time. In any event, informal means, even on a voluntary basis, will not be used to resolve complaints alleging any form of sexual violence.

I. Timing Of the Investigation

The College will endeavor to conclude its investigation and resolution of the complaint within sixty (60) calendar days of receiving it. Both the complainant and the respondent will be given periodic updates regarding the status of the investigation. If either the complainant or respondent needs additional time to prepare or to gather their witnesses or information, they shall notify the Investigating Officer in writing explaining how much additional time is needed and why it is needed. The Investigating Officer shall respond to any such request within three (3) days.

III. RIGHTS OF THE PARTIES

During the investigation and resolution of a complaint, the complainant and respondent shall have equal rights. They include:

- Equal opportunity to identify and have considered witnesses and other relevant evidence
- Similar and timely access to all information considered by the Investigating Officer
- Equal opportunity to review any statements or evidence provided by the other party
- Equal access to review and comment upon any information independently developed by the Investigating Officer

IV. APPEALS

A. Grounds of Appeal

The complainant or respondent may appeal the determination of a complaint only on the following grounds:

- The decision was contrary to the substantial weight of the evidence
- There is a substantial likelihood that newly discovered information, not available at the time evidence was presented to the Investigating Officer, would result in a different decision
- Bias or prejudice on the part of the Investigating Officer, or

- The punishment or the corrective action imposed is disproportionate to the offense

B. Method of Appeal

Appeals must be filed with the College’s CEO, Steve Steele, within ten (10) days of receipt of the written report determining the outcome of the complaint. The appeal must be in writing and contain the following:

- Name of the complainant
- Name of the respondent
- A statement of the determination of the complaint, including corrective action if any
- A detailed statement of the basis for the appeal including the specific facts, circumstances, and argument in support of it, and
- Requested action, if any.

The appellant may request a meeting with the CEO, but the decision to grant a meeting is within the CEO’s discretion. However, if a meeting is granted, then the other party will be granted a similar opportunity. The CEO may be contacted at:

Steve Steele
Chief Executive Officer
IBMC College
3842 S. Mason Street
Fort Collins, CO 80525
970-223-2669
ssteele@ibmc.edu

V. RESOLUTION OF THE APPEAL

The CEO will resolve the appeal within fifteen (15) days of receiving it and may take any and all actions that he/she determines to be in the interest of a fair and just decision. The decision of the CEO is final. The CEO shall issue a short and plain, written statement of the resolution of the appeal, including any changes made to the Investigating Officer’s previous written determination. The written statement shall be provided to the complainant, respondent, Title IX Coordinator, and appropriate Deputy Title IX Coordinator within three (3) days of the resolution.

VI. DOCUMENTATION

Throughout all stages of the investigation, resolution, and appeal, the Investigating Officer, the Title IX Coordinator, Deputy Title IX Coordinators, and the CEO as the case may be, are responsible for maintaining documentation of the investigation and appeal, including documentation of all proceedings conducted under these complaint resolution procedures, which may include written findings of fact, transcripts, and audio recordings.

VII. INTERSECTION WITH OTHER PROCEDURES

These complaint resolution procedures are the exclusive means of resolving complaints alleging violations of the Title IX: Sexual Misconduct Policy. To the extent there are any inconsistencies between these complaint resolution procedures and other College grievance, complaint, or discipline procedures, these complaint resolution procedures will control the resolution of complaints alleging violations of the Title IX: Sexual Misconduct Policy.

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