

Sexual Harassment and Misconduct Policy

I. Introduction / Statement of Policy

William Penn students and employees are expected to maintain the highest ethical standards of honesty and respect for others. William Penn University is committed to providing a learning and working environment free from all forms of sex discrimination and sexual harassment, which includes sexual assault, dating violence, domestic violence, and stalking, collectively called “sexual harassment” and/or misconduct for purposes of this policy. The University also prohibits attempting or aiding in the commission of sexual harassment/misconduct or retaliating against another for exercising rights under this Policy.

This policy and Investigation and Resolution Processes are intended to fully comply with Title IX and related federal guidance, and will be interpreted and applied by the University accordingly. As such, they are in lieu of and supersede any contrary policy/process/provision contained in William Penn’s Student or Employee Policy document.

II. Scope of Policy

This policy applies to all students and employees of William Penn University regardless of sex, sexual orientation, or gender/sexual identity.

This Policy governs the conduct of all students, employees, and third parties whose actions impact the University’s educational and working environment. This Policy applies to all locations of the University, University-sponsored activities, and incidents occurring off-campus which affect the University environment or mission.

The scope of Title IX: The University’s jurisdiction under Title IX is limited to locations, events, or circumstances over which it substantially controls both the respondent accused of behavior violating this policy and the context in which the alleged harassment occurs, as well as any building owned or controlled by a student organization that is officially recognized by the University, such as a fraternity or sorority. The University’s jurisdiction under Title IX is also limited to conduct against a person that occurs in the United States, and to complainants who are engaging or attempting to engage in a University educational program or activity.

If a report or complaint falls under the University’s jurisdiction under Title IX, the University will utilize the formal complaint resolution process below to respond to a claim of sexual harassment/misconduct and will not proceed under any other University policy or procedure if doing so would interfere with any right or privilege provided to a party under Title IX. If the University determines that a report or complaint does not fall under the University’s jurisdiction under Title IX, the University may still take action for such alleged conduct, as herein provided and/or consistent with applicable law and policy (such as the Discriminatory Harassment Policy or Student Code of Conduct) and based on the nature of the alleged conduct. The parties will be notified of this decision.

Through this Policy the University intends to:

- a. Educate all constituencies about what constitutes sexual harassment/misconduct;
- b. Inform faculty, staff, and students of this policy and the procedures for reporting sexual harassment/misconduct within the University.
- c. Encourage faculty, staff, and students to report sexual harassment/misconduct that constitutes a crime to the appropriate law enforcement authorities.

III. Definitions of Prohibited Misconduct

1. Sexual Harassment

i. Unwelcome conduct (verbal, written, physical)

That is directed at someone because of that person's sex, and that meets either of the following:

- *"Quid Pro Quo."*
 - A University employee, agent, or other individual under the University's control or authority explicitly or implicitly conditions a decision or benefit on submission to sexual conduct (e.g., sexual favors for a better grade or promotion; implicitly or explicitly threatening negative consequences if the student or employee rejects sexual advances); or
- *Hostile Educational / Work Environment*
 - Unwelcome conduct that creates a hostile, intimidating, or demeaning environment that is sufficiently severe, pervasive, and objectively offensive that it effectively denies a person equal access to participation in the University's educational program or activity. Harassing conduct includes various types of unwelcome verbal, written or physical conduct, such as unwelcome touching; sexually explicit offensive jokes; sexually degrading graphic, verbal or written comments or questions of a sexual nature; sexual innuendo; sexual threats; obscene gestures; inappropriate humor and jokes about gender specific traits or sexual orientation; sexual propositions; sexually suggestive or insulting sounds and actions, including, whistling, leering, and obscene gestures; and may include sexual assault or exploitation.

ii. Sexual Assault

Defined as one of the following offenses in which one has or attempts to have sexual contact or sexual penetration with another individual without their consent:

- *Rape:*
 - The penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person without consent of the victim;
- *Fondling:*
 - The touching of the private body parts of another person for the purpose of sexual gratification without consent of the victim;
- *Incest:*
 - Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
- *Statutory rape:*
 - Sexual intercourse with a person who is under the statutory age of consent.

iii. Dating Violence

Is violence committed by a person who is or has been in a social relationship of a romantic, sexual, or intimate nature with the individual. The existence of such a relationship shall be determined based on the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

iv. Domestic Violence

Is a felony or misdemeanor crime of violence committed by:

- Current or former spouse or intimate partner of the victim;
- Person with whom the victim shares a child in common;
- Person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- Person similarly situated to a spouse of the victim under the laws of the State of Iowa or the jurisdiction in which the incident reported occurred; and
- Any other person against an adult or youth victim who is protected from that person's act under the laws of the State of Iowa or the jurisdiction in which the incident reported occurred.

v. Stalking

Is engaging in a course of conduct toward another person under circumstances that would reasonably cause a person to fear bodily injury to themselves or others or to experience substantial emotional distress.

Determination as to whether the alleged conduct constitutes sexual harassment should take into consideration all of the circumstances, including the context in which the alleged incidents occurred. These definitions of terms used in this policy are intended to track those in Title IX and the Clery Act. An act that might not fall within these definitions may still constitute misconduct, discriminatory harassment, and/or violate other University policy and/or codes of conduct.

2. Retaliation:

Taking an action (including intimidating, threatening, coercing, or discriminating) against an individual for seeking guidance, making a report, supporting a complainant or respondent, assisting in providing information relevant to a report or complaint, or filing a complaint under this policy. It is also considered retaliation to interfere with any right or privilege afforded under Title IX.

IV. Other Applicable Definitions

1. Effective Consent:

Effective Consent is informed, freely and actively given, mutually understandable words or actions which indicate a willingness to participate in current sexual activity. Such consent may be withdrawn at any time, without regard to the preceding activity. Consent may not necessarily

be inferred from silence or passivity, and cannot be given when a person is incapacitated (such as due to the use of drugs or alcohol, when a person is asleep or unconscious, or because of an intellectual disability that prevents an individual from having the capacity to give consent). Coercion, force, or threats invalidate consent.

a. Force

Exists, for example, when someone acts upon another physically, such as hitting, kicking, restraining or otherwise exerting their physical control over another through violence.

b. Threats

Exist where a reasonable person would be compelled by the words or actions of another to give permission to sexual contact they would not otherwise give, absent the threat. For example, threats to kill another, themselves, or to harm someone the other person cares for are sufficient to constitute threats.

c. Coercion

Exists when a person engages in sexually pressuring and/or oppressive behavior that violates norms of respect in the community, such that the application of such pressure or oppression causes the other person to engage in unwanted sexual behavior. Coercion may be differentiated from seduction by the repetition of the coercive activity beyond what is reasonable, the degree of pressure applied, and the initiator's knowledge that the pressure is unwanted. 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.

2. Incapacitation:

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why, or how" of their sexual interaction). Incapacitation can result from the use of alcohol or other controlled substances, or from mental or physical incapacity. Incapacitation is determined through consideration of all relevant indicators to a reasonable person of an individual's state and is not synonymous with intoxication, or impairment.

3. Employees

Include full-time and part-time faculty and staff employed on campus or through a University program, activity, or event, including visiting faculty or adjunct instructors.

4. Students

Include admitted students, as well as students who may not be on campus but are nonetheless considered an active or enrolled student at the University.

V. Understanding Confidentiality

The University will work to safeguard the personally identifiable information and privacy of those who seek help or who report sexual harassment/misconduct. It is important that those making a report understand the limits on confidentiality of the individual who they may contact for such assistance. Different people, depending on their positions, have different obligations with regard to confidentiality.

The University will keep confidential the identity of any individual who has made a report or complaint of sexual harassment/misconduct, or has been identified as the perpetrator or respondent to any such report or complaint, or is a witness to any complaint or investigation, except as required to carry out the purposes of this policy (including the conduct of any investigation, hearing, or judicial proceeding), applicable law, or as permitted by the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g. However, complaints about violations of this policy will be handled in strict confidence, with personally identifiable information protected and information made available only to those who need to know in order for the University to promptly and thoroughly investigate and resolve the matter. The University must balance the needs of individual students with its obligation to protect the safety and well-being of the community at large.

Under Iowa law, communications with some individuals are confidential. Those who want to maintain confidentiality should always confirm whether confidentiality applies to the communication before they make the communication. Generally, confidentiality applies when seeking services from the following persons:

- Trained and statutorily certified victim's advocates;
- Licensed psychological counselor;
- Licensed health care providers;
- Personal attorney representing the victim; or
- Religious/spiritual counselor.

Any other University employee cannot guarantee complete confidentiality. As noted above, the University must balance the needs of the individual students with its obligation to protect the safety and well-being of the community at large. Therefore, depending on the seriousness of the alleged incident, further action may be necessary, including a timely warning notice to the campus community. The notice would not contain any information identifying the person who brought the complaint. The University will also keep personally identifiable information out of public recordkeeping, including the University's Annual Security Report of Crime Statistics under the Clery Act.

VI. Steps to Take Immediately Following Sexual Harassment / Misconduct

Although the choices about which options to explore rest with you, William Penn University encourages those who have experienced sexual harassment/misconduct, especially if such misconduct constitutes a crime, to consider the following steps:

1. Get to a safe place as soon as possible.

2. Seek immediate medical attention and preserve evidence.

Mahaska Hospital is located at 1229 C Ave E, Oskaloosa, and by phone at (641) 672-3360. A Sexual Assault Nurse Examiner (a specially trained nurse) at the Pella Regional Health Center Emergency Room is on call 24 hours a day, 7 days a week (call Crisis Intervention Services at (800) 270-1620 or go directly to Pella Regional Health Center at 404 Jefferson Street, Pella Iowa 50219). Emergency room personnel are trained to check for injuries, as well as collect physical evidence.

If applicable, costs for providing and administering a rape kit incurred by the Iowa Department of Public Health. The hospital staff will collect information, check for injuries, and address the possibility of exposure to sexually transmitted infections. If you have changed clothing since the assault, bring the clothing you had on at the time of the assault with you to the hospital in a clean, sanitary container such as a clean paper grocery bag or wrapped in a clean sheet (plastic containers do not breath, and may render information useless). If you have not changed clothes, bring a change of clothes with you to the hospital, if possible, as they will likely keep the clothes you are wearing as evidence.

If desired, an advocate from Crisis Intervention Services ((641) 673-5499 or (800) 270-1620) can you to the hospital and Campus Safety or other University personnel can provide transportation (641) 673-1170.

Preserve other evidence by saving text messages, instant messages, social networking pages, other communications, and keeping pictures, logs or other copies of documents if they have any that would be useful to the University or law enforcement.

As time passes, evidence may dissipate or become lost or unavailable, thereby making investigation, possible prosecution, disciplinary proceedings, or obtaining criminal/civil protective orders related to the incident more difficult. If a victim chooses not to make a complaint regarding an incident, they nevertheless should consider speaking with Campus Public Safety or other law enforcement to preserve evidence in the event that the victim decides to act at a later date.

3. Victim Advocacy and Crisis Intervention Resources

Victims of sexual harassment or misconduct may also want to contact an advocacy group for information and assistance. The following is a list of such resources on or accessible from the University area:

<u>Crisis Intervention Services</u>	<u>500 High Avenue West</u> <u>Oskaloosa, Iowa 52577</u>	<u>800-270-1620</u>
<u>Mahaska Health Partnership –</u> <u>Emergency</u>	<u>1229 C Avenue East</u> <u>Oskaloosa, IA 52577</u>	<u>641- 673-3100</u>
<u>Pella Regional Health Center</u>	<u>404 Jefferson</u> <u>Pella, IA 50219</u>	<u>641-621-2200</u> <u>24 / 7 Nurse Line</u>
<u>Planned Parenthood of Heartland</u>	<u>1000 E Army Post Road</u> <u>Des Moines, IA 50315</u> <u>615 N 2nd Avenue West</u> <u>Newton, IA 50208</u>	<u>877-811-7526</u>

4. Mental Health Counseling and Confidential Reporting.

Talking with someone who understands can help you sort out the emotional aftermath of sexual harassment/misconduct. Because the reactions to these offenses are complex and often confusing, it is important to remember that your feelings are normal and you are not alone. William Penn University's Counselor provides free counseling for sexual harassment/misconduct. Additional confidential counseling resources in the area are also available.

These resources will maintain confidentiality unless there is present or future, clear and imminent threat to the client or others or when legal requirements demand that confidential information is revealed.

It must be noted that sharing an incident only with a confidential resource does not constitute making an official report. The University is not able to investigate or follow up unless or until the incident is reported to the Title IX Coordinator or when law enforcement informs the University about a report.

William Penn University
Counseling Services

Union Ground Floor

641-673-1703

The campus counselor is available to help survivors free of charge and can be seen on an emergency basis.

Crisis Intervention Services

500 High Avenue West
Oskaloosa, IA 52577

641-673-0336
800-270-1620
641-673-5499 (24/hr. crisis hotline)

Crossroads Pella Community
Center

712 Union Street
Pella, IA 50219

641-628-1212

Heartland Christian Counseling

2611 Washington St
Pella, IA 50219

641-628-9599

VII. Reporting, Investigation, and Resolution Processes

1. Report to Law Enforcement

A person who believes they have experienced sexual harassment/misconduct which constitutes a crime has the right to make a report to local law enforcement, but it is that person's right to choose whether to make a report or decline law enforcement involvement.

Law enforcement officers are trained in handling sexual assault and other cases involving sexual misconduct. An officer can be dispatched to campus to meet with the person calling, to assist with obtaining medical attention and emotional counseling, and to write a formal report of the incident. Reporting to law enforcement does not require prosecution of the offense. The police report and any supporting evidence may be turned over to a prosecutor, who decides whether there is sufficient evidence to prosecute.

In any emergency situation, law enforcement can always be reached by dialing 911. Other local law enforcement contacts are as follows:

Oskaloosa Police Department	<u>641-673-2557</u>
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Mahaska County Sheriff	<u>641-673-4322</u>
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The victim has the option to be assisted by campus authorities such as the Title IX Coordinator or Campus Safety in notifying law enforcement authorities, if the victim so chooses. Campus Safety can be notified at 641.673.1170. Calling the police or reporting a sexual harassment/misconduct crime to a University employee does not necessarily commit a victim to pressing charges. The choice to pursue charges or obtain a protection order can be made at a later date.

Additionally, at no time will any individual be forced to make a report to law enforcement as a precondition to using the University reporting/investigation process discussed herein.

Orders of Protection/No-Contact Orders

William Penn University does not have the authority to offer civil or criminal protective orders, but victims may be able to obtain information on how to do so from law enforcement or local courts. If an individual obtains an order of protection from a court in Iowa, the Title IX Coordinator should receive a copy to be aware of any limitations or restrictions and to develop a plan to abide by the court order.

The University cannot enforce a violation of a court order, but can assist an individual in contacting law enforcement to report a violation. If any terms of a court order are unclear in their application to the campus environment, it is up to the parties to seek clarification through the court – the University cannot render a legal opinion or give advice other than to develop a plan to reasonably prevent violations of the order.

2. University Reporting

To report an incident involving sexual harassment/misconduct, whether it occurred on or off-campus, contact:

Title IX Coordinator	Caree Gordon	<u>641-673-1703</u> <u>Caree.Gordon@wmpenn.edu</u>
Campus Safety		<u>641-673-1170</u>

The Title IX Coordinator will assist in making determinations around requests for confidentiality as explained in this policy and in arranging for a prompt investigation into a formal complaint. At the time of the report, a copy of this policy will be provided to the complainant.

Any nonconfidential employee of the University who has the authority to institute corrective measures on behalf of the University must immediately report any known instances of sexual harassment/misconduct to the Title IX Coordinator. Otherwise, the University strongly encourages and expects all students, employees, or anyone with knowledge to report incidents of sexual harassment/misconduct to one of the above referenced individuals. Confidential reporting resources are listed above in the preceding section.

The University encourages individuals to come forward as soon as possible to share concerns of sexual harassment/misconduct. There is no time limit for a report or complaint under the policy, although the University's ability to investigate and respond fully may be limited with the passage of time.

a. Amnesty for Use of Drugs or Alcohol

The severity of the infraction will determine the nature of the University's response, but whenever possible the University will respond educationally rather than punitively against a student who reports or makes a complaint in good faith concerning an incident of sexual harassment/misconduct, or who participates in good faith in an investigation into an incident of sexual harassment/misconduct.

The seriousness of sexual harassment/misconduct is a major concern and the University does not want any of the circumstances (e.g., drug or alcohol use) to inhibit the reporting of a violation of this Policy.

b. Federal Statistical Reporting Obligations

The Federal Government requires Campus Safety to publish an annual Student Safety Report describing certain crimes that fall within the definition of sexual harassment/misconduct that have occurred and their general location (on or off campus or in the surrounding area; no addresses are given). These reports contain statistical information only. All personally identifiable information is kept confidential. This report helps to ensure greater community safety by providing the community with a clear picture of the nature and extent of campus crime. The University requires that all employees (except professional/licensed counselors and clergy) provide statistical information regarding known sexual offenses, dating violence, domestic violence and stalking to Campus Safety.

c. Federal Timely Warning Reporting Obligations

The Clery Act requires institutions to issue timely warnings to the campus community about crimes that have already occurred but may continue to pose a serious ongoing threat to students and employees. Timely warnings are only required for Clery-reportable crimes that occur on Clery-defined geography, although William Penn University reserves the right to issue appropriate warnings regarding other criminal activity that may pose a serious threat as well. The University will make every effort to ensure that the party's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decision in light of the danger. Each time an alleged violation of this Policy is brought to the attention of the University, the Title IX Coordinator will make a determination as to whether a timely warning will be issued. When determining if a timely warning will be issued various factors will be considered on a case by case basis, including the nature of the crime, the continuing danger to the community, and the possible risk of compromising law enforcement efforts. If a timely warning is issued, it will be sent via email and cell phone text message to all students and those employees who have chosen to use the service.

3. Procedures for Reports of Sexual Harassment / Misconduct

a. Interim Supportive/Protective Measures

After receiving a report or complaint of sexual harassment/misconduct, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of interim supportive/protective measures and consider the Complainant's wishes, whether or not law enforcement is contacted or a formal complaint is filed. The University will also implement interim or supportive action for both parties during an investigation, or when requested by the Complainant (when reasonably available).

Supportive measures will be individualized, provided without fee or charge, are non-disciplinary in nature, and will not unreasonably burden either party. When putting supportive measures in place, the University will consider individually each situation and the circumstances presented. Any party with questions related thereto should contact the Title IX Coordinator; the Title IX Coordinator will oversee the implementation of any such measures.

If requested by the Complainant, a change in living or academic/work arrangements will be made to the extent reasonably possible. Other interim measures for the complainant and/or respondent might include:

- 1) Assistance from University support staff in completing the relocation.
- 2) Arranging to dissolve a housing contract.
- 3) Rescheduling exam (paper, assignment)
- 4) Taking an incomplete in a class.
- 5) Transferring class sections.
- 6) Temporary withdrawal from a course or from the University.
- 7) Alternative course completion options.
- 8) Academic accommodations.
- 9) Medical and mental health services, including counseling.
- 10) Change in campus housing and/or dining options.
- 11) Assistance in arranging for alternative University employment arrangements and/or changing work schedules.

- 12) Providing an escort to ensure that the student can move safely between school programs and activities.
- 13) Assistance identifying an advocate to help secure additional resources, including off-campus and community advocacy, support and services.

The University will generally initiate these measures only with the Complainant's knowledge and input, but the University reserves the right to take whatever interim supportive measures are deemed necessary to protect the parties and/or the community. In cases where confidentiality is requested and feasible, to the extent it is reasonably possible, a Complainant may still be provided requested support services such as a change in living or academic/work arrangements, and increased monitoring, supervision or security at locations and activities where the alleged misconduct occurred.

The University will work with Complainants to identify what interim measures are appropriate in the short-term (e.g., during the pendency of an investigation or other school response), and will continue to work collaboratively throughout the University's process and as needed thereafter to assess whether the instituted measures are effective, and if not, what additional or different measures are available to keep the Complainant safe.

b. Interim Suspension or Administrative Leave

The University may make a non-disciplinary interim suspension of a student Respondent on an emergency basis. Prior to suspending a student, the University will conduct an individualized safety and risk analysis and determine whether there is an immediate threat to the physical health or safety of any individual. Any student so suspended will be provided with notice and an opportunity to challenge this action immediately following the removal.

The University may, in its discretion and consistent with applicable policies, procedures, and/or agreements, place an employee Respondent on administrative leave pending the outcome of a resolution process.

c. Initiating a Formal Complaint.

When the University learns of potential sexual harassment/misconduct, in most cases outreach will be done with the Complainant to identify reporting options (discussed earlier) within and outside the University and to offer supportive measures. The Title IX Coordinator is available to meet to discuss those reporting options with the Complainant or answer questions from the Respondent.

A Complainant who proceeds with a formal complaint must do so in writing, and by filing a complaint with the Title IX Coordinator by hard copy, email, or any other writing evidencing a physical or digital signature, or otherwise verifying the Complainant is filing the complaint. If the Title IX Coordinator signs a formal complaint, the Title IX Coordinator will not become a party or Complainant for purposes of the processes below.

d. Dismissal and Consolidation of Formal Complaints

If, at any point of the resolution process, it becomes apparent that the allegations contained within a formal complaint, even if true, would not meet the scope and/or definitions in the policy as a Title IX case, the University will dismiss the complaint for purposes of processing

under the resolution process below, but may proceed under a different policy or process for adjudication as the circumstances warrant.

Additionally, the University may, in its sole discretion, elect to dismiss any formal complaint of sexual harassment/misconduct under the following circumstances:

- The Complainant requests, in writing, the withdrawal of the formal complaint,
- The Respondent is no longer employed or enrolled as a student at the institution, or
- Specific circumstances prevent the University from gathering evidence sufficient to reach a determination or satisfy its own burden of proof in investigating and adjudicating a formal complaint.

If the University elects to dismiss a formal complaint, all parties will be notified in writing of the decision, and will be given the opportunity to appeal the decision as set forth below.

The University may choose, at its sole discretion, to consolidate formal complaints where more than one Complainant and/or more than one Respondent is involved so long as the allegations of sexual harassment arise out of the same facts/circumstances. In such cases, the University may also choose to issue a single investigation report.

e. Notice of Investigation

Upon the filing of a formal complaint, the Title IX Coordinator or designee will provide a written Notice of Investigation simultaneously to both parties notifying the parties of:

- ☐ the identities of the parties involved in the incident;
- ☐ the conduct alleged;
- ☐ the date and location of the alleged misconduct;
- ☐ Respondent's entitlement to a presumption of innocence;
- ☐ The parties' rights to have an advisor of their choice at the party's expense, who may be an attorney;
- ☐ The parties' rights to review and comment on investigative evidence;
- ☐ The specific provision(s) of this policy that were allegedly violated; and
- ☐ The investigatory and resolution process that will follow.

If reasonably possible, the Title IX Coordinator should deliver the notice of complaint/investigation document to both individuals personally, so that he/she can explain the nature of the complaint(s) and the investigatory process.

The written notice of investigation shall notify the parties that making false statements or knowingly submitting false information during the resolution process is prohibited by the University and may constitute an independent basis for disciplinary sanctions, up to and including suspension or expulsion of a student or termination of an employee's employment.

The notice shall be provided prior to the initial interview of any party, and within a sufficient amount of time to prepare. Parties will be also be provided advance notice in writing of the date, time, location, participants, and purpose of any interview, hearing, or meeting in the investigation and resolution process.

If, during the course of investigation, the University determines that additional allegations will be investigated as part of the pending complaint, the Title IX Coordinator or designee will provide written notice of the additional allegations to any identified Complainant(s) or Respondent(s).

f. Right to an Advisor

Both parties are given the opportunity to have support or advice through the reporting and if applicable, investigative and disciplinary processes. Either the Complainant or the Respondent may have an individual accompany them at their own expense to any meetings, interviews, or hearings related to the matter – these individuals are called “advisors.” The advisor may be a friend, victim advocate, attorney, employee, family member, or other person chosen by the Complainant or Respondent.

The roles and expectations of a person serving as an advisor are explained as follows:

- The advisor will keep private the information shared during meetings and throughout the investigation and adjudication process and will not disclose in any manner information shared or learned in the University process.
- It is up to the Complainant and Respondent to present their information in meetings, interviews, or hearings. Advisors cannot speak for an individual and do not have an active role during any meetings, interviews, or hearings, with the exception of conducting cross-examination on behalf of a party in a live hearing.
- The University’s communication during the process will be primarily with the Complainant and Respondent, not with the advisor directly.
- A Complainant or Respondent may use a different advisor at various stages in the process, especially if their chosen individual cannot be available for a scheduled meeting, interview, or hearing. The University will work to reasonably accommodate the advisors’ schedules, but will not unnecessarily delay the process due to the advisors’ conflicts.
- The University may remove an advisor if they unreasonably delay the process, or their presence is disruptive, obstructive, or otherwise interferes with the University’s handling of the matter. In such a case, the University will notify the Complainant or Respondent, who may seek another advisor.
- University policy prohibits retaliation against any individuals for filing a complaint or participating in the investigation of the complaint. An advisor is also protected by and subject to this retaliation prohibition. This means an advisor may not retaliate against any person participating in this process, nor may anyone retaliate against an advisor.
- The University will provide an advisor, for any party, to assist with cross-examination during any hearing whereby the party has the right to engage in cross-examination, if the party does not have their own advisor. The University appointed advisor may be present for the duration of that hearing. The selection of such advisor shall be at the sole discretion of the University.

g. Promptness

Formal complaints are acted upon promptly by William Penn University. Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the University will reasonably avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in this policy will be delayed, William Penn will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

h. The Investigation

Formal complaints of alleged sexual harassment/misconduct will be investigated jointly by the Title IX Committee, the members of which have received annual training on how to investigate campus matters of sexual harassment and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

If, prior to the initiation of the investigation, either the Complainant or the Respondent alleges that an investigator has a conflict of interest, after hearing from both parties on the topic, the Title IX Coordinator will decide whether to excuse the investigator and announce his/her decision in writing to both parties. If the Title IX Coordinator determines that the investigator should be excused, or if an investigatory is unavailable to conduct the investigation, the Title IX Coordinator will appoint a replacement investigator.

**** The University reserves the right, in the discretion of the Title IX Coordinator and/or the President, to utilize an external investigator(s) to conduct an investigation under this Policy, in lieu of the internal investigators identified herein.*

The burden of proof and the burden of gathering sufficient evidence to reach a determination of responsibility rests with the University and not with the parties. The investigation will include, but is not limited to, interviews with the Complainant, the Respondent, any witnesses identified by the parties or by the investigator as having information relevant to the complaint, and collecting and reviewing any relevant documents, communications, or physical evidence if possible.

During the investigation, both the Complainant and Respondent: a) Will be allowed to present their version of events to the Investigator(s) and to provide any supporting evidence; b) May be accompanied in their interviews by their advisor; c) Will be allowed to identify witnesses, all of whom will be interviewed by the Investigator(s) unless compelling reasons exist, and both parties will be informed in writing of this decision.

All investigations will be conducted as discreetly as is practicable. All witness interviews will be audio recorded, and all such recordings shall at all times remain the property of the University. Investigators are encouraged to confer with the Title IX Coordinator throughout the process in an effort to ensure compliance with the outlined processes.

Neither party will be restricted in their ability to discuss the allegations or to gather and present relevant evidence; provided, however, that such communications shall not constitute harassment of or retaliation against any party.

The Investigator(s) will evaluate all relevant evidence, both inculpatory and exculpatory. The Investigator(s) will only access, consider, disclose, or otherwise use a party's treatment records made or maintained by a health care provider, or other records protected under a

legally recognized privilege, if the party provides the investigator(s) with voluntary, written consent to do so.

i. **Inspection and Review of Evidence Directly Related to Allegations and the Investigation Report**

At the conclusion of the investigation, Complainant and Respondent and, unless directed otherwise by the respective parties, their advisor(s), will be provided the opportunity to inspect all evidence directly related to the allegations of the formal complaint, including both inculpatory and exculpatory evidence, and evidence that the University does not intend to rely on in reaching a determination. This evidence will not include privileged medical information (unless the institution has the voluntary, written consent of the party concerned to use that information in the investigation) and prior sexual history (with the limited exception of evidence offered to prove someone other than the Respondent committed the alleged misconduct or evidence of prior sexual behavior between the parties offered to prove consent). The University may require both parties and their advisors to enter into a written agreement prohibiting the use or dissemination of evidence for any purpose other than those directly related to the parties' participation in the resolution process.

Complainant and Respondent will be given at least ten days to inspect and review the evidence collected during the University's investigation and to submit a written response which the Investigator(s) will consider in preparing a final investigation report. The final investigation report will summarize the information and include any documents gathered. The investigation report will not include determination of responsibility with regards to the complaint.

Additionally, Complainant and Respondent will be given at least an additional ten days after receiving a copy of the University's final investigation report to respond to the investigation report, in writing. In their written response to the investigation report, Complainant and Respondent may provide written comments regarding the relevance of the evidence included in or excluded from the investigation report, provide factual or other corrections to the report and otherwise provide context for the report.

The final investigation report will be distributed, concurrently, to all of the parties to the complaint and the decision-maker(s) by the Title IX Coordinator at least ten (10) calendar days prior to a hearing.

j. **Live Hearing and Cross-Examination**

For purposes of adjudication of formal complaints of sexual harassment/misconduct under Title IX, the University will conduct a live hearing prior to the issuance of a written decision report. The process for the live hearing is outlined in accordance with the procedures below:

1) *Appointment of Decision-Maker(s)*

The University shall appoint one or more Decision-Maker(s) who are either internal or external to the University, but have been trained on the matters set forth in this Policy. This may be, but is not required to be, the Judicial Board.

If heard by a panel such as the Judicial Board, one member shall be designated to serve as Hearing Officer during the hearing. The Hearing Officer will preside over the hearing and determine whether questions of parties is relevant. All procedural questions, including the decision to accept evidence and/or statements, will be made by the sole Decision-Maker or the Hearing Officer, in their sole discretion.

2) Notice of Hearing

No less than ten (10) calendar days before the hearing, the Title IX Coordinator will prepare and send the parties a written notice of the time and date of the hearing, as well as the identities of the Decision-Maker(s). Within five (5) calendar days either the Complainant or Respondent may request, in writing to the Title IX Coordinator, that a Decision-Maker(s) be disqualified because of an identified conflict of interest. The Title IX Coordinator will determine if a conflict exists.

If a party requests, the entire hearing will be conducted with the parties in separate rooms with technology enabling the Decision-Maker(s) and parties to simultaneously see and hear the party or witness answering questions.

3) Notice of Witnesses

At least five (5) calendar days before the hearing, the Decision-Maker(s) will notify the parties in advance which witnesses (including Complainant or Respondent) they would like to be present at the hearing. The Decision-Maker(s) or designee will notify these witnesses of the hearing date and time and that their presence has been requested. Any witness called by the Decision-Maker(s) will also be expected to answer questions from the parties.

- a. When notifying the parties of these witnesses, the Decision-Maker(s) will also request that the parties identify any additional witnesses they wish to have present at the hearing for cross-examination.
- b. The Decision-Maker(s) or designee will notify relevant witnesses of the hearing date and time and that their presence has been requested by the party for cross-examination.

4) Pre-Hearing Meetings:

In the discretion of the Decision-Makers(s), pre-hearing meetings may be scheduled and held by the Decision-Makers(s), parties, and advisors to discuss procedural and evidentiary matters relating to the hearing.

5) Proceedings

- a. The hearing is closed to the general public. The parties and their advisor will be allowed to attend the entire portion of the hearing at which information is received (excluding deliberations). Admission of any other person to the hearing will be at the discretion of the Decision-Maker(s).

- b. There shall be no formal pleadings, legal memorandum, or motions filed in the hearing process.
- c. The Decision-Maker(s) will advise the parties if an opening statement or closing statements are permissible.
- d. The University will record and/or create a transcript of all live hearings and will make that recording and/or transcript available to all parties for inspection or review.
- e. The Complainant and Respondent are permitted and encouraged to attend and participate in the hearing with an advisor of their choice.
- f. The University will make all evidence subject to inspection by all parties available at any hearing and will give each party equal opportunity to refer to that evidence at the hearing, including as part of cross-examination
- g. Presentation of Evidence:
 - i. The hearing is not a second investigation of the allegations. In the hearing, the parties will be asked if they have any additional evidence they wish the Decision-Maker(s) consider, and if the parties wish to comment on the Investigation Report and relevance of investigation evidence. Any new evidence presented by a party, if admitted as relevant, will be provided to the other party to review and provide comment;
 - ii. Parties will be allowed, through their advisors, to cross-examine all other parties and any witnesses, including fact and expert witnesses, and to ask all relevant questions and follow-up questions including those challenging party or witness credibility, directly, orally and in-real time. Any party without an advisor will be appointed an advisor by the University, with selection of the advisor being at the sole discretion of the University;
 - iii. Only relevant questions may be asked of a party or witness. Before a party or witness answers a question, the Decision-Maker(s) will exclude any irrelevant question, with a brief explanation to explain the basis for finding the question irrelevant. Questions about prior sexual history will generally be deemed irrelevant with limited exceptions.
 - iv. The Decision-Maker(s) may ask questions, at any time, of the parties and of the witnesses.

The University will not allow Decision-Maker(s) to rely on any statements made by a party or witness in reaching his or her determination if that party or witness does not submit to cross-examination during a live hearing.

The Decision-Maker(s) will not draw an inference about responsibility based solely on a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

k. **Standard of Proof**

The determination of whether or not sexual harassment/misconduct occurred will be made on the basis of whether it is more likely than not that the Respondent violated the procedure. This standard is more formally referred to as the “preponderance of evidence” standard.

l. **Written Decisions**

The University Decision-Maker(s) will independently evaluate the evidence gathered. Written decisions will be provided simultaneously to the parties and include the following information:

- 1) allegations of sexual harassment/misconduct,
- 2) procedural history (including specifics about notifications of hearings, meetings and interviews, methods used to gather evidence and hearings held),
- 3) findings of fact supporting the decision,
- 4) conclusions regarding application of policy to the facts,
- 5) rationale for the decision/finding of responsibility as it applies to each allegation,
- 6) disciplinary sanctions imposed on respondent, if any,
- 7) whether (but not the nature of) remedies designed to restore/preserve equal access to any or all education programs or activities that will be provided to the Complainant, and
- 8) procedure and permissible bases for appeal.

Decisions, including the imposition of any sanctions, will become final upon written notification to the parties of the outcome of an appeal or, if there is no appeal, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator will be responsible for coordinating the effective implementation of remedies, as well as any non-punitive or non-disciplinary supportive measures imposed.

m. **Appeals**

The written decision of the Decision-Maker(s) shall be subject to appeal by both Complainant and Respondent. All parties have an equal right to appeal any final decision on the following bases so long as the bases of the appeal is significant enough to be reasonably expected to affect the outcome of the decision:

- A procedural irregularity within the investigation or adjudication process;
- New evidence not reasonably available when determination of responsibility was made;
- A conflict of interest or the bias of the Title IX Coordinator, investigator or a decision-maker.

The University will notify all parties upon receipt of an appeal by any party alleging one of the bases for appeal above. Both parties will be given an opportunity to submit a written statement in support of, or challenging, the written determination. Written statements must be submitted to within five (5) business days.

The Appeal Decision-Maker(s) will determine if the decision and/or sanctions imposed will be stayed pending the outcome of the appellate decision. Except as required to explain the basis of new information, an appeal will be limited to a review of the verbatim record of the hearing and supporting documents.

The Appeal Decision-Maker(s) may affirm, reverse, or modify the decision regarding the violation and/or sanctions imposed. A written decision will be issued simultaneously to the parties describing the result of the appeal and the rationale therefor. The written appeal decision is the final decision of the University, and no further appeals are permitted.

n. Sanctions

- i. For Students: sanctions include, but are not limited to, an educational sanction, reprimand, probation, restitution, fine, denial of privileges, no-contact order, housing transfer or removal, suspension, and/or expulsion or termination.
- ii. For Employees: sanctions could range from warning, reprimand, suspension with or without pay, demotion, or termination of employment, and may include such other forms of disciplinary action as appropriate under applicable University procedures, handbooks/manuals, or contracts.

Sanctions may also include supportive measures regarding the Complainant. The University will also consider providing remedies for the broader campus community, as may be necessary to remedy the effects of sexual harassment.

Supervisors, administrators, and faculty who knowingly condone, fail to report, or fail to take action to remedy incidents of discrimination, harassment, and/or retaliation may themselves be subject to sanctions and/or disciplinary action, up to and including termination.

o. Informal Resolution

After the filing of a formal complaint, the University may facilitate an informal resolution between the parties, and at any time prior to the Decision-Maker's determination of responsibility via the issuance of a written decision.

The Title IX Coordinator will assess the severity of the alleged harassment and the potential risk of a hostile environment for others in the community to determine whether informal resolution may be appropriate. Informal Resolution will not be available to resolve allegations involving an employee sexually harassing a student.

The University will not require the parties to participate in the Informal Resolution process as a condition of enrollment, continuing enrollment, or employment or continuing employment, or of any other right conferred by the University.

The Title IX Coordinator will provide the parties with a written notice setting for the allegations, the requirements of the informal resolution process set forth in this policy, the right of any party to withdraw from the informal process and proceed with the formal complaint resolution process above, at any time prior to agreeing to a resolution; and any consequences resulting from the participation in the informal process, including the records that will be maintained or could be shared by the University. Both parties must voluntarily consent in writing to participation in the informal resolution process.

The Title IX Coordinator will attempt to aid the parties in finding a mutually acceptable resolution to the complaint. This resolution will be reduced to writing and must be signed by the Complainant and the Respondent. Once both parties have voluntarily signed the written resolution, the written resolution becomes final and neither party can initiate the formal

complaint resolution process above to resolve the allegations in the formal complaint. The written resolution is not subject to appeal.

p. Complainant Does Not Wish to Pursue Resolution or Requests Confidentiality

If the Complainant does not wish to pursue formal or informal resolution and/or requests their report remain confidential, the Title IX Coordinator will inform the Complainant that the University's ability to respond may be limited. The Title IX Coordinator will only initiate a formal complaint against the wishes of the Complainant where doing so is not clearly unreasonable based on known circumstances, based on the potential impact to the University community if the allegations were true.

The Title IX Coordinator will inform the Complainant if the University cannot ensure confidentiality. Even if the University cannot take disciplinary action against the Respondent because the Complainant insists on confidentiality or that the complaint not be resolved, the University reserves the authority to undertake an appropriate inquiry, and/or take other reasonably necessary supportive measures to promote a safe learning environment for the Complainant and/or the entire University community.

q. Sexual Harassment Outside the Policy's Scope

If a formal complaint is filed which alleges sexual harassment/misconduct which falls outside the scope and definitions of this policy and is dismissed, the Title IX Coordinator will refer the complaint as appropriate for adjudication under another policy or process, such as the Discriminatory Harassment Policy or Student Conduct Code, as long doing so would not interfere with any right or privilege provided to a party under Title IX.

To the extent the complaint alleges dating violence, domestic violence, domestic violence, or sexual assault which fall outside the scope of this policy (e.g., the alleged conduct occurred outside the United States or without substantial control over the respondent and the context in which the conduct occurred), the University shall nonetheless provide the following procedural rights to the parties in the applicable adjudication process:

- 1) The parties will each have the opportunity to participate in the investigatory and disciplinary process which is overseen by properly trained individuals;
- 2) The parties will each have the opportunity to be advised by a personal advisor of their choice, at their expense, at any stage of the process and to be accompanied by that advisor at any meeting or hearing. An advisor may only consult and advise his or her advisee, but not speak for the advisee at any meeting or hearing, except as expressly provided for in applicable procedures;
- 3) Decisions will be based on the preponderance of evidence standard. In other words, the investigator or adjudicator will determine if it more likely than not that the respondent violated the applicable procedure policy;
- 4) The parties will be notified simultaneously in writing of the outcome of any disciplinary proceeding, as well as any changes to those results or disciplinary actions prior to the time that such results become final; and

- 5) If there is a right to appeal, the right is granted co-equally to the parties and the right will be explained in the applicable procedures. The parties will be notified simultaneously in writing of the final outcome of an appeal, if applicable.

University sanctions for such misconduct could include the range of sanctions detailed above.

VIII. Interplay with Criminal Proceedings

As noted above, some conduct covered by this policy may constitute both a criminal violation and a violation of University policy. A person charged with a crime can be prosecuted under the Iowa Criminal Code and separately adjudicated by the University for any behavior that also constitutes a violation of this policy. Even if the criminal justice authorities choose not to prosecute, a student or employee charged with any type of sexual harassment/misconduct will be subject to the University disciplinary process. The matter will be processed under the applicable University policies and procedures, without waiting for any separate criminal investigation/proceedings to be conducted or completed. The University may briefly delay the start of its investigation for up to ten (10) days to allow an initial law enforcement investigation when a police report has been made, but absent compelling circumstances, a longer delay will not be allowed.

IX. Title IX Coordinator

The University's Title IX Coordinator ("Title IX Coordinator") coordinates the University's response to reports of sexual harassment/misconduct. The Title IX Coordinator does not serve as an advocate for either the Complainant or the Respondent. The Title IX Coordinator will explain to both parties the informal and formal processes and the provisions of confidentiality. The Title IX Coordinator will coordinate with other campus officials to implement and coordinate appropriate supportive measures such as mutual no-contact orders and academic accommodations. The Title IX Coordinator is trained and knowledgeable about enforcement, compliance, communication, and implementation of the College's anti-harassment and anti-discrimination policy. The College's Title IX Coordinator's contact information is as follows:

Title IX Coordinator

Caree Gordon

641-673-1703
Caree.Gordon@wmpenn.edu

X. Education and Training

William Penn University will provide annual educational programming to promote the awareness of sexual assault domestic violence, dating violence, and stalking.

Investigators, adjudicators and other personnel involved in the process of investigating, responding, coordinating or otherwise assisting in the adjudication of complaints of sexual harassment/misconduct will receive training as required on the topics of 1) impartiality, 2) avoiding prejudgment of facts at issue, 3) conflicts of interest and bias, 4) the University's resolution processes, 5) issues of relevance and evidence, 6) the scope of the University's educational programs and activities, and 7) types of sexual harassment.

University investigators will also be trained in writing investigation reports and decision-makers will be trained in conducting hearings, writing decisions and the technology used in hearings. The training materials used to perform these trainings will be published on the University's website and will ensure that relevant personnel are trained on issues related to sexual harassment and are taught how to conduct an investigation and hearing process that protects the rights, well-being, and safety of the parties, provides an equitable process for all parties involved, and promotes accountability.

When a student or employee reports an incident of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off campus, the University will provide a printed copy of this policy which includes the following written notifications: A list of existing Campus and Community Resources for counseling, emergency/safety/security, health, legal assistance mental health, Title IX coordinator, victim advocacy assistance for students and employees is included in the Title IX Coordinators office and on resource cards located throughout the University.

Student Complaint Policy & Procedure

Policy

William Penn University is committed to a respectful learning environment for all members of the campus community. Students have the right to seek a remedy for a dispute or disagreement when they believe they have been treated in an improper, unfair or arbitrary manner. Additionally, students have the right to seek a remedy for issues of institutional or program quality such as William Penn University's compliance with the standards of our accrediting body, the Higher Learning Commission (HLC). No retaliation of any kind shall be taken against a student for participation in a complaint or grievance.

Definitions

Complaint

A written claim raised by a student alleging improper, unfair, arbitrary or discriminatory action by an employee involving the application of a specific provision of a university rule/regulation or a William Penn University policy or procedure. A grievance may also be about issues of institutional or program quality.

Appeal

A request for reconsideration of a grievance application of a policy or procedure.

Retaliation

Retribution of any kind taken against a student for participating in a complaint or grievance.

Student

An individual student, a group of students, or the student government.

Procedures

Complaints About Sexual Assault, Relationship Misconduct, or Harassment

Should be directed to the Title IX Coordinator:

Caree Gordon
Title IX Coordinator
Union Ground Floor Counseling Center

William Penn University
201 Trueblood Avenue
Oskaloosa, IA 52577

641-673-1703

Caree.Gordon@wmpenn.edu