

# **TITLE IX & CLERY TRAINING**

# LEARNING OBJECTIVES

- What is Title IX?
- What is sexual harassment, gender-based harassment, sexual violence, dating/intimate partner violence, and stalking?
- How can you help prevent sexual harassment and sexual violence?
- What are Capri College's policies and procedures?
- How can I report an incident?
- What resources are available?
- Understand the changes in effect 8/2020 (following this slide)

**New Title IX regulations (Sexual discrimination/harassment) effective on August 14<sup>th</sup>. This a very complex rule (over 2,000 pages), but the most important facts for all to understand are simple. We will not tolerate sexual harassment, and we ask that any incidents be reported to us right away. Even if the person you report to is not our Title IX Coordinator, they will immediately pass along report to them.**

**The Most Significant Changes to Current Title IX Practices are below.**

- We will now be required to allow cross-examination of the complaining and responding parties, as well as any witnesses, during a live hearing led by institution officials. Cross-examination will be conducted by advisers for parties, including legal counsel, but not the parties themselves.
- We will be able to determine whether to use a “preponderance of the evidence” or “clear and convincing” standard as a burden of proof and must use the same standard for all complaints, no matter if they involve student or faculty misconduct.
- Stalking, domestic violence and dating violence are now officially considered examples of sexual harassment under Title IX.
- The definition of sexual harassment is more narrow than previous guidance. It is defined as “any unwelcome conduct that a reasonable person would find so severe, pervasive and objectively offensive that it denies a person equal educational access.” Reports of sexual assault, dating violence, domestic violence and stalking do not need to meet the description of “severe, pervasive and objectively offensive.”
- If a Title IX coordinator receives multiple informal complaints of harassment against a single respondent, they will not be required to begin a formal complaint process. The department changed this requirement from the proposed rule, which sought to obligate Title IX coordinators to take action after receiving multiple informal reports against the same person.
- We can no longer use a “single investigator model,” which has one official tasked with investigating, adjudicating and issuing disciplinary sanctions against respondents. The regulations instead require three separate officials to work through separate pieces of a single Title IX complaint process: a Title IX coordinator, who receives reports of sexual misconduct; an investigator, to gather facts and interview parties and witnesses; and a decision maker, to determine sanctions and remedies for parties.
- **We must train all personnel involved in the Title IX process and publish training materials on our website. Training must involve review of the new rule’s definition of sexual harassment and the scope of the application of Title IX to college programs and activities, how to conduct a formal or informal process, and how to “serve impartially,” including avoidance of “prejudgment of the facts at issue, conflicts of interest, and bias.”**
- Title IX processes may be conducted virtually, and staff must be trained on relevant technology to conduct remote investigations and hearings. Live hearings will be recorded, by transcript or audio visually, and will be made available to parties and maintained in college records for at least seven years.
- We must provide evidence related to allegations to parties and advisers at least 10 days prior to requiring a response, and parties will not be prohibited from speaking about the allegations. This means doing away with “gag orders.”
- We are not obligated to follow a specific time frame for responding to reports of sexual misconduct. They are instead required to have “reasonably prompt” periods for carrying out each step in the Title IX complaint process.

# TITLE IX STATES:

*“ No person in the United States shall, on the basis of **sex**, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any **education program or activity** receiving Federal financial assistance.”*

Title IX of the Education Amendments of 1972  
Implementing Regulations at:  
**20 U.S.C. § 1681 & 34 C.F.R. Part 106**

# What does OCR Say?

The US Department of Education, Office of Civil Rights, (“OCR”) is responsible for enforcing Title IX.

OCR takes a broader view of an institution’s responsibility to respond to sexual harassment against students and to remedy gender discrimination, sexual harassment and sexual assault.

OCR guidelines state:

The college is responsible if it knew or reasonably should have known of the harassment and failed to promptly take reasonable steps to end the harassment and prevent recurrence.

# LAWS AND REGULATIONS

- Title IX (1972): Federal law that prohibits sex discrimination in educational institutions.
- The Jeanne Clery Act (1998): Required colleges and universities in the United States to disclose information regarding crime on and around campus.
- Dear Colleague Letter (2011): Provides Office of Civil Rights guidance regarding concerns that arise in sexual violence cases.

# LAWS AND REGULATIONS, (CONTINUED)

- VAWA (2013): The Violence Against Women Act, aimed at improving how colleges address sexual violence; imposes obligations to revise policies and practices.
- SAVE Act (2014): Part of VAWA amendments, made changes to the Jeanne Clery Act; requires colleges to report additional sexually violent crimes.

# Capri College's COMMITMENT

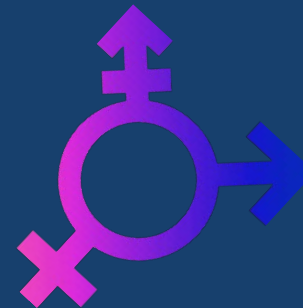


- Prohibit sexual harassment and sexual violence of any kind.
- We are committed to promoting a safe and secure academic environment for all members of our School.
- All students, faculty, staff, and visitors are expected to maintain a working and learning environment free from harassment and discrimination.
- Sexual harassment, a form of sex discrimination, is illegal under federal, and state laws and will not be tolerate.

# SCOPE OF COVERAGE

Title IX protects ALL students from sexual harassment:

- Female and Male students.
- Lesbian, Gay, Bi-Sexual, Transgender, and Queer (LGBTQ) students.
- Students WITH and WITHOUT disabilities.
- Students of Different Races and National Origins, including International students.



# SEXUAL HARASSMENT



# WHAT IS SEXUAL HARASSMENT?



Sexual harassment is *unwelcome* conduct of a sexual nature that is sufficiently serious to adversely affect your ability to participate in or benefit from an educational program. It includes *unwelcome* sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature.

# TYPES OF SEXUAL HARASSMENT

- Gender-based Harassment
- Sexual Violence
- Domestic/Intimate Partner/ Dating Violence
- Stalking

# SEXUAL VIOLENCE

- Physical sexual acts engaged in without the consent of the other person or when the other person is unable to consent to the activity. Sexual Violence includes sexual assault, rape, battery, and sexual coercion; domestic violence; dating violence; and stalking.

# DOMESTIC/INTIMATE PARTNER/DATING VIOLENCE

- Domestic Violence is force or threat that results in injury (physically and/or psychologically);
- The act is committed by a person such as a family member, spouse, or household member;
- It can include a current or former spouse;
- It can include a person which the victim is cohabitating or has cohabitated;
- It can include someone that you are dating or had been dating.

# STALKING

- Stalking occurs when someone, *on more than one occasion*, engages in conduct directed at another person with the intent to place, or knows or reasonably should know that the conduct places that person in reasonable fear of death, assault, or bodily injury to that person.

# THE ROLE OF ALCOHOL AND DRUGS IN SEXUAL VIOLENCE

- The use of alcohol under the age of 21 is against the law in most states.
- Alcohol and drug use can cloud your judgement and cause you to make decisions you would not make if you were sober.
- The use of alcohol and/or drugs can effect your ability to fend off unwelcome sexual misconduct and may not allow you to give consent.
- Being intoxicated **does not** give someone permission to do something without your consent.

# BYSTANDER INTERVENTION

Bystander Intervention is developing the awareness, skills, and courage needed to intervene in a situation when another individual needs help. Bystander intervention allows individuals to send a powerful message about what is and is not acceptable behavior in our campus community.

# THE THREE “D’S” TO BYSTANDER INTERVENTION

***Direct*** – Directly intervening, in the moment, to prevent a problem situation from happening.

***Delegate*** – Seek help from another individual such as police or campus official.

***Distract*** – Interrupting the situation without directly confronting the offender.

# CONSENT

- Consent is informed, voluntary and revocable. Consent is an affirmative, unambiguous, and conscious decision by each participant to engage in mutually agreed-upon sexual activity. It must be given without coercion, force, threats or intimidation. Consent must be ongoing throughout a sexual encounter and can be revoked at any time. Once consent is withdrawn, the sexual activity must stop immediately.

# TITLE IX REPORTING

# TITLE IX at Capri College

- Information about the alleged offense should be reported to the IX Coordinator as soon as possible. Time is a critical factor for evidence collection and preservation.
- It is strongly advocated that a victim of sexual violence report the incident to police in a timely manner.
- A prompt and equitable resolution through a reliable and impartial investigation of complaints, including the opportunity for both parties to present witnesses or other evidence.

# Capri College RESPONSIBILITIES

When an individual makes a complaint or when any Employee of the college learns of possible sexual misconduct, the college must immediately:

- INVESTIGATE,
- Take appropriate steps to end the misconduct,
- Eliminate the effects of the misconduct and,
- Prevent the harassment from recurring and.
- Faculty and staff who receive complaints of sexual harassment or sexual violence are **OBLIGATED** to report complaints to the Title IX Coordinator.



# TITLE IX REPORTING

Victims of sexual misconduct should be aware that Capri College must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to other members of the campus community. The School will make every effort to ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger. The School reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, or a change in student status.

# TITLE IX REPORTING



The purpose of reporting is to:

- Prevent further incidents from occurring,
- Promptly address reported issues, and
- Limit the effects of harassment on the educational environment.

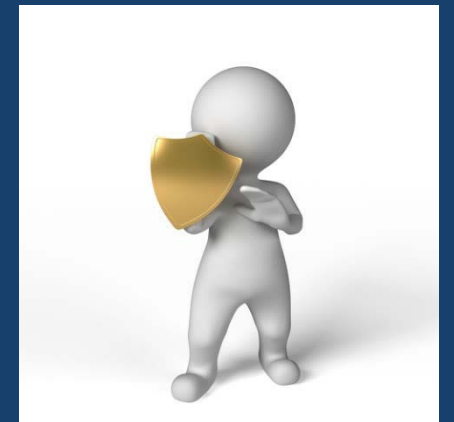


# SANCTIONS & PROTECTIVE MEASURES

Sanctions that may be imposed by Capri College include, but are not limited to:

- Written warning;
- Mandatory counseling;
- Mandatory education and training;
- Changes in academic or working arrangements;
- Revocation of certain campus privileges;
- Suspension; or
- Expulsion.

The school has flexibility in the type and range of sanctions to impose on the perpetrator depending on the severity of the incident. Capri College has a process in place to ensure that sanctions imposed are consistent with sanctions imposed in past incidents of similar conduct and are not imposed unequally based on gender or gender identity.



# SANCTIONS & PROTECTIVE MEASURES

Protective measures that the school may utilize to protect the complainant included, but are not limited to:

- Changes to academic situations;
- Ensuring the complainant and perpetrator do not share classes or clinic together;
- Arranging for the complainant to restart with a different class with no academic or financial penalty.

When determining what protective measures to establish, Capri College will consider several factors including the specific needs and requests expressed by the complainant; the severity or pervasiveness of the conduct; any continuing effects on the complainant; whether the complainant and alleged perpetrator share the same class or clinical times.

# CONFIDENTIALITY

- All employees of Capri College have a duty to report any incident of sexual harassment to the Title IX Coordinator.
- However, the employee will limit their report to only those individuals with a 'need to know.'
- If you request that your identity remain confidential, the Title IX Coordinator will try to honor that request if possible. Remember that this may limit the effectiveness of the investigation.

# RETALIATION

**Under Title IX, it is unlawful to retaliate against an individual who has:**

- Made a complaint of sexual harassment.
- Participated in the investigation of such a complaint (i.e. testifying as a witness, providing proof, etc.); or
- Opposed conduct that is reasonably believed to violate Title IX.



# Capri College RESOURCES

## Title IX Coordinator:

Allison Yonda, Student Services - [ayonda@capricollege.com](mailto:ayonda@capricollege.com)

563-588-2379 ext. 325

## Title IX Investigator:

Jeni Duggan, School Director - [jduggan@capricollege.com](mailto:jduggan@capricollege.com)

563-588-2379 ext. 313

## Title IX Decision Maker:

Matt Fiegen, COO - [mfiegen@capricollege.com](mailto:mfiegen@capricollege.com)

563-588-2379 ext. 308

# NATIONAL & LOCAL RESOURCES

**US Department of Education**

**Office of Civil Rights**

**800-421-3481**

Substance Abuse Center	563-582-3784
Dubuque Police Department	563-589-4467 or 911
Pregnancy Counseling	563-569-8595
Suicide Prevention Service	563-273-8255
Riverview Center – Sexual Assault	563-557-0310
Crescent Health Center	563-690-2850
Clarity Clinic	563-556-5250
Poison Control Center	800-222-1222
Domestic Abuse	563-588-0048
Sex Offender Registry	www.iowasexoffender.com

**Rainn.org**

**Notalone.gov**

**National Sexual Assault Hotline**

**800-656-HOPE**

**Knowyourix.org**

# SAY SOMETHING!



# Clery Act

# What Are CSAs?

- . “Officials who have significant responsibilities for students .”
  - . “Official” is any person who has the authority and the duty to act or respond to issues on behalf of the College.

# Capri College's CSAs

- Jeni Duggan – School Director: [jduggan@capricollege.com](mailto:jduggan@capricollege.com)
- Allison Yonda – Student Services: [ayonda@capricollege.com](mailto:ayonda@capricollege.com)
- Matt Fiegen, COO [mfiegen@capricollege.com](mailto:mfiegen@capricollege.com)

# Campus Security Authorities (CSA) Obligations:

- If you witness, learn of, or hear about a Clery Act crime, you must, as soon as possible, contact the Sioux Falls Police and tell them what happened and where it happened. You may identify the victim or keep the victim's identity confidential.
- You do NOT need to investigate, nor convince the victim to directly contact law enforcement.

# Clery Act Reportable Crimes

- Murder/Non-negligent Manslaughter
- Negligent Manslaughter
- Forcible Sex Offenses
- Non-forcible Sex Offenses
- Robbery
- Aggravated Assault
- Burglary
- Arson
- Motor Vehicle Theft.

# Clery Act Reportable Crimes

- “Dating Violence” refers to a violent act, committed by:
  - A person who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  - The existence of the relationship is determined based upon the 1) length of the relationship; 2) type of relationships; and 3) frequency of interaction between the persons in the relationship.

# Clery Act Reportable Crimes

- “Domestic Violence” refers to a violent crime, committed by:
  - Current or former spouse or intimate partner; or
  - Person sharing a child with the victim; or
  - Person living with or who has lived with the victim as a spouse or intimate partner.

# Clery Act Reportable Crimes

- “Stalking” refers to a course of conduct (two or more acts) by which the stalker directly, indirectly, or through third parties follows, monitors, observes, surveils, threatens, or communicates with a person or interferes with his or her property; and
- Is directed at a specific person; and
- Causes a reasonable person to fear for his or her safety or the safety of others or causes that person to suffer substantial emotional distress

# Clery Reporting Locations

- On Campus;
- Public areas immediately adjacent to campus;
- Campus-owned buildings and property;
- College-sponsored activities, events and/or trips on non-campus property.

# How to File a Clery Report

## Contact your CSA:

- Jeni Duggan – School Director: [jduggan@capricollege.com](mailto:jduggan@capricollege.com)
- Allison Yonda – Student Services: [ayonda@capricollege.com](mailto:ayonda@capricollege.com)

No personally identifiable information needs to be shared by the reporter to satisfy Clery reporting requirements.

# Other Clery Act Provisions

- Designate a college official to train CSAs on their obligations under the Clery Act.
- Publish an Annual Security Report disclosing security policies and selected crime statistics for previous 3 years ~ must be made available to all current students and employees, as well as all prospective students and employees.
- Timely Warnings: to the campus community about crimes that pose an ongoing threat to students and employees.
- Public Crime Logs.
- Sexual assault victims are assured basic rights.
- Failure to comply may result in substantial fine and/or loss of eligibility to participate in federal student aid programs.

# Sexual Offense Reporting Requirements

- If the sexual offense occurred on campus it must be reported to Sioux Falls Police for Clery Act purposes.
- If victim requests confidentiality, the basic information (date, general location, nature of offense) must still be reported, but the victim's identity need not be revealed.
- If the offense occurred off campus, there is no legal requirement to file a police report. However, the victim should be encouraged to file a report with local law enforcement.
- If the incident involves a student or employee, it must be reported to the Title IX & College Compliance Officer.

# Resources

- Clery Center for Security on Campus:  
<http://clerycenter.org>
- US Department of Education, Title IX  
[https://www2.ed.gov/about/offices/list/ocr/docs/tix\\_dis.html](https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html)
- US Department of Justice, Violence Against Women:  
[www.ovw.usdoj.gov](http://www.ovw.usdoj.gov)
- National Sexual Violence Resource Center:  
<https://www.nsvrc.org/>
- Department of Education, Online Clery Tutorial:  
[https://www2.ed.gov/campus-crime/HTML/cc\\_on/Contents.html](https://www2.ed.gov/campus-crime/HTML/cc_on/Contents.html)
- Rape Abuse Incest National Network (RAINN):  
<https://www.rainn.org/>

# Title IX Responsible Employees

- All employees of the school are considered Responsible Employees.
- You must understand and know the sexual misconduct policies and procedures outlined above.
- Your duty is to report sexual misconduct. Failure to do so will result in disciplinary action and could lead to termination of employment.
- When you receive information about incidents of sexual misconduct you are required to report all relevant details (including names of the alleged perpetrator, complainant and witness) about the incident to the Title IX Coordinator.
- You are NOT required to report this to any other agency.

# Title IX Coordinators, Investigators and Adjudicators

- Review and understand how to use the Administrative Hearing Procedures:
  - Following this slide
- Review and Understand the following information that we reviewed above:
  - what conduct constitutes sexual misconduct
  - the requirements for consent
  - proper standard of review
  - holding those who commit misconduct accountable and possible sanctions
  - remedial actions for perpetrators, complainants, and the campus community
  - how to weigh witness credibility
  - evaluating evidence in an impartial manner
  - protecting the parties' confidentiality
  - the neurobiology of trauma, including sexual assault
  - cultural awareness training in the context of sexual misconduct

## Administrative Hearing Procedures & Title IX/VAWA Sexual Misconduct

### Administrative Hearing Procedures

1. The Director of Capri College, along with the Owner, will pick at least two persons in an administrative capacity at the to provide a disciplinary hearing opportunity for a current (or former) student with pending campus disciplinary charges.
2. The administrative hearing officers will set up a hearing for the student. If the student does not reply, or does not show up, a hearing may be held in their absence.
3. The attendance or participation of any person in an administrative hearing is at the discretion of the hearing officers. All accused students, and complainants in Title IX/VAWA cases, may always participate in their administrative hearing if they so wish. The administrative hearing officers may request the attendance of college officials, students, named witnesses, or any other identifiable relevant person to an administrative hearing.
4. Prior to the administrative hearing, the Director will provide the student and the administrative hearing officer with:
  - a. Alleged charges; and
  - b. All available information relevant to the incident(s). Where necessary, personally identifiable information of other persons within reports may be redacted.
5. Both the accused student and a participating complainant may utilize one advisor, but no person may represent a student except the student themselves.
6. Both the accused student and a participating complainant may submit evidence on their behalf in advance of the hearing. Students wishing to bring witnesses to the administrative hearing should coordinate with the administrative hearing officers in advance of the administrative hearing and may be asked to have such witnesses reduce their testimony to a written statement.
7. At the discretion of the administrative hearing officers, the accused student or a participating complainant may submit questions in advance of the hearing, to be asked by the hearing officers. These questions could be asked of college officials, students, named witnesses, or any other identifiable relevant persons attending the administrative hearing. Hearing officers shall determine appropriate questioning.
8. At the end of the hearing, and prior to its conclusion, both the accused student and a participating complainant have an opportunity to make an impact statement.
9. The administrative hearing officers have the authority to remove any person from the administrative hearing who they believe is exhibiting behavior not conducive to the administrative hearing.
10. Administrative hearings are closed to the public. All administrative hearings will be recorded.
11. the administrative hearing officers will write a recommendation of their within five college days of the hearing. All administrative hearings are based upon a **preponderance of evidence standard** (i.e. “**more likely than not**”) that a student is:
  - a. Not Responsible for alleged charges of the Student Code of Conduct
  - b. Responsible for at least one alleged charge of the Student Code of Conduct

Administrative hearing officers may add or amend charges based on the information covered during the administrative hearing.
12. If there is a finding of ‘responsible’ for any of the alleged charges, the administrative hearing officers may recommend educational sanctioning.
13. A written decision (including e-mail) must be provided to the student by the College Director within ten college days after the administrative hearing. The decision letter must include a date by which an appeal

may be accepted.

14. An accused student, and a participating complainant in a Title IX/VAWA case, have the right to appeal an administrative hearing decision by writing to the College Director prior to the due date provided within the decision letter. The Director will assemble an appellate review “panel” for Title IX/VAWA cases.

Students have the right to appeal on the following grounds:

- a. The sanction is substantially disproportionate to the severity of the violation.
- b. A procedural defect in the process had a significant effect on the outcome; and./or
- c. The discovery of new information which was unknown or unavailable at the time of the hearing and would have a significant effect on the outcome.

If applicable, the non-requesting party will have the option to submit a written response to the appeal.

15. The College Director may authorize extended due dates at any point during the administrative hearing timeline based on extenuating circumstances.

### **Title IX/VAWA/Sexual Misconduct Cases**

*In accordance with Title IX regulations and the Violence Against Women Act Capri College will adhere to the following policies, procedures, and definitions in cases of sexual misconduct. Sexual misconduct cases include dating violence, domestic violence, sexual violence, sexual exploitation, stalking, and sexual harassment. This information is in addition to the above hearing procedures.*

Alternative Arrangements: Both parties have the right to a range of options for providing testimony and participating in the hearing process. Alternative arrangements must enable both parties and the hearing officers to hear each other. These arrangements include telephone/videoconferencing or testifying with a room partition.

Burden of Proof: The burden of proof in these sexual misconduct cases is “preponderance of the evidence.” This test asks whether it is “more likely than not” that the violation occurred.

Confidentiality: The college will protect the privacy of all parties to a complaint or other report of sexual misconduct to the extent possible. When the college receives complaints of sexual misconduct, the college has an obligation to respond in a way that limits the effects of the sexual misconduct and prevents its recurrence. Information will be shared as necessary during an investigation with people who need to know, such as investigators, witnesses, and the accused. If you are unsure of someone’s duties and ability to maintain your privacy, ask them before you talk to them. Staff at certain resources are obligated by law to maintain confidentiality, including the counseling center and the local crisis center off-campus.

Equal Rights for the Accused and Complainant: Any rights or processes offered to an accused are also offered to a complainant. For example, the right to an appeal, right to an advisor, and a right to call witnesses must all be offered equally, if at all.

Notice of Outcome: Both parties in sexual misconduct incidents have an absolute right to be informed of the outcome, essential findings, and sanctions (including the reason for the outcome and sanctions) of the hearing, in writing, in a way consistent with federal and state law. The complainant and accused shall be notified concurrently in writing within 10 days of the hearing of the result of the hearing and any appeal procedures available and when the hearing results become final.

Required Sanctions for Sexual Violence: A finding of “responsible” for sexual violence requires either immediate suspension with additional requirements or expulsion as a sanction.

Questioning and Cross-Examination: The accused and complainant may not directly question or cross-examine each other. Each may submit their questions to the hearing officers in advance of the hearing. The hearing officers will be responsible for asking the questions and determining appropriate questioning.

Impact Statement: The accused and the complainant have the right to make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.

Right to Appeal: The right to appeal if offered to either party, must be equally accessible to the complainant and the accused. Grounds for appeal are stated in the administrative hearing procedures. The non-requesting party will have the option to submit a written response to the appeal. Title IX/ VAWA related cases will be reviewed by a panel.

Retaliation: Retaliation against a person who files a Title IX/VAWA complaint, serves as a witness, or assists or participates in any manner is strictly prohibited and will result in disciplinary sanctions. Participants who experience retaliation should contact the College Director Title IX Coordinator.

*Jeni Duggan, School Director: 563-588-2379 ext. 313 [jduggan@capricollege.com](mailto:jduggan@capricollege.com)*

*Allison Yonda Title IX Coordinator: 563-588-2379 ext. 325 [ayonda@capricollege.com](mailto:ayonda@capricollege.com)*

Timeline: A timeline letter will be provided of the major steps of the conduct process to both parties so they know what to expect and when to expect it. If extraordinary circumstances prevent any step from occurring within the stated time frame, all parties will be promptly notified and will be given an estimated time for the step to occur. Participants may also request an extension from the college, which should be granted if it will not unduly prejudice the rights of the other party. All deadlines and time requirements may be extended for good cause.

The major stages that should be outlined are:

- Investigation: full investigation including any necessary interviews to be conducted with all involved parties and gathering of evidence and any necessary interim measures to be put in place, will usually be completed within 20 business days of receipt of the complaint. Students have the right to have a conduct process run concurrently with a criminal justice investigation and proceeding, except for temporary delays as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than 10 days except when law enforcement specifically requests and justifies a longer delay.
- Hearing: to usually be completed within 15 business days of receipt of complaint. Parties will receive notice of the outcome in writing.
- Appeal Letters: must be submitted in writing by the date indicated in the outcome letter.
- Appeal Decisions: typically issued within 10 business days of submission of the appeal and any response.

Written Acknowledgement from Complainant: Obtain a written acknowledgment from complainants in cases of sexual misconduct to document (1) the college employee or representative who spoke to or worked with the complainant, as well as the date; (2) which options the complainant would like to pursue, including the criminal justice system, the college, both, or none; (3) that the complainant received information about resources (medical, counseling, academic) available to them.

Parties' Rights to Advisors: Both parties are permitted to have an advisor at all Title IX/VAWA meetings and proceedings. The accused student or the complainant may utilize the advisor, but no person may represent the student except the student themselves.

**The following definitions will be used by the College in hearing Title IX/VAWA/sexual misconduct cases:**

Accused Student: Any student accused of violating this Student Code.

Complainant: Any person who submits a statement alleging that a student violated this Student Code.

Consent: Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

- Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol
- Consent may be initially given but withdrawn at any time.
- Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.
- Consent cannot be given when it is the result of any coercion, intimidation, force or threat of harm.
- When consent is withdrawn or can no longer be given, sexual activity must stop.

Dating Violence: Dating violence is any act of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the victim's statement and with consideration of the type and length of the relationship and the frequency of interaction between the persons involved in the relationship. Two people may be in a romantic or intimate relationship, regardless of whether the relationship is sexual in nature; however, neither a casual acquaintance nor ordinary fraternization between two individuals in a business or social context shall constitute a romantic or intimate relationship. This definition does not include acts covered under domestic violence.

Domestic Violence: any violent felony or misdemeanor crime committed by a current or former spouse or intimate partner of the victim, a person sharing a child with the victim, or a person cohabitating with the victim as a spouse or intimate partner.

Force: the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent.

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

Non-Consensual Sexual Intercourse: Any sexual intercourse, however slight, with any object, by a man or woman, upon a man or a woman that is without consent and/or by force. Intercourse includes: vaginal penetration by a penis, object, tongue or finger, anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

Retaliation: Any action by any person that is perceived as intimidating, hostile, harassing, retribution, or violent that occurred as a result of the making and follow-up of a report of a violation of this code of conduct.

Sex Discrimination: Sexual Discrimination includes all forms of: sexual harassment, sexual assault, and sexual violence by employees, students, or third parties against employees, students, or third parties. Students, College employees, and third parties are prohibited from harassing other students and/or employees whether or not the incidents of harassment occur on the College campus and whether or not the incidents occur during working hours.

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

- Invasion of sexual privacy;
- Prostituting another student;
- Non-consensual video or audio-taping of sexual activity;
- Going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex);
- Engaging in voyeurism;
- Knowingly transmitting an STI or HIV to another student;
- Exposing one's genitals in non-consensual circumstances;
- Inducing another to expose their genitals;
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

Sexual Harassment: Sexual Harassment is unwelcome, gender-based verbal or physical conduct that is sufficiently severe, persistent or pervasive that it unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the university's educational program and/or activities, and is based on power differentials (quid pro quo), the creation of a hostile environment, or retaliation.

Sexual Violence: Physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent, including, but not limited to rape, sexual battery, and sexual coercion.

Stalking: intentionally engaging in a course of conduct, directed at a specific person, which is likely to cause a reasonable person to fear for his or her safety or the safety of others or cause that person to suffer substantial acts that alarm, cause fear, or seriously annoy such other person(s) and that serve no legitimate purpose, and repeatedly communicating by any means, including electronic means, with such person(s) in a manner likely to intimidate, annoy, or alarm him/her.

# Campus Security Authority Incident Report



Campus Security Authorities (CSAs) should use this form to document incidents. Additional documentation and paperwork might be required for departmental and police purposes. CSAs should complete the form, save a copy for their records, and save in student file if applicable.

Date of Report \_\_\_\_\_

Name of Campus Security Authority \_\_\_\_\_

Date(s) of Incident(s) \_\_\_\_\_

## Reporting Person Contact Information

Reported by:           Victim            Third Party

First Name \_\_\_\_\_

Last Name \_\_\_\_\_

Email \_\_\_\_\_

Phone \_\_\_\_\_

Relationship to victim (if third party) \_\_\_\_\_

## Incident Information

Has the incident been reported to law enforcement, to your knowledge?   Yes            No

Law-Enforcement Agency (if reported) \_\_\_\_\_

Does the victim want the incident reported to law enforcement?           Yes            No

Time of Incident (if known) \_\_\_\_\_

Location of Incident: (building name, street address, office number)

\_\_\_\_\_

Campus-adjacent public property    Off-campus in a space owned, leased, or controlled by the University

Unknown location / other

Incident Description: (Please provide specific, detailed information and attach additional document if necessary.)

\_\_\_\_\_

Incident Category:

Robbery

Burglary

Arson

Hate Crime

Stalking

Dating Violence

Domestic Violence

Aggravated Assault

Sex Offense (forcible)

Sex Offense (non-forcible)

Homicide

Arrest for Liquor-Law Violation

Arrest for Drug-Law Violation

Arrest for Weapons-Law Violation

Referral for Liquor-Law Violation

Referral for Drug-Law Violation

Referral for Weapons -Law Violation

Other / Not Sure

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Is there any evidence that this crime was motivated by bias?

Yes

No

If yes, select any categories of prejudice that apply.

Race

Ethnicity

National Origin

Religion

Disability

Gender

Gender Identity

Sexual Orientation

Evidence supporting a bias motivation \_\_\_\_\_

# Campus Security Authority Test

Campus Security Authorities at Capri College should complete this test after training and save a copy in their personal file.

Name \_\_\_\_\_

Hire Date \_\_\_\_\_

I am a Campus Security Authority.

True

False

Which of these crimes is **not** a reportable offense under the Clery Act?

Sex Offense

Burglary

Pick-pocketing

Arson

If a crime is disclosed to me, I am responsible for determining whether the crime took place before reporting.

True

False

When I receive a crime report I should:

File it in a folder to submit at the end of the school year.

Report it right away.

Direct the student to Public Safety.

As a campus security authority, I only have to report crimes that involve students or staff.

True

False

If I am not sure whether a crime reported to me fell within Clery-specific geography I should:

Look at a campus map for clarification.

Ask a colleague within my department.

Report it anyway so the institution can make that determination.

Employee Signature : \_\_\_\_\_ Date: \_\_\_\_\_