

**PIERPONT COMMUNITY & TECHNICAL COLLEGE**  
**Board of Governors Policies and Procedures**  
**PP-2009**

**TITLE: SEXUAL HARASSMENT and SEX DISCRIMINATION**

**EFFECTIVE DATE:** July 1, 2002

**REFERENCE:** This policy complies with federal, state and local laws and regulations. Specifically, this policy upholds: West Virginia Code § 18B-1-6; Title IX of the Education Amendments of 1972, including accompanying regulations and guidance provided by the U.S. Department of Education' Office for Civil Rights; Title VII of the Civil Rights Act of 1964, including accompanying regulations and guidance provided by the Equal Employment Opportunity Commission (EEOC); Applicable federal court decisions. This policy replaces Policy 42, "Consensual Romantic or Sexual Relationships."

**AMENDED:** February 20, 2024

**REPEALED:**

**REVIEWED:** February 2024

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## **SECTION 1. GENERAL**

### **1.1 Scope**

This Policy defines sexual harassment and provides general guidelines for filing complaints regarding sexual harassment of students, employees, and other individuals participating in education, programs or activities of Pierpont Community & Technical College ("Pierpont" or "the College").

### **1.2 Investigation and Resolution**

All alleged violations of this policy will be promptly, thoroughly, and impartially addressed using Pierpont Community & Technical College policies and procedures.

## **SECTION 2. POLICY AND PROHIBITED CONDUCT**

**2.1 Sex Discrimination and Sexual Harassment-** Pierpont Community & Technical College maintains a work and educational environment free from all forms of harassment and discrimination. Discrimination based on sex and sexual harassment, including discrimination and harassment based on gender identity, gender expression, sexual orientation, sex stereotypes, and pregnancy are prohibited. Retaliation against individuals for reporting conduct prohibited by this Policy, for filing a formal complaint and/or for participating in grievance procedures implemented in accordance with this Policy or for not participating in the grievances procedures for the purposes of Title IX Sexual Harassment is also prohibited. The College will take prompt, thorough, and impartial measures to stop discrimination and harassment, remedy their effects, and prevent their

recurrence once the institution receives notice of sexual harassment or sex or gender based discrimination.

When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of this Policy, though supportive measures will be offered to those impacted.

## **2.2. Retaliation**

Protected activity under this Policy includes reporting alleged misconduct that may implicate this Policy, participating in the resolution and/or grievance process, in the case of Title IX not participating in the grievance procedure, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. Pierpont will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

Pierpont and any member of the College community are prohibited from taking or attempting to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy and procedure.

Filing a complaint could be considered retaliatory if those allegations are made for the purpose of interfering with or circumventing any right or privilege provided afforded by this Policy and/or for interfering with any right afforded an individual under any procedures implemented in accordance with this Policy.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Pursuing a code of conduct or personnel policy violation for making a materially false statement in bad faith in the course of a grievance proceeding under this Policy and procedure does not constitute retaliation; the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

## **2.3 Online Harassment and Misconduct**

The College's policies are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in, or have an effect on, the College's education program and activities

or when they involve the use of the College's networks, technology, or equipment.

Although the College may not control websites, social media, and other venues through which harassing communications are made, when such communications are reported to the College, it will engage in a variety of means to address and mitigate the effects.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites; sharing inappropriate content via social media; unwelcome sexual or sex-based messaging; distributing, or threatening to distribute, nude or semi-nude photos or recordings; breaches of privacy; or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the College community.

Any online posting or other electronic communication by students, including but not limited to, cyber-bullying, cyber-stalking, cyber-harassment, occurring completely outside of the Pierpont's control (e.g., not on Pierpont networks, websites, or between Pierpont email accounts) will only be subject to this Policy when such online conduct can be shown to cause a substantial in-program disruption or infringement on the rights of others.

Otherwise, such communications are considered speech protected by the First Amendment. Supportive measures for Complainants will be provided, but legally protected speech cannot be subjected to discipline.

Off-campus harassing speech by employees, whether online or in person, may be regulated by the Pierpont only when such speech is made in an employee's official or work-related capacity.

## **SECTION 3. DEFINITIONS**

### **3.1 Sexual Harassment**

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of West Virginia regard sexual harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Pierpont has adopted the following definitions of sexual harassment in order to address the unique environment of an academic community. While they overlap, they are not identical, and they each apply as noted.

**Title VII Sexual Harassment/Fair Housing Act**<sup>2</sup> applies to situations where an employee is subjected to workplace sexual harassment or where a situation involves a residential Complainant in College-provided housing.

Unwelcome verbal, written, graphic, and/or physical conduct;

- a. that is severe or pervasive and objectively offensive;
- b. on the basis of sex/gender, and that
- c. unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.

**Title IX Sexual Harassment/Fair Housing Act**, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking. This definition applies to all formal complaints that fall within Title IX jurisdiction as determined by the Title IX Coordinator. Title IX Sexual Harassment includes:

Conduct on the basis of sex,<sup>1</sup> or that is sexual in nature, occurring in the United States against an individual participating in a Pierpont educational program or activity that satisfies one or more of the following:

**3.1.1 Quid Pro Quo:**

- a. an employee of the College,
- b. conditions<sup>2</sup> the provision of an aid, benefit, or service of the College,
- c. on an individual's participation in unwelcome sexual conduct.

**3.2.2 Hostile Environment:**

- a. unwelcome conduct,
- b. determined by a reasonable person,
- c. to be so severe, and
- d. pervasive, and,
- e. objectively offensive,
- f. that it effectively denies a Complainant equal access to the College's education program or activity.<sup>3</sup>

**3.1.3 Sexual Assault**,<sup>4</sup> defined as:

- a. **Rape:**
  - o Penetration, no matter how slight,
  - o of the vagina or anus,

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<sup>1</sup> Including gender identity, gender expression, sexual orientation, and sex stereotypes.

<sup>2</sup> Implicitly or explicitly.

<sup>3</sup> Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced. This definition is broad enough to potentially encompass forms of sex-based disparate treatment, even if not harassing in nature.

- with any body part or object, or
  - oral penetration by a sex organ of another person,
  - without the consent of the Complainant.
- b. **Fondling:**
- The touching of the private body parts of the Complainant (buttocks, groin, breasts),
  - for the purpose of sexual gratification,
  - without the consent of the Complainant,
  - including instances where the Complainant is incapable of giving consent because of their age or because of a temporary or permanent mental incapacity.
- c. **Incest:**
- Sexual intercourse,
  - between persons who are related to each other,
  - within the degrees wherein marriage is prohibited by West Virginia law.
- d. **Statutory Rape:**
- Sexual intercourse,
  - with a person who is under the statutory age of consent under the laws of West Virginia.
- 3.1.4 Dating Violence**, defined as:
- a. violence,
  - b. on the basis of sex,
  - c. committed by a person,
  - d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
    - i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
      - a) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
      - b) Dating violence does not include acts covered under the definition of domestic violence.
- 3.1.5 Domestic Violence**,<sup>4</sup> defined as:
- a. violence,
  - b. on the basis of sex,
  - c. committed by a current or former spouse or intimate partner of the Complainant,
  - d. by a person with whom the Complainant shares a child in common, or
  - e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
  - f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of West Virginia, or

- g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of West Virginia.

**3.1.6 Stalking**, defined as:

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at the Complainant, that:
  - i. would cause a reasonable person to fear for the person's safety, or
  - ii. the safety of others; or
  - iii. Suffer substantial emotional distress.

For the purposes of this definition—

- Course of conduct means two or more acts, including, but not limited to acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Conduct that meets the definition of Title IX Sexual Harassment occurring outside the United States is conduct prohibited by this Policy and will be addressed by the College using the procedures applicable to Title IX Sexual Harassment.

Pierpont reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this Policy. The most serious offenses are likely to result in suspension/expulsion/termination.

**3.2 Force, Coercion, Consent, and Incapacitation<sup>5</sup>**

As used in the offenses above, the following definitions and understandings apply:

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<sup>5</sup> The state definition of consent which is applicable to criminal prosecutions for sex offenses in West Virginia is set forth in the *West Virginia Code* § 61-8B-2, *Lack of Consent*, and states the following: b) Lack of consent results from: (1) Forcible compulsion; (2) Incapacity to consent; or (3) If the offense charged is sexual abuse, any circumstances in addition to the forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor's conduct. (c) A person is deemed incapable of consent when such person is: (1) Less than sixteen years old; (2) Mentally defective; (3) Mentally incapacitated; (4) Physically helpless; or (5) Subject to incarceration, confinement or supervision by a state, county, or local government entity, when the actor is a person prohibited from having sexual intercourse or causing sexual intrusion or sexual contact pursuant to §61-8B-10 of the [West Virginia Code]. Terms set forth in *West Virginia Code* § 61-8B-2 are defined in *West Virginia Code* § 61-8

**Force:** Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., "Have sex with me or I'll hit you," which elicits the response, "Okay, don't hit me. I'll do what you want.").

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

**Coercion:** Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, 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.

**Consent** is:

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.

Individuals may perceive and experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied consent. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain *their* consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonably immediate time.

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b-1. These definitions may differ from the definition used by Pierpont to address policy violations. [Included for Clery/VAWA Sec. 304 compliance purposes]

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent. If an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected.

Proof of consent or non-consent is not a burden placed on either party involved in a complaint. Instead, the burden remains on the College to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged misconduct occurred and any similar and previous patterns that may be evidenced.

Consent in relationships must also be considered in context. When parties consent to BDSM<sup>6</sup> or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual, thus College’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

**Incapacitation:** A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drug consumption. As stated above, a Respondent violates this Policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

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, and how” of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

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<sup>6</sup> Bondage, discipline/dominance, submission/sadism, and masochism.



### 3.3. Other Civil Rights Offenses

In addition to the forms of sexual harassment described above, which are covered by Title IX and/or other federal laws prohibiting discrimination based on sex, Pierpont additionally prohibits the following offenses as forms of discrimination that may be within or outside of Title IX when the act is base

#### 3.3.1 Sexual Exploitation, defined as:

- a. an individual taking non-consensual or abusive sexual advantage of another
- b. for their own benefit or for the benefit of anyone other than the person being exploited, and
- c. that conduct does not otherwise constitute Sexual Harassment under this Policy.

Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Invasion of sexual privacy (e.g., doxxing)
- Knowingly making an unwelcome disclosure of (or threatening to disclose) an individual's sexual orientation, gender identity, or gender expression
- Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity; or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography
- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity

- Engaging in sex trafficking
- Knowingly creating, possessing, or disseminating child sexual abuse images or recordings

**3.3.2 Harm/Endangerment**, defined as:

- a. threatening or causing physical harm;
- b. extreme verbal, emotional, or psychological abuse; or
- c. other conduct which threatens or endangers the health or safety of any person or damages their property.

**3.3.4 Discrimination**, defined as:

- a. actions that deprive, limit, or deny
- b. other members of the community
- c. of educational or employment access, benefits, or opportunities,
- d. including disparate treatment.

**3.3.5 Intimidation**, defined as:

- a. implied threats or
- b. acts that cause the Complainant reasonable fear of harm.

**3.3.6 Hazing** , defined as:

- a. acts likely to cause physical or psychological harm or social ostracism
- b. to any person within the College community,
- c. when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the Hazing Policy).

**3.3.7 Bullying**, defined as:

- a. repeated and/or severe aggressive behavior
- b. that is likely to intimidate or intentionally hurt, control, or physically or mentally diminish the Complainant,
- c. that is not speech or conduct that is otherwise protected by the First Amendment.

Violation of any other College policies may constitute a Civil Rights Offense when a violation is --motivated by actual or perceived protected characteristic(s), and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities.

Sanctions for the above-listed Civil Rights Offenses range from warning through expulsion/termination.

**3.4. Education Program or Activity**

**3.4.1** Education program or activity for the purposes of Title IX Sexual Harassment includes locations, events, or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a

student organization that is officially recognized by a postsecondary institution.

## SECTION 4. REMEDIES/SANCTIONS

- 4.1** Individuals found responsible for violating this Policy will be subject to sanctions set forth in this section.
- 4.2** Factors considered when determining any sanction(s)/responsive action(s) may include, but are not limited to:
- The nature, severity of, and circumstances surrounding the violation(s)
  - An individual's disciplinary history
  - Previous allegations or allegations involving similar conduct
  - The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
  - The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
  - The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
  - The impact on the parties
  - Any other information deemed relevant by the Decision-maker
- 4.3** Sanctions described in this Policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed by outside authorities.
- 4.4** **Student Sanctions.** The following are the common sanctions *as further described in the Student Handbook* that may be imposed upon students singly or in combination:
- Warning
  - Probation I
  - Probation II
  - Interim Suspension
  - Expulsion
  - Other Sanctions
- 4.5 Student Organization Sanctions.** The following are the common sanctions that may be imposed upon student organizations singly or in combination:<sup>7</sup>
- *Warning:* A formal statement that the conduct was unacceptable and a warning that further violation of any College policy, procedure, or directive will result in more severe sanctions/responsive actions.
  - *Probation:* A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the organization is found in violation of any institutional policy, procedure, or

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<sup>7</sup> Subject to College's Organizational Code of Conduct if one is in place.

directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social and event privileges, denial of College funds, ineligibility for honors and awards, restrictions on new member recruitment, no-contact orders, and/or other measures deemed appropriate.

- *Suspension*: Termination of student organization recognition for a definite period of time not to exceed two years and/or until specific criteria are met. During the suspension period, a student organization may not conduct any formal or informal business or participate in College-related activities, whether they occur on or off-campus. Re-recognition is possible but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from the College.
- *Expulsion*: Permanent termination of student organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason.
- *Loss of Privileges*: Restricted from accessing specific College privileges for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

#### **4.6 Employee Sanctions/Responsive/Corrective Actions.**

**4.6.1** Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation include:

- *Written Warning*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Reassignment*
- *Delay of Tenure Track Progress*
- *Assignment to New Supervisor*
- *Restriction of Stipends, Research, and/or Professional Development Resources*
- *Suspension with Pay*
- *Suspension without Pay*
- *Termination*
- *Other Actions*: In addition to or in place of the above sanctions/responsive actions, the College may assign any other responsive actions as deemed appropriate.

## **SECTION 5. ADDITIONAL POLICY PROVISIONS**

## **5.1 Attempted Violations**

In most circumstances, the College will treat attempts to commit any of the violations listed in this policy as if those attempts had been completed.

## **5.2 False Allegations and Evidence**

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

**5.2.1** Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation, hearing, or informal resolution can be subject to discipline under appropriate College policies.

## **5.2 Amnesty for Victims and Witnesses**

The College community encourages the reporting of misconduct and crimes by victims and witnesses. Sometimes, victims or witnesses are hesitant to report to College officials or participate in resolution processes because they fear that they themselves may be accused of policy violations, such as underage drinking at the time of the incident. It is in the best interests of this community that as many victims as possible choose to report to College officials, and that witnesses come forward to share what they know. To encourage reporting, the College may pursue a policy of offering victims of misconduct and witnesses amnesty from minor policy violations related to the incident.

## **5.4 Parental Notification**

The College reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, change in student status or conduct situation, particularly alcohol and other drug violations. The College may also notify parents/guardians of non-dependent students who are under age 21 of alcohol and/or drug policy violations. Where a student is non-dependent, the College will contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk. The College also reserves the right to designate which College officials have a need to know about individual conduct reports pursuant to the Family Educational Rights and Privacy Act.

## **SECTION 6. MANDATORY REPORTING AND CONFIDENTIAL RESOURCES**

**6.1 Mandatory Reporting.** All College employees are required to report sexual harassment of which they become aware, to the Title IX Coordinator unless they fall under the Confidential Reporting" section. Employees must share all details of the reports they receive. Generally, climate surveys, classroom writing assignments, human subjects research, or events such as Take Back the Night marches or speak-outs do not provide notice that must be reported to the Coordinator by employees. Any reports can be made via email, phone, in writing, or in person.

**6.2 Confidential Resources.** Confidential Resources are not obligated to report information that is provided to them. This allows individuals to explore their options in a non-pressured environment while they make informed decisions. There may be exceptions in cases involving child abuse, imminent risk of serious harm, emergent hospitalization, or a court order.

In addition, non-identifying information about alleged violations of this Policy that may constitute Clery Act crimes may be submitted to the Department of Campus Safety and Security for purposes of the anonymous statistical reporting under the Clery Act.

Clery Act reporting does not require the institution to initiate an investigation or disclose personally identifiable information about the victim.

The following are considered confidential resources:

- On-campus licensed professional psychologists, counselors and staff- Campus counselors are available to help free of charge and can be seen on an emergency basis during normal business hours.
- Off-campus:
  - Licensed professional counselors
  - Local rape crisis counselors
  - Domestic violence resources,
  - Local or state assistance agencies,
  - Clergy/Chaplains

### **6.3 Title IX Coordinator**

The College's Title IX Coordinator has the primary responsibility for coordinating the College's compliance with Title IX and other federal and state regulations prohibiting discrimination and harassment based on sex. The Title IX Coordinator also is responsible for efforts related to the grievance procedures implemented in accordance with this Policy which include the intake, investigation, resolution, and implementation of supportive measures to stop, remedy, and prevent sexual harassment, and retaliation and other conduct prohibited under this Policy.

#### **The College's Title IX Coordinator is:**

George H. Perich  
Vice President, Human Resources & Organizational Development  
500 Galliher Drive  
Fairmont WV 26554  
[gperich@pierpont.edu](mailto:gperich@pierpont.edu)  
(681) 753-5712

## 6.4 External Reporting Options

The United States Department of Education's Office for Civil Rights (OCR), is responsible for enforcing Title IX. Information about the OCR complaint process is available at:

Office for Civil Rights (OCR)  
U.S. Department of  
Education 400 Maryland  
Avenue, SW  
Washington, DC 20202-1100  
Customer Service Hotline #: (800) 421-3481  
Phone: (877) 521-2172  
Fax: (202) 453-6012  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)

Web: <http://www.ed.gov/ocr>The United States Equal Opportunity Commission (EEOC) is responsible for enforcing several federal Civil Rights laws and regulations including laws prohibiting on the job Sexual Harassment. Information about the EEOC complaint process is available at:

U.S. Equal Employment Opportunity Commission Pittsburgh  
Area Office  
William S. Moorhead Federal Building  
1000 Liberty Avenue, Suite 1112  
Pittsburgh, PA 15222  
Phone: 412-395-5902  
Fax: 412-395-5749  
Web: <http://www.eeoc.gov/contact/>

## SECTION 7: REPORTING SEXUAL HARASSMENT AND FILING COMPLAINTS

**7.1** Any person may report sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sexual harassment). Reports and formal sexual harassment complaints are filed with the Title IX Coordinator.

Reports and formal complaints may be filed in person, by mail or email. As used in this Policy, the term "Formal Complaint" means a document or electronic submission (such as by electronic mail or through an online portal provided by the College for this purpose) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that the College investigate the allegations.

For the purposes of Title IX Sexual Harassment, a formal complaint is a document filed by an individual who is alleged to be the victim of conduct that could constitute Title IX Sexual Harassment or signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a respondent and requesting that the College

investigate the allegation of Title IX Sexual Harassment. If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

In the case of Title IX Sexual Harassment:

(a) the College is not permitted to implement formal grievance procedures without a formal complaint; and (b) Where a complainant desires to initiate a formal grievance process, the alleged victim cannot remain anonymous or prevent the victim's identity from being disclosed to the individual accused of Title IX Sexual Harassment.

Upon receipt of report or complaint, the Title IX Coordinator will promptly contact the individual alleged to be the victim of the prohibited conduct to discuss the availability of supportive measures, consider the individual's wishes with respect to supportive measures, inform the individual of the availability of supportive measures with or without the filing of a formal complaint, and explain to the individual the grievance procedures implemented in accordance with this Policy.

If a formal complaint is filed, the College will provide supportive measures to individuals accused of prohibited conducted.

**7.2** Complaints or reports against the Title IX Coordinator are filed with:

Michael Waide  
Provost/Vice President, Academic Affairs and Student Services  
500 Galliher Drive  
Fairmont WV 26554  
mwaide@pierpont.edu  
(304) 367-4602

**7.3** If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, and/or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator who will evaluate that request in light of the duty to ensure the safety of the institution and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether the College proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a Formal Complaint to initiate a grievance process.

The College's ability to remedy and respond to notice may be limited if the Complainant does not want the College to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing the College's obligation to protect its community.



## **SECTION 8: DELEGATION, GRIEVANCE PROCEDURES AND AMENDMENTS**

- 8.1** The President or President's designee may establish administrative procedures to implement this Policy including but not limited to formal grievance procedures that comply with 34 CFR § 106.45 and/or any other applicable State or Federal requirements. Grievance procedures implemented in accordance with this policy will treat complainants and respondents equitably and will follow a grievance process that complies with § 106.45 (in the case of Title IX Sexual Harassment) before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. Grievance procedures will include procedures for ensuring that any individual designated by the College as a Title IX Coordinator, an investigator, decision-maker, or any person designated by the College to facilitate an informal resolution process will not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
- 8.2** This Policy may be amended to change names, links to information and contact information without resorting to the rulemaking process.
- 8.3** Federal and State laws, rules and regulations change. Any portion of this policy may be modified in practice to ensure the due process rights of the Parties and to conform with any current Federal and State law, rules and regulations. Subject to the College's rulemaking rule, the College will change this policy to conform to the most current laws and regulations within a reasonable time of discovering the change.

## **SECTION 9: POLICY LIMITATIONS**

- 9.1** Nothing in this policy should be construed to extend "protected class" status or give rise to a cause of action beyond that otherwise provided by law.