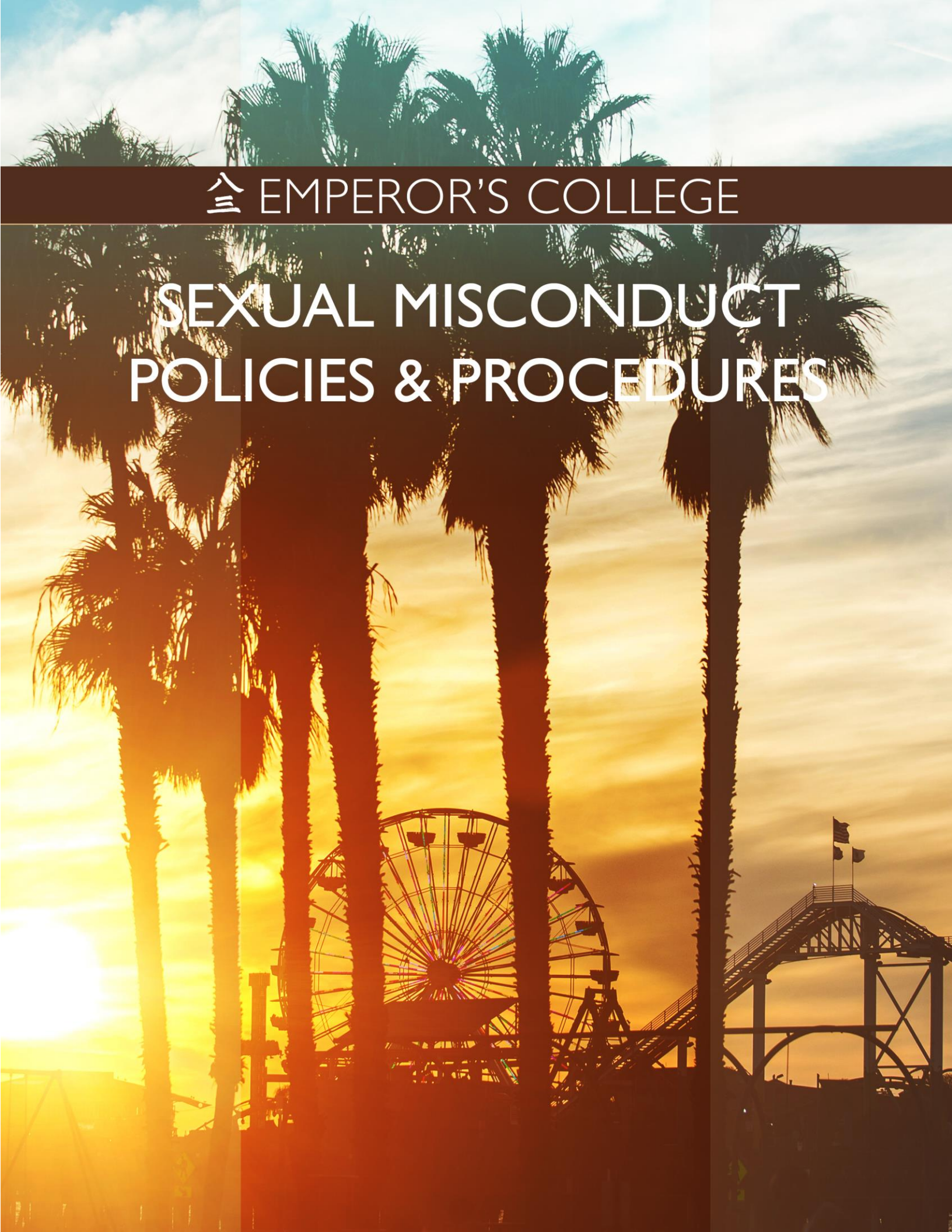




EMPEROR'S COLLEGE

SEXUAL MISCONDUCT POLICIES & PROCEDURES



EMPEROR’S COLLEGE OF TRADITIONAL ORIENTAL MEDICINE CAMPUS
SEXUAL MISCONDUCT POLICIES & PROCEDURES

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1. Introduction

Emperor's College ("College") is firmly committed to maintaining a learning and working environment in which sexual and gender-based harassment and other forms of sexual misconduct (collectively, "sexual misconduct") are not tolerated, and in which persons reporting sexual misconduct are provided support and avenues of redress. When sexual misconduct is brought to the attention of the College, the College will take prompt and appropriate action to end the misconduct, prevent its recurrence, address its effects, and if necessary, to discipline behavior that violates this Policy.

As part of the College's commitment to providing a learning and working environment free from sexual misconduct, this Policy shall be disseminated widely to the College community through publications, the College website, new employee orientations, student orientations, and other appropriate channels of communication. The College provides training to key staff members to enable the College to handle any allegations of sexual misconduct promptly and effectively.

2. Notice of Non-Discrimination

Title IX of the Education Amendments of 1972 is a federal law that prohibits discrimination based on gender in educational institutions which receive federal financial assistance. Title IX also prohibits sexual harassment, which includes sexual assault and sexual violence.

The College does not discriminate on the basis of sex in its education programs and activities.

3. Scope of the Policy

This Policy governs sexual misconduct involving students that occurs on any College property or in connection with any College-sponsored program or event. This Policy applies to all students, employees, and third parties conducting business with the College, regardless of the person's gender, gender identity, sexual orientation, age, race, nationality, religion or other protected status. The College encourages individuals who are the subject of sexual violence to talk to somebody about what happened – so individuals can get the support they need, and so the College can respond appropriately. As further described in this Policy, the College will seek to respect an individual's request for confidentiality to the extent possible, while remaining ever mindful of the individual's well-being.

4. Prohibited Conduct

Sexual misconduct comprises a broad range of behaviors focused on sex that may or may not be sexual in nature. Any intercourse or other intentional sexual touching or activity without the other person's consent is sexual assault, which is a form of sexual misconduct under this Policy. Sexual harassment and sexual exploitation, stalking,

domestic violence, and dating violence are also forms of sexual misconduct. Intimidation for one of these purposes is sexual misconduct, as is retaliation following an incident of alleged sexual misconduct or attempted sexual misconduct. The definitions for specific acts of sexual misconduct can be found in the Definitions of Key Terms at the end of this Policy statement.

Misconduct can occur between strangers or acquaintances, or people who know each other well, including between people involved in an intimate or sexual relationship, can be committed by anyone regardless of gender identity, and can occur between people of the same or different sex or gender. This Policy prohibits all forms of sexual misconduct.

5. Options for Assistance Following an Incident of Sexual Misconduct

The College strongly encourages any individual subjected to sexual misconduct to seek immediate assistance. Seeking prompt assistance may be important to ensure an individual's physical safety or to obtain medical care. The College strongly advocates that an individual subjected to sexual assault report the incident in a timely manner. Time is a critical factor for evidence collection and preservation.

Reporting Incidents of Sexual Misconduct

Individuals subjected to sexual misconduct may file a report with the Santa Monica Police Department. Individuals may also file a report with the College's Title IX Coordinator. More information about reporting an incident of sexual misconduct can be found in Section 7 of this Policy, below.

When a student or employee reports to the College that the student or employee has been a subject of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off campus, the College will provide the student or employee a written explanation of the student's or employee's rights and options. The College will also provide the student or employee with written notification about assistance available both within the College and without, as well as information about options for academic or protective measures.

An Individual subjected to sexual misconduct may choose for the investigation to be pursued through the criminal justice system and the College's disciplinary procedures. The College and the criminal justice system work independently from each other. Law enforcement officers do not determine whether a violation of this Policy has occurred. The Title IX Coordinator will guide the individual through the available options and support the individual in his or her decision.

Support Services Available.

Counseling, advocacy and support services are available for individuals who are the subject of sexual misconduct, whether or not an individual chooses to make an official report or participate in the College's disciplinary or criminal process. The College does

not provide counseling or health care services. Personal counseling offered by the College will be limited to initial crisis assessment and referral.

Santa Monica –UCLA Medical Center Rape Treatment Center

The Rape Treatment Center provides free, expert, comprehensive, and compassionate care for sexual assault victims – children and adults – 24 hours a day, including emergency medical treatment and forensic services; crisis counseling and longer-term psychotherapy; advocacy; accompaniment during police reporting, medical care, and court proceedings; information about rights and options to help individuals make informed choices; and many other support services. The Center is located at 1250 16th St, Santa Monica, CA 90404. The phone number is: 310 319 4503.

Additional sexual misconduct crisis and counseling options are available locally and nationally through a number of agencies, including:

The Gay Men’s Domestic Violence Project
1-800-832-1901

The Rape Foundation
1223 Wilshire Blvd., No. 410
Santa Monica, CA 90403
(310) 451-0042
www.therapefoundation.org

National Sexual Assault Hotline
800-656-HOPE (4673)

National Domestic Violence Hotline
800-799-SAFE

The College’s Title IX Coordinator will work with all students affected by sexual misconduct to ensure their safety and support their wellbeing. This assistance may include providing accommodations to support or protect a student after an incident of sexual misconduct and while an investigation or disciplinary proceeding is pending. Such accommodations may include the ability to alter class schedules, withdraw from/retake a class without penalty, and access academic support (e.g., tutoring). The College may be able to provide additional interim measures to individuals while an investigation is pending, such as no contact orders and changing the alleged perpetrator’s class schedule. Students who report an incident of sexual misconduct may also be able to obtain a formal protection order from a civil or criminal court. The College will work with the student and the applicable court to assist in the enforcement of any such protective orders.

Evidence Preservation

Individuals who are the subject of sexual assault, domestic violence or dating violence should consider seeking medical attention as soon as possible. It is important that an individual who is the subject of sexual assault not bathe, douche, smoke, change clothing or clean the bed/linen where they were assaulted so that evidence necessary to prove criminal activity may be preserved. In circumstances where the individual does not opt for forensic evidence collection, health care providers can still treat injuries and take steps

to address health concerns. Individuals who are the subject of sexual misconduct are encouraged to also preserve 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 in connection with a College or police investigation.

6. Title IX Coordinator

The College's Title IX Coordinator is responsible for monitoring and overseeing the College's compliance with Title IX and the prevention of sex harassment, sexual misconduct and discrimination. The Title IX Coordinator is:

- Knowledgeable and trained in College policies and procedures and relevant state and federal laws;
- Available to advise any individual, including a complainant, respondent, or a third party, about College and community resources and reporting options;
- Available to provide assistance to any College employee regarding how to respond appropriately to a report of Title IX-related prohibited conduct and related retaliation;
- Participates in ensuring the effective implementation of this Policy, including monitoring compliance with all procedural requirements, record keeping, and timeframes; and
- Responsible for overseeing training, prevention, and education efforts.

Inquiries or concerns about Title IX may be referred to the College's Title IX Coordinator:

Jacqueline Adler, MD, MPH
1807 Wilshire Blvd., Ste. 200
Santa Monica, CA 90403
Phone: (310) 453-8300
Email: jdadlermd@emperors.edu

You may also contact the Office for Civil Rights, U.S. Department of Education, 50 United Nations Plaza, San Francisco, CA 94102; home: (415) 486-5555; Email: OCR.SanFrancisco@ed.gov.

7. Reporting Policies and Protocols

The College strongly encourages all members of the College community to report information about any incident of sexual misconduct as soon as possible, whether the incident occurred on or off campus. Reports can be made either to the College and/or to law enforcement.

Reporting to the College

An incident of sexual misconduct may be reported directly to the College's Title IX Coordinator. If the College's Title IX Coordinator is the alleged perpetrator of the sexual misconduct, the report should be submitted to the College's President at president@emperors.edu. If the College's President is the alleged perpetrator of the sexual misconduct, the report should be submitted to the College's Board of Directors at board@emperors.edu. Filing a report with a College official will not obligate the individual to prosecute, nor will it subject the individual to scrutiny or judgmental opinions from officers.

An individual who has experienced an incident of sexual misconduct may report the incident at any time, regardless of how much time has elapsed since the incident occurred. The College is committed to supporting the rights of a person reporting an incident of sexual misconduct to make an informed choice among options and services available.

The College will respond to all reports in a manner that treats each individual with dignity and respect and will take prompt responsive action to end any misconduct, prevent its recurrence, and address its effects.

Reporting to Law Enforcement

An incident of sexual misconduct can be reported to law enforcement at any time, 24 hours a day/7 days a week, by calling 911. At the individual's request, the College will assist the individual in contacting law enforcement. If the individual decides to pursue the criminal process, the College will cooperate with law enforcement agencies to the extent permitted by law. An individual has the option to decide whether or not to participate in any investigation conducted by law enforcement. Filing a police report will:

- Ensure that an individual who is the subject of sexual assault receives the necessary medical treatment and tests
- Provide the opportunity for collection of evidence helpful in prosecution, which cannot be obtained later (ideally an individual who is the subject of sexual assault should not wash, douche, use the toilet, or change clothing prior to a medical/legal exam)

- Assure the individual has a referral to confidential counseling from counselors specifically trained in the area of sexual assault

Reporting of Crimes & Annual Security Reports

Campus safety and security are important issues at the College. Our goal is to provide students with a safe environment in which to learn and to keep students, parents, and employees well informed about campus security. The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, or Clery Act, requires institutions of higher education to record and report certain information about campus safety, including the number of incidents of certain crimes on or near campus, some of which constitute sexual misconduct under this Policy.

Each year the College prepares this report to comply with the Clery Act. The full text of this report can be located on the College's web site at www.emperors.edu/about/annual-security-report/. This report is prepared in cooperation with the local law enforcement agencies around our campus. Each year notification is made to all enrolled students and employees that provides the web site to access this report. Copies of the report may also be obtained in person from the Chief Operating Officer or by calling 310-453-8300 ext. 110. All prospective employees may obtain a copy from the Chief Operating Officer.

NOTE: In certain circumstances as defined under the California Education Code, Section 67383, the College is required to forward information concerning reports of violent crimes, including reports of sexual assaults, to a local law enforcement agency. The report is forwarded without identification of the complainant and respondent, unless explicit consent is provided by the complainant allowing for the sharing of personally identifying information.

Timely Warnings

In the event that a situation arises, either on or off campus, that, in the judgment of the Chief Operating Officer constitutes an ongoing or continuing threat, a campus wide "timely warning" will be issued. The warning will be disseminated to staff and students through announcements by one or more of the following means, but are not limited to bulletins or flyers, mass e-mails and text message. The timely warning will include information that promotes safety and tips to prevent similar crimes, allowing the campus community to take appropriate precautions. The timely warning will also include the time, location, and type of crime reported. Anyone with information warranting a timely warning should report the circumstances to the Chief Operating Officer by phone at 310-453-8300 ext. 110 or in person at the College.

Third-Party and Anonymous Reporting

In cases where sexual misconduct is reported to the Title IX Coordinator by someone other than the individual who has been subjected to sexual misconduct (by an instructor, classmate or friend, for example), the Title IX Coordinator will promptly notify the

individual that a report has been received. This Policy and the Procedures will apply in the same manner as if the individual had made the initial report. The Title IX Coordinator will make every effort to meet with the individual to discuss available options and resources. Reports from an anonymous source will be treated in a similar fashion.

No Retaliation

The College prohibits retaliation against those who file a complaint or third-party report, or otherwise participate in the investigative and/or disciplinary process (e.g., as a witness). The College will take strong responsive action if retaliation occurs. Any incident of retaliation should be promptly reported to the Title IX Coordinator or the President.

Coordination With Drug Free School Policy

The College encourages students to report all instances of sexual misconduct. The College will take into consideration the importance of reporting sexual misconduct in addressing violations of the College's alcohol and drug policies. An individual who participates as a complainant or witness in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to disciplinary sanctions for a violation of the College's student conduct policies at or near the time of the incident, unless the College determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

8. College Policy on Confidentiality

The College encourages individuals who are the subjects of sexual misconduct to talk to somebody about what happened – so individuals can get the support they need, and so the College can respond appropriately.

This policy is intended to make students aware of the various reporting and confidential disclosure options available to them – so they can make informed choices about where to turn should they become a subject of sexual misconduct. The College encourages individuals to talk to someone identified in one or more of these groups.

Privileged and Confidential Communications – Professional & Pastoral Counselors

Professional, licensed counselors and pastoral counselors who provide mental-health counseling to members of the community (and including those who act in that role under the supervision of a licensed counselor) are not required to report any information about an incident to the Title IX coordinator without an individual's permission. *The College does not provide professional or pastoral counseling, but can assist an individual who is subjected to sexual misconduct in obtaining support services from these groups or agencies.* Contact information for these support organizations is listed in Section 4 of this Policy.

An individual who at first requests confidentiality may later decide to file a complaint with the College or report the incident to local law enforcement, and thus have the incident fully investigated.

NOTE: While these professional and pastoral counselors and advocates may maintain an individual's confidentiality vis-à-vis the College, they may have reporting or other obligations under state law.

ALSO NOTE: If the College determines that the alleged perpetrator(s) pose a serious and immediate threat to the College community, the College's Chief Operating Officer may be called upon to issue a timely warning to the community. Any such warning should not include any information that identifies the individual.

Reporting to "Responsible Employees"

A "responsible employee" is a College employee who has the authority to redress sexual misconduct, who has the duty to report incidents of sexual misconduct or other student misconduct, or who a student could reasonably believe has this authority or duty.

When an individual tells a responsible employee about an incident of sexual misconduct, the individual has the right to expect the College to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

A responsible employee must report to the Title IX coordinator all relevant details about the alleged sexual misconduct shared by the individual and that the College will need to determine what happened – including the names of the individual and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the College's response to the report. A responsible employee should not share information with law enforcement without the individual's consent or unless the individual has also reported the incident to law enforcement.

The following employees are the College's responsible employees:

- President
- Academic Dean
- Dean of Clinical Education
- Associate Dean, DAOM
- Associate Dean, MTOM
- Faculty members

Before an individual reveals any information to a responsible employee, the employee should ensure that the individual understands the employee's reporting obligations – and,

if the individual wants to maintain confidentiality, direct the individual to confidential resources.

If the individual wants to tell the responsible employee what happened but also maintain confidentiality, the employee should tell the individual that the College will consider the request, but cannot guarantee that the College will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the responsible employee will also inform the Coordinator of the individual's request for confidentiality.

Responsible employees will not pressure an individual to request confidentiality, but will honor and support the individual's wishes, including for the College to fully investigate an incident. By the same token, responsible employees will not pressure an individual to make a full report if the individual is not ready to.

Reporting to Title IX Coordinator

When an individual tells the Title IX Coordinator about an incident of sexual misconduct, the individual has the right to expect the College to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

To the extent possible, information reported to the Title IX Coordinator will be shared only with people responsible for handling the College's response to the report. The Title IX Coordinator should not share information with law enforcement without the individual's consent or unless the individual has also reported the incident to law enforcement.

Before an individual reveals any information to the Title IX Coordinator, the Coordinator should ensure that the individual understands the Coordinator's reporting obligations – and, if the individual wants to maintain confidentiality, direct the individual to confidential resources. If the individual wants to tell the Title IX Coordinator what happened but also maintain confidentiality, the Coordinator should tell the individual that the College will consider the request, but cannot guarantee that the College will be able to honor it.

The Title IX Coordinator will not pressure an individual to request confidentiality, but will honor and support the individual's wishes, including for the College to fully investigate an incident. By the same token, the Title IX Coordinator will not pressure an individual to make a full report if the individual is not ready to.

Requesting Confidentiality: How the College Will Weigh the Request and Respond

If an individual discloses an incident to the Title IX Coordinator but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the College must weigh that request against the College's obligation to provide a safe, non-discriminatory environment for all students and/or other members of the College community, including the individual.

If the College honors the request for confidentiality, an individual must understand that the College's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be limited.

Although rare, there are times when the College may not be able to honor an individual's request in order to provide a safe, non-discriminatory environment for all students and/or other members of the College community.

The Title IX Coordinator will evaluate requests for confidentiality. When weighing an individual's request for confidentiality or that no investigation or discipline be pursued, the Title IX Coordinator will consider a range of factors, including the following:

- The increased risk that the alleged perpetrator will commit additional acts of sexual misconduct or other violence, such as:
 - whether there have been other sexual misconduct complaints about the same alleged perpetrator;
 - whether the alleged perpetrator has a history of arrests or records from a prior College indicating a history of violence;
 - whether the alleged perpetrator threatened further sexual misconduct or other violence against the individual or others;
 - whether the sexual misconduct was committed by multiple perpetrators;
- Whether the sexual misconduct was perpetrated with a weapon;
- Whether the sexual misconduct was perpetrated against a minor;
- Whether the College possesses other means to obtain relevant evidence of the sexual misconduct (e.g., security cameras or personnel, physical evidence);
- Whether the individual's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead the College to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the College will likely respect the individual's request for confidentiality.

If the College determines that it cannot maintain a complainant's confidentiality, the College will inform the complainant prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the College's response. The College will remain ever mindful of the complainant's well-being, and will take ongoing steps to protect the complainant from retaliation or harm and work with the complainant to create a safety plan. Retaliation against the complainant, whether by students or College employees, will not be tolerated. the College will also:

- assist the complainant in accessing other available complainant advocacy, academic support, counseling, disability, health or mental health services, and legal assistance;
- provide other security and support, which could include issuing a no-contact order, helping arrange a change of course schedules (including for the alleged perpetrator pending the outcome of an investigation) or adjustments for assignments or tests; and
- inform the complainant of the right to report a crime to local law enforcement – and provide the complainant with assistance if the complainant wishes to do so.

The College may not require a complainant to participate in any investigation or disciplinary proceeding.

Because the College is under a continuing obligation to address the issue of sexual violence campus-wide, reports of sexual violence (including non-identifying reports) will also prompt the College to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported sexual violence occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/ victimization surveys; and/or revisiting its policies and practices.

If the College determines that it can respect a complainant's request for confidentiality, the College will also take immediate action as necessary to protect and assist the complainant.

Miscellaneous

Take Back the Night and other public awareness events. Public awareness events such as "Take Back the Night," the Clothesline Project, candlelight vigils, protests, "survivor speak outs" or other forums in which students disclose incidents of sexual violence, are not considered notice to the College of sexual misconduct for purposes of

triggering its obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts.

Off-campus Counselors and Advocates.

Off-campus counselors, advocates, and health care providers will also generally maintain confidentiality and not share information with the College unless the complainant requests the disclosure and signs a consent or waiver form. Contact information for these off-campus resources can be found in Section 5 of this Policy.

9. Investigation Procedures and Resolution of Claims

The College's Title IX Coordinator oversees the College's investigation, response to, and resolution of all reports of prohibited sexual misconduct, and of related retaliation, involving students, faculty, and staff. Allegations that a student has engaged in sexual misconduct will be investigated and resolved using the procedures outlined below. In the case of a complaint against someone other than a student, the Title IX Coordinator shall determine whether the complaint will be handled using these procedures or other procedures, such as the College's Sexual and Other Harassment Policy.

In the case of a complaint against a student, the Title IX Coordinator will designate a trained investigator (or team of investigators) to interview the complainant, respondent and any witnesses. The investigator will also gather pertinent documentary materials (if any) and other information.

The complainant and respondent will have three 3 calendar days after being notified of an investigator's identity to object to the investigator's selection on the basis of actual or perceived conflict of interest, bias, or prejudice. If either the complainant or respondent object to the investigator selected, the Title IX Coordinator will evaluate whether the objection is substantiated, and, if so, the Title IX Coordinator will remove and replace the investigator.

Notice of Investigation

The Title IX Coordinator will inform the complainant before starting an investigation. The complainant may request that an investigation not be undertaken. The Title IX Coordinator will consider such a request in light of the College's commitment to provide a safe and non-discriminatory environment for all students and/or other members of the College community. If the Title IX Coordinator determines not to investigate, s/he will notify the complainant in writing, including that the determination was made at the complainant's request. At the complainant's request, the Title IX Coordinator will also notify the respondent in writing, including that the complainant asked the College not to investigate.

If an investigation proceeds, the College will notify the respondent in writing that a report has been filed. The notice will include information sufficient to apprise the respondent of

the nature of the allegations, including the complainant's name; the nature of the alleged policy violation(s) (e.g., sexual assault, harassment, exploitation, or retaliation); the date(s) of the alleged policy violation(s); the location(s) where the violation(s) allegedly occurred; and the sanctions that may be imposed if the respondent is found to have violated this Policy. The complainant and respondent will be given the opportunity to meet separately with the Title IX Coordinator to review the Policy and these procedures.

The investigator will direct the complainant, respondent, witnesses and other interested individuals to preserve any relevant evidence.

Investigation Process

The College's process for responding to, investigating and adjudicating sexual misconduct reports will continue during any law enforcement proceeding. The investigator may need to temporarily delay an investigation while the police are gathering evidence but will resume the investigation after learning that the police department has completed its evidence-gathering and will generally not wait for the conclusion of any related criminal proceeding.

The investigator will interview the complainant, respondent and any witnesses, treating each with appropriate sensitivity and respect.

The complainant and respondent will both have the opportunity to present the names of witnesses from whom they suggest the investigator solicit information and questions that they request the investigator to ask the other party or any witnesses. The investigator will consider the lists provided by the complainant and respondent when determining the persons to interview and the questions to ask, but these decisions remain in the investigator's discretion. The investigator may also choose to interview other witnesses not identified by the parties.

Time Frame for Investigation

Consistent with the goal to maximize educational opportunities and minimize the disruptive nature of the investigation and resolution, the College seeks to resolve all reports of sexual misconduct within 60 -90 days of the receipt of a report. The Title IX Coordinator may set reasonable time frames for required actions under the Policy. Those time frames may be extended for good cause as necessary to ensure the integrity and completeness of the investigation, comply with a request by external law enforcement, accommodate the availability of witnesses, accommodate delays by the parties, account for College breaks or vacations, or address other legitimate reasons, including the complexity of the investigation (including the number of witnesses and volume of information provided by the parties) and the severity and extent of the alleged conduct. Any extension of the timeframes, and the reason for the extension, will be shared with the parties in writing. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

Where necessary, the College will take immediate steps to protect complainants pending the final outcome of an investigation, including academic accommodations and other interim measures. These steps may include the ability to change class schedules; withdraw from/retake a class without penalty; access academic support such as tutoring; issue no contact orders; and change the alleged perpetrator's class schedule.

Interim Suspension During Investigation

The College may suspend a student, employee or organization pending the completion of an investigation and resolution, particularly when in the judgment of the Title IX Coordinator, the safety or wellbeing of any member(s) of the campus community may be jeopardized by the on-campus presence of the responding party or the ongoing activity of a student organization whose behavior is in question.

A student who has been placed on interim suspension has the right, within 3 business days of the notice of the suspension, to meet with the Chief Operating Officer (or designee), to request re-consideration of the interim suspension. The Chief Operating Officer will review the appeal to determine whether the decision to place the student on interim suspension was arbitrary or capricious. A decision is arbitrary and capricious where there is no rational connection between the facts presented and the decision made.

Impact of Complainant's Confidentiality Request

A complainant's request for confidentiality will likely limit the College's ability to investigate a particular matter. The College may take steps to limit the effects of the alleged sexual misconduct and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the student complainant. Examples include: providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; providing training and education materials for students and employees; revising and publicizing the College's policies on sexual misconduct; and conducting climate surveys regarding sexual misconduct.

Investigation Report

The investigator will prepare a preliminary report detailing the relevant content from the interviews and the documentation gathered. The report will include the assessment of individual credibility and any findings of responsibility, based on the preponderance of evidence standard. Preponderance of the evidence means that the investigator must be convinced based on the information s/he considers that the respondent was more likely than not to have engaged in the conduct at issue in order to find the respondent responsible for violating the Policy.

The respondent and complainant will each have the opportunity to review a copy of the preliminary investigative report. Both parties may provide written comments (which may include posing any follow-up questions for the other party or any witness, requesting a follow-up interview with the investigator to clarify or provide any additional information that

such party believes is relevant to the investigation, identifying any new witnesses who should be interviewed, identifying any additional evidentiary materials that should be collected and reviewed to the extent that such items are reasonably available, identifying and objecting to any information that such party believes was inappropriately included in the preliminary report), in writing in response to the preliminary report within 7 calendar days of receiving it. If these comments suggest that additional interviews or consideration of additional material evidence is needed, the investigator may determine that the investigation process will be extended.

After addressing any comments timely submitted, including conducting a further investigation, or after the 7 calendar day comment period has lapsed without comment, the investigator will issue a final report with findings as to whether, based on the preponderance of evidence standard, the respondent has committed a violation of this Policy. The investigator's final written report will contain all information from the preliminary report; supplemented by any additional information gathered and a summary of the investigator's rationale in support of the findings. The Title IX Coordinator will provide the final report simultaneously to the parties.

If the respondent is found responsible for a violation of this Policy, the investigation process concludes with a determination of sanctions. If the respondent is found not to have violated this Policy, the investigation process has concluded. At the conclusion of the investigation process, either party may appeal upon the grounds described below.

The College shall rely on the findings of responsibility in the investigation report for purposes of imposing sanctions in accordance with Section 10, below.

Voluntary Resolution

Voluntary resolution, when selected by the complainant and deemed appropriate by the Title IX Coordinator, is a path designed to eliminate the conduct at issue, prevent its recurrence, and remedy its effects in a manner that meets the expressed preference of the complainant and the safety and welfare of the College community. Voluntary resolution is not appropriate for all forms of conduct under the Policy.

The College retains the discretion to determine, when selected by the complainant, which cases are appropriate for voluntary resolution. If a complainant requests voluntary resolution, and the Title IX Coordinator concludes that voluntary resolution is appropriate, then the Title IX Coordinator will take appropriate action by imposing remedies designed to maximize the complainant's access to all employment, educational, and extracurricular opportunities and benefits at the College and to eliminate a potential hostile environment. A complainant may request and decide to pursue voluntary resolution at any time. In those cases in which the voluntary resolution involves either the notification to or participation by the respondent, it is the respondent's decision whether to accept voluntary resolution.

Voluntary resolution may include: conducting targeted or broad-based educational programming or training for relevant individuals or groups; providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; facilitating a meeting with the respondent with the complainant present (in cases that do not involve sexual assault); and any other remedy that can be tailored to the involved individuals to achieve the goals of the Policy. In some forms of voluntary resolution, the remedies imposed will focus on supporting the complainant with no participation or involvement by the respondent. In other forms of voluntary resolution, the respondent may agree to participate. Depending on the type of remedy used, it may be possible for a complainant to maintain anonymity.

Voluntary resolution may also include restorative principles that are designed to allow a respondent to accept responsibility for misconduct and acknowledge harm to the complainant or to the College community. Restorative models will be used only with the consent of both parties, and following a determination by the Title IX Coordinator that the matter is appropriate for a restorative approach.

The College will not compel a complainant to engage in mediation, to confront directly the respondent, or to participate in any particular form of informal resolution. Mediation, even if voluntary, is never appropriate in sexual assault cases and will not be used in such cases. As the title implies, participation in voluntary resolution is a choice, and either party can request to end this manner of resolution and pursue an investigation and adjudication at any time, including if voluntary resolution is unsuccessful at resolving the report. Similarly, a complainant can request to end an investigation and pursue voluntary resolution at any time.

The time frame for completion of voluntary resolution may vary, but the College will seek to complete the process within 15 days of the complainant's request.

Advisor/Support Person

Both the complainant and the respondent are entitled to be accompanied to any meeting or proceeding relating to the allegation of sexual misconduct by an advisor or support person of their choice, including an attorney, provided the involvement of such advisor or support person does not result in the postponement or delay of such meeting as scheduled. The role of the advisor/support person at any meeting is that of an observer and/or advisor, not an advocate.

10. Sanctions and Other Remedies

If a determination is made that a respondent has violated this Policy, the College will impose sanctions. The Title IX Coordinator will convene a three person panel to determine what those sanctions will be. The Title IX Coordinator will notify the parties, in writing, of the name of the designated panelists. Both parties will have 3 calendar days to object to each panelist on the basis of bias or conflict of interest. If either of the parties objects, the Title IX Coordinator will evaluate whether the objection is substantiated. The

Title IX Coordinator will remove and replace any panelist the Title IX Coordinator finds to have a bias or conflict of interest against either party.

The Title IX Coordinator will notify the parties that they have the opportunity to submit impact or mitigation statements to the panel within 7 calendar days of the receipt of the final report. The panel will review the parties' statements, and all other materials in the case, including the Final Report and attached exhibits, in assessing the appropriate sanction. The panel does not have the power or ability to alter the findings (factual or ultimate) by the investigator. The panel, with the advice and counsel of the Title IX Coordinator, shall be responsible for imposing sanctions that are:

- Fair and appropriate given the facts of the particular case;
- Consistent with the College's handling of similar cases;
- Adequate to protect the safety of the campus community; and
- Reflective of the seriousness of sexual misconduct.

The panel will consider relevant factors, including if applicable: (1) the specific sexual misconduct at issue (such as penetration, touching under clothing, touching over clothing, unauthorized recording, etc.); (2) the circumstances accompanying the lack of consent (such as force, threat, coercion, intentional incapacitation, etc.); (3) the respondent's state of mind (intentional, knowing, bias-motivated, reckless, negligent, etc.); (4) the impact of the offense on the complainant; (5) the respondent's prior disciplinary history; (6) the safety of the College community; and (7) the respondent's conduct during the disciplinary process.

The sanctioning decision will be communicated in writing to the complainant and the respondent.

One or more of the following sanctions may be imposed by the College on a person determined to have violated the Policy:

- Reprimand/warning
- Changing the respondent's academic schedule
- Disciplinary probation
- Restricting access to College facilities or activities
- Community service
- Issuing a "no contact" order to the respondent or requiring that such an order remain in place

- Dismissal or restriction from College employment
- Suspension (limited time or indefinite)
- Expulsion

In addition to any other sanction (except where the sanction is expulsion), the College may require any student determined to be responsible for a violation of the Policy to receive appropriate education and/or training related to the sexual misconduct violation at issue. The College may also recommend counseling or other support services for the student.

Whatever the outcome of the investigative process, a complainant may request ongoing or additional accommodations and the Title IX Coordinator will determine whether such measures are appropriate. Potential ongoing accommodations include:

- Providing an escort for the complainant
- Changing the complainant's academic schedule
- Allowing the complainant to withdraw from or retake a class without penalty
- Providing access to tutoring or other academic support, such as extra time to complete or re-take a class

The College may also determine that additional measures are appropriate to respond to the effects of the incident on the College community. Additional responses for the benefit of the College community may include:

- Increased monitoring, supervision, or security at locations or activities where the misconduct occurred
- Additional training and educational materials for students and employees
- Revision of the College's policies relating to sexual misconduct
- Climate surveys regarding sexual misconduct

11. Appeals

Either the respondent or the complainant or both may appeal the determination of the investigator and/or the sanctions. Appeals are decided by the College's President. The three grounds for appeal are:

1. A procedural error affecting the determination or sanction;

2. New information that was not available at the time of the investigation or hearing and that may change the determination or sanction; and
3. Excessiveness or insufficiency of the sanction.

Disagreement with the finding or sanctions is not, by itself, grounds for appeals.

The appealing student must submit the appeal in writing to the College's President within 7 calendar days after receiving notice that (i) the investigation has not resulted in a finding that the respondent has violated the Policy, or (ii) sanctions have been imposed based on a finding that the respondent has violated the Policy. If either the complainant or respondent submits an appeal, the Title IX Coordinator will notify the other that an appeal has been filed and the grounds of the appeal. The non-appealing student may submit a written response within five calendar days after notice of an appeal.

NOTE: In the event of an appeal, sanctions will normally be held in abeyance pending the outcome of the appeal. If, however, the College determines that there may exist a threat to the safety or welfare of the College community, sanctions will take effect immediately.

If both the complainant and respondent appeal, the appeals will be considered concurrently.

The President will notify the complainant and respondent of the final decision in writing. Appeals decisions will be rendered as soon as practical. All appeal decisions are final.

12. Records Disclosure

Disciplinary proceedings conducted by The College are subject to the Family Educational Records and Privacy Act (FERPA), a federal law governing the privacy of student information. FERPA generally limits disclosure of student information outside the College without the student's consent, but it does provide for release of student disciplinary information without a student's consent in certain circumstances.

Any information gathered in the course of an investigation may be subpoenaed by law enforcement authorities as part of a parallel investigation into the same conduct, or required to be produced through other compulsory legal process.

Additional information about FERPA can be found on the College's website at www.emperors.edu.

The College will, upon written request, disclose to the alleged victim of a crime of violence (as that term is defined in Section 16 of Title 18, United States Code), or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by the College against a student who is the alleged perpetrator of such crime or offense. If the

alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.

13. Academic Freedom

The College adheres to principles of academic and expressive freedom. Nothing in this Policy shall be construed to limit the legitimate exercise of academic and expressive freedom, including but not limited to written, graphic, or verbal expression that can reasonably be demonstrated to serve a legitimate educational purpose. Nor shall this Policy be interpreted or applied in a manner that is inconsistent with California Education Code section 94367.

14. Education and Prevention Programs

As set forth in Section 4 of this Policy statement, Sexual Assault, Sexual Harassment, Sexual Exploitation, Dating Violence, Domestic Violence, and Stalking are all forms of Prohibited Conduct.

The College is committed to offering educational programs to promote awareness and prevention of Prohibited Conduct. Educational programs include an overview of the College's policies and procedures; relevant definitions, including prohibited conduct; discussion of the impact of alcohol and illegal drug use; consent; safe and positive options for bystander intervention; review of resources and reporting options available for students, faculty, and staff; and information about risk reduction. Incoming students and new employees will receive primary prevention and awareness programming as part of their orientation.

As part of the College's commitment to provide an educational and work environment free from prohibited conduct, this Policy will be disseminated widely to the College community through e-mail communication, publications, websites, new employee orientations, student orientations, and other appropriate channels of communication.

The Title IX Coordinator and anyone else who is involved in responding to, investigating, or adjudicating sexual misconduct will receive annual training from experts in the field. In addition to training on how the adjudicatory process works, the training will include specific instruction about how to approach students about sensitive issues that may arise in the context of sexual misconduct.

Bystander Intervention

The College's primary prevention and awareness program includes a description of safe and positive options for bystander intervention. Active bystanders take the initiative to help someone who may be targeted for a sexual assault. They do this in ways that are intended to avoid verbal or physical conflict. Active bystanders also take the initiative to help friends, who are not thinking clearly, from becoming offenders of crime. Intervention does not mean that you directly intervene to stop a crime in progress; rather, these steps are "early intervention" – before a crime begins to occur.

Friend/Bystander Intervention:

- If you see someone being physically abused or in potential danger, call 911 immediately.
- In many cases, the first step to safety is the knowledge that the individual is not alone. They may feel isolated, but many others experience abuse and there are resources to get help.
- Be supportive and respectful. Make clear statements about your friend's value and rights as a person, such as "No one deserves to be abused or assaulted."
- Listen.
- Don't push your friend to leave. Support the choices she/he makes. She/he already has someone in her/his life that is controlling. She/he will feel empowered by not being told what to do.
- Don't criticize the abuser. An individual often has conflicting feelings about the abusive partner. If you're critical of the abuser, the individual may become defensive or may shut down.
- Find out about the resources that are available.
- Learn as much as you can about dating abuse.
- Encourage your friend to make a safety plan if they have decided to leave the relationship. Your part in a safety plan can include walking home together, checking in at certain times of the day, and having a code word your friend can use if they need immediate help.
- Also encourage your friend to make a safety plan if she/he chooses to stay. This includes: safe places to go if violence escalates, numbers to call, safe words that alert a friend that the individual needs help and to call 911.

- Don't confront the abuser; this can result in an escalation of violence against the individual.
- Don't slip a hotline card or any other information about abuse into someone's bag or under a door. This can escalate the violence against the individual.
- Don't send a voicemail message or an email message about the abuse to your friend. You do not know if the abuser is monitoring the phone or the computer.
- Be careful for yourself. Let your friend know what you are comfortable doing and what your boundaries are.

Risk Reduction

The College's primary prevention and awareness program includes information on risk reduction. This includes:

Avoiding Dangerous Situations. While you can never completely protect yourself from sexual assault, there are some things you can do to help reduce your risk of being assaulted.

- Be aware of your surroundings. Knowing where you are and who is around you may help you to find a way to get out of a bad situation.
- Try to avoid isolated areas. It is more difficult to get help if no one is around.
- Walk with purpose. Even if you don't know where you are going, act like you do.
- Trust your instincts. If a situation or location feels unsafe or uncomfortable, it probably isn't the best place to be.
- Try not to load yourself down with packages or bags as this can make you appear more vulnerable.
- Make sure your cell phone is with you and charged and that you have cab money.
- Don't allow yourself to be isolated with someone you don't trust or someone you don't know.
- Avoid putting music headphones in both ears so that you can be more aware of your surroundings, especially if you are walking alone.

Safety Planning. Things to think about:

- How to get away if there is an emergency? Be conscious of exits or other escape routes. Think about options for transportation (car, bus, subway, etc.).
- Who can help? Friends and/or family, or support centers in your area. Please see Section 5 of this Policy for a list of support organizations.
- Where to go? Options may include a friend's house or relative's house, or you may consider going to a domestic violence or homeless shelter. You may also go to the police. Important Safety Note: If the dangerous situation involves a partner, go to the police or a shelter first.
- What to bring? This may include important papers and documents such birth certificate, social security card, license, passport, medical records, lease, bills, etc. This will also include house keys, car keys, cash, credit cards, medicine, important numbers, and your cell phone. If you are bringing children with you, remember to bring their important papers and legal documents. You can keep all of these things in an emergency bag. You should hide the bag—it is best if it is not in your house or car. If the bag is discovered, you can call it a “tornado” or “fire” bag.

Protecting Your Friends. You have a crucial role to play in keeping your friends safe. No matter what the setting, if you see something that doesn't feel quite right or see someone who might be in trouble, there are some simple things you can do to help out a friend.

- Distract. If you see a friend in a situation that doesn't feel quite right, create a distraction to get your friend to safety. This can be as simple as joining or redirecting the conversation: suggest to your friend that you leave the party, or ask them to walk you home. Try asking questions like: “Do you want to head to the bathroom with me?” or “Do you want to head to another party – or grab pizza?”
- Step in. If you see someone who looks uncomfortable or is at risk, step in. If you feel safe, find a way to de-escalate the situation and separate all parties involved. Don't be shy about directly asking the person if they need help or if they feel uncomfortable.
- Enlist others. You don't have to go it alone. Call in friends or other people in the area as reinforcements to help defuse a dangerous situation and get the at-risk person home safely. There is safety in numbers.
- Keep an eye out. Use your eyes and ears to observe your surroundings. If you see someone who has had too much to drink or could be vulnerable, try to get them to a safe place. Enlist friends to help you. Even if you weren't

around when the assault occurred, you can still support a friend in the aftermath.

Social Situations. While you can never completely protect yourself from sexual assault, there are some things you can do to help reduce your risk of being assaulted in social situations.

- When you go to a social gathering, go with a group of friends. Arrive together, check in with each other throughout the evening, and leave together. Knowing where you are and who is around you may help you to find a way out of a bad situation.
- Trust your instincts. If you feel unsafe in any situation, go with your gut. If you see something suspicious, contact law enforcement immediately.
- Don't leave your drink unattended while talking, dancing, using the restroom, or making a phone call. If you've left your drink alone, just get a new one.
- Don't accept drinks from people you don't know or trust. If you choose to accept a drink, go with the person to the bar to order it, watch it being poured, and carry it yourself. At parties, don't drink from the punch bowls or other large, common open containers.
- Watch out for your friends, and vice versa. If a friend seems out of it, is way too intoxicated for the amount of alcohol they've had, or is acting out of character, get him or her to a safe place immediately.
- If you suspect you or a friend has been drugged, contact law enforcement immediately. Be explicit with doctors so they can give you the correct tests (you will need a urine test and possibly others).

Information on Risk Reduction was provided by RAINN: Rape, Abuse & Incest National Network: www.rainn.org.

Sexual Assault Prevention

- Always remember that NO means NO.
- Take part in a Self Defense Training.
- Using the Buddy System- no one gets left behind!
- Avoid drugs and or alcohol use.

What To Do If You Are Sexually Assaulted

- Get to a safe place.
- Call 9-1-1.
- Make every effort to preserve any physical evidence of the assault. (This includes no showering, or disposing of any clothing or other items that are present after or during the assault.)
- Seek medical attention.
- Seek emotional support from the Rape Treatment Center (Santa Monica-UCLA Hospital).

What To Do If You Are Abused

- Get to a safe place.
- Call 9-1-1.
- Talk to someone you trust; it is important to break the silence.
- Obtain a restraining order.
- If you decide to leave the relationship, develop a safety plan. This plan can include asking a trusted friend for help, choosing a safe place to stay, and collecting money, emergency phone numbers, and clothing so you can leave quickly.
- Seek support.

What To Do If You Are Stalked

- If you have not already done so, assertively communicate that you want the behavior to stop and set/maintain personal boundaries.
- Try not to allow yourself to be isolated with the person.
- Tell family, friends, roommates, and co-workers about the stalking and seek support.
- Don't walk alone, particular at night.
- Make plans for friends to accompany you.

- If you feel you are unsafe, you probably are and should seek help. Take threats seriously. Danger generally is higher when the stalker talks about suicide or murder, or when the individual tries to leave or end the relationship. Don't confront a stalker. Go to a safe place and call 9-1-1.
- It is also a good idea to make a record of the stalking behavior. Keep a log including the date, time, what happened, and the names of anyone who witnessed the incident. Save any packages, letters, messages or gifts from the stalker. Save all voicemail or text messages from the stalker.

15. Amendments

The College may amend the Policy or the procedures from time to time. Nothing in the Policy or procedures shall affect the inherent authority of the College to take such actions as it deems appropriate to further the educational mission or to protect the safety and security of the College community.

Emperor's College of Traditional Oriental Medicine

Sexual Misconduct Policy

Definitions of Key Terms*

- Sexual Harassment - Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's education or employment, (ii) submission to or rejection of such conduct by an individual is used as the basis for education or employment decisions affecting such individuals, or (iii) such conduct has the purpose or effect of unreasonably interfering with an individual's College or work performance or creating an intimidating, hostile, or offensive educational or working environment.
 - Hostile Environment Caused By Sexual Harassment - refers to a situation where students and/or employees are subject to a pattern of exposure to unwanted sexual behavior that is so severe, persistent, or pervasive that it alters the conditions of education, employment, or participation in a College program or activity, thereby creating an environment that a reasonable person in similar circumstances and with similar identities would find hostile, intimidating, or abusive. An isolated incident, unless sufficiently severe, does not amount to a hostile environment caused by sexual harassment.
 - Quid Pro Quo Harassment – refers to a situation where students and/or employees are subject to unwanted sexual behavior where submission or rejection of such conduct is used, explicitly or implicitly, as the basis for decisions affecting an individual's education, employment, or participation in a College program or activity.
- Sexual Assault - is any unwanted physical contact of a sexual nature that occurs either without the consent of each participant or when a participant is unable to give consent freely. Sexual assault can occur either forcibly and/or against a person's will, or when a person is unable to give consent freely. Non-consensual sexual intercourse is any form of sexual intercourse (vaginal, anal or oral) with any object without consent. Non-consensual sexual contact is any intentional sexual touching, however slight, with any object without a person's consent. Sexual assault includes incidents of rape and sex offenses defined below.

* Even though certain definitions used herein are similar to those contained in the California Penal Code and the United States Code, an act that might not violate or be prosecuted under such laws may still violate this Policy.

- *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 the consent of the individual.
- *Sex Offenses* - Any sexual act directed against another person, without the consent of the individual, including instances where the individual is incapable of giving consent.
 - *Fondling* - The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the individual, including instances where the individual is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
 - *Incest* - Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - *Statutory Rape* - Sexual intercourse with a person who is under the statutory age of consent. In California the age of consent is 18.
- *Domestic Violence* - A felony or misdemeanor crime of violence committed (i) by a current or former spouse or intimate partner of the individual; (ii) by a person with whom the individual shares a child in common; (iii) by a person who is cohabitating with, or has cohabitated with, the individual as a spouse or intimate partner; (iv) by a person similarly situated to a spouse of the individual under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or (v) by any other person against an adult or youth who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- *Dating Violence* - Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the individual. The existence of such a relationship shall be determined based on the reporting party'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 purpose of this definition dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.
- *Prohibited Conduct* – The College prohibits the crimes of Sexual Assault, Sexual Harassment, Sexual Exploitation, Dating Violence, Domestic Violence, and Stalking as defined in these Definitions of Key Terms.

- Sexual Exploitation - sexual misconduct that occurs when a person takes unjust or abusive sexual advantage of another for his or her own advantage or benefit or for the benefit or advantage of anyone other than the exploited party; and that behavior does not otherwise constitute sexual assault. Examples of sexual exploitation include, but are not limited to, videotaping or photographing of any type (web-cam, camera, Internet exposure, etc.) without knowledge and consent of all persons; prostituting another person; knowingly transmitting HIV or a sexually transmitted disease to an unknowing person or to a person who has not consented to the risk; or inducing incapacitation with the intent to commit sexual assault, without regard to whether sexual activity actually takes place.
- Stalking - Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others, or suffer substantial emotional distress. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker 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. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. Reasonable person means a reasonable person under similar circumstances and with similar identities to the individual.
- Retaliation - means any adverse action, or attempted adverse action, against an individual or group of individuals because of their participation in any manner in an investigation, proceeding, or hearing under this Policy.
- Intimidation - To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the individual to actual physical attack.
- Consent – The College uses an **affirmative consent** standard to determine whether a sexual assault complainant consented to the alleged conduct. "Affirmative consent" is defined as an affirmative, conscious, and voluntary agreement to engage in sexual activity. Neither the lack of protest or resistance nor silence constitutes consent, and consent may be withdrawn at any time. Affirmative consent must be given by all parties to sexual activity. For the purpose of evaluating complaints during the disciplinary process described under this Policy, it is not a valid excuse that the respondent believed the complainant consented if: (A) the respondent's belief arose from his or her own intoxication or recklessness, or (B) the respondent did not take reasonable steps to ascertain whether the

complainant affirmatively consented. Similarly, it will not be a valid excuse that the respondent believed the complainant affirmatively consented where the respondent knew or reasonably should have known that the complainant was unable to consent because he or she was: (A) asleep or unconscious, (B) incapacitated due to drugs/alcohol/ medication, or (C) unable to communicate due to a mental or physical condition.

- Complainant – means the person making the allegation(s) of sexual misconduct.
- Respondent – means the person alleged to have committed sexual misconduct.

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