

Sexual and Relationship Misconduct Policy

When a student or employee reports an incident of dating violence, domestic violence, sexual assault or stalking, whether the offense occurred on or off campus, the University will provide a printed copy of this policy which includes the following written notifications:

- Options for, available assistance in, and how to request changes to academic, living, and on campus working situations or protective measure (Interim Measures);
- Procedures victims should follow, including the importance of preserving evidence (Steps to Take Immediately Following Sexual or Relationship Misconduct);
- How and to who the offense should be reported (Reporting a Violation of this Policy);
- Options about the involvement of law enforcement and campus authorities (Law Enforcement);
- How the institution will protect the confidentiality of the parties involved (Official Reporting Options), including Clery Act reporting and disclosures (Federal Statistical Reporting Obligations and Federal Timely Warning Reporting Obligations), as well as accommodations or protective measures provided to victims (Interim Measures);
- Procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking (Investigation/Determination Processes).

A list of existing Campus and Community Resources for counseling, emergency/safety/security, health, legal assistance mental health, Title IX coordinator, victim advocacy assistance for students and employees is included in the Title IX Coordinators office and on resource cards located throughout the university.

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

I. Introduction/Statement of Policy

Sexual and Relationship Misconduct Policy

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

I. Introduction/Statement of Policy

William Penn University is committed to providing a learning and working environment free from all forms of Sexual Misconduct including, but not limited to, Sex-Based Harassment, Non-consensual Sex Acts; Non-consensual Sexual Touching; and Sexual

Exploitation. The University is also committed to providing a learning and working environment free from Relationship Misconduct, including Dating Violence, Domestic Violence and Stalking. Engaging in, or Attempting or Aiding in the Commission of such acts, violates the policies of William Penn University. Finally, it is a violation of this Policy to engage in Retaliation against another for exercising his/her rights under this Policy. Any conduct in violation of this Policy will be treated under applicable University procedures. William Penn University does not tolerate any of the above conduct in any form (these acts are collectively referred to herein as "Sexual and/or Relationship Misconduct"). The University urges individuals to report any of these acts to campus officials under these administrative provisions. The University also encourages individuals to promptly report any such act that might also constitute a crime to local law enforcement. This policy applies to all students and employees of William Penn University regardless of sex, gender, sexual orientation or gender/sexual identity.

The Policy covers conduct that occurs on all William Penn University campuses and at all William Penn sponsored programs and events. The Policy also covers prohibited conduct that initially occurs off-campus acts in the educational or work setting. The Policy covers conduct perpetrated by faculty, staff, students and third parties.

Member of the WPU community, guests and visitors have the right to be free from Sexual and/or Relationship Misconduct. All members of the community are expected to conduct themselves in a manner that does not infringe upon the rights of others. The WPU Sexual and/or Relationship Misconduct Policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. The purpose of this Policy is to promote compliance with applicable campus, state and federal regulations; to allow for behavior that is inconsistent with the WPU policies to be appropriately reported, investigated and sanctioned; and to educate all members of the University community about implications and consequences of their behavior.

William Penn students and employees are expected to maintain the highest ethical standards of honesty and respect for others. University students, often away from home for the first time, may be unsure of how to handle situations such as rapidly expanding social circles and a lack of parental restrictions. In the context of intimate relationships, the use of alcohol and other drugs can blur the distinction between consensual and non-consensual conduct (for example, seduction versus coercion or intoxication versus incapacity). Non-stranger (date/acquaintance) rape happens most frequently at or after parties. Real or perceived power differentials between individuals also may impact whether conduct is welcome or unwelcome under sexual harassment laws. Being under the influence of alcohol or drugs is not an excuse for behavior that fits the definition of Sexual and/or Relationship Misconduct under this Policy.

Through this Policy the University intends to:

- A. Educate all constituencies about what constitutes Sexual and Relationship Misconduct.

- B. Inform faculty, staff and students of this Sexual and Relationship Misconduct Policy and the procedures for reporting Sexual and Relationship Misconduct within the University.
- C. Encourage faculty, staff and students to report Sexual and Relationship Misconduct that constitutes a crime to the appropriate law enforcement authorities.
- D. Educate faculty, staff and students as to common sense practices which may enable them and others to avoid becoming subjected to Sexual and Relationship Misconduct.
- E. Educate Campus Safety and University personnel about their responsibilities, the laws and potential sanctions and liabilities when Sexual and Relationship Misconduct occurs.
- F. Inform faculty, staff and students of the services available to survivors of Sexual and Relationship Misconduct.
- G. Educate faculty, staff and students to be respectful of the limits expressed or implied by their partners in sexual contacts.

II. A. Prohibited Conduct: Sexual Misconduct

Sexual Misconduct includes Sex-Based Harassment, Non-consensual Sex Acts, Non-consensual Sexual Touching, and Sexual Exploitation (each of which is defined below):

1. **Sex-Based Harassment includes sexual harassment and gender-based harassment.**
 - a. **Sexual harassment** is *unwelcome conduct* of a sexual nature, including but not limited to unwelcome sexual advances; requests for sexual favors; or other verbal or nonverbal conduct of a sexual nature, including *non-consensual sex acts, non-consensual sexual touching, and sexual exploitation*. In addition, depending on the facts, dating violence, domestic violence and stalking may also be forms of sexual harassment.
 - b. **Gender-based harassment** is *unwelcome conduct* of a nonsexual nature based on an individual's actual or perceived sex, including conduct based on gender identity, gender expression, and nonconformity with gender stereotypes.
 - c. Conduct is considered **unwelcome** if the victim did not request or invite it and considered the conduct to be undesirable or offensive. Unwelcome conduct can involve persons of the same or opposite sex.
 - d. **Harassing conduct** is verbal, written, or physical conduct that has the purpose or effect of unreasonable interfering with an individual's work or academic performance, or creates an intimidating, hostile or offensive working or educational environment. Examples of harassing conduct may include various types of unwelcome behavior, such as unwelcome; touching, sexually explicit offensive jokes, sexually degrading

graphic, verbal or written comments or questions or sexual nature; sexual innuendo, sexual threats, obscene gestures; inappropriate humor and jokes about gender specific traits or sexual orientation; sexual propositions; sexually suggestive or insulting sounds and actions, including, whistling, leering and obscene gestures.

- e. **A Hostile Environment** exists when Sex-Based Harassment is sufficiently severe or pervasive/persistent and patently offensive so that it alters the conditions of education or employment, from both a subjective (the alleged victim's) and an objective (reasonable person's) viewpoint. The determination of whether an environment is "hostile" must be based on all the circumstances. These circumstances could include:
- 1) the frequency of the conduct;
 - 2) the nature and severity of the conduct;
 - 3) the identity and relationship of persons involved;
 - 4) the location of the conduct and the context in which it occurred;
 - 5) whether the conduct was physically threatening;
 - 6) whether the conduct was humiliating;
 - 7) the effect of the conduct on the alleged victim's mental or emotional state;
 - 8) whether the conduct was directed at more than one person;
 - 9) whether the conduct arose in the context of other discriminatory conduct;
 - 10) whether the conduct unreasonably interfered with the alleged victim's educational or work performance;
 - 11) whether the statement is a mere utterance of an epithet which engenders offense in an employee or student, or offends by mere discourtesy or rudeness;
 - 12) whether the speech or conduct deserves the protections of academic freedom.

The more severe the sex-based harassment, the less need there is to show a repetitive series of incidents to find a hostile environment. Indeed, a single instance of sexual assault may be sufficient to create a hostile environment. Likewise, a series of incidents may be sufficient event if the sex-based harassment is not particularly severe.

Sex or gender-based actions which are offensive or inappropriate, but do not rise to the level of creating a hostile environment, can still be reported and, where

appropriate, WPU will take remedial steps intended to end or prevent such actions in the future.

- f. **Quid pro quo** sexual harassment exists when there are:
 - 1) Unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature; and
 - 2) Submission to or rejection of such conduct results in adverse educational or employment action.
2. **Non-consensual Sex Act:** A “sex act” (defined below) where “effective consent” (defined below) is not given by one of the participants.
3. **Non-consensual Sexual Touching:** Non-consensual “sexual touching” (defined below) where “effective consent” (defined below) is not given by one of the participants.
4. **Sexual Exploitation:** Sexual exploitation occurs when an individual takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Example of sexual exploitation include, but are not limited to:
 - a. prostituting another person;
 - b. recording images (e.g., video, photograph) or audio of another person’s sexual activity, intimate body parts, or nakedness, without that person’s *consent*;
 - c. distributing images (e.g., video, photograph) or audio of another person’s sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the depicted in the images or audio did not *consent* to such disclosure and objects to such disclosure;
 - d. viewing another person’s sexual activity, intimate body parts, or nakedness in place where that person would have reasonable expectation of privacy, without that person’s *consent*, and for the purpose of arousing or gratifying sexual desire (Peeping Tommerly).
 - e. going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex)
 - f. knowing transmitting an STI or HIV to another individual intentionally; and
 - g. exposing one’s genitals to another when the exposing individual knows or should have known that the other person did not consent to such exposure and objects to such exposure; causing another to expose his/her genitals without that person’s effective consent.

III. Prohibited Conduct: Relationship Misconduct

B. Relationship Misconduct includes Dating Violence, Domestic Violence and Stalking, each of which is defined below:

1. **Dating Violence:** Violence committed by a person who has been in a romantic or intimate relationship with another. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of then length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. [Iowa Code does not provide a per se definition for "Dating Violence." The University's definition of "Dating Violence" is consistent with the Clery Act regulations for reporting offenses.]
2. **Domestic Violence:** An assault (which is defined in §708.2A of the Iowa Code as an intentional or unauthorized act that is intended to cause pain to another or result in physical contact that is insulting or offensive, coupled with the apparent ability to do the act or to place another in fear of any such act, or the intentional and authorized pointing of a firearm or display of a dangerous weapon in a threatening manner) when the assault is between:
 - a. Family or household members who resided together at the time of the assault;
 - b. Separated spouses or persons divorces from each other and not residing together at the time of the assault.
 - c. Persons who are parents of the same minor child, regardless of whether they have been married or have lived together at any time.
 - d. Persons who have been family or household members residing together within the past year and not residing together at the time of the assault; or
 - e. Persons who are in an intimate relationship or have been in an intimate relationship and have had contact within the past year of the assault.

[The University's definition of "Domestic Violence" is the offense constituting "Domestic Abuse" under Iowa Code § 236.2 "Domestic Abuse" is consistent with and substantively the same as the acts defined under the Clery Act as "Domestic Violence"].

3. **Stalking:** A person commits stalking when all of the following occur:
 - a. The person purposefully engages in a course of conduct (for example, repeatedly maintaining a visual or physical proximity to another person without legitimate purpose or repeatedly conveying oral or written threat, threats implied by conduct, or a combination thereof) directed at or toward another specific person that would cause a reasonable person substantial

emotional distress or fear of bodily injury to, or the death of, that specific person or a member of the specific person's immediate family (spouse, parent, child, sibling or any other person who regularly resides in the household of a specific person, or who within the prior six months regularly resided in the household of a specific person); and

- b. The person has knowledge or should have knowledge that the specific person will be placed in substantial emotional distress or reasonable fear of bodily injury to, or the death of, that specific person or a members of the specific person's immediate family by the course of conduct and
- c. The person's course of conduct induces substantial emotional distress or fear in the other specific person of bodily injury to, or the death of, the specific person or member of the specific person's immediate family.

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or professional treatment or counseling.

[Iowa Code § 708.11; with amended language consistent with the definition of "Stalking" under the Clery Act regulations for reporting offenses].

II. C. Prohibited Conduct: Other Activities in Violation of Policy

- 1. Possession, Use, Distribution and/or Administration of Date Rape Drugs:** Possession, Use, Distribution and/or Administration of Date Rape Drugs, including Rohypnol, Ketamine, GHB, Burundange, etc. is prohibited, as is administering one of these drugs to another for the purpose of inducing incapacity.
- 2. Attempts to Commit/Aiding in the Commission of Sexual and/or Relationship Misconduct:** Attempts to commit Sexual or Relationship Misconduct and aiding in the commission of Sexual or Relationship Misconduct as an accomplice are also prohibited under this Policy.
- 3. Retaliation:** Retaliation occurs when an individual harasses or intimidates another person because of that other person alleging, or participating in an investigation of, a violation of this Sexual or Relationship Misconduct Policy. Harassment or intimidation includes but is not limited to threats or actual violence against the person or her/his property, adverse education or employment consequences, ridicule, taunting, bullying or ostracism. Retaliation is prohibited under this Policy and is expressly prohibited by Title VII, Title IX and other state and federal laws.

II. D. Prohibited Conduct: Definition of Common Terms

- 1. Sex Act:** A Sex Act is sexual contact between two or more persons by penetration of the penis into the vagina or anus; contact between the mouth and genitalia or

by contact between the genitalia of one person and the genitalia or anus of another person; contact between the finger or hand of one person and the genitalia or anus of another person, or by use of artificial sexual organs or any object in contact with the genitalia or anus.

2. **Sexual Touching:** Sexual Touching is any intentional contact with the breasts, buttocks, groin or genitals, or touching another with any of these body parts, or making another touch him/her or themselves with or on any of these body parts for the purpose of arousing or satisfying his/her own sexual desires.
3. **Effective Consent:** Effective Consent is informed, freely and actively given, mutually understandable words or actions which indicate a willingness to participate in mutually agreed upon current sexual activity.

Consent is not effective if it results from the use of fraud, physical force, threats, intimidation or coercion.

- a. **Physical Force** exists, for example, when someone acts upon another physically, such as hitting, kicking, restraining or otherwise exerting their physical control over another through violence.
- b. **Threat exists** where a reasonable person would be compelled by the words or actions of another to give permission to sexual contact they would not otherwise give, absent the threat. For example, threats to kill another, themselves, or to harm someone the other person cares for are sufficient to constitute threats.
- c. **Intimidation** exists where someone uses their physical presence to menace another, though no physical contact occurs, or where the other person's knowledge of prior violent behavior by an assailant, coupled with menacing behavior, places the other person in fear as an implied threat.
- d. **Coercion** exists when a sexual initiator engages in sexually pressuring and/or oppressive behavior that violates norms of respect in the community, such that the application of such pressure or oppression causes the objectified victim of the behavior to engage in unwanted sexual behavior.

Coercion may be differentiated from seduction by the repetition of the coercive activity beyond what is reasonable, the degree of pressure applied, and the initiator's knowledge that the pressure is unwanted. When someone makes it clear that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. Effective Consent cannot be given by someone who is incapacitated (defined below). Furthermore, someone under the age of 16 cannot give Effective Consent to someone over the legal age of consent (18), absent a legally valid marriage or court order. A mentally disable individual cannot give Effective Consent to a sexual activity if they cannot appreciate the fact, nature, or extent of the sexual situation in which they find themselves.

Past consent does not imply future consent; consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another; consent to engage in one form of sexual activity does not imply consent to engage in other forms of sexual activity; and consent can be withdrawn at any time.

- 4. Incapacitation/ Incapacitated [Iowa Code § 709.1A]:** Incapacitation or Incapacitated means a person is disabled or deprived of ability, as follows:
- a. “Mentally incapacitated”** means that a person is temporarily incapable of rationally and reasonable understanding the nature and extent of the situation or controlling the person’s own conduct due to the influence of a narcotic, anesthetic, alcohol, or other intoxicating substance. This includes, but is not limited to, someone who incapacity results from ingesting anything in the category of a “date-rape drug.” Possession, use and/or distribution of any of these substances, including Rohypnol, Ketamine, GHB, Burundanga, etc. is prohibited, as is administering one of these drugs to another person for the purpose of inducing incapacity.
 - b. “Physically helpless”** means that a person is unable to communicate an unwillingness to act because the person is unconscious, asleep, or is otherwise physically limited.
 - c. “Physically incapacitated”** means that a person has a bodily impairment or handicap that substantially limits the person’s ability to resist or flee.

III. Steps to Take Immediately Following Sexual or Relationship Misconduct

- A.** If Sexual or Relationship Misconduct occurs, many survivors do not know where to turn for help or what steps to take after the conduct occurs. Although the choices about which options to explore rest solely with the survivor, William Penn University encourages survivors to take the following steps:
- 1. Get to a safe place as soon as possible.**
 - 2. Contact the low law enforcement (911).** If Sexual or Relationship Misconduct occurs on campus, Campus Safety should also be notified by calling 641.673.1170.
 - 3. Seek immediate medical attention.** Survivors of Sexual and Relationship Misconduct are strongly encouraged to seek *immediate medical attention* at an area hospital or medical clinic. If the survivor wishes, a survivor advocate from Crisis Intervention Services (641.673.5499 or 1.800.270.1620) can accompany the survivor to the hospital and Campus Safety or other University personnel can provide transportation (641.673.1170).

The Sexual Assault Nurse Examiner (a specially trained nurse) at the Pella Regional Health Center Emergency Room is on call 24 hours a day, 7 days a week (call Crisis Intervention Services at 1.800.270.1620 or go directly to Pella Regional Health Center at 404 Jefferson, Pella Iowa 50219).

Crisis Intervention Services

500 High Avenue West
Oskaloosa, Iowa 52577
1.800.270.1620

Mahaska Health Partnership – Emergency

1229 C Avenue East
Oskaloosa, Iowa 52577
641.673.3100

Pella Regional Health Center

404 Jefferson
Pella, Iowa 50219
641-621-2200 (24/7 Nurse line)

Planned Parenthood of Heartland

1000 E Army Post Road
Des Moines, Iowa 50315
1.877.811.7526

and 615 N 2nd Avenue West
Newton, Iowa 50208
1.877.811.7526

Please be aware that hospital personnel are obligated to contact proper authorities regarding the assault. Although you are not obligated to do so, survivors of sexual and relationship misconduct are highly encouraged to take advantage of victim's services to help you understand your options for off-campus proceedings and to receive counseling specific to your needs.

- 4. Preserve Evidence. In the event of a sexual assault, if at all possible, do not change clothes, shower, bathe, douche, defecate or urinate.** Emergency room personnel are trained to check for injuries, as well as collect physical evidence. It is important to preserve evidence for the proof of a violation of this Policy or of a crime should you decide to pursue charges through law enforcement. Costs for providing and administering the rape kit incurred by the Iowa Department of Public Health. The hospital staff will collect information, check for injuries, and address the possibility of exposure to sexually transmitted infections. If you have changed clothing since the assault, bring the clothing you had on at the time of the assault with you to the hospital in a clean, sanitary container such as a clean paper grocery bag or wrapped in a clean sheet (plastic containers do not breathe, and may render information useless). If you have not changed clothes, bring a change of clothes with you to the hospital, if possible, as they will likely keep the clothes you are wearing as evidence. You can take a support person with you to the hospital, and they can accompany you through the exam, if you want. Do not disturb the crime scene-leave all sheets, towels, etc. that may bear information for the police to collect.
- 5. Remember: you are not alone.** Talking with someone who understands can help you sort out the emotional aftermath of sexual or relationship misconduct. Because the reactions to these offenses are complex and often confusing, it is important to

remember that your feelings are normal and you are not alone. William Penn University's Counselor provides free counseling for survivors of sexual and relationship misconduct. Additional confidential resources in the area are also available to you. Male and female counselors are available.

William Penn University Counseling Services

Union – 120A
641.673.1703

Crisis Intervention Services

500 High Avenue West
Oskaloosa, Iowa 52577
641.673.0336
1.800.270.1620 or 641.673.5499 (24 hr. crisis hotline)

Crossroads

Pella Community Center
712 Union Street
Pella, Iowa
641.628.1212

Pella Pine Rest Christian Mental Health Services

2611 Washington
Pella, Iowa
1.866.852.4001

Family Life Counseling

611 Main
Pella, Iowa
641.628.1723

Polk County Victim Services

1915 Hickman
Des Moines, Iowa
515.286.3535 or 515.286.3600

Supporting a survivor of Sexual and/or Relationship Misconduct is a primary consideration as are explaining options and protecting individual rights. Every report of Sexual and/or Relationship Misconduct will be taken seriously and action will be taken as appropriate. The University will do everything reasonably possible to create a climate that is sensitive to and respectful and supportive of individual needs. The survivor will have access to existing campus counseling and support services and, when appropriate, adjustments will be made to housing assignments, academic/work schedules, etc.

IV. A. Reporting a Violation of this Policy: Confidential Resources

Incidents of Sexual and Relationship Misconduct are notoriously underreported on university campuses, often because the complainant does not recognize their experience as a criminal offense and/or a university policy violation or due to their lack of knowledge of and/or discomfort with campus and community resources. By seeking assistance and reporting conduct covered by this Policy, you can begin your own healing process and promote the standards of community and respect that are part of William Penn University. The University encourages survivors of Sexual and Relationship Misconduct to talk to someone about what happened-so survivors can get the support they need, and so the University can respond appropriately.

A. Confidential Resources

If survivors of sexual or relationship misconduct desire that details of an incident be kept confidential, they should speak with the campus counselor. This resource will maintain confidentiality unless there is present or future, clear and imminent threat to the client or others or when legal requirements demand that confidential information is revealed, e.g. court ordered testimony. In any situation where confidential information must be revealed, it will be done with client informed consent whenever possible. The campus counselor is available to help survivors free of charge and can be seen on an emergency basis. Off-campus victim counselors and rape crisis resources are also confidential resources. On and off-campus, emergency assistance is also available as listed below:

On Campus	Contact person	Phone #
Counselor	Tyne Smith	641-673-1703

Agency	Contact person	Phone #
Mahaska Health Partnership		641.673.3100
Marion County Mental Health Centers: Pine Rest Christian Mental Health Services		641-628-9599
Crossroads	Jim Hibma	641-628-1212
Crisis Intervention Services (Crisis Line)		1-800-270-1620 or 641-673-5499

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

IV. B. Reporting a Violation of this Policy: Official Reporting Options

If survivors wish the University to investigate an incident of sexual or relationship misconduct, they must make an Official University Report. Any individual subjected to conduct covered by this Policy by a William Penn University student or employee (on campus, or in a program or activity under University jurisdiction), or any William Penn University student or employee who is a survivor of such conduct perpetrated by an employee, student or third party is encouraged to report the incident formally to **the Title IX Coordinator** (Angella Gambell, TitleIX@wpu.edu or 641.673.1076). The Title IX Coordinator will assist in making determinations around requests for confidentiality as explained immediately below and in arranging for a prompt investigation into the report as is explained in the “Investigation” section of this Policy. **At the time of the report, a copy of this policy will be provided to both the complainant and the respondent.**

1. Reports to “Responsible Employee” other than the Title IX Coordinator

As noted above, an individual who is subjected to conduct covered by this Policy is encouraged to make an official university report directly to the Title IX Coordinator. However, a report to another responsible employee of the University will be also addressed by the University. A “responsible employee” is a William Penn University employee who has the authority to redress the matter, who has the duty to report such incidents, or who a student or employee could reasonably believe has this authority or duty. At William Penn University, all employees (including student employees) are considered “responsible employees” unless the employee is acting as a victim counselor, chaplain, or campus counselor covered by the confidential reporting options listed above. When a complainant tells a responsible employee, other than the Title IX Coordinator, about an incident involving conduct covered by this Policy, the individual has the right to expect the University to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably. Consequently any responsible employee must report to the Title IX Coordinator all relevant details shared by the complainant concerning conduct covered by the Policy including the names of the complainant and respondent(s), any witnesses, and any other relevant facts, including date, time and specific location of the alleged incident. Responsible employees are not to investigate and are not required to obtain proof of any actual Policy violation; but rather, the responsible employees should promptly report the available information to the Title IX Coordinator for processing under this Policy. To the extent possible, information reported to any responsible employee will be shared only with people responsible for handling the University’s response to the report. A responsible employee should not share information with law enforcement without the survivor’s consent, unless the survivor has also reported the incident to law enforcement.

2. Requests for Confidentiality

If the complainant wants to make an Official University Report, but also maintain confidentiality, the University will consider the request taking into account the following considerations. Any such request for confidentiality should be reported to the Title IX Coordinator, either by the complainant or by another responsible employee who receives the report. The Title IX Coordinator will weigh the request for confidentiality against the University's obligation to provide a safe, non-discriminatory environment for all students and employees, including the complainant. In conducting this analysis, the Title IX Coordinator will weigh the complainant's request and preferences against factors such as: the seriousness of the alleged misconduct; the complainants' age; whether there have been other complaints against the accused that increase the risk of campus community or whether this is a first-time complaint; whether the alleged incident involved threatened future sexual violence or use of force or a weapon; whether an incident involved multiple respondents; whether an incident involved alcohol, drugs, or any date rape drug; FERPA privacy consideration; and whether the school has other methods for obtaining relevant evidence (i.e., security cameras or physical evidence). Based on this assessment, William Penn University will decide whether to honor the complainant's preferences or whether to investigate and adjudicate a violation of this Policy.

There may be times when the University may not be able to honor a complainant's request for confidentiality in order to provide a safe, non-discriminatory environment for all students and employees. If William Penn University decides that actions are required, WPU will not be able to ensure the complainant's confidentiality. In cases where a request for confidentiality cannot be honored, to the extent it is reasonably possible, a complainant may be provided requested support services such as a change in living or academic/work arrangement, and increased monitoring, supervision or security at locations and activities where the alleged misconduct or violence occurred.

If the University honors the request for confidentiality, the University will take all reasonable steps to investigate and respond that can be taken consistently with such requests, but a complainant must understand that the University's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged respondent(s) may be limited.

IV. C. Federal Statistical Reporting Obligations

The Federal Government requires Campus Safety to publish an annual Student Safety Report describing certain crimes that fall within the definition of Sexual and Relationship Misconduct that have occurred and their general location (on or off campus or in the surrounding area; no addresses are given). These reports contain statistical information only. All personally identifiable information is kept confidential. This report helps to ensure greater community safety by providing

the community with a clear picture of the nature and extent of campus crime. The University requires that all employees (except professional/licensed counselors and clergy) provide statistical information regarding known sexual crimes, dating violence, domestic violence and stalking to Campus Safety.

IV. D. Federal Timely Warning Reporting Obligations

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

IV. E. Law Enforcement

Along with the on-campus options described above, William Penn University strongly encourages a survivor of Sexual and Relationship Misconduct to make a report to local law enforcement and to speak with a rape crisis or other counselor, on or off campus. Sexual assault and many other types of Sexual and Relationship Misconduct constitute criminal behavior. Law enforcement officers are trained in handling sexual assault and other cases involving Sexual and Relationship Misconduct. An officer can be dispatched to campus to meet with the person calling, to assist the survivor in obtaining medical attention and emotional counseling, and to write a formal report of the incident. Reporting to law enforcement does not require prosecution of the offense and the victim's wishes will be taken into account by law enforcement. The police report and any supporting evidence may be turned over to the County Attorney's office, which decides whether there is sufficient evidence to prosecute. Information about the process of reporting, the investigation, arrests, filing charges, hearings, the trial and sentencing will all be explained to you at the time of report. **Although reporting to law enforcement is strongly encouraged, at no time will any individual be forced to make a report to law enforcement as a precondition to using the internal reporting/investigation process discussed herein.** The Title IX Coordinator, counselors, Title IX team members and Campus Safety can assist in notifying law enforcement, if a survivor choose.

Law Enforcement Contacts:

Oskaloosa Police Department, 641.672.2557

Mahaska County Sheriff, 641.673.4322

V. What to Expect After an Official Report is Made

A. If I am as student, will my parents be told?

No, not unless you tell them. Whether you are the complainant or the respondent, William Penn University's primary relationship is to the student and not to the parent. However, in the event of major medical, conduct action, or academic jeopardy, students are strongly encouraged to inform their parents. University officials will directly inform parents when requested to do so by a student or in a life-threatening situation.

B. Will a survivor be sanctioned when reporting a violation of this Policy if he/she has used drugs or alcohol in violation of the law or University conduct rules?

No. The severity of the infraction will determine the nature of the University's response, but whenever possible the University will respond educationally rather than punitively to the illegal or improper use of drugs and/or alcohol by a survivor of Sexual or Relationship Misconduct. The seriousness of Sexual or Relationship Misconduct is a major concern and the University does not want any of the circumstances (e.g., drug or alcohol use) to inhibit the reporting of a violation of this Policy.

C. What do I do if I am accused of sexual misconduct?

1. **DO NOT** contact the alleged survivor.
2. Follow all directions issued by the University.
3. Contact the Title IX Coordinator to receive additional explanation about the investigatory process.
4. If a student, consider contacting your parents for support.
5. Consider hiring an attorney.
6. Consider contacting someone in the campus community who can act as your advisor.
7. You may also want to talk to the campus counselor.

D. Interim Measures

If, at any time after being made aware of the complaint, the University determines that it is in the best interest of either party for safety or other reasons, the University may take whatever interim measures are deemed appropriate under the circumstances. Any party desiring the imposition of interim measures or with questions related thereto should contact the Title IX Coordinator; the Title IX Coordinator will oversee the implementation of any such measures. In most

instances, both the complainant and the respondent will be instructed to avoid all contact with the other. Such a directive serves as notice to both parties that they must not have verbal, electronic, written or third party communication with one another. If these instructions are not heeded, disciplinary action will be taken, including the possibility of immediate disciplinary action. In addition, complainants have the right to request orders of protection, “no-contact” orders, restraining orders, or similar orders issued by a criminal, civil or tribal court or by the institution. If requested by the complainant, a change in living or academic/work arrangements will be made to the extent reasonably possible. Other interim measures for the complainant and/or respondent might include:

- 1) Assistance from university support staff in completing the relocation.
- 2) Arranging to dissolve a housing contract.
- 3) Rescheduling exam (paper, assignment)
- 4) Taking an incomplete in a class.
- 5) Transferring class sections.
- 6) Temporary withdrawal from a course or from the university.
- 7) Alternative course completion options.
- 8) Academic accommodations.
- 9) Medical and mental health services, including counseling.
- 10) Change in campus housing and/or dining options.
- 11) Assistance in arranging for alternative University employment arrangements and/or changing work schedules.
- 12) Providing an escort to ensure that the student can move safely between school programs and activities.
- 13) Assistance identifying an advocate to help secure additional resources, including off-campus and community advocacy, support and services.

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

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

E. Interplay with Criminal Proceedings

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

VI. A-E. Investigation/Determination Processes

Upon receipt of a complaint or report of Sexual or Relationship Misconduct an investigation will be conducted and, where appropriate, sanctions and corrective measures will be taken in accordance with applicable university disciplinary policies and procedures.

A. Former Students/Employees

An investigation will be conducted, to the extent reasonable possible, even if the respondent is a former student/employee or a third party. In these situations, the University will attempt to put the respondent on notice and invite their participation in the investigation, but all the investigatory steps below may not be strictly followed. If a finding of Misconduct is made, the University will impose sanctions appropriate for the situation, such as a no readmission sanction, or no-rehire sanction, or a no trespass/no-contact order.

B. Title IX Coordinator

The Title IX Coordinator is responsible for ensuring compliance with this Policy and all related processes. The Title IX Coordinator will be party of investigating complaints and play a part in the decisions for the findings or sanction decisions. The Title IX Coordinator should be considered a resource for all parties involved in the process. William Penn University's Title IX Coordinator is Angella Gambell (TitleIX@wmpenn.edu or 641.673.1076).

C. Process Advocates

For both the complainant and respondent, process advocates may be utilized throughout this process. These university employees, who are knowledgeable about the conduct process and investigation, are available to provide information on the process. They may be present during the investigation, and any pre-investigation meetings. Those qualify as process advocates include resident advisors, Director and Assistant Director of Residence Life and other campus professionals.

D. Investigators

All cases of alleged Sexual or Relationship Misconduct will be investigated jointly by the Title IX Committee. If, prior to the initiation of the investigation, either the complainant or the respondent alleges that an investigator has a conflict of interest, after hearing from both parties on the topic, the Title IX Coordinator will decide whether to excuse the investigator and announce his/her decision in writing to both parties. If the Title IX Coordinator determines that the investigator should be excused, or if an investigatory is unavailable to conduct the investigation, the Title IX Coordinator will appoint a replacement investigator.

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

E. Investigation Process

1. Upon receipt of a complaint or report of Sexual or Relationship Misconduct, the Title IX Coordinator will prepare a notice of complaint/investigation document that identifies:
 - a) The respondent;
 - b) The complainant (unless the Title IX Coordinator has decided to honor a request by the complainant to remain confidential);
 - c) The date(s) of the alleged misconduct;
 - d) A brief description of the allegation;
 - e) The specific provisions of this Policy that were allegedly violated; and
 - f) The investigatory process that will follow.
2. This notice of complaint/investigation document will be provided to both parties. If reasonably possible, the Title IX Coordinator should deliver the notice of complaint/investigation document to both individuals personally, so that he/she can explain the nature of the complaint(s) and the investigatory process.
3. During the investigation, both the complainant and respondent:
 - a) Will be allowed to present their version of events to the investigators and to provide any supporting evidence.
 - b) May be accompanied in their interviews by a silent representative or support person. The silent representative or support person will not be allowed to provide information to the investigators or ask questions of the party during the interview process. The investigators will have the right to end the interview or ask the representative to leave the interview if the representative is violating these restrictions or otherwise interfering in the investigation process.
 - c) May utilize a William Penn University process advocate through the investigatory process.
 - d) Will be allowed to identify witnesses, all of whom will be interviewed by the investigators absent a compelling reason why such an interview cannot take place. If the investigators determine that an identified witness cannot or should not be interviewed, both parties will be

informed in writing of this decision, unless safety considerations prevent such disclosure.

- e) Will be given an opportunity to review all tangible evidence submitted or identified by the other party and given an opportunity to comment on that evidence, unless safety considerations prevent such disclosure.
- f) Will be notified of the witnesses identified by the other party and be given an opportunity to comment on those witnesses and identify rebuttal witnesses, unless safety considerations prevent such disclosure.

All investigations will be conducted as discreetly as is practicable. All witness interviews will be audio recorded, and all such recordings shall at all times remain the property of the University. Investigators are encouraged to confer with the Title IX Coordinator throughout the process in an effort to ensure compliance with the outlined processes. Individuals making good faith allegations of Sexual or Relationship Misconduct and those participating in such investigations will not be subjected to Retaliation.

4. At the conclusion of the investigation, the Investigators will determine whether a Preponderance of the Evidence supports a finding that this Policy was violated. A Preponderance of the Evidence is evidence from which the Investigators can determine that it is more likely than not that a violation occurred. The Investigators will prepare a written Investigation Report that includes a Notice of Decision (as described in Section G below) describing their decision and rationale. IF the Investigators determine that the violations occurred, the Notice of Decision will identify the specific policy violation(s) and any sanction/remedial efforts. Once the Investigation Report has been completed, the Title IX Coordinator will deliver the report to both parties.
5. The Investigators' compilation of evidentiary materials collected during the investigation (including interview recordings, notes, statements, research and tangible evidence) comprises the Investigation Materials. Within five (5) calendar days of the date of the Notice of Decision, either party may request to see the Investigation Materials. The Title IX Coordinator will provide access to the Materials during a meeting with the requesting party, but the party will not be allowed to make or retain copies of the Materials.
6. If neither party appeals the decision of the Investigators within five (5) calendar days of the date of the decision, the Investigators' decision will become final.
7. If the Investigators cannot reach a unanimous decision as to responsibility (i.e., one investigator would find the respondent responsible for a policy violation by applying the preponderance of the evidence standard and one investigator would reach an opposite conclusion), they will provide a Notice of Decision to that effect in their Investigation Report. The Title IX Coordinator will provide the Appeal Panel (described below) with the Investigation Report and the Investigation Materials, as described above. Each party will have five calendar days from date of the Investigators' Notice of Decision to submit a

written position statement to the Title IX Coordinator which will be provided to the other party and the Appeal Panel for its consideration. Applying the same preponderance of the evidence standard as the Investigators, the Appeal Panel will review the Investigation Report, the Investigation Materials, and the parties' position statements and make a final determination of responsibility (and sanction(s) if appropriate). Upon making a determination, the Appeal Panel will issue a final Notice of Decision to the parties and the Title IX Coordinator. Under these circumstances, the Decision of the Appeal Panel is final and the Appeal Process discussed in Section F below is not available to either party.

VI. F. Appeal Process

1. Either party may request that an Appeal Panel review the Investigators' decision in writing, by submitting a written Notice of Appeal to the Title IX Coordinator within five (5) calendar days of the date of the Notice of Decision. In the Notice of Appeal, the appealing party must identify one of the following bases for his/her appeal and explain in detail how such a basis for appeal exists in his/her case:
 - a. To consider new information, unavailable during the investigation, that could be outcome determinative; a summary of this new evidence and its potential impact must be included;
 - b. To assess whether a material deviation from written procedures materially impacted the fairness of the investigation (a deviation materially impacts an investigation if a different outcome is probably if the alleged procedural defect is corrected);
 - c. To decide if a sanction(s) is grossly disproportionate to the severity of the offense (either too lenient or too harsh);
 - d. To assess whether bias on the part of an Investigator deprived the process of impartiality.
2. Within three (3) calendar days of receipt of the Notice of Appeal, the Title IX Coordinator will review the Notice of Appeal, and if the Title IX Coordinator determines that the Notice of Appeal identifies one or more of the listed bases of appeal, the Title IX Coordinator will notify the parties and the Investigators in writing of the appeal and explain the appeal process as outlined below. If the Title IX Coordinator determines that the Notice of Appeal failed to identify a basis for appeal under this Policy, the Title IX Coordinator will notify the appealing party of that determination, and will notify both parties that the Investigators' decision has become a final decision.
3. If a timely Notice of Appeal, which identifies a recognized basis for appeal, is received by the Title IX Coordinator, he/she will share the Notice of Appeal with the other party and the Investigators, and both the non-appealing party and the Investigators will be given five (5) calendar days to provide the Title IX Coordinator with a written response to the appeal. During the five (5) day response period, any party that has not previously reviewed the Investigation Materials may request to review the Investigation Materials. The Title IX

Coordinator will provide access to the Materials during a meeting with the requesting party, but the party will not be allowed to make or retain copies of the Materials. The Title IX Coordinator will share any responses to the Notice Appeal with the appealing party. The Title IX Coordinator will also inform all parties of the composition of the Appeal Panel.

4. The Appeal Panel will comprise three individuals appointed by the Title IX Coordinator from a pool of trained administrators/faculty. If, within three calendar days of receiving notification of the makeup of the Appeal Panel, either the complainant or the respondent alleges that a member of the Appeal Panel appointed by the Title IX Coordinator has a conflict of interest, after hearing from both parties on the topic, the Title IX Coordinator will decide whether to excuse the Appeal Panel member and announce his/her decision in writing to both parties. If the Title IX Coordinator determines that the Appeal Panel member should be excused, the Title IX Coordinator will appoint a replacement.
5. The Title IX Coordinator will ensure that the Appeal Panel is provided with the following materials: (a) the notice of complaint/investigation document; (b) the Investigation Materials; (c) the Investigators' Investigation Report/Notice of Decision; (d) the Notice of Appeal; and (e) any response to the Notice of Appeal. These materials comprise the "Record on Appeal" The Title IX Coordinator will be available as a resource for the Appeal Panel; the Appeal Panel is encouraged to confer with the Title IX Coordinator as needed in an effort to ensure compliance with the outlined processes.
6. The Appeal Panel will issue a written Appeal Decision within five (5) calendar days after receiving the response from the non-appealing party, and that decision will be provided to the parties, the Investigators, and the Title IX Coordinator. In the event the Appeal Panel determines that further action from the Investigators is warranted under a, b, or d, above, the matter will be returned to the Investigators (substitution of a new Investigator may be warranted under subdivision d) to correct the error, reconsider the matter, and issue a new Investigation Report/Notice of Decision, and that decision shall be final. This reconsideration must be completed within five (5) calendar days of the Appeal Panel's decision. If the Appeal Panel finds a basis for altering the Investigators' decision under c, above, the Appeal Panel's Appeal Decision shall be final. In that event, the Appeal Panel's decision must be consistent with a Notice of Decision as defined below.

Please Note: The charges of misconduct remain allegations until a final decision is reached and all appeals exhausted under the applicable University procedures.

VI. G. Notice of Decision

1. Any Notice of Decision reference in this section shall mean a written notice of the outcome of the complaint (i.e., whether a Preponderance of the Evidence supports a finding that this Policy was violated), and a rationale for that decision.

2. The Notice of Decision will identify the Individual(s)/Body issuing the decision and whether an appeal is available (and if so, how to request such an appeal).
3. If the Notice of Decision indicates that a Policy violation occurred, the Notice of Decision will identify the specific policy violation(s) and any sanction/remedial efforts. The Notice of Decision to the complainant should specifically include:
 - a) Any individual remedies for the complainant;
 - b) In non-violence cases, notice of any sanctions imposed on the respondent that directly related to the complainant;

Sanctions that directly related to the complainant include, but are not limited to, requiring that the respondent stay away from the complainant for some period, prohibiting the respondent from attending school or working on campus for some period of time; or transferring the respondent to another residence hall, classes school, or job.
 - c) in violence cases, notice of all sanctions imposed on the respondent and
 - d) steps being taken to eliminate the misconduct and prevent recurrence.
4. Both parties will be provided the Notice of Decision by the Title IX Coordinator concurrently, if possible.
5. If the alleged victim is deceased as a result of the crime or offense, the University will provide access to the Notice of Decision to the next of kin, if so requested.

VI. H. Time Frame

1. In most cases the Investigation/Determination Processes will be concluded within sixty (60) days after the complainant makes the official university report. However, if circumstances are such that the process will not be rendered in this time-frame the complainant and the respondent will be so advised and provided a general time-frame for the conclusion of the process.

VI. I. Sanctions for Sexual and/or Relationship Misconduct

1. Any respondent found responsible for a charge of any type of Sexual and/or Relationship Misconduct will receive sanction(s) ranging from warning, restitution, fines, discretionary sanctions, loss of privileges, restricted access, probation, living unit suspension, contract termination, suspension, or expulsion/termination of employment. The nature of the sanction(s) will be determined on a case basis taking into account numerous factors, including:
 - a) The severity of the incident;
 - b) Previous disciplinary infractions;
 - c) Consistency in punishment for like offenses;
 - d) Risk of repeat offenses;
 - e) Danger to community;

- f) Acceptance of responsibility/remorse;
 - g) Type of harm caused;
 - h) Number of survivors
 - i) What is necessary to protect the survivor/community.
2. In addition to the sanction(s) against the respondent, the decision-makers may provide remedies/accommodations to the complainant such as counseling, alternative living/working arrangements and academic accommodations. The decision-makers may also establish certain remedies for the benefit of the school community.
 3. Supervisors, administrators, and faculty who knowingly condone, fail to report, or fail to take action to remedy incidents of discrimination, harassment, and/or retaliation may themselves be subject to sanctions and/or disciplinary action, up to and including termination.

