

Portland Community College

**GENDER-BASED AND SEXUAL MISCONDUCT POLICY**

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**Introduction**

Portland Community College (PCC) students and employees, as well as guests and visitors, have the right to be free from all forms of discrimination based on sex, gender, gender expression, actual or perceived gender identity or sexual orientation, gender identity and sex-based discrimination, examples of which can include acts of sexual violence, sexual harassment, domestic violence, dating violence, and stalking. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others. The College does not tolerate gender-based or sexual misconduct. When an allegation of gender-based or sexual misconduct is brought to an appropriate PCC official's attention and a Respondent is found to have violated this policy, serious sanctions will be used to reasonably ensure that such actions are never repeated. This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This policy is intended to define community expectations and establish a mechanism for determining when those expectations have been violated.

**I. Definitions - What does this policy apply to?**

The policy applies to all PCC community members, including students, faculty, administrators, staff, volunteers, vendors, independent contractors, visitors and any individuals regularly or temporarily employed, studying, visiting, conducting business or having any official capacity with the College or on College property. This policy is intended to protect and guide individuals who have been affected by sexual harassment, sexual violence, stalking or intimate partner violence, or discrimination based on actual or perceived sexual orientation, gender identity or expression, whether as a Reporting Party or a Respondent, and to provide fair and equitable procedures for investigation and resolution of reports.

All PCC community members are required to follow College policies and local, state, and federal law. This policy applies to conduct occurring on PCC property or at College-sanctioned events or programs that take place off campus, including study abroad and internship programs. In situations in which both the Reporting Party and Respondent are members of the PCC community, this policy will apply, regardless of the location of the incident. In particular, off campus conduct that is likely to have a substantial adverse effect on, or poses a threat of danger to any member of the PCC community, is covered under this policy.

A Reporting Party is encouraged to report misconduct regardless of where the incident occurred or who committed it. Even if the College does not have jurisdiction over the Respondent, the College will still take prompt action to provide for the safety and well-being of the Reporting Party and the broader campus community.

When used in this policy, the term "Reporting Party" refers to the individual who identifies themselves as being a victim or survivor of sexual harassment, sexual violence, stalking or intimate partner violence, or discrimination based on actual or perceived sexual orientation, gender identity or expression. The term "Respondent" refers to the individual who has been accused of prohibited conduct under this policy.

When used in this policy, "consent" must be informed, voluntary, and mutual, and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threat, or duress is used. Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person. If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature, or extent of the sexual situation, there is

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no consent; this includes impairment or incapacitation due to alcohol or drug consumption that meets this standard, or being asleep or unconscious.

When used in this policy, “student” means an individual enrolled in any type of class or course at PCC that is not considered a continuing education, community education or contracted non-credit workforce training course any time within the past two years. The two year mark is to be measured as the time between the alleged misconduct violation and the student’s enrollment at PCC. Minor students are subject to this policy, although PCC will take additional steps on a case by case basis to ensure that the particular needs of minor students are being met throughout a given misconduct process.

Continuing education, community education and contracted non-credit workforce participants will receive protection under federal and state law and guidance, but may not be subject to the same training requirements as students.

When used in this policy, “continuing education participant” means an individual enrolled in a continuing education class. A continuing education class is defined as such by the PCC course schedule or online course offerings.

When used in this policy, “community education participant” means an individual enrolled in a community education class. A community education class is defined as such by the PCC course schedule or online course offerings.

When used in this policy, “contracted non-credit workforce participant” means an individual enrolled in a non-credit workforce training course and/or receiving college workforce services through a contract with a partner agency such as Department of Human Services or Department of Corrections.

When used in this policy, the phrase "gender-based or sexual misconduct" includes, but is not limited to:

**Sexual harassment:** Conduct that is sexual in nature, is unwelcome, and that either (1) denies or limits an individual’s ability to participate in or benefit from the College’s educational programs; (2) creates a hostile, intimidating, or offensive working environment<sup>1</sup>; or (3)

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<sup>1</sup>Examples of Harassment include but are not limited to:

- A professor insists that a student have sex with them in exchange for a good grade. This is harassment regardless of whether the student accedes to the request.

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submission to or rejection of such conduct is used as a basis for employment, salary, or other benefit changes affecting an employee or academic decisions affecting a student.

Examples include: an attempt to coerce an unwilling person into a sexual relationship; to repeatedly subject a person to egregious, unwelcome sexual attention; to punish a refusal to comply with a sexually based request; to condition a benefit on submitting to sexual advances; sexual violence; intimate partner violence, stalking; gender-based bullying<sup>2</sup>.

**Retaliation**: Any adverse treatment (beyond a slight or annoyance) that is taken because a person engaged in protected activity (e.g., opposing discriminatory practices, filing a discrimination or discriminatory harassment complaint, or participating in an investigation, conduct process, or an attempt at resolution, etc.) or for the purpose of interfering with right or privilege granted under anti-discrimination laws.

**Non-consensual sexual contact**:

- Any intentional sexual touching;
- however slight;
- with any object;
- by a person of any gender upon a person of any gender;
- that is without consent and/or by force<sup>3</sup>.

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- An individual repeatedly sends sexually oriented jokes around on an email list they created, even when asked to stop, causing one recipient to avoid the sender on campus and in a student activity in which the student participates.
  - Explicit sexual pictures are displayed in a professor's office.
  - Two supervisors frequently 'rate' several employees' bodies and sex appeal, commenting suggestively about their clothing and appearance.
  - A professor engages students in discussions in class about their past sexual experiences, yet the conversation is not in any way germane to the subject matter of the class. They probe for explicit details, and demands that students answer, though they are clearly uncomfortable and hesitant.
  - An ex-girlfriend widely spreads false stories about her sex life with her former boyfriend to the clear discomfort of the boyfriend, turning him into a social pariah on campus.
  - Male students take to calling a particular brunette student "Monica" because of her resemblance to Monica Lewinsky. Soon, everyone adopts this nickname for her and she is the target of relentless remarks about cigars, the president, "sexual relations," and Weight Watchers.
  - A student grabs another student by the hair, then grabs her breast and put his mouth on it.
  - A transgender student is using the men's locker room when another male student exclaims, "I'm gonna prove you're really a girl!" and tries to remove his towel so as to expose his genitals.

<sup>2</sup> These offenses are referenced and incorporated within sexual harassment, but also broken-out as stand-alone offenses, below.

<sup>3</sup> The use of force is not "worse" than the subjective experience of violation of someone who has sex without consent. However, the use of physical force constitutes a stand-alone non-sexual offense, as well, as it is our expectation that those who use physical force (restrict, battery, etc.) would face not just the sexual misconduct charge, but charges under the code for the additional assaultive behavior.

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**Sexual Contact** includes: intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact of a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice.

**Non-consensual sexual intercourse:**

- Any sexual intercourse;
- however slight;
- with any object;
- by a person of any gender upon a person of any gender;
- that is without consent and/or by force<sup>4</sup>.

**Intercourse** includes: vaginal penetration by a penis, object, tongue, or finger; anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

**Sexual exploitation** occurs when an individual takes non-consensual or abusive sexual advantage of another for their 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. Examples of sexual exploitation include, but are not limited to:

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

**Domestic violence** includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly

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<sup>4</sup> The use of force is not "worse" than the subjective experience of violation of someone who has sex without consent. However, the use of physical force constitutes a stand-alone non-sexual offense, as well, as it is our expectation that those who use physical force (restrict, battery, etc.) would face not just the sexual misconduct charge, but charges under the code for the additional assaultive behavior.

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situated under domestic or family violence law, or anyone else protected under domestic or family violence law

**Dating violence:** Violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

**Stalking:**

- A. An intentional course of conduct directed at a specific person on the basis of actual or perceived sex, gender, gender identity or gender expression that is unwelcome and would cause a reasonable person to feel fear.
- B. Repetitive and menacing contact with another person on the basis of sex, gender, gender identity or gender expression. Such contact includes, but is not limited to, pursuing, following, harassing via telephone or online communication, giving unwanted gifts, surveilling, or interfering with the safety of another.

**Intimidation:** Words or conduct that places the victim in reasonable fear of bodily harm. Intimidation can be defined as an implied threat, e.g., "If you sleep with me, I will invite you to a party."

**Incapacitation:** An individual lacks the ability to make informed, rational judgments and cannot consent to sexual activity. Incapacitation is defined as the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless, asleep, unconscious, or unaware that sexual activity is occurring.

Incapacitation may result from the use of alcohol and/or drugs. Incapacitation is a state beyond drunkenness or intoxication. The impact of alcohol and other drugs varies from person to person; however, warning signs that a person may be approaching incapacitation may include slurred speech, vomiting, unsteady gait, odor of alcohol, combativeness, or emotional volatility.

Evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects an individual's:

- Decision-making ability;
- Awareness of consequences;
- Ability to make informed judgments; or
- Capacity to appreciate the nature and the quality of the act.

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Evaluating incapacitation also requires an assessment of whether a Respondent should have been aware of the Reporting Party's incapacitation based on objectively and reasonably apparent indications of impairment when viewed from the perspective of a sober, reasonable person in the Respondent's position.

**Sexual assault** is actual or attempted sexual contact with another person without that person's consent. Sexual assault includes, but is not limited to:

- intentional touching of another person's intimate parts without that person's consent;
- other intentional sexual contact with another person without that person's consent;
- coercing, forcing, or attempting to coerce or force a person to touch another person's intimate parts without that person's consent;
- rape, which is penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by a sex organ of another person, without that person's consent.

**Intimate Partner Violence (IPV)** occurs when a current or former intimate partner uses or threatens physical or sexual violence. IPV also may take the form of a pattern of behavior that seeks to establish power and control by causing fear of physical or sexual violence. Stalking may also constitute IPV.

## **II. Title IX Coordinator**

Portland Community College's (PCC) Title IX coordinator is the Director of the Office of Equity and Inclusion. The PCC Title IX Coordinator ensures that PCC faculty, staff, and students are aware of their legal rights under Title IX. The coordinator also works to ensure that PCC complies with Title IX.

The Title IX Coordinator will be informed of all complaints or reports of violations of this policy, and oversees the College's centralized response to ensure compliance with Title IX. The Title IX Coordinator's activities include, but are not limited to:

- Communicating with all members of the College community regarding Title IX and providing information about how individuals may access their rights;
- Reviewing applicable College policies to ensure institutional compliance with Title IX and The Violence Against Women Act ("VAWA");
- Monitoring the College's administration of its own applicable policies, including record keeping, timeframes, and other procedural requirements;
- Conducting training regarding Title IX and prohibited conduct defined in this policy; and
- Responding to any complaint or report regarding conduct that violates this policy. In this capacity, the Title IX Coordinator oversees the investigation and resolution of such alleged misconduct, directs the provision of any remedial measures, and monitors the administration of any related appeal.
- The Title IX Coordinator may delegate responsibilities under this policy to designated administrators, who will be appropriately trained.

The Title IX Co-coordinators' contact information is as follows:

Tricia Brand Chief Diversity Officer and Title IX Co-Coordinator 722 SW 2nd Ave Portland, OR 97204 tricia.brand@pcc.edu (971) 722-5840	Alexander Baldino Director of Compliance and Title IX Co-Coordinator 722 SW 2nd Ave Portland, OR 97204 alex.baldino@pcc.edu (971) 722-5840
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### **III. Where and How to Get Immediate Assistance Following an Incident of Gender-Based or Sexual Misconduct**

#### **For Immediate Assistance:**

Any PCC student, faculty, or staff member who has experienced sexual assault is strongly encouraged to seek immediate medical assistance by calling 911 and notifying PCC's Public Safety at (971) 722-4444.

In the event of a sexual assault or a sexual misconduct incident requiring medical attention, visiting a hospital emergency room will ensure treatment is provided for possible injuries, pregnancy, or sexually transmitted disease. Additionally, a Sexual Assault Nurse Examiner (SANE) can obtain forensic evidence of an assault up to five days after the incident. This can be important if legal options are pursued later.

- \* A Call to Safety (503) 235-5333 and the Sexual Assault Resource Center (503) 640-5311 have trained crisis counselors who can accompany a victim to the hospital 24 hours a day. Additional community resources can be found at <https://calltosafety.org/>.

Oregon Health and Sciences University (OHSU), located at 3181 SW Sam Jackson Park Rd, Portland, OR 97239, provides 24-hour emergency services for immediate medical needs and forensic exams for survivors of sexual assault. Sexual assault exams are offered by SANE.

You are also encouraged to report the incident to PCC by following the reporting procedures outlined in the "Reporting" section below.

The College encourages all members of our community to participate in the process of creating a safe, welcoming and respectful environment on campus. In particular, the College expects that all PCC community members will take reasonable and prudent actions to prevent or stop an act of sexual misconduct. Taking action may include direct intervention when safe to do so, enlisting the assistance of friends, contacting law enforcement, or seeking assistance from a person in authority. Community members who chose to exercise this positive moral obligation will be supported by the College and protected from retaliation.

#### **For Ongoing Assistance:**

The following resources are available for ongoing assistance, regardless of whether the victim chooses to make an official report or participate in an investigation or criminal process. This

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policy indicates the level of confidentiality offered by each of the listed on-campus resources.

*For All Students*

Counseling:

Counseling (<http://www.pcc.edu/resources/counseling/>) is confidential and not required to notify College officials, public safety, or law enforcement in most cases. On request a counselor can help file a complaint if the reporting party chooses to engage in PCC's misconduct process. The locations of PCC's counseling centers are:

- Cascade Campus - SS 150 / (971) 722-5271
- Rock Creek Campus - Bldg. 9, Rm 118 / (971) 722-7300
- Southeast Campus - SCOMM 116: Appointments made through Information Desk at (971) 722-6240
- Sylvania Campus - CC 216 / (971) 722-4531

Resource Centers:

PCC's Women's Resource Centers (<http://www.pcc.edu/resources/women/>) offer trained, confidential Survivor Advocates. On request a survivor advocate can help file a complaint if the reporting party chooses to engage in PCC's misconduct process. Confidential Advocates can provide safety planning, system navigation, and problem-solving support. Confidential Advocates can provide safety planning, system navigation, and problem-solving support. The locations of PCC's Women's Resource Centers are:

- Cascade Campus - SSB 103 / (971) 722-5249
- Rock Creek Campus - Bldg. 7, Rm 119 / (971) 722-7432
- Southeast Campus - Mt Tabor Hall 149 / (971) 722-6051
- Sylvania Campus - CC 232 / (971) 722-8101

PCC's Queer Resource Centers (<https://www.pcc.edu/queer/>) offer trained, confidential Survivor Advocates. On request a survivor advocate can help file a complaint if the reporting party chooses to engage in PCC's misconduct process. Confidential Advocates can provide safety planning, system navigation, and problem-solving support. The locations of PCC's Queer Resource Centers are:

- Cascade Campus - SU 212 / (971) 722-5702
- Rock Creek Campus - Bldg. 5, Rm 121 / (971) 722-7345

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- Southeast Campus - Mt Tabor Hall 149 / (971) 722-6032
- Sylvania Campus - CC 268 / (971) 722-8525

*For Faculty and Staff*

Employee Assistance Program: 1 (866) 750-1327 Conversations with EAP staff and counselors are confidential.

Other Support Resources:

- Statewide/Title IX: Oregon Sexual Assault Task Force  
<http://oregonsatf.org/resources/for-campus/>
- Multnomah County: Call to Safety: 888-235-5333, or The Gateway Center for Domestic Violence Services (503) 988-6400
- Clackamas County: Clackamas Women's Services: 503-654-2288
- Columbia County: SAFE of Columbia County: (503) 397-6161
- Washington County: Sexual Assault Resource Center 503-640-5311, or Domestic Violence Resource Center 503-469-8620.
- Yamhill County: Henderson House of Yamhill County 503-472-1503

*For Credit Students Only*

The below resources are not confidential—by law, PCC employees are required to notify College officials, public safety and/or law enforcement.

Offices of the Deans of Students:

- Cascade Campus - SSB 209 / (971) 722-5307
- Rock Creek Campus - Bldg. 9, Rm 115c / (971) 722-7249
- Southeast Campus - ADM 208 / (971) 722-6182
- Sylvania Campus - CC 247 / (971) 722-4532

***Please note: PCC employees are mandatory reporters of child abuse***

#### IV. Reporting - How to report/What to do

PCC encourages anyone (Reporting Party) who feels they have been subjected to gender-based or sexual misconduct, including any form of it described in Section 1, or discrimination based on gender, actual or perceived sexual orientation, gender identity or expression to seek the support they need and so that the College can respond appropriately.

Different people at the College have different reporting responsibilities and different roles concerning the maintenance of confidentiality, depending upon their roles. Some members of the College are required to maintain near complete confidentiality. Others may speak in confidence and generally only need to report to the College that an incident occurred without revealing personally identifying information. Nearly all employees of the College, however, are considered “responsible employees” and are required by law to report all details of an incident, including the identities of the Reporting Party and Respondent to the Title IX Coordinator.

##### Confidential Reporting:

Reporting Party’s seeking assistance without the expectation of a formal response from the College have the following confidential reporting options:

##### *For Students*

##### Counseling:

PCC has professional, licensed counselors (including those who act in this role under the supervision of a licensed counselor) who provide mental health counseling to PCC students and who are not required to report any information about an incident to the Title IX Coordinator without the Reporting Party’s permission. This privileged communication only applies when counselors are supporting students in a personal counseling role, as opposed to serving as faculty or fulfilling other roles of their job.

Counseling Centers are located at each PCC Campus:

<http://www.pcc.edu/resources/counseling/>

##### College Advocates:

PCC has Women’s Resource Centers and Queer Resource Centers with individuals who work or volunteer as advocates for the prevention of and in response to sexual violence and

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harassment. Students can seek assistance and support from these Centers without triggering a College investigation that could reveal the Reporting Party's identity or disclosure of the incident. While maintaining the Reporting Party's confidentiality, Women's Resource Centers and Queer Resource Centers should report the nature, date, time, and general location of a reported incident to the Title IX Coordinator. This limited report – which includes no information that would directly or indirectly identify the Reporting Party – helps keep the Title IX Coordinator informed of the extent and nature of sexual misconduct, on and off campus, in order to track patterns, evaluate scope of problems, and identify appropriate College responses.

Women's Resource Centers are located at each PCC campus:

<http://www.pcc.edu/resources/women/>

Queer Resource Centers are located at each PCC campus:

<https://www.pcc.edu/queer/>

*For Certain Employees*

Employees that are eligible for PCC medical insurance and all part-time faculty with active jobs teaching credit classes may access the College's Employee Assistance Program (EAP) for free and confidential counseling and other personal services.

Employee Assistance Program information can be found on the PCC website:

<http://www.pcc.edu/hr/benefits/eap.html>

*Non-College Resources Available to Everyone*

Off campus counselors, advocates, and health care providers will also generally maintain confidentiality and not share information with the College unless the Reporting Party requests the disclosure and signs a consent or waiver form.

Following is contact information for off-campus resources:

- Statewide/Title IX: Oregon Sexual Assault Task Force  
<http://oregonsatf.org/resources/for-campus/>
- Multnomah County: Call to Safety: 888-235-5333, or The Gateway Center for Domestic Violence Services (503) 988-6400
- Clackamas County: Clackamas Women's Services: 503-654-2288
- Columbia County: SAFE of Columbia County: (503) 397-6161

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- Washington County: Sexual Assault Resource Center 503-640-5311, or Domestic Violence Resource Center 503-469-8620.
- Yamhill County: Henderson House of Yamhill County 503-472-1503

**Limitations and Exceptions to Confidentiality:**

Individuals who speak to a counselor or advocate (on or off campus) must understand that, if they want to maintain confidentiality, the College will be unable to conduct an investigation or pursue disciplinary action against the alleged perpetrator.

Limits to confidentiality for counselors:

- If the College determines that the Respondent may pose a serious and immediate threat to the College community, PCC Department of Public Safety may be called upon to issue a “timely warning” to the community. Any such warning will not include any information that identifies the Reporting Party.
- All PCC employees are required by Oregon law (HB 4016) to report suspected cases of abuse against unmarried persons under the age of 18 to the Oregon Department of Human Services.

**Reporting an Incident to PCC**

Reporting Party’s are encouraged to make formal reports of incidents. When formally reported, Reporting Party’s have the right and can expect to have incidents of sexual misconduct taken seriously by the College. The incidents will be investigated and properly resolved through administrative procedures. PCC will seek to maintain privacy at all times during the process consistent with our responsibility to ensure both individual and community safety, as well as its commitment to providing an environment free from discrimination. This means that only people who need to know will be told and information will be shared only as necessary with investigators, witnesses, interpreters/translators, Reporting Party’s, and Respondents.

Reports of incidents of gender-based or sexual misconduct, including any form of it described in Section 2, or discrimination may be made to any of the following College officials, who are designated and trained as Title IX “Deputies” and are charged with ensuring that any misconduct is eliminated, its recurrence is prevented, and addressing the effects. These individuals will also provide information regarding grievance procedures, interim measures during any investigation or policy process, and ongoing emotional support:

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Title	Name	Contact Information
Associate Vice President/Human Resources	Lisa Bledsoe	Downtown Center (971) 722-5850
Human Resources LR/ER Manager	Cheryl Belt	Downtown Center (971) 722-5104
Dean of Students Cascade Campus	Michele Cruse	Cascade Campus SSB 303 (971) 722-5755
Dean of Students Rock Creek Campus	Ryan Aiello	Bldg. 9, Rm 106 (971) 722-7390
Interim Dean of Students Southeast Campus	Josh Peters McBride	AB 208 (971) 722-6152
Interim Dean of Students Sylvania Campus	Pammela Blumenthal	CC 247 (971) 722-4529
Dean of Instruction Sylvania Campus	Karen Paez	CC-247 (971) 722-4406
Dean of Instruction Southeast Campus	Jen Piper	ADM 208A (971) 722-6268
Dean of Instruction Rock Creek Campus	Cheryl Scott	Bldg. 9, Rm 115a (971) 722-7555
Dean of Instruction Cascade Campus	Kurt Simonds	SSB 209 (971)722-5573

Other “Responsible Employees”

Title	Name	Contact Information
Campus Conduct Officer Cascade Campus	Nicole Morris	SSB 122 971-722-5445
Campus Conduct Officer Rock Creek Campus	Charisse Loughery	Bldg. 9, Rm 102 (971) 722-7636

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Campus Conduct Officer Southeast Campus	Christine Shafer	AB 208 (971) 722-6152
Campus Conduct Officer Sylvania Campus	Becca Parker Love	CC 209 A (971) 722-4066
Public Safety Director	Derrick Foxworth	CSB 320 (971) 722-4980
Title IX Co-coordinator/Chief Diversity Officer	Tricia Brand	Downtown Center (971) 722-5840
Director of Compliance and Title IX Co-Coordinator	Alexander Baldino	Downtown Center (971) 722-5840

For the purposes of this policy, and to most effectively respond to sexual misconduct that may impact the College community, all employees of the College that are not identified in the Confidential Reporting section of this policy are considered “responsible employees” and are required by law to report all details of an incident, including identities of the Reporting Party and Respondent, to the Title IX Coordinator or designated Title IX Deputy. In consideration of Office of Civil Rights (OCR) guidance, "responsible employees" includes any employee who has the authority to take action to redress the harassment, who has the duty to report sexual harassment to appropriate school officials, or an individual whom a student could reasonably believe has this authority or responsibility.

When an individual tells a “responsible employee” about an incident of sexual misconduct, the College is officially “on notice” and the incident must be reported to the Title IX Coordinator or a designated Title IX Deputy (above). The employee must report all relevant details about the alleged sexual misconduct shared by the Reporting Party and/or assure that the Reporting Party files a formal report with the College.

Before any information is revealed to a “responsible employee,” the employee should ensure that the Reporting Party understands the employee’s reporting obligations. If the individual wants to maintain confidentiality, the Reporting Party will be directed to the confidential resources listed below. If the Reporting Party wants to tell the “responsible employee” what happened, but also maintain confidentiality, the Reporting Party should understand that the Title IX Coordinator will consider the request, but cannot guarantee that the College will be able to honor it.

Responsible employees will not pressure a Reporting Party to either request confidentiality or

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make a full report, but rather will honor and support the individual's wishes to the full extent possible.

### **Other Reporting Issues**

#### *College Reporting and Timely Warning Obligations*

PCC is required by the Higher Education Opportunity Act and Clery Act to annually publish statistical information related to reported incidents of sexual violence, sexual harassment, domestic violence, dating violence, and stalking. The information shared includes the date, location of incident, and Clery crime category. All personally identifiable information is kept confidential. The PCC Department of Public Safety is responsible for collecting the data from a variety of College sources and publishing the report.

The PCC Annual Campus Security Report can be found at:

<http://www.pcc.edu/about/public-safety/statistics>

The College is also obligated by federal directive to issue immediate "timely warnings" for incidents reported that are considered, in the judgment of the PCC Department of Public Safety, to pose a substantial threat to the college community. The College will make every effort to ensure that victims' names and other identifying information are not disclosed, while still providing enough information for community members to make safety decisions in light of the danger.

### **Anonymous Reporting**

The College will accept and investigate, to the extent possible, anonymous reports of sexual misconduct. Reporting parties must understand that 1) anonymous reports may trigger a formal Title IX investigation and 2) anonymous reports often limit the College's ability to conduct an investigation or pursue disciplinary action. An anonymous report may be filed here:

<https://www.pcc.edu/incident/>

### **Public Awareness Events and Disclosure**

Public awareness events such as "Take Back the Night," the Clothesline Project, and other forums in which individuals disclose incidents of sexual violence are not considered notice to the College of sexual violence for the purposes of triggering a Title IX investigation. Such events

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may inform the need for campus-wide prevention and education efforts, however, and efforts will be made to provide information about Title IX rights at such events.

**Protection Against Retaliation**

This policy and Title IX prohibit retaliation against a Reporting Party or witnesses for filing or participating in the investigation of a sexual misconduct complaint. Retaliation is any overt or covert act of reprisal, interference, restraint, penalty, discrimination, intimidation, or harassment against individuals for exercising their rights (or supporting others for exercising their rights) under this policy. PCC will investigate any reports of retaliation and take appropriate disciplinary action.

## V. Interim Measures, Accommodations, and Sanctions

Where appropriate, PCC will implement interim measures on its own initiative or in response to a request from a Reporting Party (the alleged victim of sexual misconduct) or Respondent (the alleged perpetrator of sexual misconduct).

Interim measures for students may include, but are not limited to:

- Access to on-campus counseling services and assistance in setting up an initial appointment;
- Advocacy to access community resources for ongoing assistance to include, but not limited to: individualized safety plan, counseling, case management/advocacy, support group/s, legal advocacy, emergency shelter/housing, etc.;
- No-contact directives;
- Rescheduling of exams and assignments;
- Providing alternative course completion options;
- Changing class schedules, including the ability to transfer course sections or withdraw from a course without penalty;
- Changing work schedules, job assignments, or job locations for college employment;
- Providing an escort to ensure safe movement between classes and activities;
- Providing academic support services, such as tutoring;
- Limiting or barring an individual's or organization's access to certain PCC-owned facilities or activities;
- Interim suspension of the Respondent;
- Student-requested leaves of absence.

Interim measures for faculty and staff may include, but are not limited to:

- Access to on-campus counseling services and assistance in setting up an initial appointment;
- Changing work schedules, job assignments, or job locations;
- Limiting or barring an individual's or organization's access to certain PCC-owned facilities or activities;
- Providing an escort to ensure safe movement on campus;
- Administrative leave;
- PCC-imposed leave or physical separation from individuals or locations.

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The provision of appropriate interim measures will depend upon the particular facts of the situation. Factors that will be considered include the Reporting Party's expressed need, the age of the parties involved, the severity or pervasiveness of the allegations, any continuing effects on the Reporting Party, whether the Reporting Party and the alleged perpetrator share a classes or other educational program, extracurricular activities, transportation, or work location, as well as whether protective orders or similar judicial measures have been taken to protect the Reporting Party. Interim measures will not place a disproportionate burden on the Reporting Party, nor create a presumption that the Respondent has violated College policy.

## **VI. Investigation Procedures**

PCC's Title IX Coordinator or Deputy Coordinator will ensure that a complaint of gender-based or sexual misconduct is promptly investigated as follows:

### **Student Complaints:**

Complaints that allege misconduct by another student or external party (someone other than a student or PCC employee) will be investigated by the Office of the Dean of Students.

### **Staff complaints:**

If the accused is an employee or staff member, the complaint will be investigated by a designee assigned by the Title IX Coordinator or Deputy Coordinator, a Title IX trained faculty representative, Human Resource representative or Office of Equity and Inclusion [this is not an exhaustive listing]

### **Timing of Investigations**

PCC will conduct a fair, impartial investigation in a timely manner designed to provide all parties with resolution. While there is no set timeline for investigations, PCC will make every effort to complete the investigation within ninety (90) calendar days after receipt of the complaint or report. If the case will not be resolved within ninety (90) calendar days the Investigator will notify the Reporting Party and the Respondent will be notified in writing of the reason for extension and the projected completion date.

PCC will notify a Reporting Party of the right to file a criminal complaint with law enforcement. PCC will cooperate with an ongoing investigation of the complaint by outside law enforcement. This may require that PCC temporarily delay its investigation while law enforcement gathers evidence. However, PCC may not wait for the conclusion of a criminal proceeding to initiate its own investigation. In the event PCC's investigation is delayed, steps will be taken to provide the Reporting Party with appropriate interim measures. The parties will also be updated on the status of the investigation and advised when it is resumed. PCC will promptly resume its investigation once notified that law enforcement has completed gathering evidence in the investigation.

### **Preservation of Evidence:**

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PCC's Department of Public Safety upon request, will offer guidance to assist in evidence preservation and will also notify the proper law enforcement agency to respond. The department will also consult and coordinate as needed with law enforcement agencies or forensic experts on the interpretation of any forensic evidence included in the investigation.

**Information Sharing:**

PCC is in the process of creating MOUs addressing protocols for information sharing with surrounding county and city police agencies.

**Investigation Result and Sanctions:**

The investigator will conduct an adequate, reliable, and impartial investigation into the allegations and will provide an opportunity for both the Reporting Party and Respondent to present witnesses and other evidence. After reviewing all evidence and supporting documentation, the investigator will prepare a written report of the investigation findings and recommendations to the Title IX Coordinator (discussed in more detail below) to review and determine whether or what sanction or disciplinary action (if any) should be taken.

The Title IX Coordinator will review the investigator's report and findings and work with the appropriate PCC Officials to determine the appropriate remedy (if any), including sanctions or disciplinary actions.

Once a determination has been made on the appropriate remedy (if any), the Title IX Coordinator will issue a written notice of the outcome to the Reporting Party and Respondent.

All findings in the proceedings will be by a preponderance of the evidence, which means that the Title IX Coordinator will determine whether the sum of all the evidence shows that it is more likely than not that the Respondent violated College policy. This standard will be used in any Title IX fact-finding and related proceedings, including any hearings.

The College will also maintain a written record of disciplinary and other action taken by the College, if any, in response to the findings; response and action taken by administrators, including interim and permanent action to address the allegations and findings; and all other written action taken to prevent recurrence of any sexual misconduct incident.

**Investigation and Confidentiality:**

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In the event that a Reporting Party's request for confidentiality limits PCC's ability to investigate, PCC will take reasonable steps to limit the effects of the alleged acts and prevent their recurrence. Reasonable steps may include 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 school's policies on sexual misconduct; and conducting climate surveys regarding sexual misconduct.

**Employee and Student Sanctions:**

Possible sanctions for employees (list is not exhaustive)

- Verbal warning
- Written warning
- Suspension without pay
- Disciplinary probation
- Transfer
- Last chance agreement
- Dismissal
- Mandatory EAP referral
- Training
- Demotion

Possible sanctions for students (list is not exhaustive)

- Verbal Warning
- Disciplinary Probation
- Limitation of privileges (i.e., restrictions of campus access, courses, etc.)
- Reassignment of classes
- Restitution
- Community Service
- Disciplinary Suspension
- Trespass
- Expulsion
- Other sanctions deemed appropriate

## VII. Procedures for Employees and Students

### **Procedures for Employees:**

Sexual Misconduct complaints against PCC employees will be handled in accordance with the procedures outlined in the College's Nondiscrimination and Non-harassment Policy and the process outlined above. These processes should be read to be consistent with one another and in the event of a direct conflict between the two, the Gender Based and Sexual Misconduct policy shall govern. The process for resolving gender-based or sexual misconduct complaints may include some or all of the following actions: informal inquiry and discussion, disciplinary action, or other appropriate action.

The College will not compel a Reporting Party to engage in mediation, to directly confront the Respondent. Mediation, even if voluntary, may not be used in cases involving sexual misconduct.

A Reporting Party or Respondent may appeal the decision on the basis of an alleged failure to follow this Policy. A Reporting Party or Respondent may also submit an appeal disputing the severity of the sanction issued. A Reporting Party or Respondent may do so by submitting a written appeal to the Campus President or designee within 14 calendar days after the notice of outcome described in Section VI (6) above is delivered to the address on record for the Reporting Party. The Campus President or designee shall render a decision on the appeal within 14 calendar days of its submission.

Certain employees (classified staff, management and confidential employees, and faculty/academic professionals) who are subject to discipline may have other processes available pursuant to handbook, statute, or collective bargaining agreement that are not covered by this Policy. For further information on these processes, see the following:

Grievances for Classified Staff:

<http://www.pcc.edu/hr/contracts/documents/classified-contract/article-24.pdf>

Grievances for Management and Confidential Employees:

[http://www.pcc.edu/hr/contracts/management/section\\_16.html](http://www.pcc.edu/hr/contracts/management/section_16.html)

Grievance for Faculty/Academic Professionals (AP):

<http://www.pcc.edu/hr/contracts/documents/faculty-ap-contract/article25.pdf>

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A Reporting Party's prior sexual history is not relevant and will not be considered in a grievance process. Where there is a current or ongoing relationship between the Reporting Party and the Respondent and the Respondent alleges consent, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. As noted in other sections of this policy, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Any prior sexual history of the Reporting Party with other individuals is typically not permitted.

**Procedures for PCC Students:**

Gender-based or sexual misconduct complaints against PCC students will be handled in accordance with the PCC Policy on Student Conduct and the process outlined in this policy:

Conduct Procedures for Students:

<http://www.pcc.edu/about/policy/student-rights/documents/student-conduct.pdf>

These processes should be read to be consistent with one another and in the event of a direct conflict between the two, Gender-Based Sexual Misconduct Policy shall govern. The process for resolving gender-based or sexual misconduct complaints may include some or all of the following actions: informal inquiry and discussion, disciplinary action, or other appropriate action.

The College will not compel a Reporting Party to engage in mediation, to directly confront the Respondent. Mediation, even if voluntary, may not be used in cases involving sexual misconduct.

A Reporting Party's prior sexual history is not relevant and will not be considered in a conduct process. Where there is a current or ongoing relationship between the Reporting Party and the Respondent and the Respondent alleges consent, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. As noted in other sections of this policy, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Any prior sexual history of the Reporting Party with other individuals is typically not permitted.

A Reporting Party or Respondent may appeal the decision on the basis of an alleged failure to follow this Policy. A Reporting Party or Respondent may also submit an appeal disputing the severity of the sanction issued. A Reporting Party or Respondent may do so by submitting a written appeal to the Campus President or designee within 14 calendar days after the notice of outcome described in Section VI above is delivered to the address on record for the

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Reporting Party. The Campus President or designee shall render a decision on the appeal within 14 calendar days of its submission.

**Advisors:**

In an investigation, appeal, Grievance (employees), or Conduct Process (students), the Reporting Party and Respondent may choose to be assisted by an advisor. The advisor may accompany the individual to any College investigative, administrative, or adjudicative meeting, including any disciplinary inquiry. The advisor may not speak during the meeting or hearing, address the official(s) conducting the inquiry, or question witnesses.

A Reporting Party and Respondent may also choose to be assisted by an advocate/emotional support person of their choice. To serve as a support person, the individual will be required to meet with the official(s) conducting the inquiry or the Title IX Coordinator in advance of any participation in the proceedings. A WRC Survivor Advocate may serve as a support person for a Reporting Party.

The advocate/support person cannot be a witness in the proceedings. The advocate/support person is a silent and non-participating presence who is there solely to observe and provide moral support during the meeting itself. This person is not to address the official(s) conducting the inquiry except to ask for a short recess if one of the parties requires some time to compose themselves or collect their thoughts. The official(s) conducting the inquiry has the right at all times to determine what constitutes appropriate behavior on the part of a support person and whether the person may remain at the proceedings. While the support person may be present to hear testimony, no written materials are to be shared with support people.

Absent extenuating circumstances, witnesses and others involved in an investigation, inquiry, or hearing are not entitled to have a support person present.

A Reporting Party or Respondent may choose to seek the advice and assistance of an attorney at their own expense. The College will not recognize or enforce agreements between the parties outside of PCC disciplinary procedures.

## **VIII. Prevention and Education**

The College is committed to a comprehensive educational and training program to promote awareness of and prevent sex discrimination, including sexual misconduct.

1. Mandatory initial and refresher Sexual Harassment Prevention Training (SHPT) for College employees will be provided by the Office of Equity and Inclusion. New employees should complete this training within their first six months of employment with refreshers every two years.
2. SHPT includes information on Title IX obligations and the nature and consequences of sexual harassment, including sexual misconduct, and discusses reporting options, resources, and procedures for handling complaints.
3. The Vice Presidents, Campus Presidents, and Deans are responsible for ensuring that their employees complete the mandatory SHPT initial and refresher trainings.
4. The Office of Equity and Inclusion, Women's Resource Centers, Public Safety, Enrollment and Student Services, Human Resources, and other campus offices promote awareness of and provide additional communication about and training in the prevention of sex discrimination, including sexual misconduct.
5. Workshops are offered to College employees and students, both online and in person, to provide sexual harassment prevention education every two years. Additional opportunities are provided by the Office of Equity and Inclusion, Women's Resource Centers, Public Safety, Enrollment and Student Services, Human Resources, and other campus offices to employees and students for education regarding issues of prevention, discrimination, equity, and the impacts of discrimination and unequal treatment on department and classroom climate.
6. College employees who are new or are within 90 days of the two-year anniversary of completion of last completed training will receive an email informing them of their requirement with a personalized link to the online course. Alternatively, employees may attend College- approved prevention training offered by the College's Women's Resource Centers, Public Safety, Enrollment and Student Services, Human Resources and other campus offices.
7. The Women's Resource Centers provide additional training, including bystander intervention training for students and employees and will educate students about the school's sexual misconduct policies.

## **IX. Training: Staff and Faculty**

From the Office of Civil Rights in the US Department of Education's April 29, 2014 bulletin, Questions and Answers on Title IX and Sexual Violence, "a school should ensure that staff are capable of providing culturally competent counseling to all Reporting Party's. Thus, a school should ensure that its counselors and other staff who are responsible for receiving and responding to complaints of sexual violence, including investigators and College officials involved in reviewing or processing a complaint under this Policy, receive appropriate training about working with LGBT and gender- nonconforming students and same-sex sexual violence."

Web-based Training: Staff and faculty will be required to go through a web-based training tool that informs them of their responsibilities around Title IX and PCC Policies regarding sexual misconduct.

In-person Training: Additionally there will be a series of trainings conducted in collaboration with the Professional and Organizational Development, the Women's Resource Centers, and the Title IX Coordinator/Title IX Training Coordinator.

### Topics and Venues for Training

- Fall
  - Topics:
    - Students: Know Your IX
    - Staff and Faculty: Know Your IX
    - Staff and Faculty: Where PCC Stands Now with Title IX
  - Venues:
    - In-service
    - New Faculty Institute
    - Part time institute
    - Faculty Department Chair Institute
- Winter
  - Topics:
    - Students: Know Your IX
    - Staff and Faculty: SA Prevention 101
    - Staff and Faculty: SA Victim Advocacy 101
- Spring
  - Topics:
    - Students: Know Your IX
    - Staff and Faculty: Updated; Where PCC Stands Now with Title IX

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- Open to All: National trends; Current conversations re: Rape and Higher Ed Institutions
- Venues:
  - AP Institute

**Applicable PCC Policies**

<http://www.pcc.edu/about/affirmative-action/nonharassment/>

<http://www.pcc.edu/about/affirmative-action/consensual.html>

<http://www.pcc.edu/hr/contracts/classified.html>