



POLICY ON DISCRIMINATION, HARASSMENT, AND SEXUAL MISCONDUCT

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I. INTRODUCTION and CONTACTS

Harvey Mudd College (“HMC” or “College”) is committed to promoting and maintaining a working, learning, and living environment that is free from discrimination, harassment, and sexual misconduct. In furtherance of this goal, HMC strictly enforces this Policy on Discrimination, Harassment, and Sexual Misconduct (“Policy”).

Individuals who require information or assistance (including individuals who wish to request accommodation) in relation to this Policy may contact the following administrators, who have been designated as HMC’s Title IX and Section 504 Coordinator and Deputy Coordinators:

Maggie Browning

Vice President for Student Affairs/Dean of Students and Title IX and Section 504 Coordinator
Platt Campus Center
301 Platt Boulevard
Claremont, CA 91711
(909) 621-8125
mbrowning@hmc.edu.

Cynthia Beckwith

Assistant Vice President for Human Resources and Deputy Title IX and Section 504 Coordinator
Kingston Hall, Room 127
301 Platt Boulevard
Claremont, CA 91711
(909) 621-8512
cbeckwith@hmc.edu

Theresa Lauer

Sr. Director of Operations and Emergency Preparedness and Deputy Title IX and Section 504 Coordinator
Platt Campus Center Basement
301 Platt Boulevard
Claremont, CA 91711
(909) 621-8226
tlauer@hmc.edu.

II. POLICY

HMC prohibits discrimination and harassment based on a person’s race, color, religion, national origin, ethnic origin, ancestry, citizenship, sex (including pregnancy, childbirth, or related medical conditions), sexual orientation, gender (including gender identity and expression), marital status, age, physical or mental disability, medical condition, genetic characteristics, veteran status, or any other characteristic protected by applicable law (“Protected Characteristics”). HMC also prohibits discrimination and harassment based on the perception that anyone has any of these Protected Characteristics, or that anyone is associated with a person who has, or is perceived as having, any of these Protected Characteristics. Consistent with state and federal law, reasonable accommodation will be provided to persons with disabilities, to women who are pregnant, and/or to accommodate religious beliefs and practices.

Sexual misconduct is a form of sexual harassment and, as such, is expressly prohibited by this Policy.

Retaliation against any individual for seeking assistance or bringing a discrimination, harassment or sexual misconduct complaint through the processes described in this Policy is strictly prohibited. Similarly, any person who participates or cooperates in any manner in an investigation or any other aspect of the processes described herein shall not be retaliated against. Retaliation is itself a violation of this Policy and is a serious separate offense.

All forms of discrimination, harassment and sexual misconduct, as well as attempts to commit such acts, are regarded as serious misconduct and may result in disciplinary action up to and including expulsion or termination of employment. Such acts may also violate state and federal law.

III. SCOPE OF POLICY

This Policy applies to all HMC students, administrators, faculty, trustees, teaching/research assistants, staff, and student organizations, as well as prospective students, employment applicants, visitors, and guests of the College. Persons who are not HMC employees but perform work at HMC for its benefit (such as contractors and temporary employees) are also protected and required to abide by this Policy. This Policy applies to "off-campus" activities that are College-related, such as College functions hosted in private homes, off-site conferences and meetings, and College-sponsored travel. HMC reserves the right to apply this Policy to incidents of sexual misconduct by persons listed above which occur off-campus and are unrelated to College activities, but which may directly impact or have a significant effect upon HMC or the HMC community.

IV. RESPONSIBILITY

All faculty, staff, students, and other members of the HMC community are responsible for ensuring that their conduct does not violate this Policy. If administrators, managers, supervisors, department chairs, faculty members, or dorm proctors know that discrimination, harassment, or sexual misconduct is occurring, receive a complaint of discrimination, harassment, or sexual misconduct, or obtain other information indicating possible discrimination, harassment, or sexual misconduct, they must take immediate steps to ensure that the matter is addressed. Failure to do so may result in legal liability. Administrators, managers, and supervisors have the further responsibility of preventing and eliminating discrimination, harassment, and sexual misconduct within the areas they supervise.

V. DEFINITIONS

A. Discrimination

Prohibited discrimination is defined as any decision, act, or failure to act that improperly interferes with or limits a person's or group's ability to participate in or benefit from the services, privileges, or activities of the College, or otherwise adversely affects a person's employment, education, or living environment when such decision, act, or failure to act is based on a Protected Characteristic (or based on a perception that an individual has such characteristics or associates with others who have, or are perceived to have, such characteristics).

Examples of discrimination include, without limitation: (1) denying a person admission or employment based upon a Protected Characteristic, (2) denying pay increases, benefits, or promotions on the basis of a Protected Characteristic, or (3) subjecting a person to different academic standards or employment conditions because of a Protected Characteristic.

B. Harassment

Prohibited harassment is defined as any conduct directed toward an individual based on a Protected Characteristic (or based on a perception that an individual has such characteristics or associates with

others who have, or are perceived to have, such characteristics) which is sufficiently severe or pervasive to alter or interfere with an individual's work or academic performance, or which creates an intimidating, hostile, or offensive, work, educational, or living environment.

- Whether particular physical, verbal, or non-verbal conduct constitutes harassment in violation of this Policy will depend upon all of the circumstances involved, the context in which the conduct occurred, and the frequency, severity, and pattern of the conduct.
- That one did not intend to harass an individual is no defense to a complaint of harassment. Regardless of one's intent, the effect and characteristics of one's behavior determine whether one's conduct constitutes harassment.
- Conduct alleged to constitute harassment will be evaluated according to the objective standard of a reasonable person. Thus, conduct that is objectionable to some, but that is not severe or pervasive enough to create an objectively intimidating, hostile, or offensive environment, is beyond the purview of this Policy.

Harassment can take many forms and will vary with the particular circumstances. Examples of harassment prohibited by this Policy may include, without limitation: (1) verbal conduct, such as epithets, derogatory jokes or comments, or slurs directed at an individual or group of individuals because of a protected characteristic; (2) visual displays, such as derogatory posters, photography, cartoons, or drawings not protected by policies on academic freedom and freedom of expression which ridicule or demean an individual on the basis of a protected classification; and/or (3) physical conduct, including unnecessary and unwanted touching and intentionally blocking normal movement. Generally, statements and/or conduct legitimately and reasonably related to the College's mission of education do not constitute harassment.

C. Sexual Harassment

Because sexual harassment has been defined more thoroughly in the law than harassment based upon other Protected Characteristics, the following definition of sexual harassment is included in this Policy. Sexual harassment includes any unwelcome sexual advances, requests for sexual favors, or other unwelcome written, verbal, or physical conduct of a sexual nature when:

- Submission to the conduct is explicitly or implicitly made a term or condition of an individual's employment, academic status, or progress;
- Submission to or rejection of the conduct by the individual is used as the basis of employment or academic decisions affecting the individual;
- Submission to or rejection of the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available through the College; and/or
- The conduct has the purpose or effect of negatively impacting the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work, educational, or living environment.¹

¹ The type of conduct described in the first three of these bullet points is often described as "quid pro quo harassment," and the conduct described in the fourth bullet point is frequently referred to as "hostile environment harassment."

Further, harassment based on a person's sex is not limited to instances involving sexual behavior; such harassment may occur without sexual advances or sexual overtones, when conduct is directed at individuals because of their sex or gender.

Examples of sexual harassment may include, without limitation: (1) physical assault or other unwelcome touching; (2) direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades, or letters of recommendation; (3) direct propositions of a sexual nature; (4) subtle pressure for sexual activity, an element of which may be repeated requests for private meetings without an academic or employment purpose; (5) a pattern of conduct which would cause discomfort to or humiliate, or both, a reasonable person at whom the conduct was directed which includes one or more of the following: (i) unnecessary touching, patting, hugging, or brushing against a person's body; (ii) remarks of a sexual nature about a person's clothing or body, whether or not intended to be complimentary; (iii) remarks about sexual activity or speculations about previous sexual experience; (iv) other comments of a sexual nature, including sexually explicit statements, questions, jokes or anecdotes; (v) certain visual displays of sexually-oriented images outside the educational context; and/or (vi) letters, notes, or electronic mail containing comments, words, or images as described in (v) above. Occasional compliments that are generally accepted as not offensive or other generally accepted social behavior do not constitute sexual harassment.

Sexual harassment includes harassment of women by men, harassment of men by women, and same-gender, gender-based harassment. Sexual misconduct offenses are specific forms of sexual harassment and are strictly prohibited by the College.

D. Sexual Misconduct²

Sexual misconduct is a form of sexual harassment and encompasses a range of behaviors, such as those defined below and any other conduct of a sexual nature that is nonconsensual or has the purpose or effect of threatening, intimidating, or coercing a person or persons (*e.g.*, intimate partner violence). Both men and women may be perpetrators, as well as victims. [See *Appendix A - Sexual Misconduct Prevention and Risk Reduction*; *Appendix B – Frequently Asked Questions: Sexual Assault and Misconduct*; and *Appendix C – What to Do if You Have Experienced Sexual Misconduct, Including Sexual Assault.*]

1. Non-Consensual Sexual Contact (or Attempts to Commit the Same)

Non-Consensual Sexual Contact means any intentional sexual touching; however slight; with any object; by a person upon a person; which is without consent and/or by force.*

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

*NOTE: Sexual misconduct involving the use of physical force is not “worse” than such misconduct involving non-physical coercion. The use of physical force does, however, constitute a stand-alone, non-sexual offense, and in cases involving physical force, the aggressor will face additional charges for the assaultive behavior.

² Even though the definitions used herein are similar to those contained in the California Penal Code and various sections of the United States Code, an act that might not violate or be prosecuted under such laws may still violate this Policy.

2. Non-Consensual Sexual Intercourse (or Attempts to Commit the Same)

Non-Consensual Sexual Intercourse means any sexual intercourse, however slight; with any object; by a person upon a person; that is without consent and/or by force.

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

3. Other Gender-Based Conduct

a. *Dating Violence*

Dating violence (as defined by the Violence Against Women Act (“VAWA”)) is violence committed by a person:

- Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- Where the existence of such a relationship shall be determined based on a consideration of (1) the length of the relationship, (2) the type of the relationship, and (3) the frequency of interaction between the persons involved in the relationship.

b. *Domestic Violence*

Domestic violence (as defined by the VAWA) is the use of physical, sexual, or emotional abuse or threats to control a current or former spouse or other intimate partner. Domestic violence includes violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child, by a person who is cohabitating with or has cohabitated with the victim as a spouse, or by a person similarly situated to a spouse of the victim.

c. *Stalking*

Stalking is a course of conduct directed at a specific person that would cause a reasonable person to feel fear. A “course of conduct” can be defined as a pattern of behavior composed of two or more acts over a period of time, however short, which evidence a continuity of purpose. This includes texting, phone calls, surveillance, emails, etc. [See Appendix D – HMC Stalking Policy.]

d. *Hazing*

Hazing is defined as any act or the creation of a situation that tends to endanger the mental or physical health or safety of an individual; an act or the creation of a situation which tends to humiliate or degrade an individual; or an act or creation of a situation which destroys or removes public or private property, when any of the foregoing are part of initiation or admission into, affiliation with, or continued membership in a group or organization. An act or a situation becomes hazing when an organization creates the dangerous, illegal, or humiliating situation and exposes individuals to it. Because of the socially coercive nature of hazing, this definition of hazing applies whether or not the participants consent to such activity or perceive the activity as “voluntary.” Hazing does not include actions or situations that are part of officially sanctioned and supervised College activities. [See Appendix E - HMC Hazing Policy.]

4. Sexual Exploitation

Sexual exploitation is a form of sexual misconduct which occurs when a person takes non-consensual or abusive sexual advantage of another for his or her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and such behavior does not constitute one of the other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

- Invasion of sexual privacy;
- Prostituting another person;
- 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 a sexually transmitted infection, a sexually transmitted disease, or HIV to another person;
- Exposing one's genitals in non-consensual circumstances;
- Inducing another to expose his or her genitals; and
- Sexually-based stalking.

5. Sexual Assault (or Attempts to Commit the Same)

Sexual assault (as defined by the VAWA) means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Generally, sexual assault is committed when an individual engages in sexual activity with another person without the person's explicit consent. Sexual activity is any touching of a sexual or other intimate part of a person for the purpose of gratifying the sexual desire of either party. This includes coerced touching of the perpetrator by the victim, as well as the touching of the victim by the perpetrator, whether directly or through clothing.

E. Consent

The expectations of our community regarding sexual consent can be summarized as follows: in order for individuals to engage in sexual activity of any type with one another, there must be clear, knowing, and voluntary consent prior to and during sexual activity.

Consent is sexual permission. It is clear, knowing, and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable and clear permission regarding willingness to engage in (and the conditions of) sexual activity. In order to give effective consent, one must be of legal age and have the capacity to give consent. The legal age of consent in the state of California is 18 years.

1. Consent is Clear, Knowing, and Voluntary

Consent to any one form of sexual activity does not imply consent to any other form(s) of sexual activity. Furthermore, a previous relationship or prior consent does not imply consent to future sexual acts.

Additionally, consent can be withdrawn. Thus, even if a person agreed to sexual interaction or continued sexual interaction, that person has the right to change his or her mind, irrespective of how much sexual interaction may already have taken place.

2. Force and Coercion

Consent obtained through force is not consent. Using force means using physical violence and/or imposing on someone physically to gain sexual access. Force includes the use of threats, intimidation (*i.e.*, implied threats), and/or coercion to produce consent. Coercion is unreasonable pressure for sexual activity (*e.g.*, “Have sex with me or I’ll hit you.”). Coercive behavior differs from seductive behavior based on the type of pressure used to obtain consent. When someone makes it clear that he or she does not want sex, that he or she want to stop, or that he or she does not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.*

*NOTE: Physical resistance is a clear demonstration of non-consent. Contact may, however, be non-consensual even in the absence of physical resistance.

3. Capacity/Incapacitation

Incapacitation is a state in which someone cannot make rational, reasonable decisions because he or she lacks the capacity to give knowing consent (*i.e.*, to understand the “who, what, when, where, why, or how” of the sexual interaction). Sexual activity with an individual one should know is—or under circumstances that would lead a reasonable person to believe an individual is—mentally or physically incapacitated (*e.g.*, by alcohol or other drug use, unconsciousness or “blackout,” or sleep) constitutes a violation of this Policy.

a. Incapacitation due to Alcohol or Other Drugs

Because the use of alcohol or other drugs can place in question an individual’s capacity to consent, sober sex is less likely to raise questions concerning consent. Being under the influence of alcohol or other drugs does not, however, in and of itself indicate incapacitation. When alcohol or other drugs, including date rape drugs (*e.g.*, Rohypnol, Ketamine, GHB), are involved, a person will be considered unable to give valid consent if he or she cannot fully understand the details (*i.e.*, the who, what, when, where, why, or how) of a sexual interaction because he or she lacks the capacity to reasonably understand the situation. Administering a date rape drug to another individual is a violation of this Policy.

b. Incapacitation due to Other Reasons

This Policy also covers a person whose incapacity results from mental or physical disabilities, sleep, unconsciousness, or involuntary physical restraint.

VI. REPORTING OPTIONS

A. Reports to the College

Members of the HMC community who believe that they have been or may be subjected to discrimination, harassment, sexual misconduct, or retaliation or who have witnessed or are aware of any incident of the same are encouraged to report such concerns as soon as possible.

Reports may be made to any of the individuals listed below, regardless of whether the reporting party is a student, faculty member, staff member, or third party. Under no circumstances is an individual required to report discrimination, harassment, or sexual misconduct to a supervisor or academic instructor who is the alleged perpetrator.

Students

Maggie Browning
Vice President for Student Affairs/Dean of Students
(909) 621-8125
E-mail: mbrowning@hmc.edu

Qutayba Abdullatif (Dean Q)
Associate Dean for Student Health and Wellness
(909) 607-4101
gabdullatif@hmc.edu

On-Call Deans

Students can always reach an on-call Dean 24 hours a day by calling Campus Safety [(909) 607-2000] and having the on-call Dean paged.

Faculty

Jeff Groves, Vice President for Academic Affairs and Dean of the Faculty
(909) 621-8122
jgroves@hmc.edu

Staff or Third Parties

Cynthia Beckwith
Assistant Vice President for Human Resources
(909) 621-8512
cbeckwith@hmc.edu

Kimberly Taylor
Associate Director for Human Resources
(909) 607-4096
ktaylor@hmc.edu

Theresa Lauer
Sr. Director of Operations and Emergency Preparedness
(909) 607-2760
tlauer@hmc.edu

A report concerning discrimination, harassment, sexual misconduct, or retaliation does not by itself constitute a complaint, nor does it automatically lead to the filing of a police report in connection with an incident of sexual misconduct. A report notifies HMC that a violation of this Policy may have occurred and allows HMC to provide information, aid and assistance to the victim (*including the implementation of interim remedial measures described in Section VIII. E., below*), to take such action as may be necessary to protect and safeguard members of the community, such as issuing a Campus Safety Alert, and to maintain statistical data regarding incidents sexual misconduct.

A person wishing to have an incident of discrimination, harassment, sexual misconduct, or retaliation investigated, mediated (note, incidents involving sexual assault, sexual exploitation or other forms of sexual or gender-based violence are not the proper subject of mediation), or adjudicated by HMC must make use of the informal resolution or formal complaint procedures described in Sections VII and VIII, below.

The College treats all reports and complaints of discrimination, harassment, sexual misconduct, and retaliation as confidential to the greatest extent practicable. The College discloses the existence and/or identity of a reporting or complaining party only to persons who, in the interests of fairness and problem resolution, have an immediate need to know, or as otherwise legally required. Because HMC has an obligation to address discrimination, harassment, sexual misconduct and retaliation, the College cannot guarantee that the identity of a complainant will be treated as completely confidential, where confidentiality would conflict with the College's obligations to provide a safe or nondiscriminatory work, educational, and living environment.

Persons who wish to seek advice or assistance or to discuss options for dealing with issues involving discrimination, harassment, sexual misconduct, or retaliation on a strictly confidential basis may do so by speaking with licensed counselors, clergy, medical providers in the context of providing medical treatment, and rape crisis counselors who, except in very narrow circumstances specified by law, will not disclose confidential communications. Students who wish to speak to a licensed counselor on a confidential basis may contact the Claremont University Consortium's Monsour Counseling Center (<http://www.cuc.claremont.edu/monsour/>). The Employee Assistance Program (www.hmc.edu/hrbenefits/) (access code: claremontcolleges) is a resource for faculty and staff. The Chaplains of The Claremont Colleges (www.cuc.claremont.edu/chaplains/) are also available to counsel students, faculty, and staff on a confidential basis.

B. External Reports

As discussed below, discrimination, harassment, sexual misconduct, and retaliation may constitute violations of state and federal law, and individuals who believe that they have been subjected to such wrongdoing may make reports or complaints to the appropriate legal authorities. [*See Section XIII – Other Recourse, below.*]

The College, in particular, encourages any member of the College community who has been subjected to sexual assault, sexual exploitation, or any other form of sexual or gender-based violence to make a police report as soon as possible.

VII. INFORMAL RESOLUTION PROCEDURES

An individual who believes that he or she has been or may be subjected to discrimination, harassment, sexual misconduct, or retaliation ("Complainants") may request assistance under informal resolution procedures as described in paragraph A below. One need not use informal resolution procedures as a prerequisite to filing of a formal complaint described in Section VII, and one may terminate informal resolution procedures at any time to pursue a formal complaint or external remedies.

Informal resolution procedures are designed to correct, rather than punish, the offending behavior; formal sanctions ordinarily are imposed only within the formal, and not the informal, resolution framework.

If a matter can be resolved through informal, remedial action, then no further action will be taken, and the matter will be considered closed. If, instead, the matter cannot be resolved informally, then the person to whom the informal request for assistance was brought may assist the complainant in filing a formal complaint.

A. Initiating Informal Resolution Procedures

Requests for assistance under informal procedures may be oral or written and should be made as soon as possible after the most recent alleged act of discrimination, harassment, sexual misconduct, or retaliation.

Such requests should be directed to any of the following College representatives: Dean of Faculty, Department Chair, Dean of Students, Campus Life Coordinator, Associate/Assistant Deans in Student Affairs, dorm proctors, immediate supervisors, or Assistant Vice President for Human Resources.

An individual who requests assistance under the informal procedures will be advised of options for resolving the problem and about sources of further assistance, including, in the case of sexual misconduct, those described in Appendix C.

B. Confidentiality

As noted above, the College treats all reports and complaints of discrimination, harassment, sexual misconduct, and retaliation, including requests for assistance under informal procedures, as confidential to the greatest extent practicable.

C. Outcomes

Requests for assistance may have any of several outcomes. The person who makes such a request may wish to discuss his or her options, such as directly informing the responsible person(s) that the specific conduct is offensive and must stop; seeking intervention by a supervisor, another College official, Department Chair, Dean of Students, Student Affairs staff member, Dorm Proctor, or Human Resources; or seeking a mediated or negotiated resolution. If a resolution is reached, no further action will be taken, and the matter will be considered closed. If the matter cannot be resolved informally, the recipient of the request will assist the complainant in filing a formal complaint.

VIII. FORMAL RESOLUTION PROCEDURES

Individuals who believe they have been the victim of discrimination, harassment, sexual misconduct, or retaliation may file a formal complaint. The filing of a formal complaint will result in an investigation to determine whether a violation of this Policy has occurred. An investigation may also be initiated without a formal complaint from any individual, upon the request of the President, a member of the President's Cabinet, or the Assistant Vice President for Human Resources.³

A. Confidentiality

Formal complaints will be addressed confidentially to the extent possible. Such complaints will be disclosed only to individuals who, in the interests of fairness and resolution, have an immediate need to know, and as otherwise required by law. All persons involved in the process are expected to treat the matter under investigation with discretion and with respect for the reputation of all parties involved.

B. Time Limitations

A formal complaint must be made within one year of the most recent alleged act of discrimination or harassment. There are no time limits associated with complaints concerning sexual misconduct.

³ In response to complaints about employee or student from one of the other Claremont Colleges or the Claremont University Consortium, HMC will investigate the matter and take steps to stop the conduct and remedy its effects to the extent reasonably possible. However, complaint procedures related to potential disciplinary action against such persons will be those of his or her home institution. *[See Appendix G – Statement on Intercampus Sexual Harassment & Sexual Assault.]*

Although the failure to initiate a complaint in accordance with the terms of this Policy, including the time limitations set forth, shall constitute a waiver of the complainant's right to utilize the complaint procedures described herein, the College nevertheless reserves the right to pursue an investigation as it deems appropriate whenever and however it receives allegations of or information related to a violation of this Policy.

C. Submitting a Formal Complaint

Formal complaints under this procedure should be directed to the following College representatives. Complaints should be in writing (although verbal complaints will be accepted) and should include details concerning the conduct that gives rise to the complaint, the name of the person(s) against whom the complaint is made, and the names of any witnesses.

Faculty, Staff and Others

Complaints from anyone other than a student, including faculty and staff, should be directed to the Dean of Faculty, Assistant Vice President for Human Resources, Senior Director of Operations and Emergency Preparedness, or the Vice President for Administration and Finance/Treasurer.

Students

Complaints from students should be directed to the Dean of Students, the Associate Dean of Student Health and Wellness, or the Associate Dean of Institutional Diversity.

D. Investigation Protocol

- 1) Upon receipt of a formal complaint, the individual receiving the complaint shall (a) notify appropriate College officers, supervisors, or others who have a need to know about the existence of the complaint, including in the case of a complaint involving sexual harassment or sexual misconduct, the Title IX Coordinator, and (b) take such steps as may be necessary to refer the complaint to the appropriate investigating officer specified in D.2, below. If the Dean of Faculty, Dean of Students, or Vice President for Administration and Finance/Treasurer is the subject of the complaint, the President shall designate another College officer to act in place of the person who is the subject of the complaint with respect to the administration of this Policy.
- 2) In response to a formal complaint, the following College officers will designate an investigating officer and assist with the investigation, as necessary. The investigating officer may be one or more HMC employees or a qualified independent third party:
 - a) For complaints against faculty members – the Dean of Faculty. If a student or staff member makes the complaint, the investigation may be conducted in collaboration with the Dean of Students' Office or Human Resources Office.
 - b) For complaints against staff or anyone other than a member of the faculty or a student – the Vice President for Administration and Finance/Treasurer. If the complaint is made by a faculty member or student, the investigation may be conducted in collaboration with the Dean of Students' Office or the Dean of Faculty's Office.
 - c) For complaints made against a student – the Dean of Students. If a faculty member or staff member makes the complaint, the investigation may be conducted in collaboration with the Dean of Faculty's Office or Human Resources Office.

- 3) Before the investigation of a complaint is undertaken, the person(s) against whom the complaint has been made shall be informed of the complaint and the identity of the complainant and be provided with a summary of the complaint. During the investigation, both the complainant and the person(s) against whom the complaint is made may identify witnesses and present documents in support of their positions.
- 4) An individual who submits a sexual misconduct complaint and the person(s) against whom the complaint is made will be permitted to have a support person from the HMC community or a family member accompany him/her through every phase of the process.
- 5) Every effort shall be made to complete the investigation within thirty (30) working days of the date the formal complaint is made or as soon thereafter as practical under the circumstances.

E. Interim Remedial Steps

When appropriate, prior to or during an investigation, the Assistant Vice President for Human Resources or Dean of Students may recommend to appropriate College officers that interim remedial steps be taken to protect the safety and well-being of the complainant and/or members of the HMC community. Interim remedies may be applied with respect to either the complainant or the person(s) against whom the complaint has been made. Such remedies include, but are not limited to, changes in residence arrangements, changes of room locks, contacting professors/supervisors, changes in schedules or work hours, changes in work assignment/location, a “no contact” order, or suspension.

F. Investigation Results

The investigating officer shall document the results of the investigation in a written report and submit the report to the appropriate Vice President, and in the case of a complaint involving sexual harassment or sexual misconduct, the Title IX Coordinator. The report should consist of findings and, if applicable, recommendations concerning remedies and sanctions (or in the case of certain sanctions, that applicable faculty, staff, or student disciplinary procedures be initiated). A finding that a violation of this Policy has occurred should be based upon the preponderance of evidence. Preponderance of evidence means that the information and facts establish that a Policy violation “more likely than not” occurred. The complainant and the person(s) against whom the complaint is made shall be notified promptly of the outcome of the investigation and of the actions, if any, taken in connection with the complaint. For information concerning HMC’s disclosure policy in cases involving incidents of sexual misconduct, See Appendix F.

G. Determination of Outcomes

The appropriate vice president may accept or reject the findings and any recommendations in the report and may direct that further action be taken prior to determining the imposition of remedies and/or sanctions, if warranted.

1. Remedies

Remedies may include, but are not limited to, removing the complainant or the person(s) against whom the complaint has been made from the hostile environment, changes in classes, changes in residence arrangements, changes of room locks, contacting professors/supervisors, changes in schedules or work hours, location, or assignment, and/or issuing a “no contact” order.

2. Sanctions

Persons who violate this Policy are subject to disciplinary action. The particular form of discipline will depend on the nature of the offense. Such discipline shall be imposed pursuant to and in accordance with any and all applicable HMC rules, policies, and procedures. Sanctions may include, but are not limited to, verbal warnings, written warnings, loss of privileges, probation, suspension, dismissal/expulsion from the College, or termination of employment. All HMC policies and/or procedures concerning the imposition of discipline (including faculty, staff and/or student appeal/grievance procedures), shall not be applicable to discipline imposed under this Policy. All such policies and/or procedures are superseded by this Policy.

H. Appeals

A complainant and/or the person(s) against whom the complaint is made may appeal the outcome. Appeals will normally be considered only in three cases:

- 1) when new evidence that was not reasonably available at the time of the formal investigation becomes available;
- 2) when an allegation of substantial procedural error on the part of the investigator or the investigatory process is made; or
- 3) on the grounds that the sanction was excessively severe or that remedial measures are insufficient.

Appeals shall be in writing and must be submitted to the Dean of Students, Dean of the Faculty, or the Assistant Vice President for Human Resources with the exception of the individual in charge of the original case.

Appeals must be submitted within ten (10) working days of the date on which the person wishing to file an appeal is notified of the outcome. The person to whom the appeal has been submitted has five (5) working days to determine if the appeal falls into one of the three cases listed above. If it does not, the appeal will be denied. If it does, the appeal will be sent to the President or the President's designee, who shall consider the appeal and take such action as s/he deems appropriate.

The decision of the President or the President's designee shall be final; no further appeals are allowed. If the President is involved in the underlying complaint, the appeal shall be directed to the Vice President for Administration and Finance/Treasurer or to the Chair or Vice-Chair of the Board of Trustees, who shall act in the President's place.

I. Anonymous Reports

An anonymous report of discrimination, harassment, sexual misconduct, or retaliation is not considered a formal complaint under this Policy. While the College will attempt to perform an investigation of the alleged conduct described in such a report, anonymous reporting will limit the College's ability to conduct an effective investigation and take appropriate action to achieve resolution.

J. Location of Records

A copy of the complaint, investigative file (including any written materials, interview notes, and/or other items that make up the file), and the written report shall be maintained in the Dean of Students' Office for complaints against students; in the Human Resources Office for complaints against staff members; and in the Dean of Faculty's Office for complaints against faculty for the period of time mandated by HMC's record retention policy and applicable law. Should a violation of this Policy be found, a record of the complaint and disciplinary action taken shall be made part of the personnel or student file of the person(s) found to have violated the Policy. In the event that the investigation does not result in a finding

of violation of this Policy, no record of the complaint or investigation will become a part of any individual's personnel or student file.

Note: whether or not a complaint is made under these Formal Resolution Procedures, a record of all reports, complaints, and investigations involving sexual harassment or sexual misconduct and outcomes, shall be maintained by the Title IX Coordinator for the period of time mandated by HMC's record retention policy and applicable law.

IX. RETALIATION

As explained above, retaliation against any individual for seeking assistance or bringing a discrimination, harassment or sexual misconduct complaint through the processes described in this Policy is strictly prohibited. Similarly, any person who participates or cooperates in any manner in an investigation or any other aspect of the processes described herein shall not be retaliated against. Retaliation is itself a violation of this Policy and is a serious, separate offense.

X. FALSE ACCUSATIONS

Knowingly making a false accusation of discrimination, harassment, sexual misconduct, or retaliation under either the informal or formal procedures of this Policy is itself a violation of this Policy and a basis for disciplinary action, up to and including dismissal/expulsion from the College or termination of employment. Failure to prove a claim of discrimination, harassment, sexual misconduct, or retaliation is not the equivalent of a knowingly false accusation.

XI. ACADEMIC FREEDOM

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

XII. CONSENSUAL RELATIONSHIPS

A. Staff

The College discourages consensual intimate, amorous, or sexual relationships between students and staff and prohibits such relationships whenever a staff member assigned to an instructional, research, administrative, or other College employment responsibility is involved in a relationship with a student whom he or she supervises or evaluates or over whom he or she exercises authority.

B. Faculty

A sexual relationship between a faculty member and a student for whom the faculty member has, or should reasonably expect to have, academic responsibility entails a conflict of interest and, therefore, a breach of professional integrity. Accordingly, such relationships are prohibited even if consensual. "Academic responsibility" includes responsibility for teaching, advising, evaluating, or supervising a student in any aspect of the College's academic programs and the other institutions of the Claremont University Consortium.

XIII. ADDITIONAL RECOURSE

Discrimination, harassment, sexual misconduct, and retaliation are violations of federal and state law. This Policy is intended to supplement and not replace such laws. Whether or not the internal complaint procedures described in this Policy are utilized, an HMC employee who believes that he or is the victim of

discrimination, harassment, sexual misconduct, or retaliation may file a complaint with the California Department of Fair Employment and Housing, <http://www.dfeh.ca.gov/>, or the United States Equal Employment Opportunity Commission, <http://www.eeoc.gov/>. In addition, students and/or employees may file a complaint with the Office of Civil Rights, United States Department of Education, <http://www.ed.gov/ocr/>.

Persons who believe they are victims of discrimination, harassment, sexual misconduct, or retaliation should be aware that both state and federal law impose time deadlines for the filing of complaints, and that the use of the internal complaint procedures described in this Policy will not change such filing deadlines.

In addition to HMC's internal complaint procedures, a victim/survivor of sexual misconduct has the right to pursue criminal prosecution and/or civil litigation (including the right to seek a temporary restraining order and injunction prohibiting harassment pursuant to California Civil Code, section 527.6). HMC will provide full and prompt cooperation and assistance in notifying the proper law enforcement personnel if the victim/survivor chooses to pursue such legal action.

A criminal investigation into an allegation of sexual misconduct does not relieve or substitute for HMC's duty and authority to conduct its own prompt review of a complaint. Accordingly, HMC will not wait for the conclusion of a criminal investigation or proceeding to begin its own concurrent investigation and resolution of an alleged violation. The standards for criminal proceedings differ from those used in campus proceedings. As a result, conduct that may not be subject to criminal action may still be addressed through HMC's processes and procedures. A finding of "not guilty" in a criminal matter does not necessarily preclude a finding of an HMC policy violation in a campus proceeding.

XIV. POLICY DISSEMINATION

The Vice President for Student Affairs/Dean of Students and Assistant Vice President for Human Resources are responsible for distributing copies of this Policy to the faculty, staff, and students. References to this Policy are included in faculty, staff and student orientation materials and handbooks. In addition, this Policy is continuously available at appropriate campus locations and on the HMC website.

XV. NOTIFICATION

In accordance with applicable law, HMC's annual security report includes statistics concerning reported sexual assaults and other crimes that occurred on campus; in certain off-campus buildings or property owned or controlled by HMC; and on public property within, or immediately adjacent to and accessible from, the campus. The Annual Campus Safety report, available online at www.hmc.edu/hrpolicies and from The Claremont University Consortium at www.cuc.claremont.edu/campusafety/reports.asp, never includes personally identifiable information (e.g., the names or addresses of victims). For more information concerning the Clery Act and HMC's External Reporting, Timely Warning and FERPA Obligations, See Appendix F.

XVI. POLICY SOURCES

California Education Code sections 200, *et seq.*; California Sex Equity in Education Act, California Education Code sections 66250, *et seq.*; California Education Code section 94385; California Fair Employment and Housing Act, California Government Code sections 12900, *et seq.*; Age Discrimination in Employment Act of 1967, Title 29 of the United States Code, section 621; Title VI of the Civil Rights Act of 1964, Title 42 of the United States Code, section 2000d; Title VII of the Civil Rights Act of 1964, Title 42 of the United States Code, sections 2000e, *et seq.*; Section 504 of the Rehabilitation Act of 1973, Title 29 of the United States Code, section 794; Americans with Disabilities Act of 1990, Title 42 of the United States Code, sections 12101, *et seq.*; Title IX of the Education Amendments of 1972, Title 20 of the United States Code, sections

1681, *et seq.*; The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act or Clery Act, Title 20 of the United States Code, sections 1092(f), *et seq.*; and Violence Against Women Reauthorization Act of 2013 (VAWA) (Pub. Law 113-4).

Revised Section V March 2004

Revised Section XVIII September 2004

Updated Section XVIII September 2005

Revisions pertaining to change in HGO and titles spring 2007

Revised and approved by The President's Cabinet April 2011

Revised May & August 2012 to incorporate Title IX/DOE requirements

Revised September 2013

APPENDIX A

Sexual Misconduct Prevention and Risk Reduction

Prevention: If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner and yourself. These suggestions may help you avoid committing a nonconsensual sexual act and reduce your risk of being accused of sexual misconduct:

1. Clearly communicate your intentions to your sexual partner and give your partner a chance to clearly communicate intentions to you.
2. Understand and respect personal boundaries. Do not pressure a potential partner.
3. DON'T MAKE ASSUMPTIONS about consent; about someone's sexual availability; about whether the individual is attracted to you; about how far you can go or about whether the individual is physically and/or mentally able to consent. If there are any questions or if there is any ambiguity then you DO NOT have consent and you should stop.
4. If you think you are receiving unclear or conflicting messages from your partner, this is a clear indication that you should stop, defuse any sexual tension and communicate better.
5. Don't take advantage of someone's drunkenness, drugged, or otherwise incapacitated state, even if the individual personally caused this.
6. Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.
7. Understand that consent to some form of sexual behavior does not automatically equal consent to any other form of sexual behavior.
8. Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language. If you are not sure, stop.

Risk Reduction: Risk reduction tips can, unintentionally, take a victim-blaming tone. With no intention to victim-blame, and with recognition that only those who commit sexual violence are responsible for such conduct, these suggestions may nevertheless help you to reduce your risk of experiencing a non-consensual sexual act.

1. If you have sexual limits, make them known as early as possible.
2. If you do not want to engage in a particular activity, tell the other person "NO" clearly and firmly.
3. Try to remove yourself from the physical presence of a sexual aggressor, if you can do so safely.
4. If someone is nearby, ask for help or if it is safe to do so, text or call someone.
5. Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
6. Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.

APPENDIX B

Frequently Asked Questions: Sexual Assault and Misconduct

Below are some questions regarding sexual misconduct that are often asked by students:

1. Does information about a complaint remain confidential?

The confidentiality of all parties to a complaint of sexual misconduct must be respected, insofar as it does not interfere with the College's obligation to fully investigate allegations of sexual misconduct. Where confidentiality is not strictly kept, it will still be tightly controlled on a need-to-know basis. Dissemination of information and/or written materials to persons not involved in the complaint procedure is not permitted. Violations of the privacy of the Complainant or the Respondent may lead to disciplinary action by the College. In all complaints of sexual misconduct, all parties will be informed of the outcome. In some instances, the College may choose to make a brief public announcement of the nature of the violation and the action taken, without using the name or identifiable information of the alleged victim. Certain College administrators are informed of the outcome within the bounds of student privacy (e.g., the President, Dean of Students, Director of Campus Safety, Title IX Coordinator). If there is a report of alleged sexual misconduct to the College and there is evidence that a felony has occurred, local police will be notified if the Complainant consents. This does not mean charges will be automatically filed or that a Complainant must speak with the police. The College also must statistically report the occurrence on campus of major violent crimes, including certain sex offenses, in an annual report of campus crime statistics. This statistical report does not include personally identifiable information.

2. Will I (as a survivor/victim) have to pay for counseling/or medical care?

Students can access the CUC's Student Health and Counseling Services, and the Counseling Services also hosts a support group for survivors of sexual assault. If you are accessing community and non-institutional services, payment for these services may be covered by your health insurance plan; please check your coverage. If you have elected coverage under the Claremont College's Student Health Insurance Plan ("SHIP"), payment for these services may also be covered under this insurance plan. SHIP documentation is available at: <http://www.cuc.claremont.edu/healthcenter/>

3. What, if anything, will my parents be told?

The college's primary relationship is to you, the student, and not to your parent/guardian. College officials will only speak with your parents/guardians at your request or when there is a significant threat to your health or safety.

4. Do I have to name the alleged perpetrator?

Yes, if you want the College to pursue its investigation and resolution procedures as outlined in the College's Policy On Discrimination, Harassment, And Sexual Misconduct. No, if you choose to respond informally and do not file a formal complaint. You should consult the confidentiality provisions set forth in the policy in Sections VII and VIII. Complainants should be aware that not identifying the alleged perpetrator may limit the College's ability to respond comprehensively.

5. Will the alleged perpetrator know my identity?

Yes, if you file a formal complaint. Sexual misconduct is a serious offense and the Respondent has the right to know the identity of the complainant/alleged victim.

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

DO NOT contact the Complainant. You may want to speak with someone in the campus community who can act as your support person/advisor. The Title IX Coordinator can explain the College's resolution procedures for addressing sexual misconduct complaints. You may also want to seek confidential counseling through the Student Health and Counseling Services or seek support through off campus services in the community. See below regarding legal representation.

7. What about legal advice?

Complainants do not need private legal counsel to pursue criminal prosecution because representation will be handled by the District Attorney's office. However, you may want to retain an attorney if you are considering filing a civil action. Respondents may want to retain legal counsel given the potential for criminal and/or civil action.

8. What about changing residence hall rooms or other accommodations?

If you are the Complainant, you may request a room change through the Title IX Coordinator, who will work with appropriate staff in the Dean of Students Office, a room change to the first available, suitable room. If you want the Respondent to move, you must be willing to pursue a formal complaint. No contact orders can be imposed. Other accommodations available to Complaints might include:

- a. Assistance with or rescheduling an academic assignment (paper, exams, etc.);
- b. Assistance in requesting an incomplete in a class;
- c. Assistance with transferring class sections, if available;
- d. Temporary withdrawal;
- e. Assistance with alternative course completion options;
- f. Other accommodations for safety as necessary.

9. What should I do about obtaining medical treatment and preserving evidence of a sexual assault?

Victims/survivors of a sexual assault (particularly rape, forcible oral copulation or sodomy) are urged to seek medical treatment as soon as possible by going to the nearest hospital emergency room, specialized sexual assault treatment and trauma center, Student Health Service, or private physician.

The emergency room nearest HMC, which is also a County designated SART Center, is located at Pomona Valley Hospital Medical Center, 1798 N. Garey Avenue, Pomona, CA 91767, (909) 865-9500. SART is a victim-sensitive program designed to provide a team approach to responding to sexual assaults. Victims/survivors may take a support person with them to the hospital. If you need assistance arranging for transportation or would like a member of the HMC staff to accompany them to hospital should contact Campus Safety at (909) 607-2000, and ask that the On-Call Dean be contacted. An On-Call Dean is available whenever the College offices are closed to assist students in emergency situations.

Victims/survivors who promptly seek medical attention benefit from being examined for physical injury, receiving preventative treatment for sexually transmitted diseases, a toxicology examination for date rape drugs, and emergency contraception. In addition, prompt reporting allows for the preservation of evidence, which will only be used if you decide (then or later) to press criminal charges or file civil suit.

To preserve evidence, you should not bathe, douche, smoke, brush their teeth or change clothes (a change of clothes should be brought along). If clothes have been changed, the original clothes should be put in a paper bag (plastic bags damage evidence) and brought to the hospital. Do not disturb the scene of the assault. If it is not possible to leave the scene undisturbed, evidence (e.g. bedding, towels, loose fabrics, prophylactics, and clothing) should be placed in separate paper bags to be preserved.

Time is a critical factor in collecting and preserving evidence. The physical evidence of an assault is most effectively collected within the first 24-48 hours of the assault, but some evidence may be collected for up to 72 hours. If, however, you choose to report the incident days, weeks, or even months after the assault, important support systems are still available and can be arranged, but the you should understand that delay may make it more difficult to collect physical evidence of the sexual assault that could impact a criminal prosecution or civil lawsuit.

Hospitals that treat any physical injury sustained during a sexual assault are required to report it to law enforcement. You may choose whether or not to speak to police at the hospital and do not need to make an immediate decision to press criminal charges. That decision can be made at a later time.

If you do not wish to go to the hospital you may choose to contact Planned Parenthood, 1550 N Garey Avenue, Pomona, CA 91767, (800) 576-5544, which has healthcare providers who can test and provide preservative treatment for sexually transmitted diseases or see a personal health care provider for tests and treatment.

10. Will the Complainant be sanctioned when reporting a sexual misconduct if they have illegally used drugs or alcohol?

No. The severity of the infraction will determine the nature of the College's response, but whenever possible the College will respond educationally rather than punitively to the illegal use of drugs and/or alcohol. The seriousness of sexual misconduct is a major concern and the College does not want any of the circumstances (e.g., drug or alcohol use) to inhibit the reporting of sexual misconduct.

11. Will the use of drugs or alcohol affect the outcome of a sexual misconduct complaint?

The use of alcohol and/or drugs by either party will not diminish the Respondent's responsibility. On the other hand, alcohol and/or drug use is likely to affect the Complainant's memory and, therefore, may affect the outcome of the complaint. A person bringing a complaint of sexual misconduct must either remember the alleged incident or have sufficient circumstantial evidence, physical evidence and/or witnesses to support their complaint. If the Complainant does not remember the circumstances of the alleged incident, it may not be possible to impose sanctions on the Respondent without further corroborating information. Use of alcohol and/or other drugs will never excuse a violation by a Respondent.

12. Will either party's prior use of drugs and/or alcohol be a factor when reporting sexual misconduct?

Not unless there is a compelling reason to believe that prior use or abuse is relevant to the present complaint.

13. What should I do if I am uncertain about what happened?

If you believe that you have experienced sexual misconduct, but are unsure of whether it was a violation of the College Policy, you should contact the College's Title IX Coordinator who can explain the Policy and resolution options. If you would like to speak with someone in strict confidence to explore the incident, you may want to first speak with a counselor at Monsour Counseling and Psychological Services, a chaplain from the McAlister Center, or a rape crisis hotline.

APPENDIX C

What To Do If You Experience A Sexual Assault Or Other Forms Of Sexual Misconduct

A. Seek Safety and Support

The first priority for the victim/survivor of a sexual assault, sexual exploitation or gender based violence is to seek safety. If there is an immediate danger or need for an emergency police or medical response, persons on campus should call Campus Safety at (909) 607-2000 and/or dial 911. For persons off campus, dial 911.

Persons who experience sexual misconduct are encouraged to seek support, as soon as possible, from someone trusted, such as a friend, family member, HMC faculty or staff member, or from one of the campus or community resources listed below.

B. Seek Medical Attention and Preservation of Evidence

Victims/survivors of a sexual assault (particularly rape, forcible oral copulation or sodomy) are urged to seek medical treatment as soon as possible by going to the nearest hospital emergency room, specialized sexual assault treatment and trauma center, Student Health Service, or private physician.

The emergency room nearest HMC, which is also a County designated SART Center, is located at **Pomona Valley Hospital Medical Center**, 1798 N. Garey Avenue, Pomona, CA 91767, (909) 865-9500. SART is a victim-sensitive program designed to provide a team approach to responding to sexual assaults.

Victims/survivors may take a support person with them to the hospital. Students who need assistance arranging for transportation or would like a member of the HMC staff to accompany them to hospital should contact Campus Safety at (909) 607-2000, and ask that the On-Call Dean be contacted. An On-Call Dean is available whenever the College offices are closed to assist students in emergency situations.

Victims/survivors who promptly seek medical attention benefit from being examined for physical injury, receiving preventative treatment for sexually transmitted diseases, a toxicology examination for date rape drugs, and emergency contraception. In addition, prompt reporting allows for the preservation of evidence, which will only be used if the victim/survivor decides (then or later) to press criminal charges or file civil suit.

To preserve evidence, victims/survivors should not bathe, douche, smoke, brush their teeth or change clothes (a change of clothes should be brought along). If clothes have been changed, the original clothes should be put in a paper bag (plastic bags damage evidence) and brought to the hospital. Do not disturb the scene of the assault. If it is not possible to leave the scene undisturbed, evidence (e.g. bedding, towels, loose fabrics, prophylactics, and clothing) should be placed in separate paper bags to be preserved.

Time is a critical factor in collecting and preserving evidence. The physical evidence of an assault is most effectively collected within the first 24-48 hours of the assault, but some evidence may be collected for up to 72 hours. If, however, a sexual assault victim/survivor chooses to report the incident days, weeks, or even months after the assault, important support systems are still available and can be arranged, but the victim/survivor should understand that delay may make it more difficult to collect physical evidence of the sexual assault that could impact a criminal prosecution or civil lawsuit.

Hospitals that treat any physical injury sustained during a sexual assault are required to report it to law enforcement. The victim/survivor may choose whether or not to speak to police at the hospital and do not need to make an immediate decision to press criminal charges. That decision can be made at a later

time.

Victim/survivors who do not wish to go to the hospital may choose to contact Planned Parenthood, 1550 N Garey Avenue, Pomona, CA 91767, (800) 576-5544, which has healthcare providers who can test and provide preservative treatment for sexually transmitted diseases or see a personal health care provider for tests and treatment.

C. Seek Counseling and Support

A victim/survivor of Sexual Misconduct can experience emotional as well as physical consequences. Sexual assault and other types of Sexual Misconduct are traumatic experiences that can have both immediate and long-term effects. Individuals who are the victim/survivor of Sexual Misconduct are strongly encouraged to obtain help and/or support from a trained professional as soon as they are ready after the incident occurs. Campus and off campus resources include the following:

Campus Resources

Monsour Counseling and Psychological Services Center
Tranquada Student Services Center, 1st floor
757 College Way
Claremont, CA 91711
(909) 621-8202

[After hour's emergencies, call Campus Security at (909) 607-2000, and ask for the "On Call Psychologist"]

Student Health Services
Tranquada Student Services Center, 1st floor
757 College Way
Claremont, CA 91711
(909) 621-8222

[After hour's emergencies, call Campus Security at (909) 607-2000, and ask for the "On Call Physician"]

The Chaplains of The Claremont Colleges
McAlister Center for Religious Activities
919 North Columbia Avenue
Claremont, CA 91711
(909) 621-8685

Off Campus Resources

House of Ruth
(877) 988-5559 (toll free)
<http://houseofruthinc.org>

[Provides emergency shelter, transitional housing and other services to women who are the victims of domestic violence]

Project Sister
(909) 623-1619 (24/7 Crisis Hotline)
<http://projectsister.org/>

[Provides crisis services to women and men who have been sexually assaulted or abused. Volunteer Advocates are also available to provide support and follow up services to sexual assault or abused survivors at the hospital, police station and court appearances.]

National Sexual Assault 24/7 Crisis Hotline

(800) 656-4673

<http://www.rainn.org/get-help/national-sexual-assault-hotline>

[Trained volunteers available to help victims at affiliated crisis centers across the country.]

HMC Employee Assistance Program

(800) 234-5465

<http://www.liveandworkwell.com> (access code claremontcolleges)

[Available to benefit eligible employees] If you have been a victim of sexual misconduct the sooner you seek help the more options you have available to you. The following steps are important to take as soon as possible.

D. Talk With The Title IX Coordinator About Your Options

The Title IX Coordinator will review your options and support resources both on and off campus. Regardless of when the incident occurred it is never too late to speak with someone regarding support resources and your other options.

Maggie Browning

Vice President for Student Affairs, Dean of Students and Title IX and Section 504 Coordinator

Platt Campus Center

301 Platt Boulevard

Claremont, CA 91711

(909) 621-8125

mbrowning@hmc.edu.

Cynthia Beckwith

Assistant Vice President for Human Resources and Deputy Title IX and Section 504 Coordinator

Kingston Hall, Room 127

301 Platt Boulevard

Claremont, CA 91711

(909) 621-8512

cbeckwith@hmc.edu

Theresa Lauer

Sr. Director of Operations and Emergency Preparedness and Deputy Title IX and Section 504 Coordinator

Platt Campus Center Basement

301 Platt Boulevard

Claremont, CA 91711

(909) 621-8226

tlauer@hmc.edu

APPENDIX D

HMC's Stalking Policy

I. Policy Statement

Harvey Mudd College (HMC) strives to maintain a campus environment free of violence. Stalking can affect every aspect of an individual's life, often beginning with phone calls, emails, social networking posts and/or letters, and can sometimes escalate to violence. Individuals of all genders, gender identities, races and ethnicities, religions, age, abilities, and sexual orientation can be the subject of stalking. Individuals who engage in stalking behaviors are subject to disciplinary action. Violations of this policy will result in disciplinary action up to and including expulsion for students and up to and including termination for employees. Stalking is a crime in California and is subject to criminal prosecution. Pursuing a complaint through the College does not preclude an individual from pursuing legal action as well.

II. Definition

Stalking is a course of conduct directed at a specific person that would cause a reasonable person to: (1) feel fear for their safety; or (2) the safety of others or suffer substantial emotional distress. Stalking includes behaviors or activities occurring on more than one occasion that collectively instill fear in a victim, and/or threaten their safety, mental health, or physical health. Such behaviors and activities may include, but are not limited to, the following:

- 1) Non-consensual communication including face-to-face communication, telephone calls, voice messages; e-mails, texts, letters, notes, gifts, or any other communications that are undesired and place another person in fear;
- 2) Use of online, electronic, or digital technologies, including:
 - a) Unauthorized posting of pictures, messages, and/or information about the complainant on websites, Internet sites, social networking sites, and/or bulletin boards or in chat rooms;
 - b) Sending unwanted/unsolicited email, texts or talk requests;
 - c) Posting private or public messages on Internet sites, social networking sites, and/or bulletin boards;
 - d) Installing spyware on a victim's computer; and/or
 - e) Using Global Positioning Systems (GPS) to monitor a victim
- 3) Pursuing, following, waiting, or showing up uninvited at or near a residence, workplace, classroom, or other places frequented by the victim;
- 4) Surveillance or other types of observation, including staring or "peeping";
- 5) Trespassing;
- 6) Vandalism;
- 7) Non-consensual touching;
- 8) Direct verbal or physical threats;
- 9) Gathering information about an individual from friends, family, and/or co-workers;
- 10) Threats to harm self or others; and/or
- 11) Defamation – lying to others about the victim.

III. **Reporting Information**

A. Off-Campus

HMC encourages individuals to report incidents of stalking to law enforcement authorities, and respects that whether or not to do so is a personal decision of the individual. Members of the Dean of Students staff are available to assist individuals in contacting the Claremont Police or other appropriate law enforcement agency. In some circumstances, a victim may wish to seek a legal order of protection against the alleged perpetrator. Victims may also request that the College restrict someone's access to the College campus who is not a member of the HMC community.

In certain instances, Harvey Mudd College may need to report conduct to law enforcement authorities even when the subject of the conduct has not decided to do so. Such circumstances include incidents that warrant the undertaking of additional safety and security measures for the protection of the victim and the campus community or other situations in which there is clear and imminent danger, and when a weapon may be involved. The decision to report an incident to law enforcement will be shared with the victim and will take into account the safety concerns of the individual.

B. To the College

The College encourages individuals to report incidents of stalking to the College. Prompt reporting is encouraged, because facts often become more difficult to establish as times passes. However, the College will investigate and take appropriate action in response to all reports of stalking behavior regardless of when the alleged conduct occurred. The ability of the College to respond to the conduct is limited if the Respondent is no longer a member of the College community. If a College staff member, faculty member or student leaves the College with a pending complaint they will not be permitted to return to the College until the complaint is resolved through the College's appropriate grievance or discipline process.

Individuals who believes they have been the subject of stalking and who wish for the details to remain completely confidential should speak with certain College officials who may maintain confidentiality and may not disclose information shared with them, except where required by law. These officials include: Monsour Counseling and Psychological Services staff, Student Health Services staff and members of the clergy including the McAlister Center chaplains.

IV. **Safety and Support Resources**

Harvey Mudd College is committed to supporting victims of stalking by providing safety and support services. Due to the complex nature of stalking, an individual who has been a victim of stalking may need assistance in obtaining one or more of the following:

- 1) College no-contact order;
- 2) Counseling support through Monsour Counseling and Psychological Services;
- 3) Change in an academic schedule;
- 4) Provision of alternative housing opportunities; and/or
- 5) The imposition of an interim suspension on the alleged perpetrator.

For assistance, please contact the Title IX Coordinator, Maggie Browning, at 909-621-8125 or mbrowning@hmc.edu. If safety is an immediate concern, contact Campus Safety at 909-607-2000 or 911 if you are on campus or the local law enforcement agency at 911 if you are off-campus.

APPENDIX E

HMC's Hazing Policy

I. Policy Statement

Hazing can be psychologically and/or physically harmful to individuals, can damage organizations and teams, and undermines the educational mission and values of Harvey Mudd College. Hazing is strictly prohibited by Harvey Mudd College ("HMC") policy and California state law (Sections 32050 (245.6) and 32051 of the California Education Code and Section 48900 q of the California Penal Code). No student, College employee or volunteer, student organization, or athletic team, shall conduct or condone hazing activities. Violations of this policy will result in disciplinary action. If you have knowledge of hazing or potential hazing activities you should contact the Dean of Students Office who will investigate and take action to stop the conduct.

II. Definition

Any act or the creation of a situation that tends to endanger the mental or physical health or safety of a student; an act or the creation of a situation which tends to humiliate or degrade a student; or an act or creation of a situation which destroys or removes public or private property when these are part of initiation, admission into, affiliation with or continued membership in a group or organization. An act or a situation becomes hazing when an organization creates the dangerous, illegal, or humiliating situation and exposes students to it.

A level of coercion is often involved in hazing; an individual being hazed may not feel they can opt out of participation because of peer pressure or a desire to belong or "fit in" to the group. Because of the socially coercive nature of hazing, this definition of hazing applies whether or not the participants consent to such activity or perceive the activity as "voluntary."

Hazing does not include actions or situations that are part of officially sanctioned and supervised College activities such as athletic training and conditioning.

An individual can be responsible for violating this policy for soliciting, directing, aiding, or otherwise participating actively or passively in activities which violate this policy.

III. Examples

Hazing activities often involve alcohol; however, activities need not involve alcohol to violate this policy. Common examples of behaviors that can be hazing include, but are not limited to, the following:

- 1) Shaving, tattooing, piercing or branding;
- 2) Engaging in or simulating sexual acts;
- 3) Threatening to physically restrain someone or actually restraining them;
- 4) Assigning unreasonable chores or acts of servitude;
- 5) Causing excessive exercise, sleep deprivation or excessive fatigue;
- 6) Interfering with an individual's personal hygiene;
- 7) Requiring the wearing of specific apparel or acting in a way that is conspicuous and may cause the individual embarrassment or ridicule;
- 8) Degrading or humiliating games and activities, including paddling;
- 9) Activities that would unreasonably interfere with students' other activities or obligations (academic, extracurricular, family, religious, etc.)
- 10) Physical threats or abuse of any kind including throwing objects or substances at an individual Encouraging or requiring a person to consume alcohol, drugs, or foreign or unusual substances,

- including consumption of large quantities;
- 11) Encouraging the use of alcohol or illegal drugs; and/or
 - 12) Forcing a student into a violation of the law or College policy such as indecent exposure, theft, or trespassing.

The College will use a “reasonable person” standard when evaluating such conduct and its potential effects. The determination of whether a particular activity constitutes hazing will depend on the circumstances and context in which that activity is occurring. Some key questions which are used to evaluate whether an activity is hazing include:

- 1) Was a person or group being singled out because of their status with the group or team?
- 2) Was there a risk of physical or psychological discomfort or harm as a result of the activity?
- 3) Was the activity demeaning, abusive or dangerous?
- 4) Was there a level of coercion and/or peer pressure involved? How easily was someone able to opt out of the activity?
- 5) Did the current members refuse to do what the new members were asked to do?
- 6) Did the activity or activities interfere with the participants’ other activities or obligations (academic, extracurricular, family, religious, etc.)?
- 7) Was alcohol involved?
- 8) Was there a sexual element to the activity?
- 9) Did any of the activities violate College policy or federal, state or local law?

IV. **How to Avoid Hazing**

There are many positive ways to welcome new members into a group or team. The Dean of Students staff can assist you in identifying such activities which can help build cohesiveness and foster teamwork. When you are considering an activity associated with membership in an organization or team ask yourself: Would you feel comfortable describing the activity to others (parents, grandparents, College official, law enforcement, etc.)? If you would be hesitant to describe the activity to others then the activity may constitute hazing and the group would be best served in participating in a different activity.

APPENDIX F

Harvey Mudd College's External Reporting, Timely Warning, and FERPA Disclosure Obligations

I. The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act")

A. Statistical Reporting

Under the Clery Act, certain College officials have a duty to report certain misconduct for federal statistical reporting purposes. All personally identifiable information is kept confidential, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in the annual Campus Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. Mandated federal reporters include: student/conduct affairs, campus law enforcement, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations and any other official with significant responsibility for student and campus activities. The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category. This reporting protects the identity of the victim and may be done anonymously.

B. Timely Warning

Complainants should also be aware that College administrators must issue immediate timely warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. For purposes of the Timely Warning requirement, the College will not disclose a Complainant's name. However, the College will provide enough information for community members to make safety decisions in light of the danger. The reporters for timely warning purposes are exactly the same as detailed in the paragraph above.

II. Family Educational Rights and Privacy Act ("FERPA")

- 1) A finding that a violation of HMC's sexual misconduct policy has occurred will become a part of the educational record of the Respondent, if they are a student, and the employee record if they are a faculty or staff member. The educational records of students are protected from release under a federal law, FERPA. The College complies with FERPA regulations regarding the privacy of student records and observes the following exceptions to FERPA as mandated by the Clery Act:
 - a) The Complainant(s) in a non-consensual sexual contact/intercourse incident have the right to be informed of the finding, and sanction(s) of the investigation, in writing, without condition or limitation.
 - b) The Complainant(s) in sexual exploitation, sexual harassment, stalking, relationship violence and any other gender-based offense have the right to be informed of the finding, in writing, and to be informed of any sanction(s) that directly relate to them, and to essential facts supporting the outcome when the outcome is "responsible" (and the underlying offense is a crime of violence as defined below and in 34 C.F.R. 99.39) and/or it is equitable to share the essential findings with all parties.
- 2) The Clery Act permits the College to release publicly the name, nature of the violation and the sanction(s) for any student who is found in violation of a College policy that is a "crime of violence," including: arson, burglary, robbery, criminal homicide, sex offenses, assault, intimidation (which may encompass stalking and/or bullying), hazing, destruction/damage/vandalism of property and kidnapping/abduction. The College will release this information to the Complainant in any of these offenses regardless of the outcome.

APPENDIX G

Statement on Intercampus Sexual Harassment and Sexual Assault

In cases where the alleged perpetrator is an employee or student from one of the other Claremont Colleges or the Claremont University Consortium, HMC will investigate the matter and take steps to stop the conduct and remedy its effects to the extent reasonably possible. However, grievance procedures related to potential disciplinary action against the alleged perpetrator will be those of the alleged perpetrator's home institution.