

COLLEGE OF MICRONESIA-FSM

BOARD POLICY No. XXXX

Sexual Misconduct Policy

Date Adopted:

Date Revised:

Date Reviewed:

References: COM-FSM Board Policy No. 6020 (Sexual Harassment)
COM-FSM Board Policy No. 4901 (Sexual Harassment Policy for Students)
COM-FSM Board Policy No. 6029 (Code of Ethics)
Title VII of the Civil Rights Act of 1964
Title IX, Education Amendments of 1972 (Title IX)
Family Educational Rights and Privacy Act of 1974 (FERPA)
Jeanne Clery Disclosure of Campus Policy and Campus Crime Statistics Act (1990),
as amended in 2015 (Clery Act)
Violence Against Women Act (1994), as amended in 2015 (VAWA)
Orbelin College & Conservatory, Sexual Misconduct Policy
Western University, Policy on Sexual Misconduct
University of Guam, Sexual Misconduct Policy
White House Task Force to Protect Students from Sexual Assault, Checklist for
Campus Sexual Misconduct Policies

I. Purpose of the policy

The College of Micronesia-FSM (“COM-FSM” or the “college”) is committed to providing an environment that is free of conduct that unreasonably interferes with the academic and professional experience of any member of the college community, including visitors, volunteers, vendors, and contractors while on college property, participating in a college sponsored activity, or providing or receiving services to the college.

As a recipient of US federal funds, COM-FSM is required to comply with Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.* (“Title IX”), which prohibits discrimination on the basis of sex in educational programs and activities, admission, and employment, Title VII of the Civil Rights Act of 1964 (“Title VII”), which prohibits sex discrimination in employment, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”), as amended by relevant provisions of the Violence Against Women Reauthorization Act of 2015 (“VAWA”), and relevant FSM national and state laws.

COM-FSM will not tolerate any type of sexual and/or gender-based harassment, discrimination, and violence, including sexual violence, stalking, and partner violence, which are referred to in this policy as “sexual misconduct.” The college is committed to taking all appropriate steps to eliminate these forms of sexual misconduct, prevent their recurrence, and address their effects. The college views this policy as a primary resource in preventing and responding to sexual misconduct. As such,

retaliation against anyone who makes a report, cooperates with an investigation, or participates in a grievance procedure is a violation of this policy.

All members of the college community are expected to play a role in preventing and responding to sexual and/or gender-based harassment, discrimination, and violence, including sexual violence, stalking, and partner violence, which are referred to in this policy as “sexual misconduct.” Reporting any knowledge of sexual misconduct is especially important, since it allows the college to connect a *reporting party* to resources and support and to foster individual and campus security and safety.

Members of the college community have different expectations in regard to reporting, described as follows:

- A. *Responsible employees* who become aware of potential misconduct are required to report it promptly to the college’s Title IX Coordinator. Such reporting ensures timely support for all parties and enables an effective and consistent institutional response.

Responsible employees include all employees who serve in supervisory positions, whether paid or unpaid. A supervisor is anyone who has the authority to hire, promote, discipline, evaluate, grade, or direct faculty, staff or students. This includes everyone who manages or supervises others, including but not limited to, instructional coordinators, faculty members, student services coordinators, campus security and safety personnel, residence halls staff, and any one who leads, administers, advises or directs college programs. This also includes student employees or student volunteers who have the responsibility for the welfare of other students.

- B. *All other employees* are expected to report any information about potential sexual misconduct to the college’s Title IX Coordinator, in recognition of the college community understanding that centralized reporting is an important tool to address, end, and prevent sexual misconduct and other forms of gender- and/or sexual-related discrimination and harassment.

- C. *Students* who are not *responsible employees* are strongly encouraged to report any information about sexual misconduct, including reports or partial reports, to the college’s Title IX Coordinator.

- D. *Confidential resources* are not permitted to report any information about sexual misconduct without the consent of the patient/client, unless the information involves suspected abuse of a minor or there is an imminent risk of harm to self or others. Confidential resources include, but not limited to, guidance counselors and/or campus nurses.

Any member of the college community who intervenes to prevent sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and partner violence, which are referred to in this policy as “sexual misconduct,” seeks the support of peers or colleagues, or reports such conduct to the Title IX Coordinator or another *responsible employee* will be supported by the college, and protected from retaliation.

This policy uses “they,” “them,” and “theirs” as third person singular gender-neutral pronouns, in recognition that individuals accessing this policy may have range of gender identities and forms of self-identification.

II. Scope of the policy

This policy applies to all members, including students, faculty, administrators, staff, volunteers, vendors, independent contractors, visitors, alumni and any individuals regularly or temporarily employed, studying, living, visiting, conducting business or having any official capacity with the college or on college property.

This policy applies to sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and partner violence, which are referred to in this policy as “sexual misconduct,” both on and off campus. In particular, off-campus conduct is subject to this policy if the conduct occurred in the context of an education program or activity of the college or had continuing adverse effects on campus or in an off campus education program or activity.

This policy revokes and/or repeals COM-FSM Board Policy No. 6020 and COM-FSM Board Policy No. 4901, and supersedes and/or modifies applicable provisions of COM-FSM Board Policy No. 6092.

III. Statement of nondiscrimination

COM-FSM is committed to creating an institutional environment free from discrimination and harassment for students and employees. As such, discrimination and harassment based on the following categories are prohibited: race, color, sex, marital status, religion, creed, national origin, disability, age, genetic information, military or veteran status, sexual orientation, family relationship to an employee of the college, and gender identity and expression. In addition, should any applicable law be enacted in the future prohibiting discrimination and/or harassment based on a category not listed above, or should there be other changes in the applicable law governing discrimination and/or harassment, this policy will be deemed amended to the extent necessary to reflect such changes.

This policy covers conduct prohibited under Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, sex, or national origin, and Title IX, the 1972 amendment to the Higher Education Act of 1965 which prohibits discrimination based on sex in higher education. This policy also reflects the provisions of the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act (Clery Act), 20 U.S.C. § 1092(f), a federal statute enacted in 1990, and the Campus Sexual Violence Elimination (SaVE) Act, which was passed as part of the reauthorization of the Violence Against Women Act (2015).

The college’s non-discrimination statement includes all gender- and/or sex-based discrimination and affirms that the college does not discriminate on the basis of gender and/or sex in its educational, extracurricular, athletic, or other programs or in the context of employment.

IV. Privacy and confidentiality

COM-FSM is committed to protecting the privacy of all individuals involved in a report of sexual misconduct. Throughout the process, every effort shall be made to protect the privacy interests of all individuals involved in a manner consistent with the need for a thorough review of the report. All college proceedings are conducted in compliance with the requirements of the Family Educational Rights and Privacy Act (FERPA), the Clery Act, Title IX, and applicable US federal

laws, including FSM national and state laws. No information shall be released from such proceedings except as required or permitted by law and college policy.

For purposes of this policy, privacy and confidentiality have distinct meanings.

A. Privacy

Privacy generally means that information related to a report of sexual misconduct will only be shared with a limited circle of individuals. The use of this information is limited to those college employees who “*need to know*” in order to assist in the active review, investigation or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.

B. Confidentiality

Confidentiality means that information shared by an individual with a designated college confidential resource cannot be revealed to any other individuals without the expressed permission of the individuals, unless the information involves suspected abuse of a minor or there is an imminent risk of harm to self or others.

C. Requests to protect confidentiality of reporting parties

If a person who reports an incidence of sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence (in this policy called the *reporting party*) requests that their name or other identifiable information not be shared with the person alleged to have engaged in such conduct (in this policy called the *responding party*), or requests that the college take no formal action in response to a report, the college will honor the *reporting party's* request to the extent possible based on a careful balancing of such requests with any legal reporting requirements, the risk of harm to any individual and the college's duty to maintain a safe and nondiscriminatory environment for all.

The Title IX Coordinator will assess such requests by examining the seriousness of the reported conduct, whether the reported misconduct was perpetrated with a weapon, the respective ages and roles of the *reporting* and *responding parties*, whether there have been other reports of misconduct or discrimination by the *responding party*, whether the college possesses other means to obtain relevant evidence of sexual misconduct, whether the report reveals a pattern of misconduct (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group, and the rights of the *responding party* to receive notice and relevant information before disciplinary action is initiated.

Where possible, the Title IX Coordinator will honor requests for confidentiality or that no action be taken so long as the college can meet its obligation to stop, address, and prevent the recurrence of the discriminatory conduct. If the college is unable to take action consistent with the wishes of the *reporting party*, the Title IX Coordinator will inform the *reporting party* about the chosen course of action, which may include an investigation and potential disciplinary action against the *responding party*. The *reporting party* will not be compelled to participate in a formal hearing if they choose not to participate. The college, however, may choose to move forward

with an investigation and potential disciplinary action if there is an individual or public safety concern and sufficient independent information exists to establish that this policy has been violated. Any action taken by the college will be designed to stop any sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, address its effects, and prevent its occurrence. In all instances, the college will take immediate action as necessary to protect and assist the *reporting party*.

If the college honors the request for confidentiality, the *reporting party* must understand that the college's ability to meaningfully investigate the incident and pursue disciplinary action against a *responding party* may be limited.

D. Timely warning

If a report of sexual misconduct discloses a serious or continuing threat to COM-FSM community, the college may issue a campus-wide timely warning notice to protect the health or safety of the college community.

The timely warning will not include any identifying information about the *reporting party*. Even where there is no imminent threat, the college may provide campus-wide notifications on reported sexual misconduct. At no time will the college release the name of the *reporting party* to the general public without the expressed written consent of the *reporting party*. The release of the *responding party's* name to the general public is guided by Family Educational Rights and Privacy Act (FERPA) and the Clery Act.

V. Title IX Coordinator

Title IX Coordinator oversees the college's central review process for receiving, investigating, and resolving reports of sexual misconduct to ensure that the college has taken prompt and equitable action to eliminate any hostile environment, prevent its recurrence and address its effects. The Title IX Coordinator promotes overall institutional compliance with Title IX and related laws, including adherence to procedural time frames, documenting and reporting data, and providing training and education to policy implementers and to the campus community for prevention purposes.

Members of the community are encouraged to consult the Title IX Coordinator regarding questions and concerns about reporting, support and interim measures for anyone experiencing or affected by sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and partner violence, which are referred to in this policy as "sexual misconduct," and regarding information about options and processes to resolve the report.

Students, employees, or other individuals may direct questions or reports related to the application of Title IX to the Title IX Coordinator, and/or the U.S. Department of Education Office for Civil Rights. Questions or reports involving employees may also be directed to the US Equal Opportunity Employment Commission:

VI. Effective consent, coercion, and incapacitation

A. Effective consent

For purposes of this policy, consent is present when clearly understandable words or actions manifest a knowing, active, voluntary, and present and ongoing agreement to engage in specific sexual or intimate contact.

Obtaining effective consent of all sexual partners is crucial in order to prevent sexual violence and is required by this policy. Effective consent must be based on mutually understandable communication that clearly indicates a willingness to engage in sexual activity. It is the responsibility of both parties who engage in sexual activity to ensure that effective consent is obtained for each sexual act and over the entire course of each sexual encounter. The mere fact that there has been prior intimacy or sexual activity does not, by itself, imply consent to future acts. Consent may be withdrawn at any time, and at that time, all sexual activity must cease unless and until additional unambiguous consent is given. The following are essential elements of effective consent:

1. *Informed.* All parties demonstrate a clear and mutual understanding of exactly what they are consenting to.
2. *Freely and actively given.* There is no coercion, force, threats, intimidation, or pressure. Consent must be freely given and cannot be the result of respondent's intimidation (extortion, menacing behavior, bullying), coercion (severe or persistent pressure causing fear of significant consequences from respondent if one does not engage in sexual activity), force (violence, physical restraint, or the presence of a weapon), threats (indications of intent to harm, whether direct or indirect), or fraud (misrepresentation or material omission about oneself or the present situation in order to gain permission for sexual or intimate activity).
3. *Mutually understandable.* Expressed in words or actions that indicate a clear willingness to participate in each act. Silence does not equal consent.
4. *Specific to a given situation.* Consent is not indefinite. Even in the context of a current or previous intimate relationship, each party must consent to each instance of sexual contact each time. Consent must exist at the time of the sexual activity. Consent to previous sexual activity does not imply consent to later sexual acts; similarly, consent to one type of sexual activity does not imply consent to other sexual acts. Consent may also be withdrawn at any time, provided the person withdrawing consent makes that known in clearly understandable words or actions.

Because consent should be positively communicated through words or actions in an ongoing fashion, consent cannot be inferred or assumed based on silence, lack of verbal objection, lack of physical resistance, previous sexual relationships, and/or a current sexual relationship.

B. Coercion

Coercion is the improper use of pressure to compel another individual to initiate or continue sexual activity against their will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats and blackmail. Examples of coercion include threatening to disclose private information about someone's sexual orientation, gender identity or gender expression and threatening to harm oneself if the other party does not engage in the sexual activity.

C. Incapacitation

Incapacitation is a state where an individual cannot make an informed and rational decision to engage in sexual activity because they lack conscious knowledge of the nature of the act (e.g., to understand the who, what, when, where, why or how of the sexual interaction) and/or is physically helpless. An individual is incapacitated, and therefore unable to give consent, if they are asleep, unconscious, or otherwise unaware that sexual activity is occurring. Signs of incapacitation include when an individual demonstrates that they are unaware of where they are, how they got there, or why or how they became engaged in a sexual interaction. Some indicators of a lack of capacity to give consent due to consumption of drugs or alcohol may include, but are not limited to:

1. Lack of full control over physical movements (for example, difficulty walking or standing without stumbling or assistance);
2. Lack of awareness of circumstances or surroundings (for example, lack of awareness of where one is, how one got there, who one is with, or how or why one became engaged in sexual interaction);
3. Inability to effectively communicate for any reason (for example, slurring speech, difficulty finding words).

A person may appear to be giving consent but may not have the capacity to do so, in which case the apparent consent is not effective. When determining whether consent was present, the college will consider whether a sober, reasonable person in the same position knew or should have known whether the other party could or could not consent to the sexual activity. If there is any doubt as to another person's capacity to give consent, the college should assume that the other person does not have the capacity to give consent. Being intoxicated or impaired by drugs or alcohol does not excuse one from the responsibility to obtain consent. Being intoxicated or impaired by drugs or alcohol is never an excuse to commit sexual misconduct.

VII. Prohibited sexual misconduct

COM-FSM prohibits all forms of sexual misconduct. Such conduct violates the college community's values and principles, and disrupts the living, learning, and working environment for students, faculty, staff, and other community members. Therefore, the college prohibits sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, which are referred to in this policy as "sexual misconduct."

An attempt to commit an act identified in this policy, as well as assisting or willfully encouraging any such act, is also considered a violation of this policy. An act may violate one or more parts of this policy. College community members may also be held responsible for the misconduct of their visitors and guests.

The following descriptions represent behaviors that violate the college community's standards, and a person's rights, dignity, and integrity (please note that this is not an exhaustive list):

A. Sexual- and/or gender-based harassment

1. Sexual harassment is an unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, whether verbal, nonverbal, graphic, physical, or otherwise.
2. Gender-based harassment may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on gender, sex or gender and/or sex or gender stereotyping, even if those acts do not involve conduct of a sexual nature, whether verbal, nonverbal, graphic, physical, or otherwise.

Sexual- and/or gender-based harassment occurs when any of the following conditions are present:

- (a) Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, evaluation of academic work, or participation in any aspect of a college program or activity; or,
- (b) Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting the individual; or
- (c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, i.e. it is sufficiently serious, pervasive or persistent as to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, residential, or social environment under both the subjective perspective of the person who experiences such conduct and objective standard of a reasonable person's perception of such conduct.

A single isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to establish the existence of a hostile environment, particularly if the harassment is physical.

Conduct which is pervasive or persistent, even if not severe, may also create a hostile environment. A hostile environment exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefitting from the college's education or employment programs and/or activities. The existence of a hostile environment is to be judged both objectively (meaning a reasonable person would find the environment hostile) and subjectively (meaning the impacted individual felt the environment was hostile).

Examples of conduct that may constitute sexual or gender-based harassment as defined above includes one or more of the following:

- (a) *Physical conduct.* Unwelcome touching, sexual/physical assault, impeding, restraining, or blocking movements; or unwanted sexual advances.
- (b) *Verbal conduct.* Making or using derogatory comments, epithets, cat calling, slurs or humor; or intentionally using incorrect pronouns or an incorrect name when a person has clearly stated their preferred name and pronouns; or verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes or invitations; or

objectively offensive comments of a sexual nature, including persistent or pervasive sexually explicit statements, questions, jokes, or anecdotes.

- (c) *Visual conduct.* Leering, making sexual gestures, displaying of suggestive or demeaning objects or pictures, cartoon or posters in a public space or forum; or severe, persistent, or pervasive visual displays of suggestive, erotic, or degrading images. This example should not be understood to constrain academic freedom in teaching, research, or creative activity, or to limit intellectual and/or expressive rights; or letters, notes or electronic communications containing comments, words, or images described above.
- (d) *Quid pro quo conduct* (“something for something, in Latin). Direct propositions of a sexual nature between those for whom a power imbalance or supervisory or other authority relationship exists; or offering educational or employment benefits in exchange for sexual favors; or making submission to sexual advances an actual or implied condition of employment, work status, promotion, grades, or letters of recommendation, including subtle pressure for sexual activity, an element of which may be repeated requests for private meetings with no academic or work purpose; or making or threatening reprisals after a negative response to sexual advances.

B. Sexual assault

Sexual assault is any type of sexual contact or behavior that occurs without the explicit consent of the recipient. It includes sexual intercourse or sexual contact achieved by the use or threat of force or coercion, where an individual does not consent to the sexual act, or where an individual is incapacitated and thus incapable of consent.

1. *Sexual penetration without consent.* Rape or any penetration of the sex organs or anus of another person when consent is not present; any penetration of the mouth of another person with a sex organ when consent is not present; or performing oral sex on another person when consent is not present. This includes penetration or intrusion, however slight, of the sex organs or anus of another person by an object or any part of the body.
2. *Sexual contact without consent.* Fondling or knowingly touching or fondling a person’s genitals, breasts, thighs, groin, or buttocks, or knowingly touching a person with one’s own genitals, breasts, or buttocks, when consent is not present. This includes contact done directly or indirectly through clothing, bodily fluids, or with an object. It also includes causing or inducing a person, when consent is not present, to similarly touch or fondle oneself or someone else.
3. *Statutory rape.* Sexual intercourse with a person who is under the statutory age of consent under the applicable law of the State in the Federated States of Micronesia in which the incident occurred.

C. Sexual exploitation

Sexual exploitation is taking sexual advantage of another person for the benefit of oneself or a third party when consent is not present. It occurs when an individual takes nonconsensual or abusive sexual advantage of another for one’s own advantage or benefit, or to benefit or advantage anyone other than the one being exploited.

Examples of sexual exploitation include, but are not limited to:

1. Sexual voyeurism or permitting others to witness or observe the sexual or intimate activity of another person without that person's consent;
2. Indecent or lewd exposure or inducing others to expose themselves when consent is not present;
3. Recording of any nature, any person engaged in sexual or intimate activity in a private space without that person's consent;
4. Distributing sexual information, images, or recordings about another person without that person's consent;
5. Recruiting, harboring, transporting, providing, or obtaining another person for the purpose of sexual exploitation;
6. Inducing incapacitation in another person with the intent to engage in sexual conduct, regardless of whether prohibited sexual conduct actually occurs.

D. Intimate partner violence

Intimate partner violence is often referred to as “dating violence, domestic violence or relationship violence.” It includes any act of violence or threatened act of violence against a person who is, or has been involved in, a sexual, dating, domestic or other intimate relationship with the *responding party*. Intimate partner violence can encompass a broad range of behavior including all of the above categories of sexual misconduct. It may involve one act or an ongoing pattern of behavior. Intimate partner violence may take the form of threats, assault, property damage, violence or threat of violence to one's self, one's sexual or romantic partner, or to the family members or friends of the sexual or romantic partner.

Intimate partner violence affects individuals of all genders, gender identities, gender expressions, and sexual orientation and all racial, social, and economic backgrounds. These actions may include, but are not limited to:

1. *Physical abuse*. Hitting, slapping, shoving, grabbing, pinching, biting, or hair pulling;
2. *Psychological/emotional abuse*. A pattern of behavior undermining an individual's sense of self-worth or self-esteem, constant criticism, diminishing one's abilities, name-calling, or damaging one's relationship with one's children;
3. *Sexual abuse*. Attacks on sexual parts of the body, treating one in a sexually demeaning manner, coercing, or attempting to coerce any sexual contact or behavior without consent.

E. Stalking

Stalking is a pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear. It can include:

1. Repeated, unwanted, intrusive, and frightening communications from the perpetrator by phone, mail, and/or email.

2. Repeatedly leaving or sending victim unwanted items, presents, or flowers.
3. Following or laying in wait for the victim at places such as home, school, work, or recreation place.
4. Making direct or indirect threats to harm the victim, the victim's children, relatives, friends, or pets.
5. Damaging or threatening to damage the victim's property.
6. Harassing victim through the internet.
7. Posting information or spreading rumors about the victim on the internet, in a public place, or by word of mouth.
8. Obtaining personal information about the victim by accessing public records, using internet search services, hiring private investigators, going through the victim's garbage, following the victim, contacting victim's friends, family, work, or neighbors, etc.

F. Retaliation

Any adverse action or attempt to retaliate or seek retribution against a *reporting party*, *responding party*, or any individual or group of individuals involved in a report, investigation and/or resolution of an allegation of sexual misconduct. It can be committed by any individual or group of individuals. It can take many forms, including threats, intimidation, pressuring, continued abuse, violence or other forms of harm to others, and in varying modes, including in person and in electronic and online communication. It can also include adverse employment or educational actions made or taken against an individual because of their good faith participation in the reporting, investigation, and/or resolution of an alleged violation of this policy and/or any conduct that would discourage a reasonable person from engaging in further protected activity.

G. Public nudity

Public nudity occurs when a person exposes one's private parts or engages in sexual conduct or masturbation in any public place or in any place where the person's conduct is likely to be viewed by and affront others who are in the person's physical proximity. For purpose of the policy, the prohibition against public nudity should be understood as a strategy to prevent the development of hostile environments. It is not intended to place constraints on academic freedom, which protects intellectual and expressive representations of the body and classroom materials which may include nudity.

H. Evaluation of spouses, intimate partners, or family members

Because of the concern with power dynamics as well as the importance of addressing conflicts of interest, COM-FSM prohibits employees from participating in evaluative personnel decisions (including those related to hiring, performance review, compensation, and termination) about other employees with whom they are in a sexual, intimate, and/or familial relationship.

I. Prohibited relationships by persons in authority

Because of the potential negative impact on individuals as well as the college learning and working community, faculty and staff members are prohibited from engaging in sexual relationships with students to whom they are not married or in formal domestic partnerships, even when both parties believe the conduct is consensual.

This prohibition reflects an understanding that power inequalities due to role differences between faculty/staff and students affect the possibilities of effective consent. This prohibition also reflects the college's commitment to respecting the integrity and character of the unique teaching relationship that exists between faculty and students. Sexual relations between persons occupying asymmetrical positions of power, even when both consent, raise suspicions that the person in authority has violated standards of professional conduct and potentially subject the person in authority to charges of sexual harassment based on changes in the perspective of the individuals as to the consensual nature of the relationship. Similarly, these relationships may impact third parties based on perceived or actual favoritism or special treatment based on the relationship. Retaliation against persons who report concerns about consensual relationships is prohibited and constitutes a violation of this policy.

VIII. Reporting sexual misconduct

A. Campus reporting option

To report a violation of the college's Sexual Misconduct Policy, contact the Title IX Coordinator or other designated administrator below. A report can be made in person, by telephone, by email, or online using an intake form (available on the college's Title IX webpage, http://www.comfsm.fm/vpss/discrimination_harassment_complaint%20form-1.pdf).

1. Title IX Coordinator
2. Campus Security and Safety
3. Campus Deans and/or Director
4. Director of Human Resources
5. Director of Student Life
6. Dean of Academic Programs
7. Instructional Coordinator
8. Student Services Coordinator

B. Anonymous reporting option

A report can also be made anonymously. Any individual may make an anonymous report concerning an act of sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, which are referred to in this policy as "sexual misconduct."

An individual may report the incident without disclosing their name, identifying the *responding party* or requesting any action. Depending on the extent of information available about the incident or the individuals involved, however, the College's ability to respond to an anonymous report may be limited. Currently, an anonymous report can be made by submitting a written document through campus mail to the Title IX Coordinator, College of Micronesia-FSM, P.O. Box 159, Kolonia, Pohnpei FM 96941.

The Title IX Coordinator will receive the anonymous report and will determine any appropriate steps, including individual or community remedies as appropriate, and in consultation with the

Campus Security and Safety Supervisor, compliance with all Clery Act and Campus SaVE Act obligations.

C. Off campus option

Conduct that may be criminal in nature can be reported to local law enforcement. Conduct that may implicate civil rights can be reported to external regulatory agencies, e.g., US Department of Education, Office of the Civil Rights; or US Equal Employment Opportunity Commission.

IX. Protection of responding party

Prohibition against knowingly false allegations. This policy shall not be used to bring knowingly false or malicious allegations of sexual misconduct. Making such allegations may subject the reporting or complaining party to remedial and/or disciplinary action up to and including termination or separation from the college. Any such disciplinary action will be initiated by the appropriate administrator overseeing the reporting party(s).

X. Interim measures and accommodations

Interim measures and accommodations are reasonable measures the college can put in place for an individual who reports (*reporting party*) having experienced sexual misconduct.

Interim measures and accommodations can provide immediate support and help protect the *reporting party's* safety and ability to access their education and employment, at no cost to the *reporting party*. They may be requested by the parties or imposed by the college on its own initiative.

Interim measures and accommodations, in and of themselves, are not a resolution to a report. They are temporary actions taken by the college to foster a more stable and safe environment during a period of ongoing exploration of options, investigation and/or adjudication. They are initiated based on information gathered during a report and are not intended to be permanent resolutions; hence, they may be amended or removed as additional information is gathered.

Interim measures may be imposed regardless of whether formal disciplinary action is sought by the *reporting party* or the college. They can be temporary in duration pending the results of an investigation, but can become permanent. They include, but are not limited to:

- A. A no-contact directive issued by the Title IX Coordinator, or other designated administrator;
- B. Housing or work space relocation;
- C. Adjustment of course schedules or other changes to an individual's academic situation;
- D. Changes to work schedules or other changes to an individual's employment situation;
- E. Time off from class or work, or a leave of absence;
- F. Transportation arrangements;
- G. Access to counseling services and assistance in setting up an initial appointment;
- H. Medical services
- I. Security assistance, e.g., security escorts, increased patrol;
- J. Academic support services, e.g., tutoring;

- K. Limit an individual or organization's access to certain college facilities or activities pending resolution of the matter;
- L. Voluntary leave of absence;
- M. Interim suspension or college-imposed leave;
- N. As feasible, honoring an order of protection entered by a court if the college has been notified of the order and its terms.
- O. Any other remedy that can be tailored to the involved individuals to achieve the goals of this policy.

X. Outcomes

The college will determine, based on its investigation and hearing as appropriate, what happened and whether it constitutes sexual assault and sexual violence.

If the college finds there has been misconduct, it will determine the appropriate penalty. Students may face discipline, up to and including expulsion. Employees may face penalties, cancellation of contracts and other sanctions. The college may also impose non-punitive measures. The college will inform the complainant and respondent of the results of its investigation as per the applicable procedure.