

Hendrix College Policy Prohibiting Gender-based Misconduct

If you believe you have experienced gender-based violence:

- 1. Get to a Safe Place Quickly** - If the perpetrator is still in the area, or their presence on campus is threatening, call the Hendrix Public Safety Department (501-450-7711), call the Conway Police Department (911), or use a blue light emergency phone.
- 2. Contact Someone to Help** - Contacting a supportive friend or family member, or a professional resource can be helpful when recovering from gender-based misconduct.

On-campus resources:

Hendrix College Public Safety – 450-7711 (24/7)
Counseling Services 501-450-1448 (there is no charge for this service)
Hendrix Health Services – 450-1448
Chaplain’s Office – 450-1263
Hendrix Title IX – title9@hendrix.edu, 505-2901
Dean of Students Office – 450-1222
Residential Life Professional Staff – 450-1416

Off-campus resources:

Arkansas Crisis Center – 1-888-274-7472
Rape Crisis Hotline (501-801-2700) or (877-432-5368)
Hope Rainn National Sexual Assault Hotline (800-656-4673)
Faulkner County Prosecuting Attorney’s Victim Services Center (501-450-3051)
National Center for Victims of Crime www.victimsofcrime.org
24-hour Conway Women’s Shelter Crisis Hotline (866-358-2265)
Arkansas Legal Services Partnership at (1-800-952-9243) or
<http://www.arlegalservices.org/> or for legal assistance

3. Preserve Physical Evidence – In addition to getting to a safe space, the college encourages individuals to preserve all evidence to assist the individual with their options of reporting. Preserving evidence may help prove an offense occurred and aid in obtaining a protection order. The following are tips for preserving evidence:

General Tips

Do not alter, dispose of or destroy any physical evidence.

- If there is suspicion that a drink may have been drugged, inform a medical assistance provider and/or law enforcement as soon as possible so they can attempt to collect potential evidence (e.g., from the drink, through urine or blood sample).
- Preserve evidence of electronic communications by saving them and/or by taking screenshots of text messages, instant messages, social networking pages or other electronic communications, and by keeping pictures, logs or copies of documents that relate to the incident and/or respondent.

- Even if complainants choose not to make a complaint regarding sexual misconduct, they should nevertheless consider speaking with **Hendrix Public Safety** or other law enforcement to preserve evidence in the event that they change their mind at a later date.

Specific to Sexual Assault

- Do not change out of the clothing you were wearing at the time of your assault. If you must change, place your old clothes in a paper bag and do not wash it.
- Pack a change of clothes to bring to campus **Health Services** or a local hospital.
- Do not shower, bathe, brush teeth, eat, drink or change bedding before going to the hospital or seeking medical attention.

4. Seek Timely Medical Attention – If you have been injured, you are encouraged to go for a medical exam as soon as possible because injuries should be treated promptly and evidence deteriorates quickly.

Conway Regional Health System
2302 College Ave
Conway, AR 72034
www.conwayregional.org

Baptist Health Medical Center
1555 Exchange Ave
Conway, AR 72032
www.baptist-health.com

Conway Regional Women’s Center
www.conwayregional.org/locations/womenscenter
501-513-5240

5. Develop a safety plan- If you are experiencing relationship violence, developing a safety plan is important. This includes changing your routine, arranging a place to stay, and having a friend or relative go places with you. Decide in advance what to do if the stalker or abuser shows up at your home, work, school, or somewhere else. Memorize important phone numbers, such as the people to contact or places to go in an emergency. Keep spare change, calling cards, or a cell phone handy for immediate access to communication. Have money available for transportation if you need to take a taxi to escape. For more information see: <https://www.domesticpeace.com/safety-plan>

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Contents

Policy

- Faculty/Staff Relationships with Students**

- Jurisdiction**

- Attempted Violations**

- Standard of Proof**

- False Reporting**

- Group Action**

- Retaliation**

- Amnesty**

Support Services

Reporting and Investigation Procedures

- Initial Report & Notice of Allegations**

- Interim Measures**

- Informal Resolution**

- Investigation Procedures**

- Responding to the Charge**

- Response to Initial Investigative Report & Evidence Packet**

- Final Investigative Report and Evidence Packet**

- Panel Composition and Deliberations**

- Procedural Rule for Addressing Prior Conduct Violations**

- Sanctions**

- Appeal Process**

Student Rights & Responsibilities

Definitions

Bystander Intervention/Risk Reduction Tips

Education/Awareness/Resources

Title IX Staff

The Title IX Coordinator and Title IX Investigator may be contacted simultaneously at:

title9@hendrix.edu

(also: titleix@hendrix.edu, titlenine@hendrix.edu)

Or individually:

Title IX Coordinator:

Shawn Goicoechea, goicoechea@hendrix.edu, 1545 Washington Ave, 501-450-1415

Title IX Investigator & Education Coordinator:

Dr. Allison Vetter, vetter@hendrix.edu, SLTC 150, 501-505-2901

Title IX Deputies:

Vicki Lynn, VP of Human Resources, lynn@hendrix.edu

Dr. Terri Bonebright, Provost of the College bonebright@hendrix.edu

Jim Wiltgen, Dean of Students, wiltgen@hendrix.edu

Amy Weaver, Director of Athletics, weaver@hendrix.edu

Policy Prohibiting Gender-Based Misconduct

Hendrix College strives to maintain an environment free from discrimination and harassment, where members of our community treat each other with respect, dignity and courtesy. The College adheres to the principles of equal educational and employment opportunity without regard to age, race, color, gender, disability, religion, sexual orientation, gender identity or expression, genetic information, or national origin. Accordingly, all acts of discrimination, harassment, retaliation, and sexual misconduct as defined by this policy are prohibited. The Hendrix College Policy Prohibiting Gender-Based Misconduct has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated.

I. Policy

All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others. This policy is intended to define community expectations and to establish a mechanism for determining when those expectations have been violated. Upon notice of gender-based discrimination or sexual misconduct as described by this policy, appropriate measures will be taken to end the conduct, remedy the effects on individuals and the Hendrix community, and prevent recurrence.

The expectations of our College community regarding sexual misconduct can be summarized as follows: In order for individuals to engage in sexual activity of any type with each other, there must be clear, knowing, and voluntary consent prior to and during sexual activity. Consent is permission. Consent can be given by word or demonstrated by action, however non-verbal consent is not as clear as talking about what you want sexually and what you don't want. Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity. Previous consent or a sexual or intimate relationship does not imply consent to sexual activity in the future. Silence or passivity -- without actions demonstrating permission -- cannot be assumed to show consent. Consent can be withdrawn at any time. There must be a clear indication that consent is being withdrawn.

Alcohol or other drug use can place the capacity to consent in question. A person will be considered unable to give consent if they are incapacitated, meaning they cannot fully understand the details of a sexual interaction (who, what, when, where, why, or how) because they lack the capacity to reasonably understand the situation. Anything but a clear, knowing and voluntary consent to any sexual activity is equivalent to a "no."

The College encourages any individual who has been subject to discrimination or sexual misconduct to report the incident(s) directly to Dr. Allison Vetter (SLTC 150), Title IX Investigator and Education Coordinator or to Shawn Goicoechea (1545 Washington Ave), Title IX Coordinator. A conversation with a Title IX official does **not** require an individual proceed with conduct charges or the process outlined below. The College is committed to the preservation of the rights of both the complainant and the respondent (See Rights &

Responsibilities), however the determination as to whether to proceed with conduct charges against an individual ultimately lies with the College.

In order for the College to respond effectively and to proactively stop instances of discrimination, harassment, retaliation, and sexual misconduct within the College community, all faculty, adjunct instructors, and administrative staff including coaches, are required to notify the Title IX Coordinator, Investigator or Deputies immediately after receiving information regarding a potential violation of this policy. These individuals are encouraged to explain their reporting obligations prior to receiving any information that is subject to mandatory reporting. Only employees who are statutorily prohibited from disclosing such information (Student Counseling and Health Services staff, Campus Chaplain, and support staff such as frontline dining services and facilities staff) are exempt from these reporting requirements.

Faculty/Staff Relationships with Students:

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as teacher and student, supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of this policy. The College does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the College. For the personal protection of members of this community, relationships in which power differentials are inherent (faculty-student, staff-student) are strongly discouraged.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the attention of their supervisor at the outset and will likely result in the removal of the employee from the supervisory or evaluative responsibilities or make changes to prevent an individual from being supervised or evaluated by someone with whom they have established a consensual relationship. Failure to self-report such relationships to a supervisor as required is a violation of this policy and may result in disciplinary action for an employee. Employees are cautioned that in many circumstances an imbalance of power, perceived or real, may occur in employee-student relationships. In such cases, consent is not an acceptable defense against an allegation of non-consensual sexual relationships.

Jurisdiction

Title IX protects the Hendrix community from sexual discrimination, harassment, and misconduct in connection with all academic, educational, extracurricular, athletic, and other college programs, whether those programs take place on college property, in college transportation, during college-sanctioned trips, at a class or training program sponsored by

the college at another location, online, or elsewhere. This policy also applies, regardless of where the alleged sexual discrimination, harassment, and misconduct occurred, if the conduct impacts the college environment for the college's academic, educational, athletic, or extracurricular programs or activities. However, the college does not have disciplinary authority over third parties who are not students or employees of the college. Also, while there is no geographical limitation to the jurisdiction of this policy, conduct that is alleged to have occurred outside college property may be more difficult to investigate.

Alleged sexual discrimination, harassment, and misconduct will first be considered under the Policy Prohibiting Gender-based Misconduct.

If the respondent is a student, but the complainant is a Hendrix faculty or staff member, then in most instances the case will be processed through this policy.

If the complainant is a student, but the accused is a Hendrix faculty or staff member, the case will be processed by Human Resources in accordance with the employee handbook.

If the complainant is not a member of the Hendrix community, but the respondent is a Hendrix student, the case will be processed through this policy, with the College serving as the complainant.

The Policy Prohibiting Gender-based Misconduct does not have jurisdiction over non-Hendrix community members. However, the Title IX office will assist students in filing complaints with the appropriate officials. Allegations of misconduct that do not fall under this policy will be forwarded to the Dean of Student's office to be evaluated under the student handbook.

Attempted Violations. In most circumstances, Hendrix College will treat attempts to commit any of the violations listed in the *Policy Prohibiting Gender-Based Misconduct* as violations of the policy.

Standard of Proof. The standard of proof for determining responsibility for alleged violations of the *Policy Prohibiting Gender-based Misconduct* will be the preponderance of evidence. When considering a complaint, the Panel will determine if the information gathered and evidence presented establishes that it is more likely than not the respondent(s) committed the violation.

False Reporting. Hendrix College will not tolerate intentional false reporting of incidents. It is a violation of the *Policy Prohibiting Gender-based Misconduct* to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws. A panel finding of not responsible is strictly a statement that a panel did not determine an alleged policy violation met the preponderance of the evidence and is not automatic grounds for a claim that a report was intentionally false. Any report determined to have been made in good faith will not be subject to false reporting sanctions.

Group Action. When members of groups, individuals acting collusively, or members of an organization act in concert in violation of any policy, they may be held accountable as a group, and an investigation and panel deliberation may proceed against the group as joint accused students and/or the organization itself. Charges proceeding against a group do not preclude any individual from facing charges or sanctions as an individual.

Retaliation. Retaliation against an individual for reporting an allegation, for supporting a reporting party or for assisting in providing information relevant to an allegation is a violation of the *Policy Prohibiting Gender-Based Misconduct* and is subject to the full range of sanctions as any other policy violation. Retaliation can occur in-person or online by any member of the Hendrix Community (including a witness, complainant, reporting party, or respondent) or a third party. Acts of alleged retaliation should be reported immediately to the Title IX Coordinator, Title IX Investigator, or any Title IX Deputy. Alleged violations of retaliation may be investigated along with the underlying complaint of sexual misconduct, or separately, at the discretion of the Title IX Coordinator. Retaliation is defined as any materially adverse action taken against a person participating in a protected activity because of their participation in that protected activity.

Amnesty Policy. The Hendrix College community encourages the reporting of both violations of this policy and criminal activity. Sometimes, complainants or those who witness allegations of misconduct may be hesitant to report to college officials because they fear they themselves may be accused of policy violations, such as underage drinking. It is in the best interests of this community that as many individuals as possible choose to report to College officials. To encourage reporting, the College pursues a policy of offering complainants, their witnesses, and witnesses presented by the respondent, from minor policy violations related to the incident.

II. Support Services

If you have an emergency contact the Conway Police Department by dialing: 9-1-1

If a student or employee reports experiencing gender-based discrimination or sexual misconduct to the Title IX Coordinator, Title IX Investigator, Title IX Deputies, Human Resources, or the Dean of Students Office, those offices will provide written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the Hendrix community and the Conway community. Third-parties who report information regarding gender-based discrimination/misconduct of a Hendrix community member also have the right to receive the same information listed above and in writing.

Students are encouraged to seek support through on-campus and off-campus services. Students may contact the following on-campus services:

Hendrix College Public Safety – 501-450-7711

Counseling Services 501-450-1448 (there is no charge for this service)

Hendrix Health Services – 501-450-1448

Chaplain's Office – 501-450-1263

Dean of Students Office – 501-450-1222
Student Outreach Services (SOS) – 501-450-1330, sos@hendrix.edu
Residential Life Professional Staff – 501-450-1416
Hendrix Office of International Student Services (501-450-1265) for visa and immigration assistance
Hendrix Office of Financial Aid (501-450-1368)

Students may also choose to contact support agencies off campus which include the following:

Arkansas Crisis Center – 1-888-274-7472
Rape Crisis Hotline (501-801-2700) or (877-432-5368)
Arkansas Coalition Against Sexual Assault <https://acasa.us/>
Arkansas Coalition Against Domestic Violence www.domesticpeace.com
Hope Rainn National Sexual Assault Hotline (800-656-4673)
Faulkner County Prosecuting Attorney’s Victim Services Center (501-450-3051)
National Center for Victims of Crime www.victimsofcrime.org
24-hour Conway Women’s Shelter Crisis Hotline (866-358-2265)
Arkansas Legal Services Partnership at (1-800-952-9243) or <http://www.arlegalservices.org/> or for legal assistance

To report any education discrimination on the basis of race, sex, disability, etc. or request information on compliance programs, filing complaints, or to access regulatory documents, student may contact the U.S. Dept. of Education regional office.

U.S. Department of Education – Office of Civil Rights
One Petticoat Lane
1010 Walnut Street, 3rd floor, Suite 320
Kansas City, MO 64106
Telephone: 816-268-0550
FAX: 816-268-0599; TDD: 800-877-8339
Email: OCR.KansasCity@ed.gov

III. Reporting and Investigation Procedures

Any member of the community who believes they have experienced discrimination or misconduct that violates Hendrix College Policy Prohibiting Gender-Based Misconduct should report that conduct to the Title IX Investigator, Title IX Coordinator, or Title IX Deputies listed in this policy. Reports of discrimination or misconduct will be investigated in a manner that is prompt, thorough, equitable, impartial and fair to all parties involved.

A. Initial report and notification of allegations: In order to provide sensitive personal information to as few people as possible during the reporting phase it is recommended that students report incidents of gender-based misconduct or discrimination directly to the Title IX Investigator and Education Coordinator (Allison Vetter, vetter@hendrix.edu, SLTC 150) or Title IX Coordinator (Shawn Goicoechea, goicoechea@hendrix.edu, 1545 Washington Ave) to reduce the number of times they must recount their allegations. You may also email title9@hendrix.edu to report gender-based misconduct.

The Title IX Administrator who receives the initial report will review the information collected with the Title IX Coordinator and determine if a policy violation is alleged to have occurred. The wishes of the Complainant will be considered before proceeding with a formal investigation and conduct process, however it is ultimately the discretion of the Title IX Coordinator as to whether or not the College will proceed. The College may determine, when considering the safety of the community, that it is necessary to proceed against the wishes or without the participation of the complainant. In the event the alleged misconduct is not a violation of the Policy Prohibiting Gender-Based Misconduct, the Complainant will maintain their access to support services and/or Interim measures as appropriate.

Both the Complainant and Respondent will have the opportunity to have an initial meeting with the Title IX Investigator to discuss the investigative process, request interim measures, learn about support resources, and otherwise ask questions of the Title IX representative without providing a statement for the investigation. The Complainant and Respondent have the right to an advisor of their choice at the initial meeting and thereafter (See Rights & Responsibilities).

If either party elects to provide a statement about the alleged incident during the initial meeting that statement will be recorded. Statements may also be submitted in writing. In general, any information provided about the alleged incident to a College employee not listed as a confidential resource may be included in the investigative packet.

After initial interviews with the Complainant and Respondent, the Investigator will work with appropriate College officials to enact any interim measures deemed reasonable and necessary, assist students in accessing support resources as needed, and determine if a formal investigation will proceed.

B. Interim Measures. Unless circumstances dictate otherwise, the Investigator will promptly issue a “no contact” directive to all parties upon notice of any sexual assault complaint. In all cases, the college may implement any necessary interim measures, deemed appropriate and reasonably available, regardless of whether a complaint has been filed or whether an investigation has commenced. Interim Measures may include, but are not limited to:

- ✓ Issuing no contact directives
- ✓ Providing counseling services.
- ✓ Providing academic support services.
- ✓ Rescheduling class work, assignments, and examinations.
- ✓ Changing class schedules.
- ✓ Providing an escort to ensure that an individual can move safely between classes, work, and/or activities.
- ✓ Changing work arrangements or location.
- ✓ Arranging for the complainant to take an incomplete in a class.
- ✓ Reassigning on-campus housing.
- ✓ Dissolving a campus housing contract and offering a prorated refund.
- ✓ Providing alternative course completion options.
- ✓ Permitting a temporary withdrawal from the university.

Violations of Interim Measures by either party are considered to be violations of the *Policy Prohibiting Gender-Based Misconduct*. Failure to abide by interim measures is a violation of this policy (irrespective of whether the underlying complaint of sexual conduct is substantiated) and is subject to the full range of sanctions as any other policy violation. Any person who believes interim measures are being violated should report the alleged violation in the same manner for reporting sexual misconduct. Alleged violations of interim measures may be investigated along with the underlying complaint of sexual misconduct, or separately, at the discretion of the Title IX Coordinator.

C. Informal Resolution: If so desired, and the College determines that it is appropriate, a complainant and respondent may both agree to enter into a process of informal resolution mediated by the Title IX Investigator. The ability to enter into an informal resolution is at the discretion of the Title IX Coordinator and may not be appropriate for more severe charges such as non-consensual sexual intercourse. Informal resolutions may result in sanctions, excluding suspension or expulsion. Parties electing to pursue an informal resolution will forfeit their right to pursue the formal investigative process.

D. Investigation Procedures

An initial investigative report and evidence packet will be compiled by the investigator. This will include relevant evidence including the statements of complainants and respondents, witness interviews, and material evidence or information submitted by either party (e.g. text messages, social media posts, images, etc.). The investigator will review the initial investigative report and evidence packet to determine which policy(ies) if any, has been/are alleged to have been violated. In the event the investigator determines the alleged conduct, if true, represents a policy violation, a Charge Letter will be issued to both the respondent and complainant by the Title IX official investigating the case.

E. Responding to the Charge

For each charge outlined in the Charge Letter, Respondents will have four (4) calendar days to enter a statement of Responsible, Not Responsible, or No Contest.

Responsible Statements

If the student in question accepts responsibility in a gender-based misconduct case, the student will provide a statement for the Gender-Based Misconduct Panel to determine an appropriate sanction. By accepting responsibility, the student in question is waiving their right to appeal any procedural matters or on the basis of newly discovered evidence. Respondents may accept responsibility for charges at any time during the process. At such time, all available information, along with final statements from either party, will be submitted to the panel for determining sanctions.

Not Responsible Statements

If the responding student does not accept responsibility the investigation will proceed and a Gender-Based Misconduct Panel may be convened. From this point

on the student in question is assumed not-responsible concerning the charges which have been leveled against them.

No Contest Statements

If a student is facing possible suspension or expulsion, the student may be eligible to provide a statement of No Contest. Allowing a No Contest Statement is at the discretion of the Title IX Coordinator. Students who enter a Statement of No Contest accept the sanctions issued to them without contesting the conduct charge(s). If a student enters a Statement of No Contest the student waives their right to appeal based on any procedural matters or on the basis of newly discovered evidence. Conduct violations for which a student enters a Statement of No Contest will appear on that student's conduct record.

F. Response to Initial Investigative Report & Evidence Packet, and Cross-Examination Both parties will be provided access to the initial report and evidence packet for review. Complainants and Respondents will have four calendar days to review the initial evidence packet and submit additional information, including witnesses and documents or additional statements to the investigator.

Complainants and Respondents may also submit questions they would like to be asked of any of the involved parties. The investigator will review questions for relevance and notify the submitting party if any questions are deemed not relevant. Questions will be administered by the investigator in a timely manner and responses will be transcribed. Investigators may ask follow-up questions of their own as they see fit to ensure thoroughness. Responses will be added to the Final Investigative Packet which will be provided to all parties for review.

The Initial Evidence Packet will also include the names of panelists who will be assigned to review the case. Complainants and Respondents have one (1) calendar day to request the recusal of panelists for good cause such as bias or conflict of interest. Requests must be submitted in writing to the investigator or Title IX Coordinator and include a rationale. Both parties will be notified of any panel changes and provided at least 1 calendar day from notification of changes to contest the new panel composition. Each party may only challenge the panel (any members) once, if the change is granted that party may not challenge the new selection.

G. Final Investigative Packet and Final Statements

Once the period for submitting evidence has ended, the information will be compiled and a Final Investigative Packet will be provided to the complainant, respondent and panelists. At this time no additional evidence may be submitted unless it was unknown or unavailable and could not have been known or available at the time of the submission period.

The packet will include, but is not limited to:

- ✓ Initial statements (as written or transcribed) by both parties
- ✓ Transcription of relevant information gathered via witness interviews. Information not meeting evidentiary standards will be redacted.

- ✓ Any additional statements provided by the Complainant and Respondent.
- ✓ Evidence deemed relevant by the investigator including, but not limited to: text messages, images, other communications,
- ✓ Transcription from cross-examination conducted by the investigator on behalf of the complainant and respondent.
- ✓ Investigator synthesis of relevant evidence, timeline notes (where appropriate) and credibility assessments.

Upon delivery of the Final Investigative Packet, the complainant and respondent will have two (2) calendar days to submit a final statement. Final statements will be promptly made available to the panel.

H. Panel Composition and Deliberations

Panel membership is limited to full-time faculty and staff of the College who have been nominated by any Title IX Administrator, or any member of the current Sanctions panel, and who have been adequately trained within 12 months of the start of panel deliberation.

Panelists will deliberate as a group, and panel deliberations will be closed to all parties. Panelists may ask questions of the assigned investigator. In the event panelists request additional information from the investigator, both parties will receive an updated packet with any new information and may be given, at the panel's discretion, an opportunity to respond to the new information.

Panelists will determine responsibility for each charge and will base each determination on the preponderance of the evidence, whether it is more likely than not that the alleged conduct occurred and if so, whether it constituted a policy violation. Responsibility will be determined by a majority of panelists. The panel will have five (5) calendar days from receipt of Final Statements to deliberate and make a decision.

The Complainant and respondent will be notified simultaneously and in writing, within two calendar days of the panel's decision. A decision will be stated for each charge, and any sanctions will be accompanied by a rationale.

I. Procedural Rule for Addressing Prior Conduct Violations

While previous conduct violations by the responding student are not generally admissible in an investigation, the Title IX Coordinator, their designee, or the Dean/Associate Dean of Students may supply previous complaint information to the panel, or may consider it if they are hearing the complaint, only if:

- 1) The respondent was previously found to be responsible or took responsibility;
- 2) The previous incident was substantially similar to the present allegation; or
- 3) Information indicates a pattern of behavior and substantial conformity with that pattern by the responding student.

J. Sanctions*

The panel may impose one or more of the following sanctions for each policy violation.

Educational Project - Project that encourages reflection and demonstration of knowledge.

Restriction or Revocation of Privileges- Temporary or permanent loss of privileges including but not limited to use of a particular facility or service, visitation privileges, and parking privileges.

Termination or Change in Residency Privileges- A sanction that terminates or changes a student's residency.

Conduct Registration Hold - If a student fails to complete the conditions of a sanction (e.g. College Service Hours, etc.), a Conduct Registration Hold will be placed on their Registrar's account. With this hold in place, the student is restricted from utilizing the major functions of the Registrar Office (e.g., prohibited from participating in registration and course adjustment, requesting transcripts, and from receiving a diploma). The Panel or a Title IX Administrator will remove the hold when it has been determined that the student is working towards or has returned to compliance.

Conduct Probation- A sanction serving notice to a student that his or her behavior is in serious violation of College standards and policies. It is assigned for a specified time period. A breach of College standards or policies by a student during the probationary period may result in suspension or expulsion from the College.

Suspension- A student may be subject to mandatory separation from the College for a specified period of time. An application for readmission will be considered after the time period of the suspension has elapsed. Readmission is subject to stipulations by the panel and approval of College officials. A student who has been suspended is barred from visiting the campus unless written permission is granted by the Title IX Coordinator.

Expulsion- Expulsion is permanent dismissal from the College with no possible future readmission. A student who has been expelled is also barred from visiting the campus.

Any student found responsible for violating the policy on Non-Consensual Sexual Intercourse will likely face a sanction of suspension or expulsion.

Other Appropriate Action- Sanctions not specifically described above must be approved by the Title IX Coordinator.

*NOTE: The panel reserves the right to broaden or lessen any range of recommended sanctions in the case of serious mitigating circumstances or egregiously offensive behavior. Students must be in good conduct standing in order to be eligible for graduation, including conferring of diploma and access to transcripts. Students will NOT be eligible for conference of a degree if a Charge Letter has been issued or an investigation has begun. An investigation may continue during school breaks as determined necessary by the Title IX Coordinator.

K. Appeal Process

Both the complainant and the respondent have a right to appeal the finding(s). A written request for appeal must be submitted to the Title IX Coordinator (Shawn Goicoechea, goicoechea@hendrix.edu) within three (3) calendar days after a panel's decision is rendered. A request for appeal must be based on one of the following reasons:

- a. New relevant information exists, that was unavailable during the original investigation and panel deliberation,
- b. A material deviation from written procedures could have impacted the fairness of the panel review;
- c. The sanction(s) may be grossly disproportionate to the severity of the offense.

Appeal Review. The Title IX Coordinator will, within three (3) calendar days after receiving the request for appeal, determine whether the petition meets at least one of the three grounds for an appeal. The Title IX Coordinator may:

- a. deny the appeal if it does not meet one of the grounds;
- b. refer the complaint back to the Panel for re-opening of deliberations.
- c. Refer the complaint to a new panel for deliberations.

In the event the Title IX Coordinator is unable to process the appeal, another Title IX Deputy will process the appeal using the same guidelines. If the Title IX Coordinator or other assigned deputy is unable to provide a response to the appeal request within three days, that official will notify both parties in writing within three days of receiving the request to provide an updated timeline for determining the status of the appeal.

Appeals Procedures. If an appeal is granted and sent back to the panel, the panel will review the appeals document, any instructions or comments on the granting of appeal by the Title IX Coordinator, and any written or taped documentation regarding the original deliberation, as needed. The panel may confine their review to written or taped documentation only. However, they may speak with any student or employee involved with the investigative process for more information or clarification. The panel will respond in writing within five calendar days of receiving the appeal from the Title IX Coordinator, unless extenuating circumstances exist, in which case the parties will be notified of the modified timeline.

Response to the Appeal. An appeal may be referred to the original panel or, at the discretion of the Title IX Coordinator, a new panel may be assigned the appeal. The assigned panel may take the following action:

- a. Uphold their original decision.
- b. Increase their original sanction.
- c. Decrease their original sanction.
- d. Change the finding of responsibility.

Finality of Appeals. Decisions made by the Title IX Coordinator and/or the panel are final.

IV. Student Rights & Responsibilities

Gender-based misconduct proceedings must be conducted by officials who do not have a conflict of interest or bias for or against either party. Requests for recusal of an investigator must be submitted in writing to the Title IX Coordinator. In the event the Title IX Coordinator is the individual whose recusal is being requested please submit the request to the President of the College who will assign the task of determining the merit of the recusal to an appropriate deputy for consideration.

Both complainant and respondent have the following rights:

Confidentiality in the process:

Distribution of confidential information undermines the process of adjudicating and resolving policy violations on campus and will not be tolerated. Information provided for review by the complainant and respondent is to be accessed and used only by the respondent, complainant, their advisor, and the employees of the College assigned to adjudicate and monitor the process. Distribution of any document or other verbatim reproduction of any information provided by the College or other party in this process will result in immediate disciplinary action. Violations of confidentiality by either party are considered to be violations of the Policy Prohibiting Gender-Based Conduct. Failure to adhere to confidentiality is a violation of this policy (irrespective of whether the underlying complaint of sexual conduct is substantiated) and is subject to the full range of sanctions as any other policy violation. Any person who believes confidentiality has been violated should report the alleged violation in the same manner for reporting sexual misconduct. Alleged violations of confidentiality may be investigated along with the underlying complaint of sexual misconduct, or separately, at the discretion of the Title IX Coordinator.

The right to one advisor of your choosing. Students must provide the name of their Advisor to the investigator as soon as one is selected. Students may change their Advisor at any time during the process provided they notify the investigator immediately. Advisors may accompany a complainant or respondent to any meeting related to the gender-based conduct case. The advisor's role is limited to providing support and private advice and consultation to the student who is a complainant or respondent. Advisors may not participate in examination of witnesses or presentation of materials or information to the panel members, investigator or appeals person. Advisors may review the investigative packet, but are not permitted to copy or record materials in any way. The advisor may not directly question or submit information on behalf of the advisee. The investigator will communicate directly with complainants and respondents. The advisor may assist the student in preparation of his or her complaint/response. In addition to these specific guidelines, advisors must follow the timelines and conduct procedures provided to their advisees. The identity of the Advisor will not be withheld from either party. Advisors may be asked to leave any meeting in which their conduct is unprofessional or disrespectful of College officials and if the guidelines for advisor conduct outlined here are not followed.

Present evidence by witness. Non-members of the Hendrix community may be interviewed or present written statements pertinent to the charges in question. If witnesses fail to respond to requests for information or reasonable attempts to conduct interviews or collect statements, the process will progress without that information. Evidence must be pertinent

to the charges in question. Character witnesses are not allowed. Evidence is generally restricted to written reports and witness interviews conducted by the investigator assigned to the case. The complainant and respondent, along with their advisors, will be granted access to all written materials in accordance with the timelines outlined in this policy.

Submit questions for all witnesses. Upon review of the Initial Investigative Report and Evidence Packet the Complainant and Respondent may submit questions to be asked of the opposing party and/or any witnesses. Questions must be relevant to the investigation and may not include prohibited character/sexual history questioning. It is at the discretion of the investigator as to whether questions are allowed/administered, and if questions or their responses are included in the Final Investigative Report and Evidence Packet for panel review.

Right to Advance Notice of Panel Composition and Right to Challenge. The complainant and respondent will receive advance notice of who will serve on the panel and will be given the right to challenge any member on the basis of actual bias or conflict of interest prior to the start of panel review and deliberation. Any challenge will be decided by the Title IX Coordinator or designee.

Right to Know Outcome and Sanctions. The complainant and respondent will receive the outcome and sanctions (when applicable) in writing at the same time. Notification of the outcome will be sent within two (2) calendar days of the decision of the panel. If an appeal is filed and accepted, the Complainant and Respondent will receive notice of the appeal in writing at the same time and will receive notice of the final outcome in writing at the same time. Third party reporters will not be notified regarding the outcome of a gender-based misconduct case.

If the victim is deceased as a result of the violation, the Title IX Office will provide the finding(s) to the victim's next of kin, if so requested in writing.

Right to Appeal. Both the complainant and the respondent have a right to appeal an outcome. A written request for appeal must be submitted to the Title IX Coordinator within three (3) calendar days after a conduct decision is rendered. The decision rendered during the appeal is final. There is no appeal of appeals. (For more information on appeals please see the appropriate policy section.)

Right to not participate. Any party may choose not to participate in an investigation or appeal; however, their exercise of that option will not preclude the Title IX Coordinator or their designee, from making a determination regarding the complaint filed against the respondent. Students will be notified by the Title IX Administrator if the process is moving forward without their participation.

Parties to an investigation are expected to respond to the Title IX Administrator within a reasonable timeframe. Failing to respond will NOT stop an investigation from proceeding. Any party provided proper notice of proceedings but fails to respond to requests to meet with the Title IX Coordinator or their designee, fails to provide requested information to the

College, or fails to otherwise cooperate with the investigation, absent extenuating circumstances, that party will be deemed to have waived their opportunity to participate in the investigation.

The complainant has the right to:

Present Own Complaint or Use Proxy. The complainant has the right to present their own complaint, or to ask the college to serve as the complainant in their place. A complainant choosing not to participate in a conduct process may limit the College's ability to respond. Upon notice, some situations may require the College to respond against the wishes of the complainant in order to ensure the safety of the campus community.

Be Notified When a Complaint is Delivered to Respondent(s). Complainants are notified when a notice of allegations is delivered to the Respondent(s).

The respondent has the right to:

Be Charged with a Specific Violation of College Policies. Respondents have the right to be heard and defend themselves against allegations by participating in an investigation. In order to adequately prepare their case, it is the right of the Respondent to answer only the policy violations with which they have been charged.

V. Definitions

Consent is:

- clear,
 - ongoing,
 - knowing, and
 - voluntary
 - words or actions,
 - that give permission for specific sexual activity.
- 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 permission regarding willingness to engage in (and the conditions of) sexual activity.
 - Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
 - Previous relationships or prior consent cannot imply consent between those same individuals to future sexual acts.
 - Consent can be withdrawn once given, as long as that withdrawal is clearly communicated. If there is any question about whether consent still exists, the individuals should clarify that consent still exists.
 - In order to give consent, one must be at least 16 years old.
 - Sexual activity with someone you know to be or should know to be incapacitated constitutes a violation of this policy. The question of what the responding party should have known is objectively based on what a reasonable person in the place of the responding party, sober and exercising good judgment, would have known about the condition of the reporting party.

- The following examples demonstrate how incapacitation can occur:
 - Incapacitation can occur mentally or physically, from developmental disability, by alcohol or other drug use, including prescription drug use, or some combination thereof.
 - Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction).
 - This policy also covers a person whose incapacity results from mental disability, sleep, unconsciousness, involuntary physical restraint, or from the taking of rape drugs. Possession, use and/or distribution of any of these substances, including Rohypnol, Ketamine, GHB, Burundanga, etc. is prohibited, and administering one of these drugs to another student is a violation of this policy. More information on these drugs can be found at <http://www.911rape.org/>.

Force:

Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcomes free will or resistance or that produces consent (“Have sex with me or I’ll hit you. Okay, don’t hit me, I’ll do what you want.”).

- ✓ Coercion is unreasonable pressure for sexual activity. There is a difference between seduction and coercion. Coercing someone into sexual activity violates this policy in the same way as physically forcing someone into sex. When someone makes clear to you that they do not want sex, that they want it to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. Coercion is determined by evaluating the combined effect of the frequency, intensity, duration, and pressure applied. Additionally, isolation of parties at the time of incident in question will be considered as a contextual factor.
- ✓ *Duress* means a direct or implied threat of force, violence, danger, hardship, or retribution that is enough to cause a reasonable person of ordinary sensitivity to do or submit to something that he or she would not otherwise do or submit to. When deciding whether the act was accomplished by duress, all the circumstances, including the age of the impacted party and his or her relationship to the responding party, are relevant factors.
- ✓ *Menace* means a threat, statement, or act showing intent to injure someone. NOTE: There is no requirement for a party to resist the sexual advance or request, but resistance is typically an indication of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.

Definition of Offenses

Sexual Misconduct Offenses include, but are not limited to:

1. Sexual Harassment
2. Non-Consensual Sexual Intercourse (or attempts to commit same)
3. Non-Consensual Sexual Contact (or attempts to commit same)
4. Sexual Exploitation

Sexual Misconduct Charges

1. Sexual harassment is:

- Unwelcome,
- Sexual, sex-based and/or gender-based verbal, written, online and/or physical conduct

Sexual harassment may be disciplined when it takes the form of quid pro quo harassment, retaliatory harassment and/or creates a hostile environment.

Types of Sexual Harassment:

A hostile environment is created when sexual harassment is:

- sufficiently severe, or
- persistent or pervasive, and
- objectively offensive that it:
- unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the College's educational and/or employment, social and/or residential program.

Quid Pro Quo Harassment is:

- Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature
- By a person having power or authority over another constitutes sexual harassment when:
 - Submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational or employment progress, development, or performance.
 - This includes when submission to such conduct would be a condition for access to receiving the benefits of any educational or employment program.

2. Non-Consensual Sexual Intercourse is

- any sexual intercourse (anal, oral, or vaginal),
- however slight,
- with any object,
- by a person upon a person,
- that is without consent as defined by this Policy.

By way of example, this includes:

vaginal or anal penetration by a penis, object, tongue or finger, and oral penetration or mouth to genital contact, no matter how slight the penetration or contact.

3. Non-Consensual Sexual Contact is

- any intentional sexual touching,
- however slight,
- with any object,

- by a person upon a person,
- that is without consent and/or by force.

Sexual Contact includes:

Intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts

4. Sexual Exploitation:

- ✓ Occurs when one person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:
 - ✓ Invasion of sexual privacy;
 - ✓ Offering another person for sexual activity for purpose of benefiting oneself;
 - ✓ Non-consensual digital, video or audio recording of nudity or sexual activity;
 - ✓ Unauthorized sharing or distribution of digital, video or audio recording of nudity or sexual activity;
 - ✓ Engaging in voyeurism;
 - ✓ Going beyond the boundaries of consent with respect to viewing, recording or transmission (such as letting your friend hide in the closet to watch you having consensual sex);
 - ✓ Knowingly exposing someone to or transmitting an STI, STD or HIV to another person;
 - ✓ Intentionally or recklessly exposing one’s genitals in non-consensual circumstances; inducing another to expose their genitals;
 - ✓ Sexually-based stalking and/or bullying may also be forms of sexual exploitation
 - ✓ Removing a condom during sex without the consent of the partner, or “stealthling”

Relationship Violence Offenses

1. Dating Violence
2. Domestic Violence
3. Stalking

Relationship Violence Charges

1. Dating Violence

- Violence committed by a person who is or has been in a social relationship of a romantic nature with the victim. Dating violence includes sexual or physical abuse or the threat of such abuse.
 - ✓ The existence of such a relationship shall be based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

2. Domestic Violence

- ✓ Violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child, or a person cohabitating with the victim.

3. Stalking

- ✓ A course of conduct directed at a specific person that is unwelcome and would cause a reasonable person to either fear for his or her safety or the safety of others or suffer substantial emotional distress.
 - Stalking is the repeated following, watching or harassing of a specific person that would cause a reasonable person to (a) fear for his or her safety or the safety of others, or (b) suffer substantial emotional distress.

VI-Active Bystander and Risk Reduction Tips

How to Be an Active Bystander

Bystanders play a critical role in the prevention of sexual and relationship violence. They are “individuals who observe violence or witness the conditions that perpetuate violence. They are not directly involved but have the choice to intervene, speak up, or do something about it.”¹ We want to promote a culture of community accountability where bystanders are actively engaged in the prevention of violence without causing further harm. We may not always know what to do even if we want to help. Below is a list² of some ways to be an active bystander. Further information regarding bystander intervention may be found. If you or someone else is in immediate danger, dial 911. This could be when a person is yelling at or being physically abusive towards another and it is not safe for you to interrupt.

1. Watch out for your friends and fellow students/employees. If you see someone who looks like they could be in trouble or need help, ask if they are ok.
2. Confront people who seclude, hit on, try to make out with, or have sex with people who are incapacitated.
3. Speak up when someone discusses plans to take sexual advantage of another person.
4. Believe someone who discloses sexual assault, abusive behavior, or experience with stalking.
5. Refer people to on or off campus resources listed in this document for support in health, counseling, or with legal assistance.

For initiators of sexual activity

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct:

1. **DON'T MAKE ASSUMPTIONS** About consent; About someone's sexual availability; About whether they are attracted to you; About how far you can go; About whether they are physically and mentally able to consent to you.
2. Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
3. Mixed messages from your partner should be a clear indication that you should step back, defuse the sexual tension, and communicate better. Perhaps you are misreading them. Perhaps they haven't figured out how far they want to go with you yet. You need to respect the timeline with which they are comfortable.
4. Don't take advantage of someone's drunkenness or drugged state, even if they did it to themselves.
5. 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.
6. Understand that consent to some forms of sexual behavior does not necessarily imply consent to other forms of sexual behavior.
7. On this campus, silence and passivity cannot be interpreted by you as an indication of consent. Read your potential partner carefully, paying attention to verbal and nonverbal communication and body language.

Risk Reduction Tips

With no intent to victim blame and recognizing that only abusers are responsible for their abuse, the following are some strategies to reduce one's risk of sexual assault or harassment (taken from Rape, Abuse, & Incest National Network, www.rainn.org)

- If you have limits, make them known before things go too far.
- **Tell a sexual aggressor "NO"** clearly and loudly, like you mean it.
- Try to extricate yourself from the physical presence of a sexual aggressor.
- Grab someone nearby and ask for help.
- Be responsible for your alcohol intake/drug use and realize 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.
- **Be aware of incapacitating drugs** like Rohypnol and GHB. See the detailed information below or go to www.911rape.org.
- **Be aware** of your surroundings. Knowing where you are and who is around you may help you to find a way to get out of a bad situation.
- Try to **avoid isolated areas**. It is more difficult to get help if no one is around.
- **Walk with purpose**. Even if you don't know where you are going, act like you do.
- **Trust your instincts**. If a situation or location feels unsafe or uncomfortable, it probably isn't the best place to be.
- **Try not to load yourself down** with packages or bags as this can make you appear more vulnerable.
- **Make sure your cell phone is with you** and charged and that you have cab money.
- **Don't allow yourself to be isolated** with someone you don't trust or someone you don't know.
- **Avoid putting music headphones in both ears** so that you can be more aware of your surroundings, especially if you are walking alone.
- **When you go to a social gathering, go with a group of friends**. Arrive together, check in with each other throughout the evening, and leave together. Knowing where you are and who is around you may help you to find a way out of a bad situation.
- **Trust your instincts**. If you feel unsafe in any situation, go with your gut. If you see something suspicious, contact law enforcement immediately (local authorities can be reached by calling 911 in most areas of the U.S.).
- **Don't leave your drink unattended** while talking, dancing, using the restroom, or making a phone call. If you've left your drink alone, just get a new one.
- **Don't accept drinks from people you don't know or trust**. If you choose to accept a drink, go with the person to the bar to order it, watch it being poured, and carry it yourself. At parties, don't drink from the punch bowls or other large, common open containers.
- **Watch out for your friends, and vice versa**. If a friend seems out of it, is way too intoxicated for the amount of alcohol they've had, or is acting out of character, get him or her to a safe place immediately. A real friend will get in your face if you are about to make a mistake. Respect them if they do.
- **If you suspect you or a friend has been drugged, contact law enforcement immediately (local authorities can be reached by calling 911 in most areas of the U.S.)**. Be explicit with doctors so they can give you the correct tests (you will need a urine test and possibly others).

- If you need to get out of an uncomfortable or scary situation here are some things that you can try:
- **Remember that being in this situation is not your fault.** You did not do anything wrong, it is the person who is making you uncomfortable that is to blame.
- **Be true to yourself.** Don't feel obligated to do anything you don't want to do. "I don't want to" is always a good enough reason. Do what feels right to you and what you are comfortable with.
- **Have a code word with your friends or family** so that if you don't feel comfortable you can call them and communicate your discomfort without the person you are with knowing. Your friends or family can then come to get you or make up an excuse for you to leave.
- **Lie.** If you don't want to hurt the person's feelings it is better to lie and make up a reason to leave than to stay and be uncomfortable, scared, or worse. Some excuses you could use are: needing to take care of a friend or family member, not feeling well, having somewhere else that you need to be, etc.
- **Try to think of an escape route.** How would you try to get out of the room? Where are the doors? Windows? Are there people around who might be able to help you? Is there an emergency phone nearby?
- **If you and/or the other person have been drinking,** you can say that you would rather wait until you both have your full judgment before doing anything you may regret later.

VII-Education/Awareness/Resources

Programs to prevent sexual misconduct and relationship violence

Hendrix College provides programming to students and employees to prevent sex offenses, dating violence, domestic violence, and stalking. These programs include primary prevention awareness programs directed at incoming students and new employees and ongoing prevention and awareness campaigns directed at students and employees. We are committed to providing such programs that are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome. In planning and implementing these programs we consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels.

These programs are sponsored by diverse departments and organizations on campus. For example, the Human Resources department provides programming for incoming employees. The Office of Student Activities and the Dean of Students Office provides programming for incoming students. Ongoing programming is provided by these departments and other departments and organizations throughout campus, including Residence Life, the Coalition on Gender and Sexuality, and Counseling Services. Examples of programming include freshmen orientation events Choices 101 and 102, sexual harassment training provided to employees, including student employees, the Take Back the Night event, and the posting and distribution of informational posters and brochures.

Federal Timely Warning Reporting Obligations

Victims of sexual misconduct should also be aware that college administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. The college will make every effort to ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger.

Federal Statistical Reporting Obligations

Certain campus officials – those deemed Campus Security Authorities - have a duty to report certain crimes, including but not limited to sexual assault, domestic violence, dating violence and stalking for federal statistical reporting purposes (Clery Act). 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 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 for reports of Clery crimes 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.

Legal Definitions

This section is for reference only and definitions in this policy are independent of state and federal legal definitions. All conduct processes address violations of Hendrix College Student handbook and are not intended to take the place of criminal proceedings. In the event that a student would like to pursue criminal charges they may do so without interfering with or otherwise altering any above mentioned process or rights. The Title Investigator (501-505-2901) or Public Safety (501-450-7711) will assist students who wish to make a report to law enforcement and the request of the student.

Arkansas state law definitions pertaining to sexual assault, domestic violence, dating violence, and stalking. THESE ARE THE DEFINITIONS USED FOR LAW ENFORCEMENT. These definitions do NOT apply to the College's definitions of prohibited conduct.

Sexual Assault - is a generic term that is defined as any involuntary sexual act in which a person is threatened, coerced, or forced to engage against his/her will to include (but not limited to rape, acquaintance rape, date rape, and gang rape).

Arkansas legal definition of rape - A person commits rape if he/she engages in sexual intercourse or deviant sexual activity with another person: (a) by forcible compulsion; (b) who is incapable of consent because he/she is physically helpless; or, (c) who is less than fourteen (14) years old (the assailant must be two years older than the victim for this to apply); or (d) where the victim is less than sixteen (16) years old and is incapable of consent because of being mentally defective or mentally incapacitated. Rape is a Class Y 114 felony.

Arkansas legal definition of sexual misconduct – A person commits sexual misconduct if he/she engages in sexual intercourse or deviate sexual activity with another person not

his/her spouse who is less than sixteen (16) years old. Sexual misconduct is a Class B misdemeanor.

Acquaintance rape refers to a rape committed by a non-stranger who is known to the victim, and can include a friend, acquaintance, family member, neighbor, classmate, or co-worker.

Date rape refers to a type of acquaintance rape where the victim has consented to accompany or go on a date with the perpetrator.

Gang rape is a rape that involves more than one perpetrator.

The Arkansas statute on rape is genderless, which means that both men and women can be rape victims and perpetrators. Sexual assault can occur whenever consent is not freely given by the victim; whenever the victim fears that he/she will be injured if he/she does not submit; whenever the victim is incapable of giving consent or resisting due to alcohol or drugs; and whenever the perpetrator uses physical force, threat, coercion, or intimidation to overpower the victim.

Incest occurs when a person, being sixteen (16) years of age or older, purports to marry, has sexual intercourse with, or engages in deviate sexual activity with another person sixteen (16) years of age or older whom the actor knows to be: **(1)** An ancestor or a descendant; **(2)** A stepchild or adopted child; **(3)** A brother or sister of the whole or half-blood; **(4)** An uncle, aunt, nephew, or niece; or **(5)** A step grandchild or adopted grandchild. Incest is a Class C felony.

Sexual Assault

Sexual assault in the first degree occurs when the person engages in sexual intercourse or deviate sexual activity with a minor who is not the actor's spouse and the actor is (A) Employed with the Department of Correction, the Department of Community Correction, the Department of Human Services, or any city or county jail or a juvenile detention facility, and the victim is in the custody of the Department of Correction, the Department of Community Correction, the Department of Human Services, any city or county jail or juvenile detention facility, or their contractors or agents; **(B)** A mandated reporter under § 12-18-402(b) and is in a position of trust or authority over the victim and uses the position of trust or authority to engage in sexual intercourse or deviate sexual activity; or **(C)** An employee in the victim's school or school district, a temporary caretaker, or a person in a position of trust or authority over the and uses his or her position of trust or authority over the victim to engage in sexual intercourse or deviate sexual activity. Sexual assault in the first degree is a Class A felony.

Sexual assault in the second degree occurs when (a) A person (1) Engages in sexual contact with another person by forcible compulsion; (2) Engages in sexual contact with another

person who is incapable of consent because he or she is: Physically helpless; Mentally defective; or Mentally incapacitated; (3) Being eighteen (18) years of age or older, engages in sexual contact with another person who is: Less than fourteen (14) years of age; and not the person's spouse. Sexual assault in the second degree is a Class B felony.

Sexual assault in the second degree is a Class D felony if committed by a minor with another person who is: Less than fourteen (14) years of age; and not the person's spouse.

Sexual assault in the third degree occurs when a person engages in sexual intercourse or deviate sexual activity with another person who is not the actor's spouse, and the actor is: (A) Employed with the Department of Correction, Department of Community Correction, Department of Human Services, or any city or county jail, and the victim is in the custody of the Department of Correction, Department of Community Correction, Department of Human Services, or any city or county jail; (B) Employed or contracted with or otherwise providing services, supplies, or supervision to an agency maintaining custody of inmates, detainees, or juveniles, and the victim is in the custody of the Department of Correction, Department of Community Correction, Department of Human Services, or any city or county jail; or (C) A mandated reporter under § 12-18-402(b) or a member of the clergy and is in a position of trust or authority over the victim and uses the position of trust or authority to engage in sexual intercourse or deviate sexual activity; or being a minor, engages in sexual intercourse or deviate sexual activity with another person who is: less than fourteen (14) years of age; and not the person's spouse. Sexual assault in the third degree is a Class C felony.

Sexual assault in the fourth degree occurs when a person being twenty (20) years of age or older: (A) Engages in sexual intercourse, deviate sexual activity, or sexual contact with another person who is: less than sixteen (16) years of age; and not the person's spouse; or Sexual assault in the fourth degree under subdivisions (a)(1)(A) and (a)(2) is a Class D felony. Sexual assault in the fourth degree under subdivision (a)(1)(B) is a Class A misdemeanor if the person engages only in sexual contact with another person as described in subdivision (a)(1)(B).

Domestic Violence

Domestic battering in the first degree.

(a) A person commits domestic battering in the first degree if: (1) With the purpose of causing serious physical injury to a family or household member, the person causes serious physical injury to a family or household member by means of a deadly weapon; (2) With the purpose of seriously and permanently disfiguring a family or household member or of destroying, amputating, or permanently disabling a member or organ of a family or household member's body, the person causes such an injury to a family or household member; (3) The person causes serious physical injury to a family or household member under circumstances manifesting extreme indifference to the value of human life; (4) The person knowingly causes serious physical injury to a family or household member he or she knows to be sixty (60) years of age or older or twelve (12) years of age or younger; or (5) The person: (A) Commits any act of domestic battering as defined in § 5-26-304 or § 5-26-305; and (B) For conduct that occurred within the ten (10) years preceding the commission

of the current offense, the person has on two (2) previous occasions been convicted of any act of battery against a family or household member as defined by the laws of this state or by the equivalent laws of any other state or foreign jurisdiction. Domestic battering in the first degree is a Class B felony.

However, domestic battering in the first degree is a Class A felony upon a conviction under subsection (a) of this section if: **(A)** Committed against a woman the person knew or should have known was pregnant; or **(B)** The person committed one (1) or more of the following offenses within five (5) years of the offense of domestic battering in the first degree: Domestic battering in the first, second, or third degree or a violation of an equivalent penal law of this state or of another state or foreign jurisdiction.

Domestic battering in the second degree.

(a) A person commits domestic battering in the second degree if: **(1)** With the purpose of causing physical injury to a family or household member, the person causes serious physical injury to a family or household member; **(2)** With the purpose of causing physical injury to a family or household member, the person causes physical injury to a family or household member by means of a deadly weapon; **(3)** The person recklessly causes serious physical injury to a family or household member by means of a deadly weapon; or **(4)** The person knowingly causes physical injury to a family or household member he or she knows to be sixty (60) years of age or older or twelve (12) years of age or younger. Domestic battering in the second degree is a Class C felony.

However, domestic battering in the second degree is a Class B felony if: **(A)** Committed against a woman the person knew or should have known was pregnant; **(B)** The person committed one (1) or more of the following offenses within five (5) years of the offense of domestic battering in the second degree: Domestic battering in the first, second, or third degree or a violation of an equivalent penal law of this state or of another state or foreign jurisdiction or **(C)** The person committed two (2) or more offenses of battery against a family or household member as defined by a law of this state or by an equivalent law of any other state or foreign jurisdiction within ten (10) years of the offense of domestic battering in the second degree.

Domestic battering in the third degree.

(a) A person commits domestic battering in the third degree if: **(1)** With the purpose of causing physical injury to a family or household member, the person causes physical injury to a family or household member; **(2)** The person recklessly causes physical injury to a family or household member; **(3)** The person negligently causes physical injury to a family or household member by means of a deadly weapon; or **(4)** The person purposely causes stupor, unconsciousness, or physical or mental impairment or injury to a family or household member by administering to the family or household member, without the family or household member's consent, any drug or other substance. Domestic battering in the third degree is a Class A misdemeanor.

However, domestic battering in the third degree is a Class D felony if: **(A)** Committed against a woman the person knew or should have known was pregnant; **(B)** The person committed one (1) or more of the following offenses within five (5) years of the offense of domestic battering in the third degree: Domestic battering in the first, second, or third degree or a violation of an equivalent penal law of this state or of another state or foreign jurisdiction , aggravated assault on a family or household member, § 5-26-306; or **(C)** The person committed two (2) or more offenses of battery against a family or household member as defined by a law of this state or by an equivalent law of any other state or foreign jurisdiction within ten (10) years of the offense of domestic battering in the second degree.

Dating Violence

Dating violence: Arkansas state statutes do not address dating violence separately from domestic violence and assault and battery.

Stalking

(a) (1) A person commits stalking in the first degree if he or she knowingly engages in a course of conduct that would place a reasonable person in the victim's position under emotional distress and in fear for his or her safety or a third person's safety, and the actor: **(A)** Does so in contravention of an order of protection consistent with the Domestic Abuse Act of 1991, § 9-15-101 et seq., or a no contact order as set out in subdivision (a)(2)(A) of this section, protecting the same victim, or any other order issued by any court protecting the same victim; **(B)** Has been convicted within the previous ten (10) years of: **(i)**

Stalking in the second degree; **(ii)** Terroristic threatening, § 5-13-301 or terroristic act, § 5-13-310; or **(iii)** Stalking or threats against another person's safety under the statutory provisions of any other state jurisdiction; or **(C)** Is armed with a deadly weapon or represents by word or conduct that he or she is armed with a deadly weapon.

Stalking in the first degree is a Class C felony.

(b) (1) A person commits stalking in the second degree if he or she knowingly engages in a course of conduct that harasses another person and makes a terroristic threat with the purpose of placing that person in imminent fear of death or serious bodily injury or placing that person in imminent fear of the death or serious bodily injury of his or her immediate family. Stalking in the second degree is a Class D felony.

(c) (1) A person commits stalking in the third degree if he or she knowingly commits an act that would place a reasonable person in the victim's position under emotional distress and in fear for his or her safety or a third person's safety. Stalking in the third degree is a Class A misdemeanor.

In the National Incident-Based Reporting System User Manual from the FBI UCR Program, non-consensual sexual intercourse is referred to as **Rape** and is defined as the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

In the National Incident-Based Reporting System User Manual from the FBI UCR Program, non-consensual sexual contact is referred to as **Fondling** and is defined as the touching of the private parts of another person for the purposes of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

Sex Offender Registry

The campus community should contact the Conway Police Department (501-450-6120) for listings and information regarding registered sex offenders, or visit the Arkansas Crime Information Center at: <http://acic.org/offender-search/index.php>

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