

PACIFIC COLLEGE OF ORIENTAL MEDICINE
POLICY ON SEXUAL MISCONDUCT

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I. Policy Statement

Every member of The Pacific College of Oriental Medicine (PCOM) community, including students, employees and visitors, deserves the opportunity to live, learn and work free from sexual harassment, gender-based harassment and sexual violence. Accordingly, PCOM is committed to:

- 1) Defining conduct that constitutes prohibited sexual harassment, gender-based harassment and sexual violence;
- 2) Providing clear guidelines for students, employees and visitors on how to report incidents of sexual harassment, gender-based harassment and sexual violence and a commitment that any complaints will be handled respectfully;
- 3) Promptly responding to and investigating allegations of sexual harassment, gender-based harassment and sexual violence, pursuing disciplinary action when appropriate, referring the incident to local law enforcement when appropriate, and taking action to investigate and address any allegations of retaliation;
- 4) Providing ongoing assistance and support to students and employees who make allegations of sexual harassment, gender-based harassment and sexual violence;
- 5) Providing awareness and prevention information on sexual harassment, gender-based harassment and sexual violence, including widely disseminating this policy, as well as a “students’ bill of rights” and implementing training and educational programs on sexual harassment, gender-based harassment and sexual violence to college constituencies; and
- 6) Gathering and analyzing information and data that will be reviewed in order to improve safety, reporting, responsiveness and the resolution of incidents.

This is the sole policy at PCOM addressing sexual harassment, gender-based harassment and sexual violence and is applicable at all units at the College.

In addition, campus crime statistics, including statistics relating to sexual violence, which PCOM is required to report under the Jeanne Clery Act, are available on the college website and from the student advisors.

II. Prohibited Conduct

A. Sexual Harassment, Gender-Based Harassment and Sexual Violence

This policy prohibits sexual harassment, gender-based harassment and sexual violence (together “sexual misconduct”) against any PCOM student, employee or visitor.

Sexual harassment includes unwelcome conduct of a sexual nature, such as unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, graphic and electronic communications or physical conduct that is sufficiently serious to adversely affect an individual’s participation in employment, education or other PCOM activities.

Gender-based harassment is unwelcome conduct of a nonsexual nature based on an individual’s actual or perceived sex, including conduct based on gender identity, gender expression, and nonconformity with gender stereotypes that is sufficiently serious to adversely affect an individual’s participation in employment, education or other PCOM activities.

Sexual violence is an umbrella term that includes: (1) sexual activity without affirmative consent, such as sexual assault, rape/attempted rape, and forcible touching/fondling; (2) dating, domestic and intimate partner violence; (3) stalking/cyberstalking (“stalking”) as defined in this policy.

The complete definitions of these terms, as well as other key terms used in this policy, are set forth in Section XI below.

- B. **Retaliation.** This policy prohibits retaliation against any person who reports sexual harassment, gender-based harassment or sexual violence, assists someone making such a report, or participates in any manner in an investigation or resolution of a sexual harassment, gender-based harassment or sexual violence complaint.
- C. **Certain Intimate Relationships.** This policy also strongly discourages certain intimate relationships when they occur between a faculty member or employee and any student for whom he or she has a professional responsibility as set forth in Section X below.

III. Title IX Coordinator

PCOM has an employee who has been designated as the Title IX Coordinator. This employee is responsible for compliance with Title IX of the Education Amendments of 1972, which prohibits sex discrimination, including sexual harassment, gender-based harassment and sexual violence, in education programs. The Title IX Coordinator has overall responsibility for implementing this policy, including overseeing the investigation of complaints at her/his college or unit and carrying out the other functions of that position set forth in this policy. The Title IX Coordinator may designate the Campus Director or other appropriate staff to assist in investigating a complaint and/or enforcing this policy. The Title IX Coordinator shall receive annual training on sexual harassment, gender-based harassment and sexual violence as required by law.

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IV. Immediate Assistance in Cases of Sexual Violence

A. Reporting to Law Enforcement

Students or employees who experience any form of sexual violence are strongly encouraged to immediately report the incident by calling 911, contacting the Police Department Special Victims Division or their local police precinct, or contacting WellConnect, which is available 24 hours a day, 7 days a week.

B. Obtaining Immediate Medical Attention and Emotional Support

PCOM is committed to assisting anyone who experiences sexual violence to seek comprehensive medical attention as soon as possible to treat injuries, obtain preventative treatment for sexually transmitted diseases, and preserve evidence, among other things. For rapes in particular, immediate treatment and the preservation of evidence of the incident are important for many reasons, including facilitating a criminal investigation. In addition, individuals who have experienced or witnessed sexual violence are encouraged to seek emotional support as soon as possible, either on or off-campus.

For off-campus resources, PCOM maintains a list of emergency contacts and resources, including rape crisis centers, on its dedicated Title IX web page. This list includes a designation of which local hospitals are designated as SAFE (Sexual Assault Forensic Examiner) hospitals, which are specially equipped to handle sexual assaults and trained to gather evidence from such assaults.

V. Reporting Sexual Harassment, Gender-Based Harassment or Sexual Violence to the College

PCOM encourages individuals who have experienced sexual harassment, gender-based harassment or sexual violence (referred to in this policy as “complainants”) to report the incident(s) to campus authorities, even if they have reported the incident to outside law enforcement authorities, and regardless of whether the incident took place on or off-campus. Such reporting will enable complainants to get the support they need and provide the college with the information it needs to take appropriate action. However, students should be aware that there are employees at their college/unit whom they can speak with on a strictly confidential basis before determining whether to make a report to college authorities. See Section VI below.

A. Filing a Complaint with Campus Authorities

1. Students

Students who experience sexual harassment, gender-based harassment or sexual violence should bring their complaint to the Title IX Coordinator.

2. Employees

Employees who experience sexual harassment, gender-based harassment or sexual violence should bring their complaint to the Campus Director or VP of Human Resources.

3. Visitors

Visitors who experience sexual harassment, gender-based harassment or sexual violence should bring their complaint to the Campus Director or VP of Human Resources.

Once the Title IX Coordinator, Campus Director or the VP of Human Resources has been contacted, she/he will address the matter in accordance with this policy, including taking appropriate interim and supportive measures. The Title IX Coordinator and/or VP of Human Resources will maintain a complainant's privacy to the greatest extent possible, and all information in connection with the complaint, including the identities of the complainant and the respondent, will be shared only with those who have a legitimate need for the information.

B. Support Assistance for Complainants

1. Students

When a Title IX Coordinator receives a complaint of sexual misconduct from a student, she/he will work with the Campus Director to identify a trained staff member to assist the complainant with support services.

2. Employees

When a Title IX Coordinator receives a complaint of sexual misconduct from an employee, she/he will work with the VP of Human Resources to assist the complainant with support services.

C. Request that the College Maintain a Complainant's Confidentiality, Not Conduct an Investigation, or Not Report an Incident to Outside Law Enforcement

After a report of an alleged incident of sexual harassment, gender-based harassment or sexual violence has been made to the Title IX Coordinator, a complainant may request that the matter be investigated without her/his identity or any details regarding the incident being divulged further. Alternatively, a complainant may request that no investigation into a particular incident be conducted or that an incident not be reported to outside law enforcement.

In all such cases, the Title IX Coordinator will weigh the complainant's request against the college's obligation to provide a safe, non-discriminatory environment for all students, employees and visitors, including the complainant. A decision to maintain confidentiality does not mean that confidentiality can be absolutely guaranteed in all circumstances, but only that all efforts will be undertaken to keep information confidential consistent with law. Notwithstanding the decision of the Title IX Coordinator regarding the scope of any investigation, the college will provide the complainant with ongoing assistance and support, including, where appropriate, the interim and supportive measures set forth in Section VII of this policy.

If the Title IX Coordinator determines that she/he will maintain confidentiality as requested by the complainant, the college will take all reasonable steps to investigate the incident consistent with the request for confidentiality. However, a college's ability to meaningfully investigate the incident and pursue disciplinary action may be limited by such a request.

In any event, the college is required to abide by any laws mandating disclosure, such as the Jeanne Clery Act and Campus Safety Act. However, notification under the Jeanne Clery Act is done without divulging the complaint's identity, and notification of sexual violence under the Campus Safety Act is not required and will not be done if the complainant requests confidentiality.

If the Title IX Coordinator determines that the college must report the incident to outside law enforcement, the college will cooperate with any criminal investigation, which may include providing the outside law enforcement agency with any evidence in its possession relating to the incident.

D. Action by Bystanders and Other Community Members

While those employees designated as “responsible” employees are required reporters as set forth in Section VI below, PCOM encourages all other community members, including faculty, students and visitors, to take reasonable and prudent actions to prevent or stop an act of sexual harassment, gender-based harassment or sexual violence that they may witness. Although these actions will depend on the circumstances, they include direct intervention, calling law enforcement, or seeking assistance from a person in authority.

In addition, PCOM encourages all community members to report an incident of sexual harassment, gender-based harassment or sexual violence that they observe or become aware of to the Title IX Coordinator and/or Campus Director and, in the case of employees, Human Resources. Community members who take action in accordance with this paragraph will be supported by the college, and anyone who retaliates against them will be subject to disciplinary charges.

E. Amnesty for Drug and Alcohol Use

PCOM strongly encourages students to report instances of sexual harassment, gender-based harassment or sexual violence as soon as possible, even if those reporting or the alleged victim may have engaged in the inappropriate or unlawful use of alcohol or drugs. Therefore, in accordance with PCOM’s Drug/Alcohol Use Amnesty Policy, a student acting in good faith who reports or experiences sexual harassment, gender-based harassment or sexual violence will not be disciplined by the college for any violation of PCOM’s Policy Against Drugs and Alcohol in connection with the reported incident.

F. Reporting Suspected Child Abuse

Certain members of the PCOM community who interact with, supervise, chaperone, or otherwise oversee minors in programs or activities at PCOM or sponsored by PCOM are required to report immediately to the New York State Maltreatment Hotline if they have reasonable cause to suspect abuse or maltreatment of individuals under the age of 18. If anyone other than mandated reporters has reasonable cause to believe that a minor is being or has been abused or maltreated on campus, she/he should notify either the Title IX Coordinator or Campus Director. If any PCOM community member witnesses child abuse while it is happening, she/he should immediately call 911.

G. Reporting Retaliation

An individual may file a complaint with the Title IX Coordinator if she/he has been retaliated against for reporting sexual harassment, gender-based harassment or sexual violence, assisting someone making such a report, or participating in any manner in an investigation or resolution of a sexual harassment, gender-based harassment or sexual violence complaint. All retaliation complaints will be investigated in accordance with the investigation procedures set forth in Section VIII of this policy, and individuals who are found to have engaged in retaliation will be subject to disciplinary action.

VI. Reporting/Confidentiality Obligations of College and University Employees

An individual who speaks to a college or PCOM employee about sexual harassment, gender-based harassment or sexual violence should be aware that employees fall into three categories:

(1) “confidential” employees, who have an obligation to maintain a complainant’s confidentiality regarding the incident(s); (2) “responsible” employees, who are required to report the incident(s) to the Title IX Coordinator; and (3) all other employees, who are strongly encouraged but not required to report the incident(s).

A. Confidential Employees

- i. For Students.** Students at PCOM who wish to speak to someone who will keep all of the communications strictly confidential should speak to one of the following:

- Campus Director

The above individuals will not report any information about an incident to the college's Title IX Coordinator or other college employees without the student's permission. The only exception is in the case where there is an imminent threat to the complainant or any other person.

A student who speaks solely to a "confidential" employee is advised that, if the student wants to maintain confidentiality, the college may be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator. However, these professionals will assist the student in receiving other necessary support. A student who first requests confidentiality may later decide to file a complaint with the college or report the incident to local law enforcement and thus have the incident investigated.

- ii. For Employees.** For employees who wish to speak to someone confidentially, they can contact the VP of Human Resources. Confidential community counseling resources are also available through WellConnect.

B. "Responsible" Employees

"Responsible" employees have a duty to report incidents of sexual harassment, gender-based harassment or sexual violence, including all relevant details, to the Title IX Coordinator. Such employees are not permitted under any circumstances to maintain a complainant's confidentiality, except that the Title IX Coordinator may honor a request for confidentiality under the circumstances described in Section V (C) above. However, these employees will maintain a complainant's privacy to the greatest extent possible, and information reported to them will be shared only with the Title IX Coordinator, the "responsible" employee's supervisor, and other people responsible for handling the college's response to the report.

Before a complainant reveals any information to a responsible employee, the employee shall advise the complainant of the employee's reporting obligations—and if the complainant wants to maintain confidentiality, direct the complainant to confidential resources.

PCOM has designated the following individuals as "responsible" employees:

- Title IX Coordinator and her/his staff
- Vice Presidents
- College President
- Deans
- Department Chairpersons
- Human Resources staff (all)
- Faculty or staff advisors to student groups
- Employees who are Managers (all), not including the Academic Dean and Campus Director

C. All Other Employees

Employees other than those identified in subsections “A” and “B” above are permitted but not required to report any possible sexual harassment, gender-based harassment or sexual violence; however, they are strongly encouraged by PCOM to make such a report.

It is important to emphasize that faculty members other than those specifically identified in subsection “B” above have not been designated as “responsible” employees and do not have an obligation to report the matter to the Title IX Coordinator, although they are strongly encouraged to do so.

VII. Interim and Supportive Measures

The college will take immediate steps to protect the complainant and other affected parties, as well as the college community at large, following an allegation of sexual harassment, gender-based harassment or sexual violence. In general, when taking such interim and supportive measures, the college will seek to minimize the burden on the complainant. The complainant and the respondent shall each be afforded, upon request, a prompt review of the need for and terms of any interim or supportive measure that directly affects him or her and shall be permitted to submit evidence in support of his/her request. The request for such a review shall be made to the college’s Title IX Coordinator or the Campus Director.

A. Types of Interim and Supportive Measures

Interim and supportive measures may include, among other things:

- i. Making necessary changes to academic programs, including a change in class schedule, making appropriate accommodations to permit the complainant to take an incomplete or drop a course or courses without penalty, or other alternative means where appropriate, providing an academic tutor, or extending deadlines for assignments;
- ii. Changing an employee’s work assignment or schedule;
- iii. Prohibiting contact between the complainant and the respondent (“no contact” orders);
- iv. Offering counseling services to the complainant, to the respondent, and, where appropriate, to a referral to an off-campus agency;
- v. Providing the complainant assistance in obtaining medical and other services, including access to rape crisis centers;
- vi. Providing the complainant assistance with filing a criminal complaint and seeking an order of protection;
- vii. Enforcing an order of protection;
- viii. Addressing situations in which it appears that a complainant’s academic progress is affected by the alleged incident;
- ix. In exceptional circumstances, seeking an emergency suspension of a student or an employee under applicable PCOM rules.

B. Process for Review of “No Contact” Orders

The complainant and the respondent shall each be afforded, upon request, a prompt review of the need for and terms of a “no contact” order (including possible modification or discontinuance of the order), and shall be allowed to submit evidence to support their request. The request for such a review shall be made to the college’s Title IX Coordinator, if either the complainant or the respondent is a student, or to the college’s VP of Human Resources, if both the complainant and the respondent are employees.

VIII. Investigating Complaints of Sexual Harassment, Gender-Based Harassment or Sexual Violence

The college will conduct an investigation when it becomes aware, from any source (including third-parties not connected to the College), that sexual harassment, gender-based harassment or sexual violence may have been committed against a student, employee or visitor, unless the complainant has requested that the college refrain from such an investigation and the college has determined that it may do so.

A. The Investigation

The college Title IX Coordinator is responsible for conducting the investigation in a prompt, thorough, and impartial manner. The college Title IX Coordinator shall inform the respondent that an investigation is being commenced and shall provide the respondent with a written summary of the allegations of the complaint. The Title IX Coordinator shall coordinate investigative efforts and may designate another individual to conduct all or part of the investigation.

The college Title IX Coordinator shall take prompt steps reasonably calculated to end any sexual harassment, gender-based harassment or sexual violence, including: (i) taking interim measures; (ii) preventing retaliation; (iii) providing the complainant and the respondent with periodic status updates of the investigation and notice of outcome of the investigation; (iv) informing the complainant of her/his right to file a criminal complaint; (v) coordinating with law enforcement agencies, as appropriate; (vi) maintaining all documents of the investigation; and (vii) drafting a report of findings, which is to be submitted to the College President.

B. Conflicts

If any administrator designated by this policy to participate in the investigation or resolution of a complaint (including but not limited to the Title IX Coordinator) is the respondent, the Campus Director will appoint another college administrator to perform such person's duties under this policy. If the Campus Director is the respondent, the investigation will be handled by the College Title IX Coordinator or her/his designee.

C. Timing

PCOM shall make every reasonable effort to ensure that the investigation and resolution of a complaint are carried out as timely and efficiently as possible. However, the College may need to temporarily delay the fact-finding portion of its investigation during the evidence-gathering phase of a law enforcement investigation. While some complaints may require extensive investigation, whenever possible, the investigation of complaints should be completed within 4 weeks of the receipt of the complaint. If there is a delay in completing the investigation, the Title IX Coordinator shall notify the complainant and the respondent in writing.

D. Report of Findings

Following the completion of the investigation, the Title IX Coordinator shall report her/his findings to the Campus Director in writing. Following such report, the Campus Director shall review the complaint investigation report and authorize such action as she/he deems necessary to address the issues raised by the findings. A copy of the report shall be maintained in the files of the Title IX Coordinator.

E. Disciplinary Action

Following an investigation, the College President may recommend that disciplinary action be commenced against the respondent student or employee.

1. Discipline Against Students

In cases where a student is charged with a violation of this policy, including retaliation, the matter shall be taken in accordance with PCOM policies, which contains the student disciplinary process at PCOM. Under the student disciplinary process, complainants have the same right as respondents to receive notice of the charges, to attend and participate fully in a disciplinary process, to receive notice of the decision of the faculty-student disciplinary committee, and to appeal. Penalties for students instituted after a hearing range from a warning to suspension or expulsion from the college.

2. Discipline Against Employees

In cases where an employee is charged with a violation of this policy, including retaliation, the matter shall be referred for disciplinary action in accordance with the applicable PCOM policies. Penalties for employees include reprimand, suspension or termination of employment following applicable disciplinary procedures.

3. Action Against Visitors

In cases where the person accused of sexual harassment, gender-based harassment or sexual violence is neither a PCOM student nor a PCOM employee, the college's ability to take action against the accused is extremely limited. However, the college shall take all appropriate actions within its control, such as restricting the visitor's access to campus. In addition, the matter shall be referred to local law enforcement for legal action where appropriate.

4. No Disciplinary Action

In cases where a determination is made not to bring disciplinary action, the Title IX Coordinator shall inform the complainant and the respondent of that decision contemporaneously, in writing, and shall offer counseling or other support services to both the complainant and the respondent.

5. Sanctions and Transcript Notations

If the school discovers an incident of harassment or discrimination, it has an obligation to stop it and make sure that it does not happen again. Sanctions may include appropriate disciplinary and/or remedial action, warning, censure, suspension, or dismissal from employment or from the program.

For crimes of violence, including, but not limited to sexual violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act established in 20 U.S.C.1092(f)(1)(F)(i)(I)-(VIII), Pacific College shall make a notation on the transcript of students found responsible after a conduct process that they were "suspended after a finding of responsibility for a code of conduct violation" or "expelled after a finding of responsibility for a code of conduct violation." For the respondent who withdraws from Pacific College while such conduct charges are pending, and declines to complete the disciplinary process, Pacific College shall make a notation on the transcript of such

students that they "withdrew with conduct charges pending." Student appeals seeking removal of a transcript notation for a suspension are referred to the college's grievance policy. Such notation shall not be removed prior to one year after conclusion of the suspension, while notations for expulsion shall not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.

F. Malicious Allegations

Members of the PCOM community who make false and malicious complaints of sexual harassment, gender-based harassment or sexual violence, as opposed to complaints which, even if erroneous, are made in good faith, may be subject to disciplinary action.

G. Relationship of PCOM's Investigation to the Action of Outside Law Enforcement

In cases where the complainant files a complaint with outside law enforcement authorities as well as with the college, the college shall determine what actions to take based on its own investigation. The college may coordinate with outside law enforcement authorities in order to avoid interfering with their activities and, where possible, to obtain information regarding their investigation. Neither a law enforcement determination whether to prosecute a respondent, nor the outcome of any criminal prosecution, is dispositive of whether the respondent has committed a violation of this policy.

H. Filing External Complaints

Complainants have the right at any time to file complaints with the Office for Civil Rights ("OCR") of the U.S. Department of Education, alleging violations of Title IX, and to file complaints with other appropriate agencies alleging violations of other federal, state or local laws. Contact information for OCR and other relevant agencies is set forth on the PCOM Title IX web page.

IX. College Obligations Under This Policy

In addition to addressing possible violations of this policy, colleges/units of PCOM have the following obligations:

A. Dissemination of Policies, Procedures and Notices

The college Title IX Coordinator, in coordination with Human Resources Department and other departments, is responsible for the wide dissemination of the following on her/his campus: (i) this Policy; (ii) PCOM's Notice of Non-Discrimination; (iii) the Title IX Coordinator's name, phone number, office location, and email address; and (iv) contact information for WellConnect. Such dissemination shall include posting the documents and information on the college website. In addition, the Students' Bill of Rights, which is appended to and made a part of this policy, must be distributed to any individual reporting an incident of sexual misconduct at the time the report is made. It must also be distributed annually to all students and made available on the college's website.

B. Training and Educational Programming

The college Title IX Coordinator, in coordination with other applicable administrators, including human resources and student advising, is responsible for ensuring that the college provides training to college employees on their obligations under this policy; provides education on this policy and on sexual misconduct (including domestic violence, dating violence, stalking and sexual assault) to new and continuing students; and promotes awareness and prevention of sexual harassment, gender-based harassment and sexual violence among all students and employees. Specific required trainings include the following:

1. **Training For Responsible and Confidential Employees**
The college shall provide training to all employees who are required to report incidents of sexual harassment, gender-based harassment or sexual violence under this policy, as well as those employees who have been designated as confidential employees.
2. **Student Onboarding and Ongoing Education**
Each college shall adopt a comprehensive student onboarding and ongoing education campaign to educate students about sexual misconduct, including domestic violence, dating violence, stalking, and sexual assault. During the student onboarding process, all new first-year and transfer students shall receive training on this policy and on a variety of topics relating to sexual misconduct. In addition, each college shall offer and administer appropriate educational programming to student leaders. Each college shall also provide such educational programming to any other student groups which the college determines could benefit from education in the area of sexual harassment, gender-based harassment and sexual violence.

C. Campus Climate Assessments

PCOM, New York campus shall conduct, no less than every other year, a climate assessment using an assessment instrument to ascertain its students' general awareness and knowledge of the College's policy and procedures regarding sexual misconduct, including but not limited to student experiences with and knowledge of reporting, investigation and disciplinary processes. The assessment instrument shall include all topics required to be included under applicable law, including Section 129-B of the New York State Education Law. The College shall publish the results of the surveys on its Title IX web page. The published results shall not contain any information which would enable a reader to identify any individual who responded to the climate assessment.

X. Rules Regarding Intimate Relationships

A. Relationships between Faculty or Employees and Students

There are special risks in any sexual or romantic relationship between individuals in inherently unequal positions, and parties in such a relationship assume those risks, even if affirmative consent exists. At a college, the role of the teacher is multifaceted including serving as intellectual guide, mentor, role model and advisor. However, in the educational context, such positions can include (but are not limited to) teacher and student, teaching assistant and student, staff member and student, and supervisor and employee.

Because of the potential for conflict of interest, exploitation, favoritism and bias, such relationships may undermine the real or perceived integrity of the supervision and evaluation provided. Further, these relationships are often less consensual than the individual whose position confers power or authority believes. In addition, circumstances may change, and the conduct that was previously welcome may become unwelcome.

Such relationships may also have unintended, adverse effects on the climate of an academic program or work group, thereby impairing the learning or working environment for others-both within or outside of the duration of the relationship. Relationships in which one party is in a position to evaluate the work or influence the career of the other may provide grounds for complaint by third parties when that relationship gives undue access or advantage, restricts opportunities or simply creates a perception of these problems.

For all of these reasons, romantic or sexual relationships- whether regarded as consensual or otherwise--between individuals in inherently unequal positions should in general be avoided while an instructional or professional relationship exists. Additionally, the college discourages students, staff and faculty from having a therapeutic relationship anywhere other than in a professional, medical office setting.

Because of the relative youth of undergraduates and their particular vulnerability in such relationships, sexual or romantic relationships between teachers and undergraduate students are even more strongly discouraged.

Individuals in inherently unequal positions must disclose to the administration if a dating or sexual relationship does develop within seven to ten days of any sexual or romantic involvement. Doing so will not only help the administration protect the student(s) but the faculty/staff member(s) as well. Consensual relationships will be reported to the supervisor, Campus Director and Vice President of Human Resources, preserving as much confidentiality as possible.

Where such a relationship develops, individuals in the position of greater authority or power must recuse themselves to ensure that they do not exercise any supervisory or evaluative function over the other person in the relationship. In the case of a faculty member, the administration will make arrangements to adjust the faculty's teaching schedule. This may result in a reduction in the faculty's teaching responsibilities for an indefinite period until such time as the student graduates or is no longer attending.

Failure of faculty/staff members to report consensual relationships to the administration in a timely fashion and recuse themselves from the position of authority obligates the supervisor, Campus Director and Vice President of Human Resources to conduct a prompt and thorough investigation. Where it is concluded that there was failure to report the relationship to the administration and/or a position of authority and a consensual relationship exists, the position of authority will be terminated, and the faculty or staff member will be subject to disciplinary action, up to and including dismissal.

If there is any doubt whether a relationship falls within this policy, individuals should disclose the facts and seek guidance from the administration rather than fail to disclose. Questions may be addressed to the appropriate supervisor, Campus Director, or Vice President of Human Resources.

B. Relationships between Supervisors and Employees

Many of the concerns about intimate relationships between faculty members or employees and students also apply to relationships between supervisors and employees they supervise. Those relationships therefore are strongly discouraged. Individuals in inherently unequal positions must disclose to the administration if a dating or sexual relationship does develop within seven to ten days of any sexual or romantic involvement. Consensual relationships will be reported to the supervisor, Campus Director and Vice President of Human Resources, preserving as much confidentiality as possible.

XI. Definitions of Terms in this Policy

- A. **Affirmative Consent** is a knowing, voluntary and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity or gender expression.



Consent may be initially given but withdrawn at any time. Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.

In order to give consent, one must be of legal age (17 years or older). Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by lack of consciousness or being asleep, being involuntarily restrained, or if the individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.

When consent is withdrawn or can longer be given, sexual activity must stop.

- B. **Complainant** refers to the individual who alleges that she/he has been the subject of sexual harassment, gender-based harassment or sexual violence, and can be a PCOM student, employee (including all full-time and part-time faculty and staff), or visitor. Under this policy, the alleged incident(s) may have been brought to the college's attention by someone other than the complainant.
- C. **Complaint** is an allegation of sexual harassment, gender-based harassment or sexual violence made under this policy.
- D. **Dating, Domestic and Intimate Partner Violence** is a pattern of coercive behavior that can include physical, psychological, sexual, economic and emotional abuse, perpetrated by one person against an intimate partner. Such violence may occur in all kinds of intimate relationships, including married couples, people who are dating, couples who live together, people with children in common, same-sex partners, and people who were formerly in a relationship with the person abusing them.
- E. **Discrimination** is not easy to define precisely all instances that may be discriminatory, they include: slurs, epithets, threats, derogatory comments, visual depictions, unwelcome jokes, and teasing. Harassment on the basis of any other protected characteristic is also strictly prohibited. Harassment is verbal, written or physical conduct that denigrates or shows hostility or aversion toward individuals because of their veteran status, race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, physical or mental disability, marital status, citizenship, medical condition including genetic characteristics, pregnancy status, or any other characteristic protected by law, or that of his or her relatives, friends or associates, and that: a) has the purpose or effect of creating an intimidating, hostile or offensive work or school environment, b) has the purpose or effect of unreasonably interfering with an individual's work or study performance, or c) otherwise adversely affects an individual's employment or education opportunities.
- F. **Forcible Touching/Fondling** is intentionally touching the sexual or other intimate parts of another person without the latter's consent for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor's sexual desire.
- G. **Gender-Based Harassment** is unwelcome conduct of a nonsexual nature based on an individual's actual or perceived sex, including conduct based on gender identity, gender expression, and nonconformity with gender stereotypes that is sufficiently serious to adversely affect an individual's participation in employment, education or other PCOM activities. The effect will be evaluated based on the perspective of a reasonable person in the position of the complainant. An example of gender-based harassment would be persistent mocking or disparagement of a person based on a perceived lack of stereotypical masculinity or femininity.



- H. **Hostile environment harassment** occurs when unwelcome conduct, particularly of a sexual nature, is so severe, persistent, or pervasive that it affects a student's or an employee's ability to participate in or benefit from an educational program or activity or work, or creates an intimidating, threatening or abusive educational or working environment. Hostile environments can be created by one or multiple persons and can have one or more intended and unintended targets.
- I. **Managers** are employees who have the authority to either (a) make tangible employment decisions with regard to other employees, including the authority to hire, fire, promote, compensate or assign significantly different responsibilities; or (b) make recommendations on tangible employment decisions that are given particular weight. Managers include vice presidents, deans, directors, or other persons with managerial responsibility, including, for purposes of this policy, department chairpersons and executive officers.
- J. **Offended observer** is a person who is not the direct target of the offensive conduct, rather is a witness to the harassing behavior and to whom the conduct is offensive. For example, a student may make offensive comments about sexual orientation to a fellow student while in a group of peers. The targeted student is the intended victim of the bullying student, but any of the peers who heard the comments are potentially the unintended victims of the behavior. Both targeted individuals and offended observers can initiate the anti-discrimination/harassment process. Offended observers are generally people who are able to speak for the targeted individual when that person is unable to speak for themselves.
- K. **Quid pro quo harassment** occurs when a school employee causes a student or colleague to believe that he or she must submit to unwelcome sexual conduct in order to participate in a school program, activity, or as a condition of employment. It can also occur when an employee causes a student to believe that the employee will make an educational decision based on whether or not the student submits to unwelcome sexual conduct. For example, when a teacher threatens to fail a student unless the student agrees to date the teacher, it is quid pro quo harassment. It does not matter whether the student refuses to submit to the teacher's demands and suffers the threatened harm, or does what the teacher wants and thus avoids the harm. In both cases, this act of harassment by the school employee is unlawful.
- L. **Rape and Attempted Rape** is the penetration or attempted penetration, no matter how slight, of any body part by a sex organ of another person, without the consent of that person.
- M. **Respondent** refers to the individual who is alleged to have committed sexual harassment, gender-based harassment or sexual violence against a PCOM student, employee, or visitor.
- N. **Retaliation** is adverse treatment of an individual as a result of that individual's reporting sexual harassment, gender-based harassment or sexual violence, assisting someone with a report of sexual harassment, gender-based harassment or sexual violence, or participating in any manner in an investigation or resolution of a sexual harassment, gender-based harassment or sexual violence report. Adverse treatment includes threats, intimidation and reprisals by either a complainant or respondent or by others such as friends or relatives of either a complainant or respondent.
- O. **Sexual Activity** is
- penetration, however slight, of the vulva or the anus by the penis, hand/fingers or other object;
 - contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
 - intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person; or

- intentional touching, either directly or through the clothing of any other body part, with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person.

P. **Sexual Assault** is any form of sexual activity that occurs without consent.

Q. **Sexual Harassment** is unwelcome conduct of a sexual nature, including but not limited to unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, graphic and electronic communications or physical conduct of a sexual nature when:

- i. submission to or rejection of such conduct is made either explicitly or implicitly a condition of an individual's employment or academic standing or is used as the basis for employment decisions or for academic evaluation, grades, or advancement (quid pro quo);

or

- ii. such conduct is sufficiently serious that it alters the conditions of, or has the effect of substantially interfering with, an individual's educational or work experience by creating an intimidating, hostile, or offensive environment (hostile environment). The effect will be evaluated based on the perspective of a reasonable person in the position of a complainant.

Conduct is considered "unwelcome" if the individual did not request or invite it and considered the conduct to be undesirable or offensive.

While it is not possible to list all circumstances that might constitute sexual harassment, the following are some examples of conduct that might constitute sexual harassment depending on the totality of the circumstances:

- i. Inappropriate or unwelcome physical contact or suggestive body language, such as touching, groping, patting, pinching, hugging, kissing, or brushing against an individual's body;
- ii. Verbal abuse or offensive comments of a sexual nature, including sexual slurs, persistent or pervasive sexually explicit statements, questions, jokes or anecdotes, degrading words regarding sexuality or gender, suggestive or obscene letters, notes, or invitations;
- iii. Visual displays or distribution of sexually explicit drawings, pictures, or written materials; or
- iv. Undue and unwanted attention, such as repeated inappropriate flirting, staring, or making sexually suggestive gestures.

For purposes of this policy, sexual harassment also includes acts that violate an individual's right to privacy in connection with her/his body and/or sexual activity such as:

- i. Recording images (e.g. video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness without that person's consent;
- ii. Disseminating images (e.g. video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to such disclosure;
- iii. Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent.

R. **Sexual Misconduct** is sexual harassment, gender-based harassment or sexual violence, as defined in this policy.

- S. **Sexual Violence** is an umbrella term that includes: (1) sexual activity without affirmative consent, such as sexual assault rape/attempted rape, and forcible touching/fondling; (2) dating, domestic and intimate partner violence; (3) stalking as defined below.
- T. **Stalking** is intentionally engaging in a course of conduct directed at a specific person with whom the perpetrator currently has, previously has had, or desires to have, some form of sexual or romantic relationship, that:
1. is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or
 2. causes material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning or initiating communication or contact with such person, a member of such person's immediate family or a third party with whom such person is acquainted; or
 3. is likely to cause such person to reasonably fear that her/his employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct.
- U. **Visitor** is an individual who is present at a PCOM campus or unit but is not a student or an employee.

The Pacific College of Oriental Medicine Students' Bill of Rights

PCOM students who experience campus-related sexual or gender-based harassment or sexual violence, including sexual assault, stalking, domestic violence, intimate partner violence or dating violence, are entitled to the following rights:

- To report the incident to your campus.
- To report the incident to the College or Title IX Coordinator and/or to file a criminal complaint with the Police Department, or to choose not to report.
- To receive assistance from your campus or others in filing a criminal complaint, which may include seeking an Order of Protection.
- To describe the incident only to those campus officials who need the information in order to properly respond and to repeat the description as few times as practicable.
- To request that the campus file conduct charges against the respondent(s). The decision on whether to bring charges rests with the campus.
- To be protected by your campus from retaliation for reporting the incident, and to have any allegations of retaliation addressed by the campus.
- To receive assistance and resources from your campus, including confidential and free counseling, and to be notified of other available services on- and off-campus.
- To receive assistance in seeking necessary medical services or treatment, including a Sexual Assault Forensic Examination (SAFE exam).
- To obtain, where appropriate, changes with respect to campus academic arrangements, no-contact orders, and other interim remedial measures to enable you to continue your education without undue stress or trauma.
- To have your complaints handled respectfully by the campus, and to be informed about how the campus will protect your privacy and confidentiality.
- To have your complaint investigated in a prompt, impartial and thorough manner by individuals who have received appropriate training in conducting investigations and the issues related to sexual harassment and sexual violence, and to be accompanied by a person of your choice at all meetings or hearings related to the process.
- To have your complaint against a student adjudicated by individuals who have received appropriate training on issues related to sexual harassment and sexual violence.
- To report incidents of sexual harassment or sexual violence that you experience while under the influence of alcohol or drugs without receiving discipline for your alcohol or drug use.
- To have the same opportunity as the respondent(s) to participate in a student disciplinary hearing before a faculty-student disciplinary committee, including the right to be present, to be assisted by a person of your choice, including an attorney, to present evidence, call witnesses, cross-examine witnesses, have your prior sexual history with persons other than the respondent(s) excluded from the hearing, have your prior mental health diagnosis and/or treatment excluded from the hearing, receive written notice of the outcome of the hearing, and to appeal from the decision.
- To participate in the investigative and disciplinary processes of the campus without interference with your civil rights or practice of religion.

Questions about PCOM's sexual misconduct policy and procedures may be directed to the Title IX Coordinator or Campus Director.

Information on resources and the process for filing a complaint is available on PCOM's Title IX web page.