

The Campus Sexual Violence Act (Campus SAVE) was signed into law in March 2013 as a new amendment to the Violence Against Women Act of 1994. This act requires college campuses to provide information, training and ongoing prevention and awareness programs to combat sexual violence. The State of Illinois passed a new law, Preventing Sexual Violence in Higher Education Act (110 ILCS 155) effective August 1, 2016, that amends other Illinois campus safety laws to address the critical issues of sexual violence, domestic violence, dating violence and stalking in higher education.

Carl Sandburg College takes the safety of our students seriously and strives to provide a safe and healthy environment for all of our students, staff, faculty and guests. It is the responsibility of all members of the Carl Sandburg College community the College and all employees to maintain a safe and healthy environment for our students. Carl Sandburg College prohibits any violence towards students, employees and visitors including but not limited to domestic violence, dating violence, sexual assault and stalking. Carl Sandburg College will assure execution of this policy by collaborating and following Procedure

This policy has been created as a resource for a person that believes they have been subjected to, witnessed or has knowledge of gender based or sexual misconduct involving a member of the Sandburg community and have the right to file a complaint with the Title IX Coordinator alleging a violation of the comprehensive policy contained in this document.

The Complainant has the right to report or not report a violation of the comprehensive policy. It is recommended that a confidential advisor be contacted prior to making a report to be informed of reporting choices, possible outcomes and a review of the policy. A Complainant is always encouraged to contact their local law enforcement officials if they believe that a law has been broken.

## **INTRODUCTION**

All members of the Carl Sandburg College community have the right to be free from sexual violence and other forms of harassment. The administration, faculty, staff, students and guests are expected to conduct themselves in a manner that does not infringe upon the rights of others. When an allegation of misconduct is brought to an appropriate administrator's attention, and a Respondent is found to have violated this policy, serious sanctions will be used to reasonably ensure that such actions are never repeated. This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This policy is intended to define community expectations and to establish a mechanism for determining when those expectations have been violated.

**OVERVIEW OF POLICY EXPECTATIONS WITH RESPECT TO PHYSICAL SEXUAL MISCONDUCT**

The expectations of our 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 sexual permission. Consent can be given by word or action, but non-verbal consent is not as clear as talking about what you want sexually and what you don't. Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity. Silence, without actions demonstrating permission, cannot be assumed to show consent.

Additionally, 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. Coercion happens when someone is pressured unreasonably for sex.

Because alcohol or other drug use can place, the capacity to consent in question, sober sex is less likely to raise such questions. When alcohol or other drugs are being used, a person will be considered unable to give valid consent if 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. Individuals who consent to sex must be able to understand what they are doing. Under this policy, "No" always means "No," and "Yes" may not always mean "Yes." Anything but a clear, knowing and voluntary consent to any sexual activity is equivalent to a "no."

**SEXUAL VIOLENCE -- RISK REDUCTION TIPS**

Risk reduction tips can often take a victim-blaming tone, even unintentionally. With no intention to victim-blame, and with recognition that only those who commit sexual violence are responsible for those actions, these suggestions may nevertheless help you to reduce your risk experiencing a non-consensual sexual act. Below, suggestions to avoid committing a nonconsensual sexual act are also offered:

1. If you have limits, make them known as early as possible.
2. Tell a sexual aggressor "NO" clearly and firmly.
3. Try to remove yourself from the physical presence of a sexual aggressor.
4. Find someone nearby and ask for help.
5. Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
6. Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.

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. Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
2. Understand and respect personal boundaries.
3. DON'T MAKE ASSUMPTIONS about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity, then you DO NOT have consent.
4. Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
5. Don't take advantage of someone's drunkenness or drugged state, even if they did it to themselves.
6. Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.
7. Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
8. Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.
9. Other resources can be found at <http://www.sandburg.edu/life/tips-reduce-yourrisk> .

### **SEXUAL MISCONDUCT OFFENSES INCLUDE, BUT ARE NOT LIMITED TO:**

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

#### **1. SEXUAL HARASSMENT**

Sexual Harassment is unwelcome, gender-based verbal or physical conduct that is sufficiently severe, persistent or pervasive; it unreasonably interferes with, denies, or limits someone's ability to participate in or benefit from the College's educational programs, employment, and/or activities and is based on power differentials (quid pro quo), the creation of a hostile environment, or retaliation.

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

## 2. NON-CONSENSUAL SEXUAL CONTACT

Non-Consensual Sexual Contact is any intentional sexual touching, however slight, with any object, by a man or a woman upon a man or a woman that is without consent and/or by force.

Sexual Contact includes:

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

## 3. NON-CONSENSUAL SEXUAL INTERCOURSE

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

Intercourse includes:

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

## 4. SEXUAL EXPLOITATION

Occurs when a student 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 the other sexual misconduct offenses.

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

- invasion of sexual privacy;
- prostituting another student;
- non-consensual video or audio-taping of sexual activity;
- going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex);
- engaging in voyeurism;
- knowingly transmitting an STI or HIV to another student;
- 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

### ADDITIONAL APPLICABLE DEFINITIONS:

- Consent: Consent has been defined, in the state of Illinois, by the Preventing Sexual Violence in Higher Education Act ([110 ILCS 155/10](#)). The Act states that Consent is a freely given agreement to sexual activity and a person's lack of verbal or physical resistance or submission resulting from the use of threat or force does not constitute consent. The way that a person is dressed does not constitute consent nor does past consent to sexual activity constitute consent to future sexual activity.  
Consent with one person does not imply sexual activity with another person or additional people. A person can withdraw consent at any time and a person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to circumstances, including without limitation the following: (A) the person is incapacitated due to the use or influence of alcohol or drugs; (B) the person is asleep or incapacitated; (C) the person is under age; (D) the person is incapacitated due to a mental disability.
- 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 overcome resistance or produce 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. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want 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.
  - NOTE: There is no requirement that a party resist the sexual advance or request, but resistance is a clear demonstration 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.
  - In order to give effective consent, one must be at least 17 years of age. ○ Sexual activity with someone who one should know to be -- or based on the circumstances should reasonably have known to be -- mentally or physically incapacitated (by alcohol or other drug use, unconsciousness or blackout), constitutes a violation of this policy.
- 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 a mental and/or a physical disability, sleep, involuntary physical restraint, or from the taking of rape drugs. Possession, use and/or distribution of any of these substances, including Rohypnol, Ketomine, GHB, Burundanga, etc. is prohibited, and administering one of these drugs to another student is a violation of this policy.
- Use of alcohol or other drugs will never function as a defense for any behavior that violates this policy.
- The sexual orientation and/or gender identity of individuals engaging in sexual activity is not relevant to allegations under this policy.

**SANCTION STATEMENT**

- Any student found responsible for violating the policy on Non-Consensual or Forced Sexual Contact (where no intercourse has occurred) will likely receive a sanction ranging from probation to expulsion, depending on the severity of the incident, and taking into account any previous campus conduct code violations.
- Any student found responsible for violating the policy on Non-Consensual or Forced Sexual Intercourse will likely face a recommended sanction of suspension or expulsion.
- Any student found responsible for violating the policy on sexual exploitation or sexual harassment will likely receive a recommended sanction ranging from warning to expulsion, depending on the severity of the incident, and taking into account any previous campus conduct code violations.

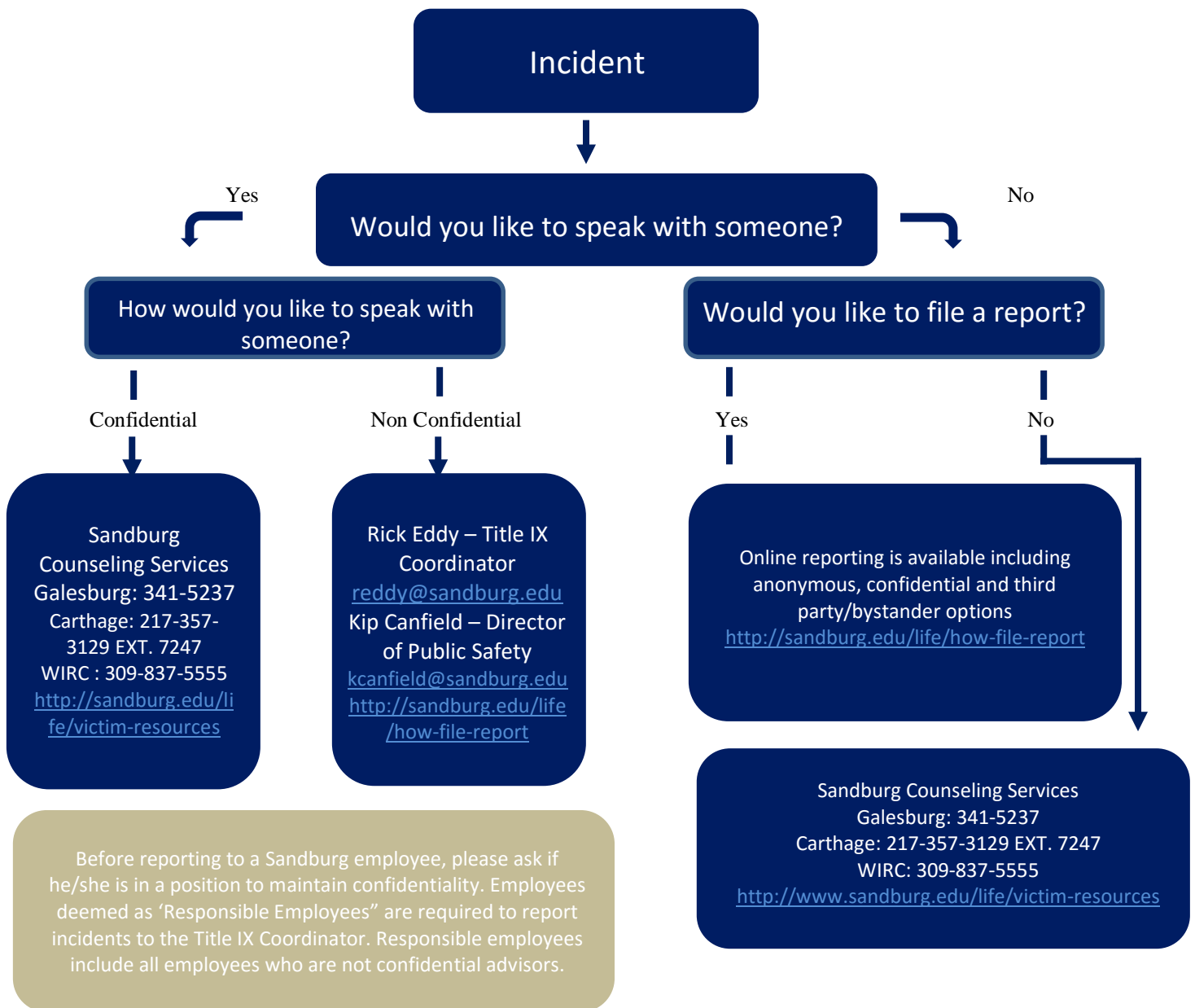
**OTHER GENDER-BASED MISCONDUCT OFFENSES THAT FALL UNDER TITLE IX**

1. Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;
2. Discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of gender;
3. Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
4. Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the College community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity;
5. Bullying, defined as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally (that is not speech or conduct otherwise protected by the 1<sup>st</sup> Amendment).
6. Violence between those in an intimate relationship to each other;
7. Stalking, defined as repetitive and/or menacing pursuit, following, harassment and/or interference with the peace and/or safety of a member of the community; or the safety of any of the immediate family of members of the community.

**CONFIDENTIALITY, PRIVACY AND REPORTING POLICY**

When consulting campus resources, all parties should be aware of confidentiality, privacy and mandatory reporting in order to make informed choices. On campus, some resources can offer you confidentiality, sharing options and advice without any obligation to tell anyone unless you want them to. Other resources are expressly there for you to report crimes and policy violations and they will take action when you report your victimization to them.

## How to file a report



**If a report is made to the College, the complainant has the right to request interim protective measures and accommodations. Carl Sandburg College will provide assistance to implement such measures for survivors including:**

1. Changing classes, an on-campus work assignment, transportation or other arrangements related to attendance or employment at the College;
2. Obtaining a campus or state mandated no contact order,

Upon a survivors request the College will provide assistance accessing and navigating campus and local health and mental health services, counseling and advocacy services.

**To Report Confidentially**

A “confidential advisor” is defined as a person who is employed or contracted by a higher education institution to provide emergency and ongoing support to survivors of sexual violence with the training, duties and responsibilities that remain between the advisor and the complainant. A confidential advisor may only disclose specific information with written consent of the complainant.

If one desires that details of the incident be kept confidential, they should speak with one of our confidential advisors or off-campus rape crisis resources, who can maintain confidentiality. Campus counselors are available to help you free of charge and can be seen on an emergency basis. An additional resource guide regarding counseling services in the area can be found here: <http://www.sandburg.edu/Services/Counseling-Services/Counseling-Resources.html>

### **CAMPUS SAFETY AUTHORITIES**

A Campus Safety Authority (CSA) is an official of an institution who has significant responsibility for student and campus activities, including, but not limited to, Academic Advisors, Athletic Coaches, Coordinator of Student Activities and Campus Public Safety. Employees who have the CSA designation must report incidents to Campus Public Safety but are not required to provide specific information, such as name of the parties involved, if the reporting party does not want that information disclosed.

Notification to CSA designees is considered as official notice to the institution. You have the right and can expect to have incidents of sexual misconduct to be taken seriously by the institution when formally reported, and to have those incidents investigated and properly resolved through administrative procedures. Formal reporting means that only people who need to know will be told, and information will be shared only as necessary with investigators, witnesses, and the accused individual. -

Department	Contact person	Contact information	Office Location
Director of Public Safety	Kip Canfield	309.341.5325 <a href="mailto:kcanfield@sandburg.edu">kcanfield@sandburg.edu</a>	Galesburg D201A
Title IX Coordinator	Rick Eddy	309.341.5234 <a href="mailto:reddy@sandburg.edu">reddy@sandburg.edu</a>	Galesburg E113
Confidential advisors	Amy Burford	309.341.5497 <a href="mailto:aburford@sandburg.edu">aburford@sandburg.edu</a>	Galesburg E129
	Ellen Henderson-Gasser	217.357.7247 <a href="mailto:ehenderson@sandburg.edu">ehenderson@sandburg.edu</a>	Carthage
	Vicki McMullin	309.341.5423 <a href="mailto:vmcmullin@sandburg.edu">vmcmullin@sandburg.edu</a>	Galesburg E116
	Dan Yasenko	309.341.5248 <a href="mailto:dyaenko@sandburg.edu">dyaenko@sandburg.edu</a>	Galesburg E114
Academic Advisors	Nate Friberg	309.341.5232 <a href="mailto:nfriberg@sandburg.edu">nfriberg@sandburg.edu</a>	Galesburg E105
	Heather Hillhouse	309.341.5483 <a href="mailto:hhillhouse@sandburg.edu">hhillhouse@sandburg.edu</a>	Galesburg E100
	Jennifer Holmes	309.341.5338 <a href="mailto:jholmes@sandburg.edu">jholmes@sandburg.edu</a>	Galesburg E115
	Megan Jones	309.341.5229 <a href="mailto:mjones@sandburg.edu">mjones@sandburg.edu</a>	Galesburg E117
	Misty Lyon	309.341.5422 <a href="mailto:mlyon@sandburg.edu">mlyon@sandburg.edu</a>	Galesburg E112
	Autumn Scott	309.341.5462 <a href="mailto:ascott@sandburg.edu">ascott@sandburg.edu</a>	Galesburg E131



	Jeff Thurman	309.341.5449 <a href="mailto:jthurman@sandburg.edu">jthurman@sandburg.edu</a>	Galesburg E100
Student Life Coordinator	Genny Stevens	309.341.5332 <a href="mailto:gstevens@sandburg.edu">gstevens@sandburg.edu</a>	Galesburg B56
Coaches	Mike Bailey	309.341.5338 <a href="mailto:mbailey@sandburg.edu">mbailey@sandburg.edu</a>	Galesburg F121
	Rodney Blue	309.341.5250 <a href="mailto:rblue@sandburg.edu">rblue@sandburg.edu</a>	Galesburg D201
	Kevin Mahlan	309.341.5256 <a href="mailto:kmahlan@sandburg.edu">kmahlan@sandburg.edu</a>	Galesburg F139
	Jake Tenhouse	309.341.5472 <a href="mailto:jtenhouse@sandburg.edu">jtenhouse@sandburg.edu</a>	Galesburg B24
	Ryan Twaddle	309.341.5245 <a href="mailto:rtwaddle@sandburg.edu">rtwaddle@sandburg.edu</a>	Galesburg F139
	Todd Winkler	309.341.5345 <a href="mailto:twinkler@sandburg.edu">twinkler@sandburg.edu</a>	Galesburg F121
Assistant Coaches – no office phone available	Sarah Baker	<a href="mailto:sbaker@sandburg.edu">sbaker@sandburg.edu</a>	Galesburg F121
	Spencer Cochrane	<a href="mailto:scochrane@sandburg.edu">scochrane@sandburg.edu</a>	Galesburg D201
	Gail Hannam	<a href="mailto:ghannam@sandburg.edu">ghannam@sandburg.edu</a>	Galesburg E233
	Kokou Kaho	<a href="mailto:kkaho@sandburg.edu">kkaho@sandburg.edu</a>	Galesburg F139
	Katie King	<a href="mailto:kwilson@sandburg.edu">kwilson@sandburg.edu</a>	Galesburg F121
	Jon Kupfert	<a href="mailto:jkupfert@sandburg.edu">jkupfert@sandburg.edu</a>	Galesburg B24
	Jeremy Pickerel	<a href="mailto:jpickerel@sandburg.edu">jpickerel@sandburg.edu</a>	Galesburg B24
	Chad Scott	<a href="mailto:cscott@sandburg.edu">cscott@sandburg.edu</a>	Galesburg B24
Mitch Wendling	<a href="mailto:mwendling@sandburg.edu">mwendling@sandburg.edu</a>	Galesburg F139	
Public Safety officers	Dean Blust	309.341.5304 <a href="mailto:edblust@sandburg.edu">edblust@sandburg.edu</a>	Galesburg D201
	Michael Christensen	309-341-5304 <a href="mailto:mchristensen@sandburg.edu">mchristensen@sandburg.edu</a>	Galesburg D201
	Donna Damitz	309-341-5304 <a href="mailto:ddamitz@sandburg.edu">ddamitz@sandburg.edu</a>	Galesburg D201
	Todd Dennison	309-341-5304 <a href="mailto:tdennison@sandburg.edu">tdennison@sandburg.edu</a>	Galesburg D201
	Chelvis Jordan	309-341-5304 <a href="mailto:cjordan@sandburg.edu">cjordan@sandburg.edu</a>	Galesburg D201
	John Lambert	309-341-5304 <a href="mailto:jlambert@sandburg.edu">jlambert@sandburg.edu</a>	Galesburg D201
	John Neville	309-341-5304 <a href="mailto:jneville@sandburg.edu">jneville@sandburg.edu</a>	Galesburg D201
	David Olin	309-341-5304 <a href="mailto:dolin@sandburg.edu">dolin@sandburg.edu</a>	Galesburg D201
	Terrance Pendleton	309-341-5304 <a href="mailto:tpendleton@sandburg.edu">tpendleton@sandburg.edu</a>	Galesburg D201
Dyson Shannon	309-341-5304 <a href="mailto:dshannon@sandburg.edu">dshannon@sandburg.edu</a>	Galesburg D201	
Student Club Advisors	Amber Fox	309.341.5298 <a href="mailto:afox@sandburg.edu">afox@sandburg.edu</a>	Galesburg B18
	James Hutchings	309.341.5307 <a href="mailto:jhutchings@sandburg.edu">jhutchings@sandburg.edu</a>	Galesburg C108
	Dave Kellogg	309.341.5313 <a href="mailto:dkellogg@sandburg.edu">dkellogg@sandburg.edu</a>	Galesburg A015
	Barb Kirchgessner	309.341.2242 <a href="mailto:bkirchgessner@sandburg.edu">bkirchgessner@sandburg.edu</a>	Galesburg Annex
	Stacy Kosier	309.341.2222 <a href="mailto:skosier@sandburg.edu">skosier@sandburg.edu</a>	Galesburg Annex
	Tim Krause	309.345.8501 <a href="mailto:tkrause@sandburg.edu">tkrause@sandburg.edu</a>	Galesburg H113
	Anthony Law	309.341.5439 <a href="mailto:alaw@sandburg.edu">alaw@sandburg.edu</a>	Galesburg B28
	Mary Pence	309.341.5204 <a href="mailto:mpence@sandburg.edu">mpence@sandburg.edu</a>	Galesburg A109
	Kylie Price	309.341.5239 <a href="mailto:kprice@sandburg.edu">kprice@sandburg.edu</a>	Galesburg C118
	Lara Roemer	309.341.5219 <a href="mailto:lroemer@sandburg.edu">lroemer@sandburg.edu</a>	Galesburg A005
	Jamie Schave	309.341.5477 <a href="mailto:jschave@sandburg.edu">jschave@sandburg.edu</a>	Galesburg CME111
	Susan Sharp	309.341.5287 <a href="mailto:ssharp@sandburg.edu">ssharp@sandburg.edu</a>	Galesburg F101
	Chris Shaw	309.341.5283 <a href="mailto:cshaw@sandburg.edu">cshaw@sandburg.edu</a>	Galesburg E102
	Genny Stevens	309.341.5332 <a href="mailto:gstevens@sandburg.edu">gstevens@sandburg.edu</a>	Galesburg B56
	Christina Stone	309.341.5292 <a href="mailto:cstone@sandburg.edu">cstone@sandburg.edu</a>	Galesburg A105
	Lisa Walker	309.341.5303 <a href="mailto:lwalker@sandburg.edu">lwalker@sandburg.edu</a>	Galesburg F101
Jackie Whipple	309.341.5222 <a href="mailto:jwhipple@sandburg.edu">jwhipple@sandburg.edu</a>	Galesburg C223	

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### **NON-CONFIDENTIAL REPORTING TO “RESPONSIBLE EMPLOYEES”**

All employees at Carl Sandburg College are considered “Responsible Employees”. Members of the Sandburg community may report occurrences of sexual assault or other incidents that fall under the Title IX definition but the information reported to a “Responsible Employee” will not be treated as confidential.

The Office of Civil Rights defines a Responsible Employee is any employee:

- (a) who has the authority to take action to redress sexual harassment/misconduct;
- (b) who has been given the duty of reporting incidents of sexual harassment/misconduct *or* any other misconduct by students to the Title IX coordinator or other appropriate designee; or
- (c) who a student reasonably believes has this authority or duty.

Please note that the College expects any employee with good reason to believe that a person has been sexually assaulted, has been subjected to severe or pervasive gender-based harassment, or has otherwise been discriminated against because of gender to report that belief to the employee’s supervisor or, in the case of a potential sexual assault, to Sandburg Public Safety. Therefore, depending on what information is provided, reports to these College employees may not be confidential.

### **Federal Statistical Reporting Obligations**

Certain campus officials have a duty to report sexual misconduct 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 campus, in the surrounding area, but no addresses are given) for publication in the annual Campus Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. Mandated federal reporters include: student/conduct affairs, campus law enforcement, coaches, athletic directors, student activities 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.

### **Federal Timely Warning Reporting Obligations**

Victims of sexual misconduct should also be aware that College administrators must issue immediate timely warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. 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.

### **Frequently Asked Questions**

- *Does information about a complaint remain private?*

The privacy of all parties to a complaint of sexual misconduct must be respected, except when it interferes with the College's obligation to fully investigate allegations of sexual misconduct. Where privacy is not strictly kept, it will still be tightly controlled on a need-to-know basis. Dissemination of information and/or written materials to persons not involved in the complaint procedure is not permitted. Violations of the privacy of the Complainant (alleged victim) or the Respondent (accused individual) may lead to conduct action by the College.

In all complaints of sexual misconduct, all parties will be informed of the outcome. In some instances, the administration also may choose to make a brief public announcement of the nature of the violation and the action taken, without using the name or identifiable information of the Complainant. Certain College administrators are informed of the outcome within the bounds of student privacy (e.g., the President of the College, Vice President of Student Services, Director of Public Safety). If there is a report of an act of alleged sexual misconduct to a conduct officer of the College and there is evidence that a felony has occurred, Public Safety will be notified. This does not mean charges will be automatically filed or that a victim must speak with the police, but the institution is legally required to notify law enforcement authorities. The institution also must statistically report the occurrence on campus of major violent crimes, including certain sex offenses, in an annual report of campus crime statistics. This statistical report does not include personally identifiable information.

- *Will my parents be told?*

Whether you are the Complainant or the Respondent, the College's primary relationship is to the student and not to the parent. However, in the event of major medical, disciplinary, or academic jeopardy, students are strongly encouraged to inform their parents. College officials may directly inform parents:

- when requested to do so by a student;
- if a health or safety emergency involves the student;
- if the student, under the age of 21, has violated any law or policy concerning the use and/or possession of alcohol or a controlled substance;
- if the student is at risk of being suspended or dismissed from the College;
- if the student has been found responsible for a serious violation of the Student Code of Conduct; if the Vice President for Student Services deems there are special circumstances that are in the best interest of the student and College to notify the parent;
- if the student has signed the "Authorization to Release Academic/Conduct Information" form at registration which allows such communication;

- other situations as allowed by law.

- *Will the Respondent know my identity?*

Yes, if you want formal disciplinary action to be taken against the alleged Respondent. Sexual misconduct is a serious offense and the Respondent has the right to know the identity of the Complainant. If there is a hearing, the College does provide options for questioning without confrontation.

- *Do I have to name the perpetrator?*

Yes, if you want formal disciplinary action to be taken against the alleged Respondent. No, if you choose to respond informally and do not file a formal complaint (but you should consult the complete confidentiality policy above to better understand the College's legal obligations depending on what information you share with different College officials). Complainants should be aware that not identifying the perpetrator may limit the institution's ability to respond comprehensively.

- *What do I do if I am accused of sexual misconduct?*

DO NOT contact the Complainant. You may immediately want to contact a staff or faculty member of your choosing who can act as your advisor. You may also contact the Vice President of Student Services, which can explain the College's procedures for addressing sexual misconduct complaints. You may also want to talk to a confidential counselor at the counseling center or seek other community assistance.

- *Will I (as a victim) have to pay for counseling/or medical care?*

If a Complainant is accessing community and non-institutional services, payment for these will be subject to state/local laws, insurance requirements, etc.

- *What should I do about preserving evidence of a sexual assault?*

Police are in the best position to secure evidence of a crime. Physical evidence of a criminal sexual assault must be collected from the alleged victim's person within 120 hours, though evidence can often be obtained from towels, sheets, clothes, etc., for much longer periods of time. If you believe you have been a victim of a criminal sexual assault, you should contact either the Public Safety at campus extension 341-5499 or Victim Services 24 hour Crisis Line, 309-837-5555, [www.wirpc.org/victimservices](http://www.wirpc.org/victimservices) . You may also contact Safe Harbor Family Crisis Center, 309-343-7233 (SAFE) before washing yourself or your clothing. If a victim goes to the hospital, local police will be called, but s/he is not obligated to talk to the police or to pursue prosecution. Having the evidence collected in this manner will help to keep all options available to a victim, but will not obligate him or her to any course of action. Collecting evidence can assist the authorities in pursuing criminal charges, should the victim decide later to exercise it.

- *Will a victim be sanctioned when reporting a sexual misconduct policy violation if he/she has illegally used drugs or alcohol?*

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

- *Will the use of drugs or alcohol affect the outcome of a sexual misconduct complaint?*

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

## **Carl Sandburg College Sexual Misconduct Grievance and Investigation Process**

### **Where to Report:**

Students/Bystanders/Third Parties who wish to report a concern or complaint relating to sexual violence, dating violence, domestic violence or stalking may do so by reporting the concern to the College Title IX Coordinator: Rick Eddy, Room E113, Carl Sandburg College, 2400 Tom L Wilson Blvd, Galesburg, IL 61401; 309-341-5234 or at [titleIX@sandburg.edu](mailto:titleIX@sandburg.edu). Any reports that are filed electronically will be responded to within twelve (12) hours of submission. The response will include resources for immediate assistance for the survivor.

<http://www.sandburg.edu/life/how-file-report>

Students with complaints of this nature also have the right to file a formal complaint with the United States Department of Education:

Office for Civil Rights (OCR)  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
Customer Service Hotline #: (800) 421-3481  
Facsimile: (202) 453-6012

**PREFACE:**

Sandburg's process for handling allegations of sexual misconduct involves an immediate initial investigation to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. If so, the College will initiate a prompt, thorough and impartial investigation. This investigation is designed to provide a fair and reliable determination about whether the College nondiscrimination policy has been violated. If so, the College will implement a prompt and effective remedy designed to end the discrimination, prevent its recurrence and address its effects.

***Formal and Informal Complaint Procedure for Student Complaints***

This procedure is intended to apply to student grievances against employees, employee civil rights grievances against students, student-on-student civil rights grievances, student grievances against visitors or guests, and guest or visitor grievances against students. All other grievances by students against students or employees against students will be addressed through the student conduct procedures located elsewhere in this *Code*.

In the event that an employee is taking classes or should a student also be an employee, procedures applicable to employee-on-employee grievances through the Department of Human Resources may also be applicable. It is the practice of this institution to bring employee and student grievance mechanisms together for joint resolution in such cases. Sanctions may result in an individual's capacity as a student, as an employee, or both.

***Informal Dispute Resolution Efforts: A Useful First Step before Filing Formal Complaints***

In cases other than sexual assault, before pursuing the formal complaint process, every reasonable effort should be made to constructively resolve issues with faculty, staff, or administrators, including following procedures for formal appeal. Whenever possible and safe, the problem or complaint should first be discussed with the individual involved in the complaint. If satisfactory resolution is not reached after discussion with the individual, the student should contact the individual's direct supervisor to attempt to resolve the complaint. If these efforts are unsuccessful, the formal complaint process may be initiated. The College does not require a student to contact the person involved or that person's supervisor if doing so is impracticable, or if the student is uncomfortable or believes that the conduct cannot be effectively addressed through informal means.

***Formal Complaint Process:*****1. INTRODUCTION**

Formal complaints of sexual misconduct by a student are made to the Title IX Coordinator, (309)341-5234 or [titleix@sandburg.edu](mailto:titleix@sandburg.edu). When a complaint of sexual misconduct is filed with the Title IX Coordinator, the Coordinator will designate two (2) Investigators to investigate the

complaint. The Investigators will be selected from a pool of faculty and staff members who have received training on investigating alleged cases of sexual misconduct and Title IX. These individuals and the Title IX Coordinators will be considered Authorized College Officials for the duration of the investigation as referred to in the procedures in Disciplinary Due Process

## **2. FACT-FINDING INQUIRY**

Following receipt of a complaint, the Investigators will gather relevant evidence to determine whether sexual misconduct rules were violated. This inquiry should normally be completed within fourteen (14) calendar days. If the inquiry cannot be completed within that time, the Investigators will inform the Complainant and the Respondent.

The inquiry generally shall include interviews with the parties if available, interviews with other witnesses as needed, and a review of relevant documents (including social media) as appropriate. Disclosure of facts to parties and witnesses shall be limited to what is reasonably necessary to conduct a fair and thorough inquiry. The parties should aspire to protect the integrity of the inquiry and treat the matter with discretion and judgment. The inquiry process is not open to the public.

The student accused of sexual misconduct (the Respondent) will be notified in writing by the Investigators of the allegations and to explain the judicial procedures for allegations of sexual misconduct. The Respondent has the right to meet with the Investigators and tell his/her side of the story, to submit documents and other relevant evidence for consideration by the Investigators, to bring an advisor to the meeting with the Investigators, and to identify witnesses who may have information relevant to the complaint.

While the Investigator's inquiry is pending, the Complainant and the Respondent each have the right to know, upon request, the status of the inquiry.

At any time during the inquiry, the Investigators may recommend that interim protections or remedies for the Complainant be provided by appropriate College officials. These protections or remedies may include, but are not limited to, separating the parties, placing limitations on contact between the parties, or making alternative working or housing arrangements. Failure to comply with the terms of interim protections may be considered a separate violation of the Sexual Misconduct Policy.

## **3. DECISION BY THE INVESTIGATORS**

Upon completing the inquiry, the Investigators will report their findings to the Title IX Coordinator and make a determination as to whether the Respondent violated the sexual misconduct policy, and if so, what sanctions are applicable. The standard of proof the Investigators will use in making this determination is preponderance of evidence.

The Title IX Coordinator may recommend to resolve the complaint in one of three ways: (1) a recommendation to dismiss the sexual misconduct allegations without sanctions; (2) a finding by the Investigators that the Respondent violated the sexual misconduct policy (and possibly other policies) and sanctions other than suspension or expulsion should be imposed (e.g. removal from College housing, probation, etc.); (3) a finding by the Investigators that the Respondent violated the sexual misconduct policy (and possibly other policies) and suspension/expulsion should be imposed.

At the time of the findings, (Administrative Disposition) will be presented to both the Complainant and the Respondent in the form of a certified letter which will be sent to both parties, simultaneously, within Seven (7) days upon completion of the report. The Respondent and/or the Complainant have the choice to accept the findings of the Investigators, and the presented sanctions, if applicable, or they can reject the findings and presented sanctions. If the Respondent and/or the Complainant disagree with either the findings of the Investigators, or the proposed sanctions, if applicable, they must present to the Title IX Coordinator, in writing within seven (7) business days that they reject this finding and wish to have the case resolved by the Disciplinary Due Process Procedure. Upon receipt of this written request, the Investigators will compile all relevant materials related to the inquiry and provide them to the Title IX Coordinator, who will conduct resolution of the complaint through the Procedure on Disciplinary Due Process. <http://www.sandburg.edu/About/Board-of-Trustees/Assets/procedures/proc-3.16.1.1-disciplinary-due-process.pdf>. If the Respondent and/or the Complainant accept the findings and any applicable sanctions, they will not be eligible to appeal the decision. Explanation or clarification of the code of conduct and Due Process Procedure will be explained by the Title IX Coordinator to either party as deemed appropriate by the Complainant or Respondent.

#### **4. DISMISSAL OF COMPLAINT**

If, after completing the inquiry, the Investigators determine that the preponderance of evidence does not show that the Respondent violated the sexual misconduct policy, they shall make the recommendation to dismiss the sexual misconduct allegations. If the Investigators recommend dismissal of the sexual misconduct allegations, but determine that the Respondent may have violated other, non-sexual misconduct policies, they shall refer the matter to the Vice President of Student Services or his/her designee for further proceedings and possible sanctions imposed in the procedures of the Disciplinary Due Process.

The findings of fact shall be summarized in a letter to the Respondent with a note explaining that the Complainant has the opportunity to appeal the finding. The Title IX Coordinator shall inform the Complainant in writing of the outcome of the inquiry. The Title IX Coordinator's letter to the Complainant shall reference the judicial procedures for allegations of sexual misconduct and set a deadline of seven (7) business days after the letter is sent to reject the decision, in writing, and request an appeal. Upon receipt of this written request, the Title IX Coordinator will compile all relevant materials related to the inquiry and provide it to the Vice President of Student Services, at which point the case will be resolved by the Procedure on Disciplinary Due Process.



If this deadline passes without a request for appeal, the decision to dismiss will become final. In this event, the Title IX Coordinator shall inform the Respondent and the Complainant that the complaint is considered resolved.

If the case is dismissed, a copy of the report, with information related to third parties deleted, will be sent to the Complainant, the Respondent, and kept in the Title IX Coordinator's files.

## **5. APPEALS**

Appeals are permitted when either the Complainant or the Respondent reject the decision of the investigation process (Administrative Disposition).

The initiator (complainant) or the person charged (respondent) with the violation has the right to appeal penalties listed under the Procedure on Disciplinary Due Process to the DAC. The initiator also has the right to appeal; the decision of the ACO to dismiss the allegation. The request for an appellate hearing before the DAC must be filed in the office of the Vice President for Student Services within seven (7) business days after the accused student has been informed of the decision of the ACO. The DAC must consider the appeal within seven (7) business days after the filing date.

### **Appeal Criteria:**

Appeals to the DAC must meet one of the following criteria:

- a. Established administrative procedures were not followed that would have a significant impact on the outcome of the investigation.
- b. New evidence exists that would substantially change the outcome of the investigation.
- c. The sanction(s) imposed were clearly disproportionate to the violation found. This criterion is only considered in cases where the sanction is suspension or expulsion.

### **Discipline Appeals Committee (DAC):**

The DAC shall have as its member:

- The Committee Chair-chairperson of the Student Services Committee
- Three faculty Members: a counselor; a faculty member from the Student Services committee and faculty member chosen by the chairperson of the DAC
- One staff member: a staff member chosen by the chairperson of the DAC

A quorum consists of two faculty members, one whom should be a counselor, one staff member and the chairperson of the DAC or his /her designee of another member of the DAC. If there is a failure to obtain a quorum, the chairperson shall appoint an interim from the Student Services Committee or another institutional committee. The chairperson of the DAC has the authority to further modify the composition of the DAC if there are extenuating circumstances.

All members of the Disciplinary Appeal Committee will have voting privileges except the chairperson, who will vote only in case of a tie.

Members of the DAC will be trained in Sandburg disciplinary process and in Title IX.

The right to bring a victim advocate or advisor to all phases of the investigation and campus conduct proceeding.

The hearing shall be recorded.

The chairperson of the DAC will be responsible for all communications with the student filing the appeal, will serve as presiding officer during the hearing, and will ensure that fair and just consideration is provided.

The complainant and respondent may not be compelled to testify in the presence of the other party. If a party invoked this right, the College shall provide a procedure of which each party at a minimum, hear the other party's testimony.

The chairperson of the DAC shall resolve any procedural questions or objections as may arise in the course of the hearing.

The DAC has the power to sustain, overrule, or modify the decision of the ACO. The chairperson of the DAC must notify the student in writing of the decision of the DAC within three (3) school days after the decision of the DAC. The complainant and the respondent will be notified simultaneously of the decision of the DAC.

The decision of the DAC is final.

## **6. SANCTIONS**

Examples of sanctions for students found to be responsible for sexual misconduct include, but are not limited to: expulsion, suspension or interim suspension, loss of privileges or restitution. Mediation (i.e., bringing the parties together) cannot be used as a remedy in cases of sexual misconduct. A complete list of possible sanctions can be found here, <http://www.sandburg.edu/About/Board-of-Trustees/Assets/procedures/proc-3.16.1.1-disciplinary-due-process.pdf>

## **7. REPORT**

An inquiry will result in a written report that, at a minimum, includes a statement of the allegations and issues, the positions of the parties, a summary of the evidence, findings of fact, and a determination by the Investigators as to whether College policy has been violated. The report may also recommend actions to resolve the complaint, including educational programs, remedies for the Complainant, and other sanctions as appropriate.

If a complaint is remanded to the DAC, the case records will be maintained in the Office of Student Services.

### **STATEMENT OF THE RIGHTS OF THE COMPLAINANT**

- The right to investigation and appropriate resolution of all credible complaints of sexual misconduct made in good faith to College administrators;
- The right to be treated with respect by College officials;
- The right of both Complainant and Respondent to have the same opportunity to have others present (in support or advisory roles) during a campus disciplinary hearing;
- The right not to be discouraged by College officials from reporting an assault to both on-campus and off-campus authorities;
- The right to be informed of the outcome and sanction of any disciplinary hearing involving sexual assault, usually within 24 hours of the end of the conduct hearing;
- The right to be informed by College officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the student so chooses. This also includes the right not to report, if this is the victim's desire;
- The right to be notified of available counseling, mental health, or student services for victims of sexual assault, both on campus and in the community;
- The right to notification of, options for, and available assistance in, changing academic situations after an alleged sexual assault incident, if so requested by the victim and if such changes are reasonably available (no formal complaint or investigation, campus or criminal, need occur before this option is available). Accommodations may include:
  - Exam (paper, assignment) rescheduling;
  - Taking an incomplete in a class;
  - Transferring class sections;
  - Temporary withdrawal;
  - Alternative course completion options.
  - No contact order
- The right not to have irrelevant prior sexual history admitted as evidence in a campus hearing;
- The right ***not*** to have any complaint of sexual assault mediated (as opposed to adjudicated);

- The right to make a victim-impact statement at the campus conduct proceeding and to have that statement considered by the board in determining its sanction;
- The right to a campus “no contact” order against another student who has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the complaining student or others;
- The right to have complaints of sexual misconduct responded to quickly and with sensitivity by campus law enforcement.
- The right to appeal the finding and sanction of the conduct body, in accordance with the standards for appeal established by the institution;
- The right to review all documentary evidence available regarding the complaint, subject to the privacy limitations imposed by state and federal law, at least 48 hours prior to the hearing;
- The right to be informed of the names of all witnesses who will be called to give testimony, within 48 hours of the DAC meeting, except in cases where a witness’ identity will not be revealed to the accused individual/Respondent for compelling safety reasons (this does not include the name of the alleged victim/Complainant, which will always be revealed);
- The right to preservation of privacy, to the extent possible and allowed by law;
- The right to petition that any member of the conduct body be removed on the basis of demonstrated bias;
- The right to bring a victim advocate or advisor to all phases of the investigation and campus conduct proceeding;
- The right to give testimony in a campus hearing by means other than being in the same room with the accused individual;
- The right to provide investigators with the names of witnesses and relevant questions;
- The right to be fully informed of campus conduct rules and procedures as well as the nature and extent of all alleged violations contained within the complaint;
- The right to have the College arrange the presence of student, faculty and staff witnesses, and the opportunity (if desired) to ask questions, directly or indirectly, of witnesses present (including the accused individual), and the right to challenge documentary evidence.
- The right to be present for all testimony given and evidence presented before the conduct body;

- The right to have complaints heard by conduct and appeals officers who have received annual sexual misconduct and Title IX training;
- The right to a conduct panel comprised of representatives of both genders;
- The right to have College policies and procedures followed without material deviation;
- The right to be informed in advance of any public release of information regarding the complaint;
- The right to written notice of the outcome and sanction of the process.
- The right to a fundamentally fair process, as defined in these procedures;

**STATEMENT OF THE RIGHTS OF THE RESPONDENT**

- The right to investigation and appropriate resolution of all credible complaints of sexual misconduct made in good faith to College administrators against the accused individual;
- The right to be treated with respect by College officials;
- The right to be informed of and have access to campus resources for medical, counseling, and advisory services;
- The right to be fully informed of the nature, rules and procedures of the campus conduct process and to timely written notice of all alleged violations within the complaint, including the nature of the violation and possible sanctions;
- The right to a hearing on the complaint, including timely notice of the hearing date, and adequate time for preparation;
- The right not to have irrelevant prior sexual history admitted as evidence in a campus hearing;
- The right to make an impact statement at the campus conduct proceeding and to have that statement considered by the board in determining its sanction;
- The right to appeal the finding and sanction of the conduct body, in accordance with the standards for appeal established by the institution;
- The right to review all documentary evidence available regarding the complaint, subject to the privacy limitations imposed by state and federal law, at least 48 hours prior to the hearing;

- The right to be informed of the names of all witnesses who will be called to give testimony, within 48 hours of the DAC meeting, except in cases where a witness' identity will not be revealed to the accused individual/Respondent for compelling safety reasons (this does not include the name of the alleged victim/Complainant, which will always be revealed);
- The right to petition that any member of the conduct body be removed on the basis of bias;
- The right to have the College arrange the presence of student, faculty and staff witnesses, and the opportunity to ask questions, directly or indirectly, of witnesses present, and the right to challenge documentary evidence.
- The right to have complaints heard by conduct and appeals officers who have received annual sexual misconduct adjudication and Title IX training;
- The right to have College policies and procedures followed without material deviation;
- The right to have an advisor or advocate to accompany and assist in the campus hearing process. The advisor may not take part directly in the hearing itself, though they may communicate with the accused individual as necessary;
- The right to a fundamentally fair process, as defined in these procedures;
- The right to a campus conduct outcome based solely on evidence presented during the conduct process. Such evidence shall be credible, relevant, based in fact, and without prejudice;
- The right to written notice of the outcome and sanction of the process;
- The right to a conduct panel comprised of representatives of both genders
- The right to be informed in advance, when possible, of any public release of information regarding the complaint.

### **False Claims & Retaliation**

Due to the nature and severity of the complaints, anyone found to make a knowingly maliciously false claim (false not unfounded) that results in an investigation or sanctions against a member of the campus community will be subject to discipline, ranging from warnings to expulsion. In addition, any party not directly involved with the investigation who attempts to threaten or coerce any of the parties involved will be disciplined accordingly. Retaliation, in any form, is prohibited. A list of possible sanctions can be found here, <http://www.sandburg.edu/About/Board-of-Trustees/Assets/procedures/proc-3.16.1.1-disciplinary-due-process.pdf>

**Campus Resources**

Kipton Canfield, Director of Public Safety	309-341-5325
Campus Emergency Number	309-341-5499
Rick Eddy, Title IX Coordinator	309-341-5234

**Confidential Advisors**

Ellen Henderson-Gasser (Carthage)	217-357-3129 Ext. 7247
Amy Burford	309-341-5497
Vicki McMullin	309-341-5423
Dan Yasenko	309-341-5248

**Community Resources****Local Hospitals:****Galesburg Medical Facilities**

Galesburg Cottage Hospital  
695 N Kellogg St  
Galesburg, IL 61401  
309.343.8131

OSF St Mary Medical Center  
3333 N Seminary St  
Galesburg, IL 61401  
309.344.3161

**Monmouth Medical Facilities**

OSF Holy Family Medical Center  
1000 W Harlem Ave  
Monmouth, IL 61462 309.734.3141

**Macomb Medical Facilities**

McDonough District Hospital  
525 East Grant St  
Macomb, IL 61455  
309.833.4101

**Carthage Medical Facilities**

Memorial Hospital  
1454 North County Road 2050  
Carthage, IL 62321  
217-357-8500

**Victims Assistance Agencies:**

Victims are encouraged to report a sexual assault to the Sandburg Department of Public Safety. However, if the victim does not want to file a report, there are resources available, which include:

**Sandburg Counseling Services:** Galesburg campus E100 **309.341.5237** Bushnell campus **309.772.2177** Carthage campus **217.357.3129 ext. 7247**

**Bridgeway Inc.:** 2323 Windish Dr. Galesburg, IL 61401 **309.344.2323**

**Advanced Behavioral Health:** 2101 Windish Dr. Galesburg, IL 61401 **309.342.6852**

**Galesburg Public Library:** Provides material for dealing with abuse, including books and legal resources. Free Internet access is available. 309.343.6118.

**Knox County Child Advocacy:** Child Advocacy Center- Providing services to child victims of sexual abuse and serious physical abuse cases in Knox, Warren and Henderson Counties. 309.344.8416.

**Knox County State's Attorney Victim Advocate:** Provides emotional support, court advocacy, service referrals, case status updates and scheduling info for victims or survivors of violent crimes once the criminal case has been filed. 309.345.3886.

**Safe Harbor Family Crisis Center 24-Hour Crisis Line:** Provides confidential help to individuals who are experiencing violence in their relationships through court advocacy, a 24hour crisis line, emergency safe house, counseling, food and clothing and referral services. Walk-ins welcome. 1188 W. Main St., Galesburg. 309.343.SAFE (7233).

**Victim Services 24-Hour Crisis Line:** All services are free and confidential. Services in Knox County are for sexual abuse/assault survivors only. Crisis intervention, legal advocacy and follow-up counseling services. [www.wirpc.org/victimservices](http://www.wirpc.org/victimservices). 309.837.5555 **Hancock**

**County Mental Health:** 357-3176 [www.mhcwi.org](http://www.mhcwi.org) (Carthage)

**WIRC-CAA Victim Services:** 837-3941 Crisis line: 309.837.555 (Macomb)



ADAPTED FROM A MODEL POLICY  
AUTHORED BY THE NCHERM PARTNERS:  
BRETT A. SOKOLOW, J.D. W.  
SCOTT LEWIS, J.D.  
SAUNDRA K. SCHUSTER, J.D.

[www.ncherm.org](http://www.ncherm.org)

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