



## **DISCRIMINATION, HARASSMENT AND SEXUAL MISCONDUCT**

### ***Purpose***

The mission of York College is to transform lives through Christ-centered education and to equip students for lifelong service to God, family, and society.

York College believes in and promotes that the Biblical standard for consensual sex, in all of its forms, is between a man and a woman and reserved for marriage alone. Sexual expression outside of marriage is a violation of Scripture and York College's Code of Conduct.

In harmony with its mission, York College strives to provide a Christian environment that is countercultural and does not tolerate discrimination, harassment and sexual misconduct. Discrimination, harassment and sexual misconduct is contrary to Biblical teaching and a violation of human dignity. The students, faculty and staff of York College have the right to work and learn free of sexual misconduct, harassment and discrimination. The College will take action to prevent and promptly correct instances of discrimination, harassment and sexual misconduct. The purpose of this policy is:

- To communicate the mechanisms for investigating complaints in a manner that reasonably protects the privacy of individuals involved in situations of alleged sexual misconduct, harassment and/or discrimination and grievances;
- To ensure the provision of equal employment and educational opportunities to faculty, staff, students and applicants for such opportunities without regard to race, color, national or ethnic origin, gender, religion or handicap;
- To protect all those involved who report or provide information related to sexual misconduct, harassment, discrimination, and/or grievances from retaliation of any kind;
- To set for guidance for preventing sexual misconduct, harassment and/or discrimination
- To take timely corrective action when sexual misconduct, harassment and/or discrimination is alleged to have occurred;
- To ensure that students, faculty and staff have the opportunity to present grievances to the Office of the Title IX Coordinator regarding a certain action(s) perceived to be in violation of institutional policies by a member of the College community; and
- To establish a consistent process for resolving complaints of sexual misconduct, harassment and/or discrimination and grievances in a fair and just manner.

## **Definitions**

- **Discrimination** occurs when an individual is treated in a manner that is less than respectful based on that individual's belonging to or identity with a class protected by applicable law; specifically, in regard to the College's educational programs and activities, on-campus housing, admissions and financial aid.
- **Sexual Discrimination** As defined above, on the basis of one's gender.
- **Sexual Misconduct** includes sex discrimination, sexual harassment, sexual assault, domestic violence, dating violence and stalking. It can occur between members of the opposite or same sex.
- **Sexual Harassment** is defined as unwelcome conduct of a sexual nature. It includes an inappropriate emphasis on sexual identity and is generally understood to include a wide range of behaviors, whether subtle or blatant. It may include but is not limited to, inappropriate jokes, intimate language, inappropriate sexual advances, request for sexual favors and other physical and expressive behavior of a sexual nature in which:
  - submission to such conduct becomes a term or condition of an individual's employment or education;
  - submission to such conduct becomes a basis for academic or employment evaluation; or
  - the conduct creates a hostile or demeaning employment or educational environment.

Note: Employees experiencing or witnessing harassment in the workplace should immediately report these situations to the Title IX Coordinator. Students should immediately report such behaviors to the Title IX Coordinator. Appropriate disciplinary responses, including suspension and dismissal or termination of employment, will be assessed against anyone found to have violated this policy. Students or employees reporting incidents of sexual harassment will be treated with compassion and confidentiality.

- **Violence** includes verbal harassment, any act of physical assault, any threat to harm or endanger the safety of themselves or others, behaviors or actions interpreted by a reasonable person as acts of aggression, any threat to destroy, or the actual destruction of, property.
- **Sexual Assault** As defined under Nebraska law 28-320. Any person who subjects another person to sexual contact (a) without consent of the victim, or (b) who knew or should have known that the victim was physically or mentally incapable of resisting or appraising the nature of his or her conduct is guilty of sexual assault.
- **Sexual Exploitation** is an act or acts committed through non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any other non-legitimate purpose. This includes, but is not limited to non-consensual streaming of images, video or audio of sexual activity or nudity.
- **Domestic Assault** consists of intentionally or knowingly causing physical injury to an intimate partner, threatening an intimate partner with immediate physical injury, or threatening an intimate partner in a menacing manner. Engaging in any sexual act

with another without that individual's expressed consent constitutes domestic assault, as does using a weapon to scare someone. Bodily injury is an injury involving physical pain or impairment. It includes less serious harm such as bruising, cuts, and abrasions

- ***Dating Violence*** Violence committed by a person who is or has been in a social relationship of a romantic nature with the alleged victim.
- ***Stalking*** Under Nebraska law, 28-311.03, any person who willfully harasses another person or a family or household member of such person with the intent to injure, terrify, threaten, or intimidate commits the offense of stalking.
- ***Bullying and Intimidation*** Bullying includes any intentional electronic, written, verbal or physical act or series of acts, directed at another student or students, that is used to cause fear, shame and/or mental suffering. Intimidation is any verbal, written, or electronic threats of violence or other threatening behavior directed toward another person or group that reasonably leads the person or persons in the group to fear for their physical well-being. Anyone who attempts to use bullying or intimidation to retaliate against someone who reports an incident, brings a complaint, or participates in an investigation will be subject to disciplinary action as outlined in the Student Handbook, up to and including dismissal.
- ***Retaliatory Harassment*** Intentional action taken by an accused individual or third party that harms a complainant, witness, reporter, or any other individual for filing or participating in a College investigation
- ***Student-Employee Relationships*** York College does not condone romantic relationships between students and employees of the college. It should be noted that these relationships are simply unwise. Relationships of this nature are strictly prohibited if:
  - there is a disproportionate allocation of power
  - any conduct of a sexual nature, even consensual conduct, between an employee and student is strictly prohibited and will result in sanctions up to and including termination of employment
- ***Consent*** must be voluntary, sober, informed, and mutual. Refusal of consent does not have to be verbal; it may be expressed with gestures, body language or attitude. A prior sexual history does not constitute consent.

It is the responsibility of the initiator of any sexual activity to ensure that he or she has the other person's consent before engaging in sexual activity. Consent may never be obtained through the use of force, coercion, manipulation, or intimidation. Sexual contact with anyone who is a minor, or who is under the influence of alcohol and/or other drugs, or who is mentally or physically impaired, or incapacitated is a violation of this policy. People who have a mental illness or deficiency, are unconscious for any reason, or are physically unable to communicate are assumed to be incapable of giving consent.

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alone. Sexual expression outside of marriage is a violation of Scripture and York College's Code of Conduct.

### ***Policy***

York College provides equal employment and education opportunities, admissions policies, scholarship, loan and other financial aid programs, athletic and other College administered programs without regard to race, color, national or ethnic origin, gender, religion or handicap. Acts of discrimination, harassment and sexual misconduct are considered a serious violation of York College's policy. Because of the seriousness of this action, violators will be subject to disciplinary action as outlined in the Student Handbook. Upon notification of violation of this policy, the Office of the Title IX Coordinator will determine if an investigation is warranted and will enable that office to investigate. Where appropriate, the Office of Student Development will take corrective action.

Any member of the York College community who believes himself or herself to be victim of sexual misconduct, harassment, and/or discrimination is encouraged to report the information to the Office of the Title IX Coordinator. York College, in accordance with the federal regulations set by the United States Department of Education, requires all faculty and staff to report any information they learn about discriminatory harassment, sexual harassment, discrimination, or sexual misconduct to the Office of the Title IX Coordinator.

This policy applies to all College faculty and staff, except the following:

1. Vice President of Spiritual Development
2. The Counseling Coordinator
3. Faculty or staff who are closely-related (e.g. sibling, parent, guardian, grandparent, or spouse) to the person experiencing or reporting an incident

*Note: If an individual divulges to a mandated reporter that a sexual assault occurred, but requests confidentiality or that the Office of the Title IX Coordinator not investigate the incident, the mandated reporter **will disclose all information** about the incident, including identifying information and the request for confidentiality to the Title IX Coordinator. The Title IX Coordinator will consider the victim's request in the context of York College's responsibility to maintain a safe, non-discriminatory environment for every student. If confidentiality is granted, the victim must understand that the Office of the Title IX Coordinator will be limited in its ability to move forward with the investigation. The Title IX Coordinator may not be able to honor every request for confidentiality.*

York College will distribute this policy as well as be proactive in preventing and creating awareness of what constitutes discrimination, harassment, and sexual misconduct. This may include, but is not limited to, training videos, educational programs and campus wide events.

### ***Scope/Eligibility***

The policy applies to all students, faculty, staff and visitors who may come into contact with the campus of York College.

This policy also applies to all incidents of alleged sexual misconduct, harassment and/or discrimination, including those which occur off campus or outside of normal work, class or business hours, where the alleged incident involves one or more members of the York College community.

### ***Reporting Procedures***

The safety and well-being of members of our community is of the utmost importance to York College. Anyone who feels they have been the subject of discrimination, harassment, sexual misconduct or retaliation directed to them by another member of the community, whether on or off campus, should contact the Title IX Coordinator. The Office of the Title IX Coordinator will take steps to ensure an adequate, prompt, reliable, and impartial investigation.

- Emily C. Lutz is the **Title IX Coordinator** and can be reached in person at McGehee 301, by telephone at (402)363-5633, by mail at 1125 E. 8<sup>th</sup> St. York, NE 68467, or by email at [elutz@york.edu](mailto:elutz@york.edu).
- The Office of Civil Rights Customer Service and complaints: (800) 421-3481

If you are the subject of sexual misconduct, go immediately to a safe place and speak with someone you trust. Contact a faculty or staff member or the Title IX Coordinator. Seeking immediate medical attention and preserving any evidence (bed linens, undergarments, etc.) is encouraged.

*Note: Victims of rape should immediately seek medical attention before showering, changing clothes or destroying evidence in any other way.*

#### Other resources:

- Emergency 911
- Local Police non-emergency (402) 363-2640
- York County Sheriff (402) 362-4927
- York General Hospital (402) 362-6671
- York Medical Clinic (402) 362-5555
- York Urgent Care (402) 745-6279
- Memorial Hospital (Seward, NE) (402) 643-2971
- Henderson Health Care Services (Henderson, NE) (402) 723-4512
- Hope Crisis Center Hotline (877) 388-4673
  - Local Office (402) 362-7527
- Rape Crisis Center Hotline (866) 995-4422
- Voices of Hope Hotline (Lincoln, NE) (402)475-7273
- Vice President of Spiritual Development, Sam Garner (402) 363-5620
- Counseling Coordinator, Laura Cole (402) 363-5634

Any member of the York College who experiences a violation of this policy has the following options available to them:

- File criminal charges against the suspect. The complainant should contact the Title IX Coordinator for assistance in filing charges through the York Police Department. Criminal charges being filed will require the student to be interviewed by police investigators and prosecuting attorneys. Students may be required to give testimony in court proceedings.
- File a civil lawsuit or request a restraining order. (A private attorney can assist students with these options.)
- File a complaint against the alleged offender with the Title IX Coordinator. Students choosing this option can expect the following:
  - to be interviewed by Title IX Investigator(s), who will assist the student in developing a written statement and explain the student's rights in the disciplinary process;
  - to be notified in writing if the case proceeds to a Title IX Adjudicator following the preliminary investigation by Title IX Investigator(s);
  - to be accorded the rights expressed in this policy and the Student Handbook.
- Inform the Title IX Coordinator without filing formal charges. In this case the Office of the Title IX Coordinator may:
  - discuss with the accused the potential disciplinary responses if charges were to be filed; and
  - keep a record for future reference without informing the accused of the report.

Students may pursue these options concurrently or separately. The choice always belongs to the individual student. Personal counseling is available to any victim of crime through York College's Director of Spiritual Development or the Counseling Coordinator. The Office of the Title IX Coordinator can only pursue an investigation if an official report is filed with the Title IX Coordinator or it is perceived there is an ongoing threat to the campus community. Every consideration will be afforded students to assure their safety and well-being.

### ***Procedure***

Those accused of violating York College's Discrimination, Harassment and Sexual Misconduct Policy will be subject to an investigation by the Office of the Title IX Coordinator as outlined in said policy:

- ***Initial Response*** In every report of violation of this policy, the Title IX Coordinator, will assess the safety of the campus community and will address all risks in a prompt and effective way. If an investigation is deemed necessary, the Office of the Title IX Coordinator will serve as primary investigator(s). Prior to the investigation, the Title IX Coordinator will assess the needs of all parties involved and determine whether to enact measures for the purpose of protecting the campus community. Such measures include, but are not limited to providing access to

counseling and pastoral services, issuing a “no contact order”, and/or housing relocation.

- **Investigation** All Title IX investigative procedures use the preponderance of evidence (50.01%) standard to resolve complaints. Equal opportunity for both parties to present witnesses and other evidence will be provided, as well as the same appeal rights. All parties may also bring one support person/advisor to all meetings regarding the investigation. As may be deemed appropriate, steps will be taken to protect those involved.

*Note: The role of a support person/ advisor to be a support system for those they accompany. Support personnel are not permitted to interject during proceedings.*

- **Resolution** Disciplinary proceedings and disciplinary action will be handled by the Title IX Adjudicator. This adjudicator will receive and study a redacted copy of the investigation before making any disciplinary decisions. Individuals found to be in violation of this policy will be subject to disciplinary action as outlined in the Student Handbook, up to and including dismissal.
  - Both parties will be informed in writing of the outcome of the investigation and any consequent disciplinary actions.
  - Whenever possible, the College will strive to resolve all reports within sixty days.
- **Appeal** If an appeal is filed, the Title IX Appeals Committee will include both male and female faculty and staff.

Note: The Office of the Title IX Coordinator’s investigation and subsequent actions are not dependent on criminal or civil charges that may be filed, in process or completed.

### ***Retention of Records***

All records and investigations will be private and confidential to the greatest extent possible and will not be publicly disclosed except to the extent required by law. However, no member of the College’s staff or faculty, or any student is promised strict or absolute confidentiality. Additionally, all records will be retained for a minimum of seven years. Records will be stored with the Office of the Title IX Coordinator.

### ***Amnesty for Victims and Good Samaritans***

York College encourages the reporting of discrimination, harassment, and/or sexual misconduct; therefore, the College may offer victims immunity from disciplinary action for policy violations related to sexual misconduct. Furthermore, for students who offer assistance (by contacting medical services, the police department, and/or York College personnel) to other students in need, both on and off campus, both parties may receive immunity from disciplinary action.

### ***Amendments or Termination of this Policy***

York College reserves the right to modify, amend, or terminate this policy at any time.