DISCRIMINATION, HARASSMENT, AND SEXUAL MISCONDUCT POLICY

What To Do If You Have Been Sexually Assaulted

- Get to a safe place as soon as you can. Call 911 if you are in immediate danger.

- Contact someone you trust to be with you for support. The Rape Recovery Center provides 24 hours support, 801-467-7273.

- Incidents that occur on campus should be reported to campus patrol immediately at 801-832-2525. If desired, campus patrol officers will assist you in filing a complaint with the Salt Lake City Police Department.

- Incidents that occur off campus should be reported to the Salt Lake City Police Department at 801-799-3000. Reporting to the police doesn’t mean that you have to press charges although if a minor is involved or this is a domestic violence situation, the police will file charges with or without your consent. You can contact the Title IX Coordinator, Jason Schwartz-Johnson, at 801-832-2262. Click here for further resources.

- Do your best to preserve all physical evidence, even if you don’t know if you want to report the assault or press charges.

- Do not shower, bathe, eat, brush your teeth, or wash your hands.

- Don’t change your clothing if possible, but if you need to change, put everything you were wearing into a paper bag and take them to your medical exam.

- If the assault took place in your room or home, do not rearrange or clean up anything until you have decided whether or not to file a report.

- Write down as much as you can remember about the assault, including a description of the assailant.

- Seek medical care as soon as possible. The Rape Recovery Center (phone) has a 24-hour Hospital Response Team; a member can meet you at the hospital or Family Justice Center to provide information and support throughout the process. They can be reached at 801-467-7273.

- To preserve forensic evidence, ask the hospital/facility Center to conduct a rape kit exam. Costs for this exam will be covered by Crime Victim Reparations. You can receive this exam whether or not you choose to involve the police.

- If you suspect you have been drugged, ask that a urine sample be collected.

- Even if you have no apparent injuries and you know that you will never report, it is important to get medical attention to determine the risks of STDs and pregnancy and receive appropriate prophylaxis medication if desired.
• Get support. Many survivors of sexual assault experience a wide range of emotions following the assault, including shock, anger, self-blame, shame, helplessness, denial, fear, and mood swings among others. These can occur immediately after an assault or weeks, months or even years later.

• Know your rights under this policy.

The following resources on or close to campus can offer much needed support:

Confidential Resources:
Westminster Counseling Center, Shaw Center, Lower Level
Lisa Jones, 801-832-2237
Michelle Call, 801-832-2246
Cory Shipp, 801-832-2273
Rape Recovery Center, 2035 South 1300 East, SLC, 801-467-7273 (24-hour crisis line)
Coalition Against Sexual Abuse Rape and Sexual Assault Hotline, 801-746-0404
National Sexual Assault Hotline, 1-800-656-4673 (24-hour crisis line)

Non-confidential Resources (these have an obligation to report to the college – see below):
Dean of Students Office, Shaw Center, 801-832-2230
Spiritual Life, Shaw Center Lower Level, 801-832-2232
Westminster Student Health Service, Shaw Center, Lower Level, 801-832-2239
Your RA or a Residential Life staff member

To Report Confidentially
If you are unsure you want to report the assault or know that you want to keep the incident completely confidential, we encourage you to contact the college’s counseling department or off-campus mental health or rape crisis resources, including counselors or clergy, for additional support. The resources listed in the “Confidential Resources” section above can all keep your information confidential.

Reporting to the College
Westminster encourages anyone who has experienced a sexual assault to report the incident to the college Title IX Coordinator or a Deputy Title IX Coordinator (see the list below). You can also report to an RA, or a faculty or staff member. Any college employee (staff, faculty or student), must report any sexual assault and sexual violence (including domestic violence, dating violence, and stalking) to a Title IX Coordinator or Deputy Coordinator, and the college has a duty to investigate and respond to any report. If you want your information to remain confidential, you can talk with one of the resources listed above.

The Title IX Coordinators will also work with you to determine if we need to take any immediate actions to ensure your safety and well-being. This could include possibly changing campus living arrangements, issuing no-contact orders, or changing work or class schedules. They can also refer you to a campus advisor who will provide information and support throughout the process. The Dean of Students Office can contact your faculty if you are having difficulty going to class or keeping up with course work;
they can do this without providing specific information about what happened.

**Title IX Coordinator**  
Jason Schwartz-Johnson 801-832-2262 jsj@westminstercollege.edu

**Deputy Title IX Coordinators**  
Mark Ferne 801-832-2233 mferne@westminstercollege.edu  
Shelley Jarrard 801-832-2340 sjarrard@westminstercollege.edu  
Rodney Glore 801-832-2025 rglore@westminstercollege.edu  
Saeed Rezai 801-832-2567 srezai@westminstercollege.edu  
Scott Gust 801-832-2449 sgust@westminstercollege.edu  
Julie Freestone 801-832-2573 jfreestone@westminstercollege.edu

**Anonymous Reporting**  
Anonymous reporting can be made to the college through our Anonymous report form.

**Policy**

Westminster College strives to create and maintain an environment in which people are treated with dignity, courtesy, and respect; where there is freedom of inquiry and expression, and the absence of intimidation, oppression and exploitation; and where people are able to work and learn in a safe environment. Westminster College students, staff, faculty, as well as guests and visitors, have the right to be free from acts of discrimination, harassment, or sexual violence. All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. Therefore, the college will not tolerate unlawful discrimination, harassment, or sexual misconduct of any kind. When an allegation of wrongdoing pursuant to this policy is brought to an appropriate administrator’s attention, and a respondent is found to have committed a violation, serious steps will be taken to provide recourse for those individuals whose rights have been violated and to reasonably prevent repeated occurrences.

Westminster College offers primary prevention and awareness programs that promote education about rape, acquaintance rape, domestic violence, dating violence, sexual assault, sexual misconduct, and stalking.

**PURPOSE:** This policy addresses the requirement of Title IX of the Education Amendments of 1972 (“Title IX”), which is a federal law that prohibits gender discrimination in federally funded education programs and activities. Title IX states, in pertinent part:

> No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

Discrimination on the basis of gender (sex) includes sexual harassment—including gender based bullying and harassment of LGBTQ students who do not conform to gender stereotypes and those with gender identity beyond the gender binary—sexual assault, and sexual misconduct. Title IX prohibits gender (sex) discrimination in both the educational and employment settings.

**Related Local and Federal Laws**

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in federally funded programs, such as education. Title IX of the Education Amendments of 1972
prohibits sex discrimination in education institutions. The Age Discrimination Act of 1975 prohibits discrimination based on age in programs or activities that receive federal financial assistance. Title VII of the Civil Rights Act of 1964 prohibits discrimination in employment race, color, or national origin, religion, or gender in employment. The Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 prohibit discrimination against individuals with disabilities. The Age Discrimination in Employment Act prohibits discrimination based on age in employment and the Equal Pay Act prohibits discrimination based on sex in the payment of wages. The Campus Sexual Violence Elimination Act (SaVE Act or act) was passed in March 2013 as part of the Violence Against Women Reauthorization Act (VAWA). The Campus Sexual Violence Elimination Act of 2013 amends the Clery Act reporting requirements to include domestic violence, dating violence, and stalking and extends training requirements and required policies and procedures on these topics.

Utah’s Antidiscrimination Act found in Utah State Code 34A-5-106 states it is a discriminatory or prohibited employment practice to refuse to hire, promote, discharge, demote, or terminate any person, or to retaliate against, harass, or discriminate in matters of compensation or in terms, privileges, and conditions of employment against any person otherwise qualified, because of: race, color, sex, pregnancy, childbirth, or pregnancy-related conditions; age, if the individual is 40 years of age or older; religion, national origin; or disability.

The Family Educational Rights and Privacy Act (FERPA) protects a student’s right to privacy concerning their academic records and information. The college will not disclose any information with the written consent from the student, with some exceptions as stated by FERPA. FERPA regulations give privacy protection to all students’ educational records. Educational records are broadly defined as “those records that are directly related to a student and are maintained by an educational agency or institution or by a party acting for the agency or institution”. FERPA continues to apply in the context of Title IX enforcement, but if there is a direct conflict between the requirements of FERPA and the requirements of Title IX, such that enforcement of FERPA would interfere with the primary purpose of Title IX to eliminate sex-based discrimination in schools, the requirements of Title IX override any conflicting FERPA provisions.

All of these laws, as well as this policy prohibit retaliation. Retaliation exists when action is taken against a complainant or participant in the complaint process that a) adversely affects the individual’s employment, academic status, or ability to access education and activities, and b) is motivated in whole or in part by the individual’s participation in the complaint process.

Legally-Mandated Reporting Obligations

Pursuant to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1990 (Clery Act), specific college employees have an obligation to report crimes, including certain acts of sexual misconduct, to the Director of Campus Security for publication in the college’s weekly Crime log and its annual Campus Security Report. All personally identifiable information is kept confidential, but statistical information such as type of incident and general location will be reported. The college employees who must report crimes include all student services personnel, campus patrol officers, coaches, the athletic director, human resources staff, advisors to student organizations, athletic training staff, and other employees with significant responsibility for students and campus activities. For more information regarding the Clery Act see the Annual Security Report found on the Campus Patrol web page.
In addition, the college is required to issue immediate and timely warnings to the campus community regarding incidents that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community.

Under Utah law, the college is required to report to law enforcement or an office of the division of family services any incident where the college has reason to believe that physical or sexual abuse of a child has occurred. (Utah State Code 62A-4a-403). Westminster College does host minors on campus through camps, conferences, etc.

**Title IX Coordinator and Deputy Coordinators**

The Title IX Coordinator will coordinate the College’s response to reports of sexual misconduct. This includes:
- Making information regarding the Sexual Misconduct Policy and related services available to students in print and via the website
- Assist complainants and respondents in understanding their rights
- Recommend necessary remedial short-term actions to provide appropriate support and safety. This would include facilitating requests for safe housing, negotiating academic accommodations and providing referrals to on and off campus resources
- Assist students who choose to report an incident of sexual misconduct to the Salt Lake City Police Department or other law enforcement agencies
- Investigating reports of alleged sexual misconduct involving students
- Issuing no-contact and no-trespass directives
- Overseeing the adjudication process and if necessary the appeal procedures

The Title IX Coordinator for Westminster College is ultimately responsible for implementing and monitoring compliance on behalf of the college. Responsibilities include, but are not limited to, coordinating college-wide training, dissemination of this policy, state/federal reporting, and administration of the grievance procedures for the handling of complaints alleging violations of this policy.

Westminster College has Deputy Title IX Coordinators who are responsible for supporting the Title IX Coordinator in implementing and monitoring compliance on behalf of the college. This support includes notifying the Title IX Coordinator of any alleged or suspected violations of this policy and the resolution of such alleged or suspected violations, regardless of whether or not a complaint is filed. Deputy Title IX Coordinators will assist individuals who have experienced sexual harassment or other acts of sexual assault in contacting local law enforcement authorities.

**Duty To Investigate**

Westminster College is committed to investigate all possible violations of this policy about which the school knows or reasonably should know regardless of whether a complaint alleging violations of this policy has been filed. While the ability to investigate in a particular situation, or the extent of the investigation in any given situation may be affected by any number of factors, including whether the complainant is willing to file a complaint, the location where the alleged conduct occurred, and the College’s access to information relevant to the alleged or suspected violation of this policy, Westminster is committed to investigate all alleged and suspected violations of this policy to the fullest extent possible under the circumstances. At Westminster College all “responsible employees” must report all possible violations of this policy to the Title IX Coordinator or a Deputy Coordinator. A “responsible employee” is any employee who has authority to take action to redress sexual violence; who has been given the duty of reporting incidents to the Title IX coordinator or designee; or whom a student could reasonably believe
has this authority or duty. “Responsible employees” include but are not limited to Title IX Coordinators and Deputy Coordinators; Campus Patrol Officers; Resident Advisors; Resident Directors; Vice Presidents; Deans; Provost; President; Associate Provosts; General Counsel; Athletic Director; and Faculty and Adjuncts.

To Report Confidentially
Individuals desiring to keep the incident completely confidential, including the fact that such an incident occurred, should contact the college’s counseling department or off-campus mental health or rape crisis resources, including counselors or clergy. These are people who can and will maintain complete confidentially, unless they receive information that would cause them to believe that the reporting individuals are in danger of harming themselves or others. This type of reporting does not preclude the college from conducting an investigation into the alleged incidents.

Privacy
To the extent permitted by law, the privacy of all parties involved in the investigation and resolution of alleged or suspected violations of this policy will be observed, provided that it does not interfere with the college’s ability to conduct an investigation and take any corrective action it deems appropriate.

Definitions

Consent
The College defines consent as a freely and affirmatively communicated willingness to participate in sexual activity, expressed by clear, unambiguous words or actions. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. It is the responsibility of the initiator of the sexual activity to ensure that they have the other person’s consent to engage in sexual activity. Consent must be present throughout the sexual activity by all parties involved. At any time, a participant can communicate that they no longer consent to continuing the activity and revoke their consent. Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity. In order to give effective consent, one must be of legal age. Consent must be clear, knowing and voluntary. Previous relationships or prior consent cannot imply consent to future sexual acts. Consent may never be obtained through the use of force, coercion, or intimidation or if the victim is mentally or physically incapacitated, including through the use of drugs or alcohol.

Individuals who are incapacitated for any reason lack the capacity to give knowing consent. Incapacitation is a state where someone cannot make rational, reasonable decisions; for example, they are unable to understand the “who, what, when, where, why or how” of their sexual interaction. A person may be incapacitated due to mental disability, sleep, involuntary physical restraint, alcohol, prescription drugs, illegal substances, or from the taking of rape drugs, such as Rohypnol, Ketamine, GHB, Burundanga, etc. More information on these drugs can be found at http://www.911rape.org/.. 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 constitutes a violation of this policy. Use of alcohol or other drugs will never function as a defense for any behavior that violates this policy.

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. Coercion is unreasonable pressure for sexual activity; coercion is not seductive behavior. When
individuals make it clear 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 for sex can constitute coercion.

While there is no requirement that a party resist, fight, or yell out, this resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Forced sexual activity is, by definition, non-consensual; but non-consensual sexual activity is not by definition “forced.”

For a non-exhaustive list of situations in which consent has not been given, see Utah Code Ann. Sec. 76-5-406.

**Proceeding**

Proceeding means all activities related to a non-criminal resolution of a disciplinary complaint, including, but not limited to, fact-finding, investigations, formal or informal meetings, and hearings.

**Result**

Result means any initial, interim, and final decision by any official authorized to resolve disciplinary matters within the college. The result includes any sanctions imposed by the college, as well as the rationale for the result and the sanctions. The result is provided to both parties to the proceeding at the same time.

**Conduct Prohibited By This Policy**

Prohibited conduct includes all forms of sex discrimination and sexual harassment, as well as all types of sexual assault. Sexual harassment, which includes sexual assault and sexual misconduct, may take many forms.

**Gender-Based Misconduct**

1. Threatening or causing physical harm, extreme verbal abuse, or other conduct, which threatens or endangers the health or safety of any person.
2. Implied threats and intimidation that cause a reasonable fear of harm in another person.
3. Stalking or 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.
4. 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 First Amendment).

**Discrimination**

Discrimination is any distinction, preference, advantage for or detriment to an individual compared to others that is based upon an individual’s actual or perceived gender, gender identity, race, color, age, national or ethnic origin, physical or mental disability, veteran status, pregnancy status, genetic information, religion, or sexual orientation that is sufficiently severe, persistent, or pervasive that it unreasonably interferes with or deprives someone of the ability to participate in or benefit from the college’s educational programs and/or activities.

**Discriminatory Harassment**

Harassment is a form of discrimination that consists of detrimental actions based on an individual’s actual or perceived gender, gender identity, race, color, age, creed, national or ethnic origin, physical or mental disability, veteran status, pregnancy status, genetic information, religion or sexual orientation that is
sufficiently severe, persistent, or pervasive that it unreasonably interferes with or deprives someone of the ability to participate in or benefit from the college’s educational programs and/or activities. This behavior may be based on power differentials (such as quid pro quo), the creation of a hostile environment, or retaliation.

False Reports
If any member of the campus community knowingly makes a false report of a violation of this policy, that person will be subject to disciplinary action, including but not limited to suspension, expulsion and/or termination from employment.

Retaliatory Harassment
Retaliatory harassment is any intentional action taken by an accused individual or allied third party, without legitimate non-discriminatory purposes, to the detriment of the individual as reprisal for filing or participating in a civil rights grievance proceeding.

Sexual Misconduct
Sexual misconduct is a broad term encompassing any unwelcome behavior of a sexual nature that is committed without consent or by force, intimidation, coercion or manipulation. Sexual misconduct can occur between persons of the same or different genders.

The list of prohibited conduct under this policy includes, but is not limited to, the following:

- Unwelcome sexual advances or propositions that interfere with a student’s education or employee’s opportunities
- Using electronic devices or technology (e.g., cell phone, camera, email, Internet sites or social networks) to record or transmit nudity or sexual acts without a person’s knowledge and/or permission
- Intentionally observing nudity or sexual acts of another person without the person’s knowledge or permission (voyeurism)
- Unwanted touching of the genitals, buttocks, or breasts that is intentional or other unwanted touching or groping
- Forcing/coercing someone to touch you or someone else in a sexual manner
- Threatening to sexually harm someone
- Initiating sexual activity with a person who is incapacitated and unable to provide consent due to alcohol and/or drug consumption or other condition
- Inducing incapacitation for the purpose of sexual exploitation
- Ignoring a sexual limit that has been communicated
- Coercing or intimidating someone into sexual behavior
- Sexual assault, including unwanted penetration of an orifice (anal, vaginal, oral) with the penis, finger or objects

Sexual Harassment
Unwelcome sexual advances or propositions that interfere with or deny a student’s access to education or participation in educational activities. For employees, sexual harassment is unwelcome sexual advances or propositions that interfere with or deny access to employment.

Domestic Violence
Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the
domestic or family violence laws of the jurisdiction, or by any other person against an adult or youth victim who is protected under domestic or family violence laws, or anyone else protected under domestic or family or violence law.

**Dating Violence**
Violence committed by a person (A) who is or has been a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship, (ii) the type of relationship, (iii) the frequency of interaction between the persons involved in the relationship.

**Rape**

(1) A person commits rape when the actor has sexual intercourse with another person without the victim’s consent.
(2) This section applies whether or not the actor is married to the victim.

*Utah 76-5-402.*

Westminster College Definition – consistent with the FBI’s updated definition in the Uniform Crime Reporting (UCR) Summary Reporting System as taken from www.fbi.gov/about-us/cjis/ucr/new-rape-fact-sheet:

The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

**Stalking**
Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.

**Sexual Assault**
An offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

**Sexual Exploitation**
Sexual exploitation means taking the advantage of person in a sexual nature to make a personal gain or profit. It is the abuse of a position of vulnerability, differential power, or trust for sexual purposes.

**Sanction Statement**
Westminster College may impose a number of sanctions or protective measures following a final determination of a violation of this policy. **Protective measures** include re-assigning students to new residence hall rooms (should they live on campus), examining the academic schedule and moving students into different sections, banning students from specific buildings on campus, and issuing “no-contact orders” which limit communication between students. **Sanctions** could include, but are not limited to, warning, community service, suspension, or expulsion. This depends on the severity of the violation and taking into account any previous violation of the Student Code of Conduct. Findings of rape or acquaintance rape will result in suspension or expulsion. Findings of domestic violence, dating violence, sexual assault or stalking could result in suspension or expulsion. The conduct body reserves the right to broaden or lessen any range of recommended sanctions in the case of serious mitigating
circumstances or egregiously offensive behavior. The initial hearing officers or any appeals body or officer may deviate from the range of recommended sanctions, but only if compelling justification exists to do so. If a student is suspended or expelled for violation of this policy, a notation will be made on the student's Academic Transcript of Non-Academic Suspension or Non-Academic Expulsion.

Prevention and Education

Ongoing Prevention Awareness Campaigns
Westminster College recognizes the importance of educating our entire community on the topics of sexual violence, sexual assault, and gender discrimination. Awareness programs are community-wide or audience specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration. They are in place to annually address these myriad of factors that our community members should be versed in to halt the pattern of violence and discrimination on our campus. Annual programs include Title IX Policy training at New Student Orientation; bystander intervention training; online training for all campus students and employees; and a campus climate survey to collect data regarding sexual misconduct and awareness on campus.

Bystander Intervention
The Bystander effect is a social science model that predicts most people are unlikely to help others in certain situations perceived to be unsafe. A bystander is anyone who observes an emergency or a situation that is concerning. They must then decide if they are comfortable stepping in and offering assistance.

Bystander Intervention programs teach people to overcome their resistance to checking in and assisting/intervening. These programs have been found to be very helpful on college campuses to thwart sexual assault, abusive alcohol consumption, campus damages, and concerns about suicide, depression and eating disorders.

Westminster College provides annual bystander intervention training at New Student Orientation, and for student leaders involved in the Associated Students of Westminster College, Student Activities Commission, and Inter-Club Council, including all clubs and organizations funded by ASWC.

Online Training
Westminster College provides online training for all undergraduate, graduate, and college employees on Title IX Policy, sexual misconduct, reporting, and resources at the beginning of the Fall semester and Spring semester for new students and employees.

Campus Climate Survey
Westminster College administers an annual campus climate survey to collect data regarding occurrences of sexual misconduct and gender discrimination on campus, understanding of policy, myths, and perceptions regarding sexual violence and gender discrimination, and knowledge of policy and resources available under Title IX at the institution. This data is
collected to further inform our training and education processes to best support the campus for
the future.

**Primary Prevention Programs**

Programming, initiatives and strategies informed by research or assessed for value, effectiveness
or outcomes that are intended to stop dating violence, domestic violence, sexual assault, and
stalking before they occur through the promotion of positive and healthy behaviors that foster
healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention,
and seek to change behavior and social norms in healthy and safe directions.

**Risk Reduction**

Risk reduction strategies allow for safe consideration and alternative opportunities to mitigate risk in
unsafe situations.

**Rights**

**Students involved in an incident of sexual misconduct have the right to:**

- **A safe environment**
  The College will take whatever measures it deems reasonable and feasible to protect the safety
  of the campus community, and the well-being and rights of students.

- **Respect**
  All parties involved in an incident of sexual misconduct will be treated with dignity, respect and
  fairness.

- **Be taken seriously**
  The College will treat all complaints seriously and will investigate all allegations of sexual
  misconduct.

- **Access to College resources and support**
  All parties will have full access to campus services designed to assist in such cases, including
  the Dean of Students' office, the Counseling Center, and Health Center.

- **Be fully informed**
  All parties will receive information about the nature, rules and procedures of the investigative process
  and to timely written notice of all alleged violations within the complaint, including the nature of the
  violation and possible sanctions.

- **A fair conduct process**
  The College will conduct a fair and impartial investigation and adjudication.

- **An advisor**
  The College will offer trained advisors to provide information, resources and support throughout the
  process.

- **Receive written notice of the outcome and sanctions**

- **Freedom from retaliation**
  The College will not tolerate any form of harassment, retaliation, and/or intimidation of the
  complainant or the respondent, or of those supporting either party. Any retaliatory action taken
  against a complainant or respondent or against their friends, acquaintances or other persons
cooperating in the investigation of a charge of sexual misconduct is a violation of College policy.

Privacy
The written statements submitted by both parties are educational documents protected by the Family Educational Rights and Privacy Act.

The Role of the Advisor
- The complainant and respondent have the right to have an advisor who will help them as they go through the adjudication process.
- The Title IX Coordinator will recommend faculty or staff members who are qualified to advise the parties involved.
- Students may choose to have no advisor or they may choose an advisor other than one that is recommended by the Title IX Coordinator.
- Advisors recommended by the Title IX Coordinator will have completed the College’s Title IX training.
- The advisor’s role is to provide support and to give advice based on their knowledge of the college process.
- Advisors do not assume a lawyerly role nor should they interrupt or interfere with the adjudication process.
- The advisors may not contact witnesses, the advisor for the other party, or the other party.
- Advisors must not have a conflict of interest with either party. The Title IX Coordinator or their designee will determine whether a conflict exists.

Reporting Discrimination, Harassment, or Sexual Misconduct

Reporting
1. The College encourages any member of the campus community who witnesses or experiences acts they believe to constitute discrimination, harassment, retaliation, or sexual misconduct in violation of College policy to report the incident to the Title IX Coordinator or a Deputy Title IX Coordinator.

   a. Timely reporting (within 24-48 hours) is encouraged. There is no specific time limit to report.
   b. The complainant may report in person to the Title IX Coordinator, Deputy Coordinators, or any Responsible Employee of the college.
   c. The complainant is encouraged to provide as much information possible. A complaint intake form can be found on the Title IX web page for your convenience.
   d. An anonymous report form can be found on the Title IX web page for your convenience. If you as a student survivor or reporter wish to remain anonymous, fill out this Anonymous Report Form. The college will use this information for statistical purposes (as required by Federal law), to better understand the scope of sexual violence on campus, and to develop and implement preventive efforts. If you fill this form out with a college employee, the report will no longer be anonymous.
The college is required to investigate allegations of sexual misconduct to the best of its ability. As a result, the college will follow up on any specific, identifying information provided in this anonymous report.

e. Alternative options for reporting include maintaining confidentiality of the reporter, if requested, to the highest degree possible, based on the circumstances of the report. Reporters are always encouraged to voice their concerns and participate only to the degree that they feel comfortable in an investigation process. The Title IX Coordinator or their designee will evaluate whether the college can honor a reporter’s request that their name not be disclosed to the respondent.

f. At times a reporter may request that no investigatory or disciplinary action be taken. The college is required to investigate allegations of sexual misconduct to the best of its ability. The Title IX Coordinator or their designee will evaluate and determine if the college can honor a request for no action to be taken. The College’s response to a reporter’s request for confidentiality may limit the institution’s ability to investigate. The College may take steps to limit the effects of the alleged sexual misconduct and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the complainant. This may include providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; providing training and education materials for students and employees; revising and publicizing the institution’s policies on sexual misconduct; and conducting climate surveys regarding sexual misconduct.

2. The Title IX Coordinator or their designee will consult with the complainant to determine what interim actions (addressing immediate concerns) are warranted by the college.

   a. These interim actions could include, but are not limited to: suspension, administrative leave, modifications of living arrangements, changing an academic or work schedule, or removing a student from housing, classes, athletic or school-related teams or groups, or issuing a “no-contact” or “no-trespass” directive. These interim actions may or may not be permanent depending on the outcome of the investigation.

3. To encourage students to report incidents of sexual misconduct the College will refrain from disciplining a reporting student for violating rules pertaining to alcohol or drug usage. A reporting student’s conduct may be addressed as a health or welfare concern but will not be addressed as a punitive or disciplinary matter. Amnesty does not apply to a respondent who may have provided alcohol or dangerous substances in violation of the Westminster College code of conduct or Utah law.

**Investigative Process**

1. The Title IX Committee will initiate an immediate review to determine the course of the investigation.

2. The Title IX Coordinator or their designee will assign an investigator(s) to conduct a thorough, reliable, and impartial investigation. Investigations may be internally conducted or externally conducted depending on the nature of the complaint and/or allegations being made.

   a. The investigator(s) will develop an “investigation strategy” and timeline not to exceed 60 days.

   b. The respondent will be made aware of the investigation and is expected to participate in the process.
c. The complainant and respondent will have individual interviews with the investigators. Advisors may attend these interviews but are not allowed to participate in the interview process. If applicable, the investigators may also interview witnesses who have information pertaining to the case.
d. The investigator(s) will make a determination based on preponderance of the evidence—a requirement that more than 50% of the evidence points to a finding of violation or not.
e. Notifications must be made within 10 days of the investigation determination—notification must include outcome of the investigation and whether there is a determination of a policy violation. If there is a “no evidence” finding, the parties will be notified and the case closed.
f. The Title IX Coordinator or their designee meets with respondent and complainant to go over the determination.

3. The determination will be turned over to the appropriate administrator for sanctions and/or disposal of complaint.

Appeal Process

A decision reached or a sanction imposed by the appropriate administrator may be appealed by accused students or complainants to an appellate board within five (5) school days of the parties’ receipt of the decision. Such appeals shall be in writing and shall be delivered to the Dean of Students or their designee.

Permitted grounds for appeal shall be:

- To determine whether the original investigation was conducted fairly in light of the charges and evidence presented, and in conformity with prescribed procedures.
- To determine whether the decision reached regarding the accused student was based on substantial evidence, that is, whether the facts in the case were sufficient to show that a violation of the Student Code had more likely than not occurred.
- To determine whether the sanction(s) imposed were appropriate for the violation of the Student Code that the student was found to have committed.
- To consider new evidence, sufficient to alter a decision or other relevant facts not brought out in the original investigation, because such evidence and/or facts were not known to the person appealing at the time of the original investigation.

Notifications of decisions made by the appeal board must be made to both parties within 10 days of the determination—notification must include outcome of the appeal.

If an appeal is upheld by the appellate board, the matter shall be remanded to the Title IX Coordinator or their designee for reopening of the investigation for reconsideration of the original determination and/or sanction(s).

Nothing in this policy prohibits individuals from going to outside agencies including the police to pursue these matters.

For further information about resources from outside agencies click here.