



Policy Title: **SEX-BASED HARASSMENT AND NONDISCRIMINATION**

### **Statement of Policy**

Chippewa Valley Technical College (CVTC) is committed to providing an educational environment that is free from sex-based discrimination, harassment, and retaliation for engaging in protected activity. CVTC does not discriminate on the basis of sex and prohibits sex discrimination, including sex-based harassment, in any education program or activity that it operates, as required by Title IX and its regulations, including in admission and employment. Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

Online manifestations of discriminatory, harassing or relating behaviors, when those behaviors occur in or impact CVTC's education program and activities, or when they involve the use of CVTC networks, technology, or equipment, will be treated in the same manner as if the conduct occurred face-to-face.

This Policy applies to all faculty, employees, students, and other individuals participating in or attempting to participate in CVTC's program or activities, including education and employment. However, this Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive, subject matters protected by academic freedom.

Addendums attached to this Policy define terms used in the Policy and describe specific forms of legally prohibited discrimination, harassment, and retaliation that are also prohibited under CVTC Policy. Such lists are not intended to be exhaustive.

Violation of any other CVTC policies may constitute discrimination or harassment under this Policy when motivated by actual or perceived protected characteristic(s), and the result is a limitation or denial of employment or educational access, benefits, or opportunities.

### **Complaints**

To ensure compliance with federal, state, and local laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the education program or activity, CVTC has developed policies and procedures that provide for prompt, fair, and equitable resolution of allegations of sex-based discrimination, harassment or allegations of

retaliation. The procedures that accompany this Policy are included in the Sex-Based Harassment and Non-Discrimination Resolution Process.

To view CVTC's nondiscrimination policy and grievance procedures, report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please refer to [CVTC Title IX – Sex-Based Harassment and Non Discrimination](#) webpage.

Inquiries about Title IX may be referred to CVTC's Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights, or both.

**CVTC's Title IX Coordinator:**

**Natti Marlaire**

**Dean of Student Success/Title IX Coordinator**

**620 W Clairemont Avenue**

**Business Education Center Room 113**

**Eau Claire, WI 54701**

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**715-852-1399**

**Jurisdiction**

Not all complaints will be covered under this Policy. This Policy applies to CVTC's education programs and activities (including locations, events, or circumstances in which CVTC exercises substantial control over both the Respondent and the context in which the conduct occurred and circumstances where CVTC has disciplinary authority). A Complainant does not have to be a member of CVTC community to file a Complaint, but must have been participating or attempting to participate in the College's education program or activities at the time of the alleged incident. In some instances, such conduct may extend to off-campus or online conduct. Complaints involving employees shall be primarily handled by Talent and Culture.

**Employee Obligation to Report**

While individuals who believe they have been subject to discrimination, harassment or retaliation while participating in or attempting to participate in CVTC's program or activities are able to make their own report, all CVTC faculty and employees (including student-employees), are similarly expected to promptly report actual or suspected discrimination, harassment, or retaliation related to participation in or attempted participation in CVTC's programs or activities. Such report is to be made to the Title IX Coordinator upon discovery.

Similarly, an employee who learns of a student's pregnancy or related conditions is to report to the Title IX Coordinator information regarding the student's status so that the College can offer information regarding available accommodations.

Failure of an employee to report an incident of discrimination, harassment, or retaliation of which they become aware (other than the employee's own status as the target of such conduct) or pregnant status is a violation of CVTC Policy, subject to disciplinary action up to and including termination of employment.

### **Investigations/Addressing Conduct**

Although the particulars of an investigation and addressing the conduct is outlined in the Sex-Based Harassment and Non-Discrimination Resolution Process, the following principles apply to the process:

### **Independence and Freedom from Conflicts of Interest**

The Title IX Coordinator manages the Title IX Team and acts with independence and authority, free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this Policy and these procedures. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific Complaint, or for or against Complainants and/or Respondents, generally.

Should a party have any concern involving bias, conflict of interest, misconduct, or discrimination by the Title IX Coordinator, contact the CVTC's Associate Vice President - Student Services. Concerns of bias, misconduct, discrimination, or a potential conflict of interest by any other Title IX Team member must be promptly raised with the Title IX Coordinator.

### **Reporting Timeline**

There is no time limitation on providing Notice/Complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to CVTC's jurisdiction and/or significant time has passed, the ability to investigate, respond, and/or provide remedies may be limited or unavailable.

Action on Notice/Complaints that have been impacted by the passage of time (including, but not limited to, the rescission or revision of this Policy and when the complaining party is not participating or attempting to participate in CVTC's education program and activities) is at the Title IX Coordinator's discretion.

### **Confidentiality/Privacy**

CVTC makes reasonable efforts to preserve the parties' privacy and asks that individuals involved in such matters do the same. ***Nevertheless, individuals engaged in an investigatory process must note that Title IX investigations nearly always require the disclosure of parties, witnesses, etc., to the Complainant and Respondent.*** Thus, except as necessary to fulfill the purposes of this Policy, or to comply with applicable laws and regulations (including Title IX and the Family Educational Rights and Privacy Act and open records laws) CVTC will endeavor to not share:

- the identity of any individual who has made a Complaint of discrimination, harassment, or retaliation;
- any Complainant;
- any individual who has been reported to be the perpetrator of discrimination, harassment, or retaliation;
- any Respondent; or
- any witness;

Additional information regarding confidentiality and privacy can be found in the Sex-Based Harassment and Non-Discrimination Resolution Process.

### **False Allegations and Evidence**

Knowingly false accusations made under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith, but which are ultimately shown to be erroneous.

Additionally, witnesses and parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official investigation or resolution process can be subject to discipline under appropriate CVTC policies.

### **Sanctions**

CVTC uses a number of interventions to address conduct under this Policy, including problem-solving, intervention, confrontation, investigation, and Policy enforcement.

Where conduct is found to have violated this Policy, the College may impose sanctions which range from warning, suspension, or expulsion. Where warranted, sanctions are determined on a case-by-case basis and may factor in aggravating or mitigating circumstances and a party's cumulative conduct record.

### **Emergency Removal/Interim Actions**

Independent of its Sanctions power, CVTC reserves the right to remove a Respondent accused of Sex Discrimination or Sex-based Harassment from its education program or activities, partially or entirely, on an emergency basis when the College's individualized safety and risk analysis concludes an imminent and serious threat to the health or safety of any student or other individual exists and supports removal.

### **Standard of Proof**

CVTC uses the preponderance of the evidence standard of proof when determining whether a Policy violation occurred. This means that CVTC will decide whether it is more likely than not, based upon the available information at the time of the decision, that the Respondent is in violation of the alleged Policy violation(s).

### **Student v. Employee Status**

Where an individual is both a student and an employee of CVTC, the status held by the individual at the time of the alleged event shall control the application of this Policy and the requirements hereunder. In the event it is unclear, the College will consider the status of the individual to be student and the policy and procedures applicable to students will apply. The College reserves the right to discontinue application of the individual's status as a student and refer the matter to Human Resources should the facts discovered demonstrate the individual's status at the time of the alleged event was as an employee.

### **Amnesty**

CVTC community encourages the reporting of misconduct and crimes by Complainants and witnesses. To encourage participation in the process, CVTC may offer parties and witnesses amnesty from other minor policy violations, such as underage alcohol consumption or the use of illicit drugs, related to the incident. Granting amnesty is a discretionary decision made by CVTC, and amnesty does not apply to more serious allegations, such as physical abuse of another or illicit drug distribution.

### **Scope**

This Policy is only applicable to alleged incidents of sex-based harassment and discrimination that occur on or after August 1, 2024. For alleged incidents of sex discrimination or sexual harassment occurring prior to August 1, 2024, the policy and procedures in place at the time of the alleged incident apply. Applicable versions of those policies and procedures are available from the Title IX Coordinator and at [CVTC Title IX – Sex-Based Harassment and Non Discrimination](#) webpage.

This Policy will remain in effect unless the 2024 Title IX/Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance regulations are enjoined or otherwise determined to be unlawful by a court of competent jurisdiction. Should the underlying law or regulations on which this policy is built cease to remain enforceable, the appropriate sex-based discrimination/harassment college policies and procedures from 2020 will apply.

The Title IX Coordinator reviews and updates these policies and procedures regularly. CVTC reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

This Policy does not create legally enforceable protections beyond the protections of the background state and federal laws that frame such policies and codes, generally. The College reserves the right to discontinue application of this Policy should the facts discovered demonstrate that this policy does not apply.

This Policy is effective 08-01-2024 and, except as set forth herein, supersedes CVTC's previous Title IX Sexual Harassment Policy and Procedure.

## APPENDIX 1 - DEFINITIONS

### **Discrimination**

For purposes of this Policy, Discrimination is adverse treatment with respect to a person's employment or participation in an education program or activity based, in whole or in part, upon the person's actual or perceived protected characteristic. Discrimination also includes allegations of a failure to provide reasonable accommodations as required by law or policy, such as for pregnancy.

**Gender Identity** generally describes an individual's sense of their gender, which may or may not be different from their sex assigned at birth.

**On the basis of sex** means conduct that is sexual in nature, or that is directed to the individual because of his/her/their actual or perceived sex or gender identity.

**Pregnancy or related conditions** means: (1) pregnancy, childbirth, termination of pregnancy, or lactation; (2) medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or (3) recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

**Sex-based Harassment** is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity; sexual assault, dating violence, domestic violence, and stalking. All offense definitions below encompass actual and/or attempted offenses.

1) **Quid Pro Quo:**

- an employee agent, or other person authorized by CVTC,
- to provide an aid, benefit, or service under CVTC's education program or activity,
- explicitly or impliedly conditioning the provision of such aid, benefit, or service,
- on a person's participation in unwelcome sexual conduct.

2) **Hostile Environment Harassment:**

- unwelcome sex-based conduct that,
- based on the totality of the circumstances,
- is subjectively and objectively offensive, and
- is so severe or pervasive,
- that it limits or denies a person's ability to participate in or benefit from CVTC's education program or activity

CVTC reserves the right to address offensive conduct and/or harassment that does not rise to the level of creating a hostile environment. Addressing such conduct may be addressed through respectful conversation, remedial actions, education, effective Alternative Resolution, and/or other Informal Resolution mechanisms.

For assistance with Alternative Resolution and other Informal Resolution techniques and approaches, contact the Title IX Coordinator.

1) **Sexual Assault:**<sup>1</sup>

a. **Rape:**

- Penetration, no matter how slight,
- of the vagina or anus of the Complainant,
- with any body part of the Respondent or by Respondent's use of an object, or
- oral penetration of the Complainant by a sex organ of Respondent,
- without the consent of the Complainant.

b. **Fondling:**

- The touching of the private body parts of the Complainant (buttocks, groin, breasts),
- by the Respondent for the purpose of sexual gratification,
- without the consent of the Complainant,
- including instances where the Complainant is incapable of giving consent because of their age or because of a temporary or permanent mental incapacity.

c. **Incest:**

- Sexual intercourse,
- between persons who are related to each other,
- within the degrees wherein marriage is prohibited by WI law.

d. **Statutory Rape:**

- Sexual intercourse,
- with a person who is under the statutory age of consent of 18.

1) **Dating Violence**, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a person,
- d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.

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<sup>1</sup> This would include having another person touch you sexually, forcibly, and/or without their consent.



- i. The existence of such a relationship shall be determined based on the Complainant’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
  - a) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
  - b) Dating violence does not include acts covered under the definition of domestic violence.

2) **Domestic Violence**, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a current or former spouse or intimate partner of the Complainant,
- d. by a person with whom the Complainant shares a child in common, or
- e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Wisconsin, or
- g. by any other person against an adult or youth Complainant who is protected from that person’s acts under the domestic or family violence laws of WI.

3) **Stalking**, defined as:

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at the Complainant, that
  - i. would cause a reasonable person to fear for the person’s safety, or
  - ii. the safety of others; or
  - iii. suffer substantial emotional distress.

For the purposes of this definition—

- Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.

- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

## **Consent, Force, and Incapacitation**

As used in this Policy, the following definitions and understandings apply:

### **1) Consent**

Consent is defined as:

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.

### **2) Force**

Force is the use of physical violence and/or physical imposition to gain sexual access. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Force is conduct that, if sufficiently severe, can negate consent.

Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent.

Coercion is unreasonable pressure for sexual activity. Coercive conduct, if sufficiently severe, can render a person's consent ineffective, because it is not voluntary.

### **3) Incapacitation**

Incapacitation is a state where a person is incapable of giving consent. An incapacitated person cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, and how” of their sexual interaction). A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including because of alcohol or other drug consumption.

This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

## **APPENDIX 2 -- Clery Act/VAWA Obligations**

The following provisions address CVTC's obligations under the Clery Act and the Violence Against Women Act ("VAWA").

### **Federal Timely Warning Obligations**

CVTC will issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of CVTC community.

CVTC will ensure that a Complainant'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 potential danger.

### **Preservation of Evidence**

The preservation of evidence is critical to potential criminal prosecution and to obtaining restraining/protective orders, and it is particularly time sensitive. CVTC will inform the Complainant of the importance of preserving evidence by taking actions such as the following:

#### Sexual Assault

- Seek forensic medical assistance at the nearest hospital, ideally within 120 hours of the incident (sooner is better).
- Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
- If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or a secure evidence container (if provided one by law enforcement)
- Seeking medical treatment can be essential, even if it is not for the purposes of collecting forensic evidence.

#### Stalking/Dating Violence/Domestic Violence/Sex-Based Harassment

- Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number.
  - Make a secondary recording of any voice messages and/or save the audio files to a cloud server.
  - Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook).
- Save copies of email and social media correspondence, including notifications related to account access alerts.
- Take timestamped photographs of any physical evidence, including notes, gifts, etc., in place when possible.
- Save copies of any messages, including those showing any request for no further contact.

- Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible.

During the initial meeting between the Complainant and the Title IX Coordinator, the importance of taking these actions will be discussed, if timely.

### **Federal Statistical Reporting Obligations**

Certain institutional officials (those deemed Campus Security Authorities) have a duty to report the following for federal statistical reporting purposes (Clery Act):

- 1) All “primary crimes,” which include criminal homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson
- 2) Hate crimes, which include any bias-motivated primary crime as well as any bias-motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property
- 3) VAWA-based crimes, which include sexual assault, domestic violence, dating violence, and stalking
- 4) Arrests and referrals for disciplinary action for weapons law violations, liquor law violations, and drug law violations

All personally identifiable information is kept private, but statistical information regarding the type of incident and its general location (on- or off-campus or in the surrounding area, but no addresses are given) must be shared with Clery Act Coordinator for publication in the Annual Security Report and daily campus crime log. Campus Security Authorities include student affairs/student conduct staff, campus law enforcement/public safety/security, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.