

PURPOSE

The purpose of this regulation is to establish that College of the Mainland (COM) prohibits discrimination, harassment, sexual assault, domestic violence, dating violence, stalking, and retaliation and to set forth procedures by which such allegations shall be filed, investigated, and resolved.

This regulation is not intended to substitute or supersede related criminal or civil law. Individuals should report incidents of sexual and domestic violence, dating violence, and stalking to law enforcement authorities. Criminal and civil remedies are available in addition to the potential remedies that the College may provide.

This institution promotes and maintains educational opportunities without regard to race, color, sex, ethnicity, religion, gender, age (except when age is a bona fide occupational qualification), disability, national origin, or other non-merit factors. This regulation also addresses the requirements under the [Violence Against Women Reauthorization Act of 2013](#), (also known as the Campus SaVE Act).

This regulation supplements FA (Legal) - Equal Educational Opportunity; DAA (Local) - Employment Objectives - Equal Opportunity and Nondiscrimination; DIAA (Legal) and DIAA (Local) - Employee Welfare – Freedom from Discrimination, Harassment and Retaliation Sex and Sexual Violence; FFDA (Legal) and (Local) - Student Welfare - Freedom from Discrimination, Harassment and Retaliation Sex and Sexual Violence.

DEFINITIONS

Advisor: An individual who provides the complainant and respondent support, guidance, or advice. Advisors may be present at any meeting or hearing, but may not speak directly on behalf of the complainant or respondent.

Campus: Refers to (i) any building or property owned or controlled by the college within the same reasonably contiguous geographic area of the college and used in direct support of, or in a manner related to, the college’s educational purposes, and (ii) any building or property that is within or reasonably contiguous to the area described in clause (i) that is owned by the college but controlled by another person, is frequently used

by students, and supports institutional purposes, such as a food or other retail vendor.

Complainant: Refers to an individual who may have been the subject of a violation of this regulation and files a complaint against a faculty member, staff member, or student.

Consent: Means assent in fact, whether express or apparent.

Dating Violence:

(a) Means an act, other than a defensive measure to protect oneself, by an actor that:

(1) is committed against a victim:

(a) with whom the actor has or has had a dating relationship; or

(b) because of the victim's marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage; and

(2) is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim in fear of imminent physical harm, bodily injury, assault, or sexual assault.

(b) For purposes of this title, "dating relationship" means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of:

(1) the length of the relationship;

(2) the nature of the relationship; and

(3) the frequency and type of interaction between the persons involved in the relationship.

(c) A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a "dating relationship" under Subsection (b).

(See Texas Family Code Section 71.0021)

Domestic Violence: "Family violence" means:

(1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a

threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself;

(2) abuse, as that term is defined by Sections 261.001(1)(C), (E), and (G), by a member of a family or household toward a child of the family or household; or

(3) dating violence, as that term is defined by Section 71.0021.

(See Texas Family Code Chapter 1, Definitions. Sec. 71.004).

Respondent: Refers to the individual who has been accused of violating this regulation.

Responsible Employee: An employee designated for purposes of initiating notice and investigation of alleged violations of this regulation or who has the authority to take action to redress violations of this regulation. A responsible employee also is any employee who a person reasonably believes is a responsible employee. Responsible employees are required to forward all reports of violations of this regulation to the appropriate Title IX Coordinators. Responsible employees also must report to the Title IX Coordinators any information obtained in the course of their employment that an act of sexual violence may have been committed against a student or may have occurred on property owned or controlled by the college or on public property within the campus, or immediately adjacent to and accessible from the campus. Any employee with supervisory authority is a responsible employee. A responsible employee shall not be an employee who, in his/her position at the College, provides services to the campus community as a licensed health care professional, (or the administrative staff of a licensed health care professional), professional counselor, victim support personnel, clergy, or attorney.

Sexual Assault: (a) A person commits an offense if the person:

(1) intentionally or knowingly:

(A) causes the penetration of the anus or sexual organ of another person by any means, without that person's consent;

(B) causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or

(C) causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; or

(2) intentionally or knowingly:

(A) causes the penetration of the anus or sexual organ of a child by any means;

(B) causes the penetration of the mouth of a child by the sexual organ of the actor;

(C) causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor;

(D) causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor; or

(E) causes the mouth of a child to contact the anus or sexual organ of another person, including the actor.(b) A sexual assault under Subsection (a)(1) is without the consent of the other person if:

(1) the actor compels the other person to submit or participate by the use of physical force or violence;

(2) the actor compels the other person to submit or participate by threatening to use force or violence against the other person, and the other person believes that the actor has the present ability to execute the threat;

(3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist;

(4) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it;

(5) the other person has not consented and the actor knows

the other person is unaware that the sexual assault is occurring;

(6) the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge;

(7) the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat;

(8) the actor is a public servant who coerces the other person to submit or participate;

(9) the actor is a mental health services provider or a health care services provider who causes the other person, who is a patient or former patient of the actor, to submit or participate by exploiting the other person's emotional dependency on the actor;

(10) the actor is a clergyman who causes the other person to submit or participate by exploiting the other person's emotional dependency on the clergyman in the clergyman's professional character as spiritual adviser; or

(11) the actor is an employee of a facility where the other person is a resident, unless the employee and resident are formally or informally married to each other under Chapter 2 of the Texas Family Code.

(See Texas Penal Code Section 22.011)

Stalking: (a) A person commits an offense if the person, on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct that:

- (1) constitutes an offense under Section Texas Penal Code 42.07, or that the actor knows or reasonably should know the other person will regard as threatening:
 - (A) bodily injury or death for the other person;
 - (B) bodily injury or death for a member of the other person's family or household or for an individual with whom the other person has a dating relationship; or
 - (C)) that an offense will be committed against the other person's property;
 - (2) causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship to be placed in fear of bodily injury or death or in fear that an offense will be committed against the other person's property, or to feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended; and
 - (3) would cause a reasonable person to:
 - (A) fear bodily injury or death for himself or herself;
 - (B) fear bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship;
 - (C) fear that an offense will be committed against the person's property; or
 - (D) feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended.
- (b) An offense under this section is a felony of the third degree, except that the offense is a felony of the second degree if the actor has previously been convicted of an offense under this section or of an offense under any of the following laws that contains elements that are substantially similar to the elements of an offense under this section:
- (1) the laws of another state;
 - (2) the laws of a federally recognized Indian tribe;
 - (3) the laws of a territory of the United States; or

(4) federal law.

(c) For purposes of this section, a trier of fact may find that different types of conduct described by Subsection (a), if engaged in on more than one occasion, constitute conduct that is engaged in pursuant to the same scheme or course of conduct.

(d) In this section:

(1) "Dating relationship," "family," "household," and "member of a household" have the meanings assigned by Chapter 71, Family Code.

(2) "Property" includes a pet, companion animal, or assistance animal, as defined by Section [121.002](#), Human Resources Code. (See Texas Penal Code 42.072)

Third Party: A third party is any person who is not a student or employee of the college.

REGULATION

COM is committed to providing an environment that is free from harassment and discrimination based on any status protected by law or by the policies of the College.

COM shall not tolerate sexual misconduct by any employee, student, or third party (e.g., contractors or visitors), or groups thereof. The College considers sexual assault and sexual harassment to be forms of misconduct that undermine the integrity of the teaching, learning, and workplace relationships. No student, employee, or third party should be subjected to unsolicited and unwelcome sexual overtures or conduct, of either a verbal or physical nature. All reported instances of sexual misconduct shall be investigated. COM shall provide a prompt, fair, and impartial investigation and resolution. The Title IX Coordinator and Deputy Title IX Coordinators shall receive annual training on sexual misconduct issues and how to conduct an investigation and hearing process that protects the rights of all parties and the safety of victims.

APPLICABILITY

This regulation shall apply to all campus community members, including students, faculty, staff, and third parties (e.g., contractors and visitors). Conduct that occurs off campus and not

at a college-sponsored event or function can be the subject of a complaint or report and will be evaluated to determine whether it violates this regulation, e.g. if off-campus harassment has continuing effects that create a hostile environment on campus.

This regulation shall apply to the personal conduct of an employee while functioning in the course and scope of employment and to any sexual misconduct that adversely impacts a college employee's ability to perform his or her assigned duties and responsibilities. As required in DH (Local) An employee shall notify his or her immediate supervisor within three calendar days of any arrest, indictment, conviction, no contest or guilty plea, or other adjudication of the employee for any felony or offense involving moral turpitude. This regulation shall also apply to COM students in their relations with other COM students or employees and in connection with any academic, educational, extracurricular, or other program of COM, whether on campus or associated with a college-sponsored activity at another location.

NOTICE OF
NONDISCRIMINATION

As a recipient of federal funds, under Title IX of the Higher Education Amendments of 1972, 20 U.S.C. § 1681 et seq. ("Title IX"), COM is required to publish a notice of nondiscrimination on the basis of sex. Such notice shall be published on the college's website and in the college's catalog and in other publications, as appropriate. That notice shall be in the following format:

As a recipient of federal funds, COM is required to comply with Title IX of the Higher Education Amendments of 1972, 20 U.S.C. § 1681 et seq. ("Title IX"), which prohibits discrimination on the basis of sex in educational programs or activities, admission and employment. Under certain circumstances, sexual misconduct, sexual harassment, and similar conduct constitute sexual discrimination prohibited by Title IX.

Inquiries concerning the application of Title IX may be referred to the College's Title IX Coordinators or to the U.S. Department of Education's Office for Civil Rights. The Title IX Coordinators are:

Dr. Vicki Stanfield, Vice President for Student Services, whose office is located in the Enrollment Center/Administration Building in the Administrative Offices, and may be contacted by phone at 409-933-8213 or by email at vstanfield@com.edu.

Angela Dampeer, Executive Director of Human Resources whose office is located in the Student Center Building in Office 222-A, and may be contacted by phone at 409-933-8269 or by e-mail at adampeer@com.edu.

TITLE IX COORDINATORS

The Title IX Coordinators shall be responsible for overseeing the prompt, fair, and impartial investigation and resolution of sexual misconduct complaints filed with the college. The Vice President for Student Services and Executive Director of Human Resources shall be trained and serve as the College’s Title IX Coordinators. Members of the Sexual Violence Incident Review Committee shall be trained for incidents of sexual misconduct involving students, whether as victims or respondents.

SEXUAL VIOLENCE
INCIDENT REVIEW
COMMITTEE

The Sexual Violence Incident Review Committee shall perform those functions delineated in the following sections of this regulation. The Title IX Coordinators shall serve as the chairs and convening authority for the committee. The committee shall be comprised of the following COM employees:

- Vice President for Instruction
- Chief of Police
- Associate Vice-President for Student Success and Conduct
- Director of Diversity & Equity (for incidents involving an employee or contractor)
- Deputy Title IX Coordinators

REPORTING
INCIDENTS

All members of the COM community shall promptly report incidents of sexual misconduct to the Title IX Coordinators. Any COM employee who becomes aware of sexual misconduct in which a COM student or another employee is the victim shall report that knowledge to the appropriate administrative official.

All emergencies or any incident in which someone is in imminent danger shall be reported to Campus Police by dialing 409-933-8599. The Title IX Coordinators shall assist members of the college community in reporting incidents to law enforcement

authorities upon request. The Title IX Coordinators will request the consent of the complainant (or alleged victim if different from the complainant) to report incidents of alleged sexual violence that occur on campus property to law enforcement. Members of the college community may decline to notify law enforcement authorities and decline their consent for the Title IX Coordinators to notify law enforcement if they wish.

CONFIDENTIALITY
AND ANONYMOUS
REPORTS

Notwithstanding individuals' concern for their privacy when they report a possible violation of this regulation, COM has a responsibility to end conduct that violates this regulation, prevent its recurrence, and address its discriminatory effects. To that end, college employees may not withhold any report of sexual violence, domestic violence, dating violence, or stalking. The college expects employees to treat information they learn concerning incidents of reported violations of this regulation with respect and with as much privacy as possible. College employees must share such information only with those college and law enforcement officials who must be informed of the information pursuant to this regulation.

Responsible employees shall report all alleged violations of this regulation to the Title IX Coordinators except a person who holds a professional license requiring confidentiality and is employed in that capacity as noted in FFDA (Local). Other college employees have a duty to report sexual assault, domestic violence, dating violence, and stalking for federal statistical reporting purposes (i.e. Campus Police) as stated in GAC (Legal). Reports received by the college concerning the abuse of a minor shall be reported in compliance with state law and as specified in DHC (Legal) - Child Abuse and Neglect Reporting.

If the complainant requests that the complainant's identity not be released to anyone else, the College's ability to investigate and take reasonable action in response to a complaint may be limited. In such cases, the college shall evaluate the request(s) that a complaint remain confidential in the context of the College's commitment to provide a reasonably safe and non-discriminatory environment. In order to make such an evaluation, the Title IX Coordinators shall conduct a preliminary investigation into the alleged violation of this regulation and may weigh the request(s) against the following factors:

- the seriousness of the allegation(s);

- the complainant's or alleged victim's age;
- whether there have been other similar complaints against the same respondent;
- the respondent's right to receive information about the allegations if the information is maintained by the college as an "education record" under FERPA; and
- the applicability of any laws mandating disclosure.

The college may pursue an investigation even if the complainant requests that no action be taken and the college will not be able to ensure confidentiality in all cases. The Title IX Coordinators shall notify the complainant in writing when it is determined that the college will be unable to maintain confidentiality or respect the complainant's request for no further action.

In the event of an alleged incident of sexual violence that results in disclosure of information to a law enforcement agency and the Title IX Coordinators are aware of the disclosure, the Title IX Coordinators shall notify the alleged victim in writing that such disclosure is being made.

COM shall accept anonymous reports with the understanding that it may be limited in its ability to investigate and take reasonable action. The College must have sufficient information to conduct a meaningful and fair investigation. A respondent has a right to know the name of the complainant and information regarding the nature of the allegations in order to defend against the complaint.

The College, when requested and reasonably available or when deemed necessary, shall arrange for changes in academic or work arrangements after an alleged violation of this regulation. When such accommodations are provided, the College shall protect the privacy of the complainant to the extent possible while still providing the accommodation.

INVESTIGATING
INCIDENTS

COM shall comply with all requests for cooperation by a law enforcement agency in investigations as required by FFDA (Local). The college may be required to suspend the Title IX investigation while the law enforcement agency gathers evidence. The college shall resume its Title IX investigation as soon as the law enforcement agency has given notice that they have completed

gathering evidence. Otherwise, the college's investigation shall not be precluded or suspended on the grounds that criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

INTERIM MEASURES

Prior to the resolution of a complaint, the college may suspend or place on disciplinary or administrative leave the respondent when it is determined that the respondent's continued presence on campus threatens the safety of an individual or of the campus community generally; may hamper the investigation into the alleged misconduct; or is necessary to stop threatening or retaliatory contact against the complainant or complainant's witnesses. COM shall provide advance notice of such measures, except in cases where the individual's presence constitutes a threat. In all cases, however, the college shall notify individuals subject to these interim measure(s) in writing of the specific facts and circumstances that make such interim measure(s) necessary and reasonable. Individuals subject to proposed interim measures shall have the opportunity to show why such measure(s) should not be implemented.

Notwithstanding the above, COM may impose a "no contact" order on each party, requiring the parties to refrain from having contact with one another, directly or through proxies, whether in person or by electronic means. The college also shall enforce orders of protection issued by courts on all college premises to the extent possible.

The College may implement other measures for either the complainant or the respondent if requested, appropriate, and reasonably available, whether a formal complaint has been filed or whether an investigation by either campus administrators or law enforcement agencies has commenced. Such measures may include, but are not limited to, course schedule adjustments, reassignment of duty, changing work arrangements, rescheduling class work, assignments and examinations, and allowing alternative class or work arrangements, such as independent study or teleworking.

WRITTEN
NOTIFICATION OF
RIGHTS AND OPTIONS

Members of the college community who report incidents of sexual assault, domestic violence, dating violence, or stalking, whether the incident occurred on or off campus, shall receive a written explanation of their rights and options, including (i) the available law-enforcement options for investigation and prosecution; (ii) the importance of collection and preservation of

evidence; (iii) the available options for a protective order; (iv) the available campus options for investigation and adjudication under the college's policies; (v) the complainant's rights to participate or decline to participate in any investigation to the extent permitted under state or federal law; (vi) the applicable federal or state confidentiality provisions that govern information provided by a victim; (vii) information on contacting available on-campus resources and community resources, including the local sexual assault crisis centers, domestic violence crisis centers, or other victim support services with which the college has entered into a memorandum of understanding; (viii) the importance of seeking appropriate medical attention; and (ix) options related to changes in academic and working arrangements, when requested and when reasonably available.

RESOLUTION OF COMPLAINTS

COM shall provide prompt, fair, and impartial investigation and resolution of alleged violations of this regulation and is committed to so doing. Title IX Coordinator(s) and investigators shall receive annual training on sexual violence, domestic violence, dating violence, and stalking, and the conduct of investigations.

RETALIATION

Any form of retaliation, including intimidation, threats, harassment, and other adverse action taken or threatened against any complainant or person reporting a complaint alleging a violation of this regulation, or any person cooperating in the investigation of allegations of violations of this regulation, to include testifying, assisting or participating in any manner in an investigation pursuant to this regulation and the resolution procedures is strictly prohibited as stated in DIAA (Local) and FFDA (Local). Action is generally deemed adverse if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this regulation. Retaliation may result in disciplinary or other action independent of the sanctions or interim measures imposed in response to the underlying allegations of violations of this regulation.

AMNESTY

COM encourages the reporting of incidents that violate this regulation. The use of alcohol or drugs shall not be a deterrent to reporting an incident. When conducting the investigation, the College's primary focus shall be on addressing the alleged

SANCTIONS AND
CORRECTIVE
ACTIONS

misconduct and not on alcohol and drug violations that may be discovered or disclosed. The College does not condone underage drinking; however, the College shall extend limited amnesty from punitive sanctioning in the case of drug or alcohol use to complainants, witnesses, and others who report incidents, provided that they are acting in good faith in such capacity. COM may provide referrals to counseling and may require educational options, rather than disciplinary sanctions, in such cases.

The college shall take reasonable steps to prevent the recurrence of any violations of this regulation and to correct the discriminatory effects on the complainant (and others, if appropriate). Sanctions and corrective actions for a finding of responsibility shall depend upon the nature and gravity of the misconduct, any record of prior discipline for similar violations, or both.

The range of potential sanctions and corrective actions that may be imposed against a student includes, but is not limited to: required discrimination or harassment education; requirement not to repeat or continue the discriminatory, harassing, or retaliatory conduct; verbal or written warning; a no-contact order; written or verbal apology; verbal or written warning; and probation, suspension, or dismissal from the college as stated in FM (Local).

Disciplinary actions for faculty and staff employees shall be determined in accordance with COM regulation DM (Local) and the Performance Improvement and Discipline Manual. Possible disciplinary actions include: required discrimination or harassment education; informal or formal counseling; reassignment; demotion; suspension; non-reappointment; and termination from employment.

Third parties, e.g., contractors, found responsible for violating this regulation shall be prohibited from having access to the college. Depending on the violation, this prohibition may be permanent or temporary.

Typically, sanctions shall not take effect until resolution of any timely appeal. However, sanctions may take effect immediately when the continued presence of an individual on campus may threaten the safety of an individual or the college community. In such cases, sanctions will continue in effect until such time as

the appeal process is exhausted.

The Title IX Coordinator shall determine the final accommodations to be provided to the complainant, if any.

APPEALS

Either the complainant or the respondent shall be afforded the opportunity to appeal the outcome of the formal complaint resolution process and/or the recommended sanction(s). Appeals shall be conducted in accordance with the applicable grievance procedures described in FMA (Regulation) and DMAA (Regulation) based on the status of the person filing the appeal. Third parties may request that the college reconsider its decision in writing to the President.

TIMELY WARNINGS

COM is required by federal law to issue timely warnings for reported incidents that pose a substantial threat of bodily harm or danger to members of the college community. The College shall ensure, to every extent possible, that an alleged victim's name and other identifying information is not disclosed, while still providing enough information for members of the college community to make decisions to address their own safety in light of the potential danger.

SUPPORT SERVICES

All students and employees shall receive information in writing of available counseling, health, mental health, victim advocacy, legal assistance, and other services available in the community and on campus. To that end, the Title IX Coordinators shall ensure that relevant information is provided on the college's website and publicized to all employees and students annually.

EDUCATION AND AWARENESS

The College shall provide a program to educate students and employees about this regulation and its procedures. The education and awareness program shall be designed to promote awareness of sexual violence, domestic violence, dating violence, and stalking.

The College shall also conduct an ongoing prevention and awareness campaign for all students and employees. The campaign shall include, at a minimum, the information provided to incoming students and new employees.

FALSE ALLEGATIONS

Any individual who knowingly files a false complaint under this regulation, who knowingly provides false information to college officials, or who intentionally misleads college officials

who are involved in the investigation or resolution of a complaint shall be subject to disciplinary action, up to and including dismissal for students and termination of employment for faculty and staff in accordance with FFDA (Local) and DIAA (Local). An allegation that cannot be proven by a preponderance of the evidence is not necessarily proof of knowingly filing a false complain.

RECORD KEEPING

The Title IX Coordinators shall maintain, in a confidential manner, for at least seven (7) years, paper or electronic files of all complaints, witness statements, documentary evidence, written investigative reports, review committee records, written corrective action reports, sanctions, appeal hearings and associated documents, the responses taken by college personnel for each complaint, including any interim and permanent steps taken with respect to the complainant and the respondent, and a narrative of all action taken to prevent recurrence of any harassing incident(s), including any written documentation.

RESPONSIBILITIES

The Vice President for Student Services and Executive Director of Human Resources, shall develop and maintain procedures that are consistent with this regulation.

The Vice President for Student Services and the Executive Director of Human Resources shall serve as the College's Title IX Coordinators. As such, the Vice President for Student Services and Executive Director of Human Resources shall be responsible for overseeing all Title IX complaints and identifying and addressing any patterns or systemic problems that arise during the review of such complaints. Associate Vice Presidents, Deans and designees performing the responsibilities delineated in the following procedures, shall act in the capacity of deputies to the College's Title IX Coordinators.

All supervisors, faculty and Deputy Title IX Coordinators shall ensure that employees and students are in full compliance with this regulation and associated legal guidelines. Upon receiving a complaint of sexual misconduct, supervisors, faculty and Deputy Title IX Coordinators shall immediately contact the college's Title IX Coordinators to ensure a prompt, fair investigation of the complaint. All complaints must be thoroughly investigated. The college's Title IX Coordinators shall provide guidance and assistance in the proper handling of any allegations.

COMPLIANT
PROCEDURES

The following procedures shall be used by members of the

college community to address complaints alleging sexual misconduct. The following procedures have been developed for student/student, student/employee, and employee/student complaints.

In all instances, reasonable efforts shall be made to reach a fair and equitable resolution in a timely manner. Both the complainant and the respondent will be promptly notified of the outcome and afforded an opportunity to appeal.

The complainant and the respondent have a right to not have their unrelated past sexual history discussed as part of these procedures.

The rights of the respondent include a right to an explanation of the charges; the right to testify on his/her own behalf; the right to call witnesses to testify on his/her own behalf; the right to be informed in a timely manner of the findings and outcome of the proceedings; and the right to appeal. COM will safeguard the identity of the complainant outside the confidential proceedings of the College's established process, unless consent is secured from the complainant to reveal his/her identity.

These procedures are not intended to impair or limit the right of anyone to seek resolution under state or federal law. Initiating college action against the respondent does not preclude the complainant from initiating civil or criminal action against the respondent. Initiating civil action does not preclude the complainant from taking college or criminal action nor does initiating criminal action preclude the complainant from taking college or civil action.

Sexual violence and sexual assault are criminal activities. If there is a concurrent investigation, COM will not wait for the conclusion of the criminal investigation to begin the college's investigation process. COM will take immediate steps to protect the complainant within the educational setting. COM may delay temporarily the fact-finding portion of the investigation while law enforcement is gathering evidence. Once notified that law enforcement evidence gathering is complete, COM will promptly resume its fact finding for the Title IX investigation.

Once a COM official is aware of possible sexual harassment or sexual misconduct, immediate and appropriate action must be taken to investigate what has occurred, take reasonable steps to end any harassment, eliminate a hostile environment if one has been created, and take reasonable steps to prevent a

recurrence of the harassment. See FFDA (Local) and DIAA (Local). These steps are the responsibility of COM, whether or not a complaint is filed. To that end, any college employee becoming aware of a violation of this regulation shall report such knowledge promptly to COM's Title IX Coordinator who shall notify other college officials as appropriate. If the alleged regulation violation involves criminal activity, the Title IX Coordinator shall notify the Chief of Police. See section below for reporting of alleged acts of sexual violence.

SEXUAL AND
DOMESTIC VIOLENCE
PROCEDURES

An individual who has experienced sexual violence, domestic violence, dating violence, or stalking should do the following, as applicable:

- Safely find a place away from harm.
- Call 911 or, if on campus, contact campus police at 409.933.8599.
- Call a friend, a family member, or some other trusted person and ask him/her to stay with the victim.
- Go to the nearest medical facility/emergency room. It is important to seek appropriate medical attention to ensure your health and well-being, as well as to preserve any physical evidence.
- If the use of a drug is suspected, the hospital or clinic where the victim receives medical care should be asked to take a urine sample and preserve it as evidence. "Rape drugs," such as Rohypnol and GHB, are more likely to be detected in urine than in blood.
- For professional and confidential counseling support, the Resource and Crisis Center should be called at 409-765-7233. Help is available 24 hours a day.
- The victim should take steps to preserve any physical evidence because it will be necessary to prove criminal domestic violence, dating violence, sexual assault, or stalking, or to obtain a protective order. Until evidence is gathered by medical or law enforcement authorities, the victim should:
 - not wash his/her hands, bathe, douche, or urinate, if possible.
 - not eat, blow his/her nose, drink liquids, smoke, or brush his/her teeth if oral contact took place.

- keep the clothing worn when the incident occurred; if clothing is changed, the clothing worn during the incident should be placed in a paper bag.
- not destroy any physical evidence that may be found in the vicinity of the incident by cleaning or straightening the location of the crime until law enforcement officials have had an opportunity to collect evidence.
- tell someone all the details you remember or write them down as soon as possible.
- maintain text messages, pictures, online postings, video, and other documentary or electronic evidence that may corroborate a complaint.

REPORTING INCIDENTS

Members of the college community who believe they have been subjected to a sexual crime should immediately report the incident to campus police. All emergencies or any incident where someone is in imminent danger should be reported immediately to local police by dialing 911 and then to campus police at 409.933.8599.

Whether or not a report is made to law enforcement authorities, members of the college community should report alleged violations of this regulation to the Title IX Coordinator or a Deputy IX Coordinator during normal business hours. To help ensure a prompt, fair, and impartial investigation and resolution, individuals are encouraged to complete a Complaint Form Appendix A and submit the written complaint to the Title IX Coordinators.

Although strongly encouraged, a complainant is not required to submit a written complaint or to use the Complaint Form if submitting a written complaint. After normal business hours, members of the college community should report alleged violations of this regulation to campus police. A Deputy Title IX Coordinator receiving a report of an alleged violation of this regulation shall promptly forward the report to the Title IX Coordinators. Contact information for reporting such violations is provided in Appendix B.

There is no time limit for filing a complaint with the College. However, complainants should report possible violations of this regulation as soon as possible to maximize the College's ability to respond effectively. Failure to report promptly could result in the loss of relevant evidence and impair the College's ability to adequately respond to the allegations.

If a complainant wishes to keep the report confidential, it is recommended that he or she reports the alleged conduct to someone with a duty to maintain confidentiality, e.g., mental health counselor or clergy. Employees may contact the Employee Assistance Program (EAP).

Upon receiving a report of an alleged act of sexual violence against a student or one that allegedly occurred on property owned or controlled by the College or on public property within the campus, or immediately adjacent to and accessible from the campus, the Title IX Coordinator shall convene the college's Sexual Violence Incident Review Committee within 72 hours to review the information reported and any information obtained through law-enforcement records, criminal history record information, health records, conduct or personnel records, and any other facts and circumstances, including personally identifiable information, related to the alleged incident known to the review committee.

If it is determined by the law enforcement representative of the review committee that the disclosure of the information, including the personally identifiable information, is necessary to protect the health or safety of the alleged victim or other individuals, the college immediately will disclose such information to the law enforcement agency that would be responsible for investigating the alleged incident. The Title IX Coordinators will notify the alleged victim in writing that such disclosure is being made.

If the report of an alleged act of sexual violence would constitute a felony sexual assault, within 24 hours of the first review team meeting, the law enforcement representative of the review committee shall notify the local District Attorney and disclose the information received by the review committee, including personally identifiable information, if such information was disclosed pursuant to the paragraph immediately above. The law enforcement representative usually will make this disclosure; however, any member of the review committee may decide independently that such disclosure is required under

state law and within 24 hours of the first review committee meeting shall disclose the information to the local District Attorney, including personally identifiable information, if such information was disclosed pursuant to the paragraph immediately above. If the Title IX Coordinators are aware of such disclosure, the Title IX Coordinators will notify the alleged victim in writing that such disclosure is being made.

FORMAL
RESOLUTION
PROCESS

The formal resolution process will be applied to all matters involving complaints of sexual violence, domestic violence, dating violence, and stalking. However, if the victim's request for confidentiality limits the college's ability to investigate a particular matter, the college may take step 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. Examples 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 college's policies on sexual misconduct; and conducting climate surveys regarding sexual misconduct.

COMPLAINANT'S INITIAL
MEETING WITH THE TITLE
IX COORDINATOR

As soon as is practicable, the designated Title IX Coordinator will contact the complainant to schedule an initial meeting. If the person reporting the incident is not the alleged victim, the designated Title IX Coordinator also will contact the alleged victim as soon as possible to schedule an initial meeting. The complainant may be accompanied by an advisor of his or her choosing. At this initial meeting, the Title IX Coordinator will:

- a) provide the complainant a copy of the regulation;
- b) provide the complainant with a Complaint Form (Appendix A), if necessary;
- c) provide a written explanation of the complainant's rights and options related to changes in academic and working arrangements;
- d) explain avenues for formal resolution of the complaint;
- e) explain the steps involved in an investigation;
- f) discuss confidentiality standards and concerns with the complainant;

- g) determine whether the complainant wishes to pursue a resolution through the college or no resolution of any kind;
- h) refer the complainant to college and community resources, including the local sexual assault crisis center, domestic violence crisis center, or other victim support services.
- i) discuss with the complainant, as appropriate, possible interim measures that may be taken or provided when necessary during the pendency of the investigative and resolution processes;
- j) discuss the right to a fair and impartial resolution of the complaint; and
- k) discuss the college's obligation to disclose information about the complaint, including personally identifiable information, to campus/local law enforcement or to the local District Attorney, or both, under certain conditions.

RESPONDENT'S INITIAL
MEETING WITH THE
TITLE IX COORDINATOR

As soon as is practicable, the designated Title IX Coordinator will schedule an initial meeting with the respondent. The respondent may be accompanied by an advisor of his/her choosing. During the initial meeting with the respondent, the Title IX Coordinator will:

- a) provide the respondent, in writing, sufficient information to allow him/her to respond to the substance of the allegation;
- b) provide the respondent a copy of the regulation;
- c) provide a written explanation of the respondent's rights and options related to changes in academic and working arrangements;
- d) explain the college's procedures for formal resolution of the complaint;
- e) explain the steps involved in an investigation;
- f) discuss confidentiality standards and concerns with the respondent;
- g) discuss non-retaliation requirements;
- h) inform the respondent of any interim measures that may be imposed on the respondent;
- i) refer the respondent to college and community

resources, as appropriate;

- j) discuss with the respondent, as appropriate, possible interim measures that can be provided to the respondent during the pendency of the investigative and resolution processes;
- k) discuss the respondent's right to due process and a fair and impartial resolution of the complaint; and

TITLE IX
COORDINATOR'S INITIAL
DETERMINATION

The College shall conduct an investigation of the complaint unless it is clear on its face and based on the Title IX Coordinator's initial meetings with the parties that no reasonable grounds exist for believing that the conduct at issue constitutes a violation of this regulation. The Title IX Coordinator will consider the following factors in determining whether it is reasonable to investigate the complaint: the source and nature of the information; the seriousness of the alleged incident; the specificity of the information; the objectivity and credibility of the source of the information; and whether the individuals allegedly subjected to the conduct can be identified.

In the event that the Title IX Coordinator in consultation with the Sexual Violence Incident Review Committee determines that an investigation of the complaint should not be conducted, he or she will document (in consultation, as necessary, with the complainant, respondent, and Sexual Violence Incident Review Committee) the appropriate resolution of the complaint and inform the parties of the same. The Title IX Coordinator shall provide specific and clear written reason(s) why an investigation should not be conducted. The Title IX Coordinator shall provide the determination that the college will not investigate the matter to the complainant and the respondent, concurrently, within five (5) workdays of the completion of the initial meetings. This decision is final.

APPOINTMENT OF THE
INVESTIGATOR AND
CONDUCT OF THE
INVESTIGATION

If the Title IX Coordinator determines that an investigation should be conducted, he/she will appoint an investigator within five (5) workdays of the completion of the initial meetings. The Title IX Coordinator will share the investigator's name and contact information with the complainant and respondent and will forward the complaint to the investigator. Within three workdays of such appointment, the complainant or the respondent may identify to the Title IX Coordinator in writing any potential conflict of interest

posed by assigning such investigator to the matter. If the assigned investigator believes the appointment poses a conflict of interest, he/she shall inform the Title IX Coordinator within three (3) workdays of receiving the appointment. The Title IX Coordinator will consider such statements and will assign a different individual as investigator if it is determined that a material conflict of interest exists.

The investigator will contact the complainant and respondent promptly. In most cases, this should occur within three (3) workdays from the date of the investigator's appointment. The investigator will schedule meetings with the parties. The parties may provide supporting documents, evidence, and recommendations of witnesses to be interviewed during the course of the investigation. Each party may have one advisor present during any meeting with the investigator; however, the advisor may not speak on the party's behalf.

In the conduct of the investigation, the investigator should weigh the credibility and demeanor of the complainant, respondent, and witnesses; the logic and consistency of the evidence, motives, and any corroborating evidence.

The investigation of any alleged violation of this regulation should be completed within 60 days of the filing of the complaint or the date on which the college becomes aware of the alleged violation, unless good cause exists to extend the timeframe. If more time is necessary, the parties will be notified in writing and given the reason for the delay and an estimated time of completion.

Both complainant and respondent will have the opportunity to review and respond to evidence obtained during the investigation. Each party also will have the opportunity to review and comment on the written investigative report within seven (7) workdays of receiving the report. The final written investigative report and the parties' responses thereto shall be part of the record.

The investigator will complete a written investigative report that includes summaries of all interviews conducted, photographs, descriptions of relevant evidence, the rationale for credibility determinations, summaries of relevant electronic records, and a detailed report of the events in question. The written investigative report shall include, at minimum, the following information:

- the name and gender of the complainant and, if different, the name and gender of the person reporting the allegation;
- a statement of the allegation, a description of the incident(s), and the date(s) and time(s) (if known) of the alleged incident(s);
- the date that the complaint or other report was made;
- the date the respondent was interviewed;
- the names and gender of all persons alleged to have committed the alleged violation;
- the names and gender of all known witnesses to the alleged incident(s);
- the dates that any relevant documentary evidence (including cell phone and other records as appropriate) was obtained;
- any written statements of the complainant or the alleged victim if different from the complainant;
- the date on which the college deferred its investigation and disciplinary process because the complainant filed a law enforcement complaint and the date on which the college resumed its investigation and disciplinary process (if applicable); and
- the outcome of the investigation.

The investigator will forward the written investigative report to the Title IX Coordinator.

The withdrawal of a student from the college while under investigation for an alleged violation of this regulation involving an act of sexual violence shall not end the College's investigation and resolution of the complaint. The College shall continue the investigation as set forth under this regulation. The College shall notify the student in writing of the investigation and afford the student the opportunity to provide evidence, to review and respond to all the evidence against the student, and to the written investigative report prior to making a final determination. The student also shall receive notice in writing of any hearing, including the day, time, and location.

The designated Title IX Coordinator will determine whether there is

a preponderance of the evidence to find that the respondent violated this regulation as alleged. In most cases, this should occur within five (5) workdays of receiving the written investigative report from the investigator. The "preponderance of the evidence" standard requires that the weight of the evidence, in totality, supports a finding that it is more likely than not that the alleged violation occurred.

If the Title IX Coordinator finds that the evidence does not prove by a preponderance of the evidence that the respondent committed the alleged violation, the matter will be closed. The Title IX Coordinators will make the determination in writing and distribute the written investigative report with such finding to the complainant and the respondent concurrently. All parties to whom the written investigative report is distributed pursuant to this regulation should maintain it in confidence. Both the complainant and the respondent may appeal the finding under the procedure described below.

If the Title IX Coordinator finds by a preponderance of the evidence that a violation of this regulation did occur, the Title IX Coordinator will make the determination in writing and distribute the written investigative report with such finding to the complainant and the respondent concurrently. All parties to whom the written investigative report is distributed pursuant to this regulation should maintain it in confidence. Both the complainant and the respondent may appeal the finding under the procedure described below.

When the Title IX Coordinator finds that a violation has occurred, he or she also shall write a separate written corrective action report that will contain recommendations for steps that should be taken to prevent recurrence of any such violation and to remedy any discriminatory effects. If interim measures as described above have been taken, the written corrective action report shall include a recommendation regarding continuation, suspension, or modification of any such interim measures. The Title IX Coordinator shall distribute the written corrective action report to the complainant and respondent concurrently. In most cases, the written corrective action report should be completed within five (5) workdays after the distribution of the written investigative report. The written investigative report and the corrective action report may be submitted concurrently. The Title IX Coordinator also shall provide the written investigative report and the written corrective action report to the appropriate college

official, as described below.

If the respondent is a student, the Title IX Coordinator will forward the reports to the Associate Vice President of Student Success and Conduct. Within ten (10) workdays, the Associate Vice President of Student Success and Conduct shall determine and impose appropriate sanctions, as described below. The respondent and the Title IX Coordinator shall receive written notification of sanction(s). When the respondent is a student, within five (5) workdays of receipt, the Title IX Coordinator may disclose to the complainant the sanctions imposed on the respondent that directly relate to the complainant as permitted by state and federal law, including the Federal Educational Rights and Privacy Act (FERPA) and the Texas Public Information Act, when such disclosure is necessary to ensure the safety of the complainant. The Title IX Coordinator also may disclose in writing to the complainant the final results of a disciplinary proceeding involving the respondent with regard to an alleged forcible or non-forcible sex offense, act of stalking, domestic violence or dating violence on the complainant, as permitted by state and federal law including FERPA and the Texas Public Information Act. The disclosure of final results must include only the name of the student, the violation committed, and any sanction imposed by the college against the student.

If the respondent is an employee, the Title IX Coordinator will forward the reports to the appropriate Vice President. Within ten (10) workdays, the Vice President shall determine and impose appropriate disciplinary actions(s), in accordance with the Performance and Disciplinary Manual. The respondent and the Title IX Coordinator shall receive written notification of the disciplinary action(s).

If the respondent is a third party, the Title IX Coordinator will forward the reports to the Vice President for Fiscal Affairs or Chief of Police as appropriate. Within ten (10) workdays, the Vice President of Fiscal Affairs or the Chief of Police shall determine and impose appropriate sanctions as described below. The respondent and the Title IX Coordinator shall receive written notification of sanction(s) within ten (10) workdays of the decision. The Title IX Coordinator may disclose to the complainant information as described above.

APPEAL

The Title IX Coordinator will advise the respondent and the

complainant of their right to appeal any finding or sanction in writing within ten (10) workdays of receipt of the decision. The written notification also shall provide information that an appellant may request that the college reconsider its decision in writing to the President. The President's decision is final.

EDUCATION/
AWARENESS AND
SUPPORT
SERVICES

The Title IX Coordinator shall chair and work in collaboration with the Sexual Misconduct Prevention Education & Healthy Relationships Committee to oversee the development and implementation of COM's education and awareness program to promote awareness of this regulation and of sexual violence, domestic violence, dating violence, and stalking. At a minimum, the primary prevention and education program shall include:

- a statement that the college prohibits the offenses of domestic violence, dating violence, sexual assault, and stalking;
- the definition of domestic violence, dating violence, sexual assault, and stalking;
- the definition of consent;
- safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault, or stalking against a person other than such individual;
- information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks;
- information on possible sanctions, procedures to follow after an incident of sexual violence, domestic violence, dating violence, or stalking, disciplinary procedures, and the protection of confidentiality; and
- written notification about available resources and services, and options for academic and work accommodations, if requested and reasonably available.

Incoming students and new employees must be offered an opportunity to participate in the primary prevention and awareness program. The College shall also provide an ongoing prevention and awareness campaign for all students and employees. The campaign shall include, at a minimum, the information provided

to incoming students and new employees.

The Title IX Coordinators shall make available to all students and employees information in writing regarding the availability of counseling, health care, mental health care, victim advocacy, legal assistance, and other services available in the community as well as through the college. Information about available resources shall be provided on the college's website.

APPENDIX A
College of the Mainland
SEXUAL MISCONDUCT COMPLAINT FORM

Today's date: _____

Information Regarding the Complainant

Name of the Complainant: _____

Phone Number: _____ E-

Mail address: _____

The Complainant is (please check one): student faculty staff not affiliated with COM

For faculty, staff, and students, indicate whether current or former

Information Regarding the Alleged Victim (if he or she is not the Complainant):

Name of alleged victim: _____ :

The alleged victim is (please check one): student faculty staff not affiliated with COM

For faculty, staff, and students, indicate whether current or former

Information Regarding the Respondent (alleged perpetrator):

Name of the Respondent: _____

Phone number (if known): _____ E-

Mail address (if known): _____

The Respondent is (please check one): student faculty staff not affiliated with COM

For faculty, staff, and students, indicate whether current or former

Information Regarding the Alleged Misconduct (sexual assault, sexual violence, domestic violence, dating violence, or stalking):

Time and date of the alleged misconduct: _____

Location of the alleged misconduct:

Witnesses or third parties who may have information regarding the alleged misconduct, along with phone number, if known:

Provide a brief description of the alleged sexual misconduct:

You may wish to consider including, among other things, some or all the following information in your description: the gender of the parties, the relationship between the parties, whether one or more of the parties were under the influence of alcohol or drugs at the time of the alleged misconduct, whether the respondent used pressure or force (physical or otherwise) in the course of the alleged misconduct, and the frequency (if applicable) of the alleged misconduct.

Feel free to use the reverse side of this form or separate pages to continue your description, if desired.

APPENDIX B
College of the Mainland
CRISIS CENTERS AND HOTLINES

Bay Area Turning Point

Overnight shelter and services are provided. Clients are men, women and children of any age who experience victimization relating to domestic violence and sexual assault/abuse. Community based social service agency providing a variety of assistance services, including prevention education, counseling, support groups, shelter, legal advocacy, career/educational assistance, 24-Hour Hotline.

Website:

<http://www.bayareaturningpoint.org/>

Phone: 281-286-2525

Fax: 281-557-0290

Address:

210 S. Walnut

Webster TX 77598

Resource and Crisis Center - Galveston County

Services provided: Crisis counseling with licensed professional therapists, information on legal and medical issues relating to sexual assault, emotional support and advocacy through legal and medical procedures, information to friends and relatives of women who have been raped to assist survivors with immediate needs such as shelter and clothing, home visits for victims/sexual assaults as follow up support.

Phone: 409-765-7233

Website: <http://www.rccgc.org>

Domestic Violence Crisis and Support Resources

Texas Domestic Violence Crisis and Support Resources.

Website: <https://www.hhsc.state.tx.us/Help/family-violence/centers.shtml>

VAWNET

The programs in this web site specialize in providing support and services for Deaf, Deafblind and Hard-of-Hearing victims of domestic and sexual violence.

Website: <http://www.vawnet.org/>

Women's Law

All the organizations listed are familiar with domestic violence and will understand your safety concerns.

Website: http://www.womenslaw.org/TX/TX_links.htm

National Domestic Violence

Phone: 800-799-7233

Resource and Crisis Center (Domestic Violence and Sexual Assault)

Phone: 409-765-7233

Suicide Help Line

Phone: 800-827-7571

Alcohol Treatment Referral Hotline

Phone: 800-252-6465

National Drug/Alcohol Treatment Referral Service

Phone: 800-662-4357

National Council on Alcoholism and Drug Dependence Hopeline (NCADD)

Phone: 800-622-2255

Bay Area Council on Drugs and Alcohol

Phone: 409-948-4211

Alcoholics Anonymous

Phone: 409-948-1591

Narcotics Anonymous

Phone: 409-933-3232

Devereux Texas Treatment Network (local)

Phone: 800-373-0011

The Gulf Coast Center (MHMR) – Community Mental Health, Intellectual & Developmental Disability and Recovery Center

Phone: 866-729-3848