

## **Faculty/Staff Title IX & Sexual Misconduct Policy**

### **Statement of Policy**

Carthage College is committed to creating a safe, healthy, and non-discriminatory environment for all students, staff, faculty, and visitors that is free from all forms of sexual misconduct. As part of this commitment, Carthage does not tolerate any form of sexual harassment, which includes Quid Pro Quo and Hostile Environment Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, and Stalking as defined by the Cleary Act.

### **Scope of Policy**

The Title IX & Sexual Misconduct Policy covers all forms of sexual harassment between faculty and staff in any combination, and between students, faculty/staff when the faculty/staff members are the accused. Students as the accused are addressed through the student Title IX or Sexual Misconduct Policies. The policy also extends to sexual harassment that occurs on Carthage's campus, as part of a Carthage program, or to a Carthage community member. A person is subject to disciplinary action for violating the Title IX or Sexual Misconduct Policies regardless of the location of the offence, or the employment status of either party.

### **Title IX Coordinators**

Any Carthage community member who has concerns about gender discrimination, and/or sexual harassment, is encouraged to contact one of Carthage's Title IX representatives. These representatives can provide information, guidance, and other resources to address sexual harassment and gender discrimination. A Title IX representative can discuss general concerns, respond to a report of sexual harassment, and answer questions about the disciplinary process for sexual misconduct. A Title IX Coordinator may be contacted at [aduncan@carthage.edu](mailto:aduncan@carthage.edu).

Carthage's current Title IX Representatives are:

- Annette Duncan Title IX Coordinator  
262-551-5883 – [aduncan@carthage.edu](mailto:aduncan@carthage.edu) – Lentz Hall 208
- Abigail Hanna Title IX Deputy (Student Designee)  
262-551-2450 – [aheinrichs@carthage.edu](mailto:aheinrichs@carthage.edu) – Lentz Hall 400M
- Kelsey Peterson Title IX Deputy (Athletics Designee)  
262-551-6177 – [kpeterson12@carthage.edu](mailto:kpeterson12@carthage.edu) – TARC 2100
- Chris Grugel Title IX Deputy (Employee Designee)  
262-551-6555 – [cgrugel@carthage.edu](mailto:cgrugel@carthage.edu) – Hedberg Library 212

### **Legal Compliance**

This policy is intended to comply with the following laws:

- Title IX of the Education Amendments of 1972
- The Violence Against Women Reauthorization Act of 2013
- The Federal Education Rights and Privacy Act
- Title VII of the Civil Rights Act of 1964
- 2020 Title IX Regulations

## **Application of Policy**

A person who commits sexual harassment will be subject to disciplinary action under this Policy. Carthage will consider the concerns and rights of all parties involved, and provide a prompt, fair, and impartial process from its initial investigation through its final determination. A person who engages in retaliation against a party who reports sexual harassment or participates in proceedings outlined by this Policy, will also be subject to discipline as the policy specifies.

## **Policy Definitions**

### *Sexual Harassment*

Conduct on the basis of sex that satisfies one or more of the following:

- An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct. (Quid Pro Quo)
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's educational program or activity. (Hostile Environment)
- Sexual assault, dating violence, domestic violence, or stalking as defined by the Clery Act.

### *Consent*

Affirmative words or conduct indicating the freely, willingly, and knowingly given agreement to have specific sexual contact. A person cannot consent if incapacitated by drugs or alcohol, coerced into submission, unconscious, or otherwise physically or mentally incapacitated. Consent to one form of sexual contact does not imply consent to other forms. An existing relationship, past relationship, or prior consent does not imply consent to future sexual contact.

### *Sexual Assault*

Sexual contact with another person, without that person's consent. A person's use of alcohol or drugs is not a defense to a sexual assault.

### *Dating Violence*

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interactions between the persons involved in the relationship. For the purpose of this definition, dating violence:

- (1) Includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- (2) Does not include acts covered under the definition of domestic violence.

### *Domestic Violence*

A felony or misdemeanor crime of violence committed by:

- (1) A current or former spouse or intimate partner of the victim;
- (2) A person with whom the victim shares a child in common;

- (3) A person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- (4) A person similarly situated to a spouse of the victim under domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or
- (5) Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

### *Stalking*

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others, or suffer substantial emotional distress. For the purpose of this definition:

- (1) Course of conduct means two or more acts, including, but not limited to, acts in which the stalker 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.
- (2) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- (3) Reasonable person means a reasonable person under similar circumstances and with similar identities to the complainant.

### *Complainant*

An individual who has experienced sexual harassment.

### *Respondent*

An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

### *Report*

Information regarding an incident of sexual harassment that is shared with an employee.

### *Retaliation*

Intimidation, threats, coercion, harassment, discrimination, or violence against a person for reporting an incident of sexual harassment, filing a written complaint, or participating in a Title IX proceeding.

### *Reporting*

Carthage's primary concern is student and employee safety. Reporting helps Carthage protect Carthage community members who might be at risk, and allows Carthage to take steps to prevent the recurrence of sexual harassment. To encourage reporting, any person who reports an incident of sexual harassment in good faith, either directed at them or another person, will not be subject to disciplinary action for conduct or policy violations revealed in the investigative

process, unless it is determined that such violations were egregious or risked the health/safety of others.

Community members who believe that they, or any other community member, have experienced sexual harassment are strongly encouraged to make a report to a Title IX representative. Community members can also report an incident of sexual harassment to their supervisor, a department chair or divisional dean, the Human Resources department, Carthage Public Safety, the Dean of Students office, or to the Health and Counseling Center.

Carthage community members can contact Carthage Public Safety to make a report outside of normal business hours, or they may email a Title IX representative at any time. Additionally, individuals can utilize the Campus Conduct Hotline (866-943-5787) which is available to faculty, staff, and students 24 hours a day. This service is provided by a neutral third party and all reports are kept anonymous and are delivered to the Human Resources department for investigation.

In addition, a complainant can file a written complaint with a Title IX representative, or with the Human Resource department, located in Lenz Hall. Human Resources staff members can be reached at 262-551-6456.

In an emergency, community members should contact Public Safety at 262-551-5911 or the police at 911.

Individuals who experience sexual harassment often need time and space to process what happened. The following confidential resources are available to community members who do not know how they want to proceed and who would like to speak to someone in confidence.

### **Confidential Reporting Resources**

- Campus Pastor, 262-551-5812
- Health and Counseling Center, 262-551-5710

All other (non-confidential) Carthage employees receiving a report of sexual harassment must promptly forward any reasonable suspicion of sexual misconduct to a Title IX representative. Any documentation of a report of sexual harassment should then be forwarded to a Title IX Coordinator.

### **Response to Reports of Sexual Harassment**

Upon receiving a report of an incident of sexual harassment, Carthage will follow these procedures:

- (1) Either a Human Resources representative, Public Safety staff member, and/or a Carthage supervisor will contact the complainant, ensure that their current environment is safe, address

any immediate health or medical concerns, and forward a report to the investigator (normally the Human Resources Director or appropriate appointee).

(2) As soon as possible, a Title IX representative will contact the complainant to discuss the incident of sexual harassment and obtain additional information about that incident.

(3) The Title IX representative will also:

- Inform the complainant that they can report the incident of sexual harassment to local law enforcement authorities, receive the investigator's assistance in making such a report, or decline to make such a report.
- Inform the complainant that they have the choice to file a written complaint and pursue a sexual harassment proceeding under this Policy, and that such a proceeding will occur independently of any criminal investigation and proceeding.
- Provide written information about the importance of preserving evidence of an incident of sexual harassment.
- Provide written information about remedies and protective measures available to the complainant.

(4) Carthage will provide any reasonable protective measures or remedies requested by the complainant.

### **Supportive Measures**

Carthage is committed to protecting complainants from the time an incident is reported through its resolution. Carthage offers the following supportive measures when appropriate:

- No Contact Order—Parties involved in a report may not contact one another.
- Work Space Reassignment—If the involved parties share an environment, alternative arrangements will be made for one or both parties.
- Adjustment of Work Schedules—If the involved parties have overlapping schedules, alternative arrangements may be made for one or both parties.
- Time off or Leave of Absence—One or both parties may be relieved of their duties for varying amounts of time as determined appropriate by the institution.
- Other—In addition to the protective measures listed above, Carthage will consider any other reasonable requests for protective measures from the complainant.

The above arrangements may be temporary while the claim is being investigated, but may become permanent.

### **Remedies**

Remedies are intended to address the harms caused by sexual harassment. Such remedies include, but are not limited to:

- Counseling through Carthage College Employee Assistance Program (EAP) affiliated with the institutions health care providers.
- Workplace support and accommodations through Human Resources

· Referral to Women and Children's Horizons or the Wisconsin Coalition Against Sexual Assault for additional counseling and support.

### **Confidentiality**

Carthage is committed to maintaining the privacy of everyone involved in a report of sexual harassment. In every investigation, hearing, and appeal, Carthage will make every effort to protect the privacy of the parties while balancing the need to investigate the alleged sexual harassment.

Information related to a report of sexual harassment will be shared only with those Carthage employees who are involved with the investigation, hearing, or appeal. All Carthage employees who are involved in these processes have received training regarding the safeguarding of private information. Carthage will not release information about an investigation, hearing, or appeal except as required or permitted by law and/or Carthage policy.

Faculty or staff who wish to obtain confidential assistance through on-campus or off-campus resources without making a report to Carthage, may do so by speaking with professionals who are obligated by law to maintain confidentiality. As a reminder, faculty and staff may seek confidential assistance on campus through the Health and Counseling Center and the Campus Pastor.

If Carthage receives a report of an incident of sexual harassment, but the complainant requests that their identity remain confidential or declines to participate in the discipline process, Carthage will balance that request with its responsibility to provide a safe and non-discriminatory environment for all community members. Carthage will take all reasonable steps to investigate and respond to the report consistent with such requests, while acknowledging that its ability to investigate may be limited.

If a report of sexual harassment reveals an immediate threat to the Carthage community, Carthage may issue a notice to the community to protect the health and/or safety of the campus community. This notice will not contain any identifying information about the person who experienced sexual harassment. Immediate threats include, but are not limited to, allegations of sexual harassment that include the use of force, a weapon, or other circumstances that represent a serious and ongoing threat to the Carthage community.

## **Title IX & Sexual Misconduct Procedure**

### **Procedural Definitions**

#### *Report*

A report consists of information provided about possible sexual harassment.

### *Formal Complaint*

A formal complaint is the written accusation of sexual harassment that will be resolved through this conduct process. A person affected by an incident of sexual misconduct can file a written complaint with a Title IX representative or with the Human Resource department, located in Lentz Hall. The phone number of the Human Resources department is 262-551-6456.

### *Complainant*

An individual who has experienced sexual harassment.

### *Respondent*

An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

### *Preponderance of Evidence*

Under the preponderance standard, the burden of proof is met when the party with the burden convinces the decision makers that there is a greater than 50% chance that the claim is true.

### *Hearing Panelists*

The hearing panelists are Carthage faculty and staff members who serve on hearing and appeals panels. Hearing panelists will receive annual training on issues related to sexual harassment and on conducting an investigation and hearing process that protects the safety of complainants and respondents while promoting accountability. The Office of the Provost appoints faculty members, and staff members are appointed by the Human Resources Director.

### *Hearing Panel*

The hearing panel consists of three hearing panelists who conduct the hearing on, and decide the outcome of a formal complaint, including any recommended sanctions against the respondent. Every hearing panel will have a chairperson who presides over the process. Every hearing panel will have at least one faculty member and one staff member. It may be the case that a divisional dean, the provost, or a member of the Human Resources department, serves as a third panelist. In the case that the respondent is a faculty member, the faculty member serving as a panelist must be tenured. If possible, every hearing panel will have at least one male and one female member. If possible, the panel will contain two faculty members when the respondent is a faculty member. If possible, the panel will contain two staff members when the respondent is a staff member. If, because of bias or a conflict of interest, a hearing panelist cannot participate in a hearing panel, another hearing panelist will be appointed to take their place.

### *Appeals Panel*

The appeals panel consists of three hearing panelists who review appeals in response to a hearing panel's decision on a formal complaint. Every appeals panel will have a chairperson who presides over the process. Every appeals panel will have at least one faculty member and one staff member. It may be the case that a divisional dean, the provost, or a member of the Human Resources department serves as a third panelist. In the case that the respondent is a

faculty member, the faculty member serving as a panelist must be tenured. If possible, every appeals panel will have at least one male and one female member. If possible, the panel will contain two faculty members when the respondent is a faculty member. If possible, the panel will contain two staff members when the respondent is a staff member. If, because of bias or a conflict of interest, an appeals panelist cannot participate in an appeals panel, another appeals panelist will be appointed to take their place.

#### *Title IX Advisor*

Both the complainant and the respondent may choose one advisor who may accompany them to any meetings, hearings, and appeals. A Title IX advisor may provide only emotional support for a party. An advisor may not communicate with the investigator, hearing panel, complainant, or respondent at any meeting, hearing, or appeal. A Title IX advisor may not speak on behalf of, or act as a representative of, the complainant or the respondent in any meeting, hearing, or appeal.

#### *Investigator*

The Carthage employee who investigates reports and written complaints of sexual harassment is normally the Human Resources Director. If, because of bias or a conflict of interest, the Human Resources Director cannot act as an investigator, another staff member from the Human Resources department will act as the investigator. Contact information for the Human Resources department is listed in the Resources section of this Policy. Anyone who acts as an investigator will receive annual training on issues related to sexual harassment and on conducting investigations and hearing processes that protect the safety of complainants and respondents and promote accountability.

#### **Procedure**

Carthage will use the following procedure to take action on every formal complaint, except when the respondent is a Carthage student or non-Carthage community member. In the former situation, Carthage will follow the procedures in Carthage's Community Code, which are analogous to this procedure. In the latter situation, Carthage will follow the procedure that aligns with the complainant's status at the college as closely as possible, being mindful that there may be circumstances where it is more appropriate to use the alternate procedure (e.g. the complainant is a student but the faculty/staff misconduct policy is implemented). In cases where a respondent is not a Carthage community member, keep in mind that circumstances may limit the college's ability to investigate, conduct a hearing, and levy sanctions. In certain circumstances, Carthage may use this procedure without receiving a formal complaint.

Carthage prefers to receive reports, take statements, hold meetings, and conduct hearing panels in person. However, extenuating circumstances, such as breaks between terms or the unavailability of certain parties, may require parties or witnesses to appear and communicate by telephone, video chat, or similar methods. At the request of the complainant or the respondent and for good cause, meetings or hearings may be conducted with the complainant and the respondent in separate rooms.



## **Records**

Once the investigation is complete, the Title IX coordinator will notify parties in writing that the investigative summary is available and parties will have 10 days to review prior to a live hearing.

## **Time Frame**

Carthage expects that investigations, hearing panels, and appeals will occur promptly. Extenuating circumstances, such as breaks between terms, the unavailability of key parties, or finding an appropriate panel, may cause delays. At any point, either the complainant or the respondent may request an extension of any dates or deadlines in writing to the hearing panel chair, who will notify both parties of any such extension in writing. Carthage expects a sexual misconduct proceeding to follow this timeframe:

- (1) The investigator should contact the respondent within one business day of the formal complaint.
- (2) The investigator should conclude their inquiry within one week of the formal complaint.
- (3) The hearing should occur within one week of the conclusion of the investigator's and party review period.
- (4) The hearing panel should make a decision within one week of the hearing.
- (5) The appeal panel should make a decision within one week of the appeal.

This timeframe is flexible, not absolute.

## **Investigation & Hearing Panel**

(1) Upon the filing of a formal complaint, the investigator will notify the respondent of the formal complaint, inform them of their rights and resources, and allow inspection of the formal complaint. The respondent may submit a written rebuttal as soon as possible after inspecting the formal complaint.

(2) The investigator will then review the formal complaint and respondent's rebuttal and investigate the parties' claims. The investigator may request statements from the parties or witnesses, and may meet with witnesses, the complainant, and the respondent. The investigator will periodically update the complainant and the respondent regarding the progress of the investigation.

(3) Once the investigator has completed the investigation, they will forward the file to the hearing panel for review and scheduling of a hearing with the complainant and the respondent at their earliest convenience.

(4) At that hearing, both the complainant and the respondent will have the opportunity to present evidence about the formal complaint. The hearing can include statements from the parties, questioning of the parties, questioning of witnesses, and presentation of documentary or physical evidence. The hearing panel will control the hearing and have sole discretion regarding the presentation of evidence.

(5) After the hearing, the hearing panel will determine, by a preponderance of the evidence, whether the respondent violated the Title IX or sexual misconduct policies. If the hearing panel determines that the respondent committed sexual misconduct, the hearing panel will also suggest appropriate sanctions against the respondent.

(6) The hearing panel chair will notify the appropriate faculty/staff Supervisor and Human Resources representative as indicated below of the hearing panel's decision, its rationale, and any suggested sanctions in a written hearing summary. In the case that the respondent is a faculty member, the appropriate Supervisor would be the corresponding Divisional Dean or representative from the Provost Office. In the case that the respondent is a staff member, the appropriate Supervisor would be any immediate or ultimate supervisor of the respondent. In either case, the appropriate Supervisor will review the sanctions suggested by the panel and will make the final determination of sanctions.

(7) The appropriate Supervisor will notify the Human Resources Director of the hearing panel's decision, its rationale, and any suggested sanctions in a written hearing summary. The Human Resources Director will then communicate the hearing panel's decision to the complainant and respondent and notify both parties of their rights to appeal in writing. If the parties do not appeal within three business days of receiving notification, the hearing panel's decision is final.

## **Records**

An audio, audiovisual recording, or transcript of the hearing will be created and is available for the parties to review.

### **Appeals**

Either the complainant or the respondent may appeal the hearing panel's decision within three business days of receiving notification. A party may only appeal based upon one of the following grounds:

- New evidence that was not reasonably available at the time and that could affect the outcome of the matter.
- Procedural irregularity that affected the outcome of the matter.
- Bias or conflict of interest for or against complainants or respondents generally or the individual complainant or respondent, and that bias or conflict affected the outcome.

The appealing party must submit a written statement to the Human Resources Director that requests and sets forth the basis of the appeal. The Human Resources Director will convene an appeal panel. The appeal panel may do any of the following:

- Affirm the hearing panel's decision
- Amend the original sanction
- Require a new hearing and decision

The appeals panel chair will notify the appropriate Supervisor of the panel's decision and will provide a rationale as a written summary. The appropriate Supervisor will then notify the Human Resources Director, who will communicate the outcome of the appeal to the complainant and respondent in writing.

The decision of an appeals panel is final.

### **Sanction**

The penalty assessed against any respondent found responsible for violating the sexual misconduct policy will include one or more of the listed sanctions:

- No Contact Order—The respondent may not contact the complainant
- Warning/Monitoring—The respondent may receive a written warning and may be more carefully monitored in their duties
- Probation—Any further violation of Carthage's policies may result in an immediate removal from the employee's position
- Ban from College Facilities—The respondent may not enter certain areas of campus
- Counselling—The respondent may be required to attend counselling sessions
- Community Service—The respondent may be required to provide specific services to the community
- Permanent Change to Work Schedule or Location—The respondent may have their work place or time changed
- Suspension—The respondent is dismissed as an employee for a specified time. Unless otherwise specified, suspension includes a ban from campus until the date the respondent is eligible for re-application.
- Termination—The respondent is permanently dismissed from Carthage. Unless otherwise specified, termination includes a ban from campus and no eligibility to return to Carthage as an employee.
- Other—Any other sanctions deemed appropriate to the situation based on the recommendations of the hearing panel and appropriate Supervisor.

### **Educational Programs**

The College presents information about the prevention and awareness of sexual harassment to all staff and faculty during their respective orientations. The Human Resources Department has contracted with LawRoom to provide an online sexual harassment education course to all new faculty and staff members.

Ongoing education regarding sexual harassment topics is provided by the Human Resources Department and the Title IX Coordinator. These programs may be presented at meetings, as part of career development, or for the Equity and Inclusion Certificate Program. The content of these programs are tailored to the particular group or audience.