**SEXUAL MISCONDUCT/TITLE IX POLICY**

**PROHIBITION OF SEXUAL MISCONDUCT**
HCHC strives to provide a learning and campus environment free from all forms of sexual misconduct. HCHC accordingly prohibits conduct which constitutes sexual harassment, sexual assault and violence, dating violence, domestic violence, and stalking as those terms are defined below.

In support of this commitment, HCHC takes steps to increase awareness of such misconduct, eliminate its occurrence on campus, provide support for survivors, diligently investigate all reports of sexual misconduct, and deal fairly and firmly with offenders. Creating a safe campus environment and a culture of respect is the shared responsibility of all members of the HCHC community, individually and collectively.

This sexual misconduct policy (the “Policy”) is adopted by HCHC in compliance with Title IX, the Clery Act, and other applicable laws.

As described in more detail below, in this Policy “sexual misconduct” is intended to refer to a broad range of conduct focused on sex and/or gender that may or may not be sexual in nature. Sexual harassment, sexual assault, sexual exploitation, stalking, and relationship violence are all forms of sexual misconduct prohibited by law and this Policy.

**SCOPE OF POLICY**
This Policy is intended to provide the HCHC community with a clearly articulated set of behavioral standards, and definitions of prohibited conduct and key concepts. The Policy applies to all community members, including students, faculty, staff, affiliates, visitors, applicants for admission or employment, independent contractors. Vendors and others who conduct business with the HCHC or on school property are also expected to comply with this Policy. The Policy applies regardless of a person’s gender, gender identity, gender expression, sexual orientation, age, race, nationality, class status, religion, or other protected status.

This Policy applies both to on-campus and off-campus conduct if (i) the conduct was in connection with an HCHC or HCHC-recognized program or activity, or (ii) the conduct may have the effect of creating a hostile environment for a member of the HCHC community. In the Policy below, we have provided a list of on-campus resources available to those affected by sexual misconduct and the extent to which such resources have reporting obligations or may maintain the confidentiality of a report of sexual misconduct. The procedures described below describe the investigation and disciplinary process.
benefit from HCHC’s educational programs or a faculty or staff member’s ability to work, which may include a single incident of sexual assault or other serious sexual misconduct.

Sexual harassment includes, but is not limited to, unwelcome sexual conduct when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s education or participation in HCHC programs or activities.
- Submission to or rejection of such conduct by an individual is used as the basis for decisions pertaining to an individual’s education or participation in HCHC programs or activities.
- Such conduct has the purpose or effect of interfering with an individual’s educational performance, or creating an intimidating, hostile or offensive learning environment, or interfering with one’s ability to participate in or benefit from an educational program or activity. Unwelcome sexual innuendo, propositions, sexual attention, or suggestive comments and gestures.
- Unwelcome physical contact of a sexual nature, such as touching, hugging, kissing, patting, or pinching, that is uninvited and unwanted or unwelcome by the other person.
- Humor and jokes about sex or gender-specific traits; sexual slurs or derogatory language directed at another person’s sexuality or gender.
- Insults and threats based on sex or gender; and other oral, written, or electronic communications of a sexual nature that a person communicates are unwelcome.
- Written graffiti or the display or distribution of sexually explicit drawings, pictures, or written materials; sexually charged name-calling; sexual rumors or ratings of sexual activity/performance; the circulation, display, or creation of e-mails or Web sites of a sexual nature.
- Non-academic display or circulation of written materials or pictures degrading to a person(s) or gender group.
- Unwelcome attention, such as repeated inappropriate flirting, inappropriate or repetitive compliments about clothing or physical attributes, staring, or making sexually oriented gestures.
- Change of academic or employment responsibilities (increase in difficulty or decrease of responsibility) based on sex, gender identity or expression, or sexual orientation.
- Use of a position of power or authority to: (i) threaten or punish, either directly or by implication, for refusing to tolerate harassment, for refusing to submit to sexual activity, or for reporting harassment; or (ii) promise rewards in return for sexual favors.
- Acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping.

Sexual Violence
Sexual violence is a form of sexual harassment and it includes rape, sexual assault, sexual battery, and sexual coercion. Sexual coercion is the act of
conduct system, if the offender is an HCHC student.

For more information on Massachusetts law, see
https://malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter209A.

**Stalking**
The term "stalking" means a course of conduct directed at a specific person
that would cause a reasonable person to fear for his or her safety or the
safety of others; or to suffer substantial emotional distress. This includes the
use of technology to pursue, harass, threaten, intimidate, or otherwise make
unwelcome contact with another person. Stalking may involve people who
are known to one another, in a romantic relationship, or may involve people
not known to one another.

Stalking is prohibited by Massachusetts law. Examples include, but are not
limited to: following a person; appearing at a person’s home, class, or work;
making frequent phone calls, emails, text messages; continued contact after
receiving requests not to; or other threatening, intimidating, or intrusive
behavior.

**Sexual Exploitation**
Sexual exploitation involves taking sexual advantage of another person and
includes, without limitation: indecent exposure; causing or attempting to
cause the incapacitation of another person in order to gain a sexual
advantage over him or her; causing the prostitution of another person;
recording, photographing, or transmitting images of private sexual activity
and/or the intimate parts of another person without consent; observing or
allowing third parties to observe private sexual acts or otherwise violating a
person’s sexual privacy without consent; and knowingly or recklessly
exposing another person to a significant risk of sexually transmitted
infection.

**Consent**
Sexual activity requires consent, which is defined as positive, unambiguous,
and voluntary agreement to engage in specific sexual activity throughout a
sexual encounter. Consent cannot be inferred from the absence of a “no”; a
clear “yes,” verbal or otherwise, is necessary. Consent to some sexual acts
does not imply consent to others, nor does past consent to a given act imply
present or future consent. Consent must be ongoing throughout a sexual
encounter and can be revoked at any time. There is no consent when there is
force, expressed or implied, or when coercion, intimidation, threats, or
duress is used. Consent cannot be obtained from someone who is asleep or
otherwise mentally or physically incapacitated, whether due to alcohol,
drugs, or some other condition. A person is mentally or physically
incapacitated when that person lacks the ability to make or act on
considered decisions to engage in sexual activity. Engaging in sexual activity
with a person whom you know – or reasonably should know – to be
incapacitated constitutes sexual misconduct. The impact of alcohol and drugs
varies from person to person; however, warning signs of possible
incapacitation include slurred speech, unsteady gait, impaired coordination,
Faculty and staff may report incidents to the Title IX Coordinator or any Deputy Title IX Coordinator, a supervisor, a dean, or a department head. In general, when one of these offices receives a report, HCHC must commence an investigation. All reports of such incidents will be disclosed to the Title IX Coordinator.

HCHC recognizes that student complainants may be most comfortable disclosing sexual misconduct to a College employee they know well, such as a faculty member or resident advisor ("RA"). Students are welcome to speak with them, but should understand that these individuals are considered “responsible employees” (other than the confidential resources identified below), and if responsible employees receive a report of sexual misconduct, they are required to inform the Title IX Coordinator about the incident. HCHC defines a “responsible employee” to include supervisors and officials with significant responsibility for student and campus activities including, but not limited to, academics, student residences, discipline, and campus safety. Employees whose positions legally require confidentiality (e.g., counseling staff and clergy) are not “responsible employees.”

Before a student discloses an incident of sexual misconduct, HCHC faculty and staff will try to ensure that the student understands the employee’s reporting obligations — and, if the student wishes to maintain confidentiality, direct the student to confidential resources. Similarly, before a faculty or staff member discloses an incident of sexual misconduct, the person to whom the disclosure is to be made will endeavor to ensure that the faculty or staff member understands his or her reporting obligations. Below, we have identified the confidential resources available to students, faculty, and staff who do not wish to file a complaint or trigger an investigation, or who would like to better understand their options.

PRIVACY
HCHC wants all community members to seek the assistance they need without fear that the information they provide will be shared more broadly than they would like. All reports of sexual misconduct will be handled confidentially to the extent allowed by law. Even when College employees have an obligation to report sexual misconduct, they will protect and respect an individual’s privacy to the greatest extent possible and share information only on a need-to-know basis. The information reported will only be shared with HCHC employees who will be assisting in the investigation and/or resolution of the complaint. HCHC’s ability to make a meaningful investigation and take corrective action may be limited if an individual insists on complete confidentiality.

Requesting Confidentiality:
How HCHC Will Weigh the Request and Respond
In some cases, HCHC may not be able to honor a confidentiality request in order to adhere to its obligation to provide a safe, non-discriminatory environment for the HCHC community. If a report of sexual misconduct discloses an immediate threat to the HCHC community, where timely notice must be given to protect the health or safety of the community, HCHC may not be able to maintain the same level of confidentiality. Immediately
RETAIATION PROHIBITED
It is a violation of this policy and applicable laws to retaliate against or intimidate any individual who brings a complaint under this policy or who cooperates with or otherwise participates in the investigation or resolution of a complaint under this policy. HCHC will take steps to prevent retaliation and intimidation and will also take strong responsive action if HCHC determines that retaliation has occurred. Any such acts should be reported promptly to a Title IX Coordinator. This policy also applies to any allegation that a member of the community has attempted to prevent an individual from reporting sexual misconduct.

CAMPUS AND COMMUNITY RESOURCES AND SUPPORT
HCHC offers non-judgmental and confidential support through the Office of Spiritual Formation and Counseling Services to any party involved in a sexual misconduct incident.

HCHC encourages all community members affected by sexual misconduct to seek immediate assistance. Doing so promptly may be important to ensure the person’s physical safety or to obtain medical care or other support. It may also be necessary to preserve evidence, which can assist HCHC and/or law enforcement in responding effectively.

HCHC encourages complainants to pursue criminal action for incidents of sexual misconduct that may also be crimes under Massachusetts law. In general, HCHC will notify the Boston or Brookline Police Department of allegations of sexual violence. HCHC will also assist a complainant in making a criminal report and will cooperate with law enforcement agencies if a complainant decides to pursue the criminal process to the extent permitted by law. However, a complainant may also choose not to pursue criminal action, and under most circumstances, the Boston or Brookline Police Department will not force a complainant to pursue criminal charges if he or she is not willing to do so.

Evidence Collection and Medical Treatment
Sexual Assault Nurse Examiners (SANEs) are specially trained nurses who provide immediate, compassionate, and comprehensive medical-legal evaluation and treatment.

- Beth Israel Deaconess Medical Center ER (preferred hospital) 617-754-2323
- Brigham and Women’s Hospital ER 617-732-5636

Counseling and Support
- Boston Area Rape Crisis Center
  24-hour hotline: 800-841-8371
  www.barcc.org
- Fenway Community Health Violence Recovery Program
  617-927-6250
  www.fenwayhealth.org

Domestic Violence Support and Advocacy
- Jane Doe, Inc.
HCHC will disclose information about its investigation and resolution of sexual misconduct complaints only to those who need to know the information in order to carry out their duties and responsibilities. It will inform all HCHC personnel participating in an investigation, proceeding, or hearing that they are expected to maintain the privacy of the process. This does not prohibit either a complainant or respondent from obtaining the assistance of family members, counselors, therapists, clergy, doctors, attorneys, or other resources.

In most cases, the investigator will prepare a written report at the conclusion of an investigation. Before the report is finalized, the participating complainant and respondent will be given the opportunity to review their own statements and, to the extent appropriate to honor due process and privacy considerations, the participating complainant and respondent may also be provided with a written or oral summary of other information collected during the investigation. A complainant or respondent must submit any comments about their own statement, or on any investigation summary that might be provided, to the investigator within five (5) calendar days after that statement or summary was provided.

Following the receipt of any comments submitted, or after the five (5)-day comment period has lapsed without comment, the investigator will address any identified factual inaccuracies or misunderstandings, as appropriate, and then make a recommendation.

The investigator will present a report, including a summary of the investigation, the investigator’s findings with respect to responsibility for conduct violations, and a summary of the investigator’s rationale in support of the findings, to the Office of the Dean of Students as well as the Title IX Coordinator.

Upon the approval of the investigation report and findings, the Dean of Students or designee will determine the appropriate sanction(s) and remedies if there is a finding of responsibility. Both parties will be notified in writing of the resolution of the investigation.

The disciplinary process is not subject to formal rules of court or evidence. For the disciplinary process, a student is not “found guilty” based on proving a case “beyond a reasonable doubt” as in criminal law, but can be “held responsible” for an alleged violation of the sexual misconduct policy that is “more likely than not” to have occurred (referred to as the “preponderance of evidence” standard).

**Information to the Complainant**

After receiving a report of sexual misconduct, the Title IX Coordinator will notify the complainant of the option to have an Advisor accompany him or her to any meeting or interview related to the complaint resolution process. The Coordinator will also:

- Provide the complainant with information regarding the Rights of the complainant and respondent.
- Explain the prohibition against retaliation.
- Explain the process for investigating and resolving a sexual misconduct complaint (including the available appeal procedures).
- Instruct the complainant not to destroy any potentially relevant
initiate a sanctioning process. Sanctions will be designed to eliminate a hostile environment, prevent further misconduct, promote safety, and deter students from similar future behavior. Certain behavior may be so harmful to the community that it may require serious sanctions, such as removal from HCHC housing, removal from specific courses or activities, suspension from the College, or dismissal from the institution.

As part of the sanctioning process, HCHC may require that existing interim remedies or administrative actions stay in place for a prescribed period of time. HCHC may also impose new remedies or administrative actions such as stay away orders, housing placement, or academic accommodations based upon the investigation and adjudication of the case.

A report of sexual violence (including non-identifying reports) may also prompt HCHC to consider broader remedial action, such as increased monitoring, supervision or security at locations where the reported sexual violence occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting policies and practices.

**Interim Protections**

The Title IX Coordinator may, at any time during the investigation or the processing of a complaint of sexual misconduct, recommend interim protections or remedies be provided by HCHC. Complainants may also submit requests for interim protections. HCHC may impose any measure that can be tailored to the parties involved to achieve the goals of this policy. These protections and remedies may include (but are not limited to) separating the parties, placing limitations on contact between the parties, or making alternative workplace, housing, extracurricular, or academic arrangements where reasonable and feasible. The Title IX Coordinator will work with the appropriate office(s) to ensure that any necessary interim measures are promptly provided.

Failure to comply with the terms of interim protections may be considered a separate violation of this policy and a basis for disciplinary action. Outside of HCHC, a complainant may also be entitled to obtain remedies under applicable law, such as a judicial restraining order. The Title IX Coordinator can assist in contacting law enforcement or legal service organizations to learn about these remedies.

**Effect of Criminal Proceedings**

The filing and processing of a complaint of sexual misconduct is separate from and independent of any criminal investigation or proceeding. HCHC may not wait for the conclusion of any criminal investigation or proceedings to begin its own investigation, although HCHC may delay temporarily the fact-finding component of the investigation while the police are gathering evidence. Neither law enforcement’s determination as to whether or not to prosecute a respondent nor the outcome of any criminal prosecution is determinative of whether sexual misconduct occurred under this policy.
Dean of Students may, at his or her discretion, convene a disciplinary hearing that will include members of the faculty and staff, and the student may invite an advisor of his or her choice for advice and support. If the infraction involves accusations by another member of the HCHC community, that member shall be given equal opportunity to participate in the hearing process and have the assistance of an advisor. During meetings and interviews, the advisor may quietly confer or pass notes with the party in a non-disruptive manner. The Advisor may not intervene in a meeting or interview, or address the Investigator. Consistent with HCHC's obligation to promptly resolve complaints, HCHC reserves the right to proceed with any meeting or interview, regardless of the availability of the party's selected Advisor.

The student will be informed of the time and place of the hearing at least 48 hours in advance. HCHC may remove a student accused of serious misconduct from campus pending the result of a disciplinary hearing or utilize other interim measures, at the College's discretion. The policy of HCHC is to conduct closed hearings.

The disciplinary process is not subject to formal rules of court or evidence. (For example, a student is not “found guilty” based on proving a case “beyond a reasonable doubt” as in criminal law but can be “held responsible” for a violation that is “more likely than not” to have occurred.) A student is always given the opportunity to give his or her account of events and to present evidence and other witnesses in either disciplinary conferences or hearings.

A party may decline to participate in the investigative or complaint resolution process. HCHC may continue the process without the student's participation. In most cases, a refusal to participate in the investigative process will preclude a party from appealing any determination. The Dean of Students will make this determination.