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1. STATEMENT OF POLICY

Westminster (“College”) is committed to providing a safe and non-discriminatory learning and working environment for all members of the Westminster community. The College does not discriminate on the basis of sex in any of its education or employment programs and activities. To that end, this policy prohibits specific forms of behavior that violate Title IX of the Education Amendments of 1972 (“Title IX”); Title VII of the Civil Rights Act of 1964 (“Title VII”); and/or the Utah Antidiscrimination Act of 1965. The policy also fulfills certain obligations the College has under the Violence against Women Reauthorization Act of 2013 (“VAWA”) and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”).

The College prohibits sexual assault, sexual and gender-based harassment, gender-based discrimination, sexual exploitation, interpersonal violence, retaliation against a person for the good faith reporting of any of these forms of conduct or participation in any investigation or proceeding under this policy, complicity in the commission of any act prohibited by this policy, and false reporting (collectively “prohibited conduct”). These forms of prohibited conduct, which are defined in Section 6 of this policy, are unlawful, undermine the character and purpose of the College, and will not be tolerated. The College adopts this policy with a commitment to: (1) eliminating, preventing, and addressing the effects of prohibited conduct; (2) fostering the College’s community of trust, in which prohibited conduct is not tolerated; (3) cultivating a climate where all individuals are well-informed and supported in reporting prohibited conduct; (4) providing a fair and impartial process for all parties; and (5) identifying the standards by which violations of this policy will be evaluated and disciplinary action may be imposed. Students or employees who violate this policy may face disciplinary action up to and including expulsion or termination, and third parties who violate this policy may have their contractual relationships with the College terminated and/or their privileges of being on College premises terminated. The College will take prompt and equitable action to eliminate prohibited conduct, prevent its recurrence, and remedy its effects. The College conducts ongoing prevention, awareness, and training programs for students and employees to facilitate the goals of this policy.

It is the responsibility of every member of the Westminster community to foster an environment free of prohibited conduct. All members of the Westminster community are encouraged to take reasonable and prudent actions to prevent or stop an act of prohibited conduct. The College will support and assist community members who take such actions.

This policy applies to all reports of prohibited conduct occurring on or after the effective date of this policy. Where the date of the prohibited conduct precedes the effective date of this policy, the definitions of misconduct in existence at the time of the alleged incident(s) will be used. The procedures under this policy, however, will be used to investigate and resolve all reports made on or after the effective date of this policy, regardless of when the incident(s) occurred.
2. TO WHOM THIS POLICY APPLIES

This policy applies to students who are registered or enrolled for credit- or non-credit-bearing coursework (“students”); college employees, consisting of all faculty (full-time and adjunct faculty, and instructors) (collectively “faculty”) and staff (collectively “employees”); and contractors, vendors, visitors, guests, or other third parties (“third parties”). This policy pertains to acts of prohibited conduct committed by or against students, employees, or third parties when:

A. the conduct occurs on College grounds or other property owned or controlled by the College;
B. the conduct occurs in the context of a College employment or education program or activity, including, but not limited to, College-sponsored study abroad, research, on-line, or internship programs; or
C. the conduct occurs outside the context of a College employment or education program or activity but creates a hostile environment for students, employees, or third parties while on College grounds or other property owned or controlled by the College, or in any College employment or education program or activity.

The College administers a separate policy that addresses other forms of discrimination and harassment: The Policy on Preventing and Addressing Discrimination and Harassment Based on Race, Color, National Origin, Religion, Disability, and Other Protected Categories (“Equal Opportunity Policy”). Where a reporting party alleges conduct that may give rise to violations of this policy and the Equal Opportunity Policy, the Title IX coordinator will determine the appropriate procedures for investigating the allegations. This policy supersedes any conflicting provisions contained in the Equal Opportunity Policy.

3. APPLICABLE PROCEDURES UNDER THIS POLICY

The specific procedures for reporting, investigating, and resolving prohibited conduct are based upon the nature of the respondent’s relationship to the College – that is, whether the respondent is a student, employee, or third party. Each set of procedures referenced below is guided by the same principles of fairness and respect for reporting parties, complainants, and respondents. “Reporting party” means the student, employee, or third party who reports a suspected violation of this policy. “Complainant” means the student, employee, or third party who files an official complaint with the College requesting that an investigation be initiated. In some cases, the College may be the complainant. “Respondent” means the student, employee, or third party who has been accused of violating this policy.

The procedures referenced below provide for a prompt and equitable response to reports of prohibited conduct. The procedures designate specific timeframes for major stages of the process and provide for thorough and impartial investigations that afford all parties notice and an opportunity to present witnesses and evidence and to be informed of the outcome of the investigation and any sanctions and/or remedial measures. The College applies the preponderance
of the evidence standard when determining whether this policy has been violated. “Preponderance of the evidence” means that it is more likely than not that a policy violation occurred.

A. Where the Respondent is a Student

The procedures for responding to reports of prohibited conduct committed by students are detailed in *Procedures for Reports and Investigations Against Students under the Title IX Policy – Appendix A.*

B. Where the Respondent is an Employee

The procedures for responding to reports of prohibited conduct committed by employees are detailed in: *Procedures for Reports and Investigations Against Employees under the Title IX Policy – Appendix B.*

C. Where the Respondent is Both a Student and an Employee

- *Procedures for Reports and Investigations Against Students under the Title IX Policy – Appendix A* will apply if the respondent is a full-time student but not a full-time employee;
- *Procedures for Reports and Investigations Against Employees under the Title IX Policy – Appendix B* will apply if the respondent is a full-time employee but not a full-time student; or
- If there is a question as to the predominant role of the respondent, the College’s Title IX coordinator will determine which of the procedures applies based on the facts and circumstances (such as which role predominates in the context in which the alleged prohibited conduct occurred).

D. Where the Respondent is a Third Party

The College’s ability to take appropriate corrective action against a third party will be determined by the nature of the relationship of the third party to the College. The Title IX coordinator will determine the appropriate manner of resolution consistent with the College’s commitment to a prompt and equitable process consistent with federal law, federal guidance, and this policy.

4. RESPONSIBLE ADMINISTRATOR – TITLE IX COORDINATOR

Under Title IX:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.
The Title IX coordinator is charged with monitoring the College’s compliance with Title IX; ensuring appropriate education and training; coordinating the College’s investigation, response, and resolution of all reports under this policy; and ensuring appropriate actions to eliminate prohibited conduct, prevent its recurrence, and remedy its effects. The Title IX coordinator is available to meet with any student, employee, or third party to discuss this policy or the accompanying procedures. The College has also designated deputy Title IX coordinators who assist the Title IX coordinator in the discharge of these responsibilities. The Title IX coordinator delegates authority to a deputy Title IX coordinator to act on their behalf when appropriate under the circumstances. The Title IX coordinator and deputy Title IX coordinators receive appropriate training to fulfill their responsibilities.

Concerns about the College’s application of Title IX, VAWA, Title VII, or the Clery Act may be addressed to the Title IX coordinator; the United States Department of Education, Clery Act Compliance Division (at clery@ed.gov); the United States Department of Education, Office for Civil Rights (at OCR@ed.gov or (800) 421-3481); and/or the Equal Employment Opportunity Commission (at info@eeoc.gov or (800) 669-4000).

Contact information for the Title IX coordinator and deputy Title IX coordinators can be found on the Title IX webpage at https://www.westminstercollege.edu/about/resources/title-ix.

5. SUPPORTIVE MEASURES, RESOURCES, AND REPORTING

A. Supportive, Interim, and Remedial Measures

The College offers a wide range of appropriate measures to provide support and guidance to students and employees throughout the initiation, investigation, and resolution of a report of prohibited conduct. The College also offers reasonable measures to protect reporting parties, complainants, and respondents and facilitate their continued access to College employment or education programs and activities. Available measures include supportive measures (before an investigation has been initiated), interim measures (during an investigation), and remedial measures (after an investigation finding has been issued). These measures include the following:

- Housing relocation
- No contact orders limiting or preventing communication
- Safety planning
- Limiting access to facilities, activities, or programs
- No trespass orders
- Academic schedule changes
- Alternate course completion options
- Arranging for in completes or withdrawal from a course or from campus without penalty
- Leaves of absence
- Changing work schedules, job assignments, or work locations
• Interim suspension
• Administrative leave
• Referrals to counseling services and other health providers on and off campus
• Referrals to community and national organizations and resources
• Rescheduling an exam or extending assignment deadlines
• Access to academic supports, such as tutoring
• Preserving eligibility for academic, athletic, or other scholarships, financial aid, internships, study abroad, or foreign student visas

The College will maintain the privacy of any supportive, interim, or remedial measures to the greatest extent possible and will promptly address the violation of any of these measures. The Title IX coordinator has the discretion to impose and/or modify any supportive, interim, or remedial measure and is available to meet with a reporting party, complainant, or respondent to address any concerns about the provision of these measures.

The College will provide reasonable supportive, interim, and remedial measures to third parties as appropriate and available, taking into account the role of the third party and the nature of any contractual relationship with the College.

B. Notification of Rights Regarding Remedial and Protective Measures

When a student or employee reports to the College that they have been a victim of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off campus, the Title IX coordinator will ensure students and employees receive written notification of all their rights and options, regardless of whether they choose to report prohibited conduct to the College or to the police. This notification will describe options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures. It will also provide notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the College and in the community. Students and employees are entitled to receive information, assistance, and a broad range of support and remedial measures, as reasonably available, regardless of whether they choose to pursue criminal and/or College disciplinary resolution of prohibited conduct.

C. Confidential and Non-Confidential Resources

The College is committed to protecting the privacy of all individuals involved in the investigation and resolution of a report under this policy. The College also is committed to providing assistance to help students, employees, and third parties make informed choices. With respect to any report under this policy, the College will make reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal law, while balancing
the need to gather information to assess the report and to take steps to eliminate prohibited conduct, prevent its recurrence, and remedy its effects.

Privacy and confidentiality have distinct meanings under this policy.

**Privacy:** Privacy means that information related to a report of prohibited conduct will be shared with a limited circle of College employees who “need to know” in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the College response to reports of prohibited conduct receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law.

The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”). The privacy of an individual’s medical and related records generally is protected by the Health Insurance Portability and Accountability Act (“HIPAA”), and there are additional protections under FERPA and Utah law. Access to an employee’s personnel records may be restricted in accordance with Utah law and/or human resources departmental policies.

**Confidentiality:** Confidentiality means that information shared by an individual with designated campus or community professionals cannot be revealed to any other person without the express permission of the individual. The College has designated individuals who have the ability to have confidential communications as “confidential employees.” Confidential employees cannot reveal confidential information to any third party unless there is an imminent threat of harm to self or others. Non-identifying, aggregate data may be shared for statistical purposes consistent with the Clery Act.

Consistent with the definition of confidential employees, the following resources are available for students and employees seeking confidential, trauma-informed counseling and support:

<table>
<thead>
<tr>
<th>CONFIDENTIAL RESOURCES</th>
<th>Telephone Number</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rape Recovery Center</td>
<td>(801) 467-7273</td>
<td>2035 South 1300 East</td>
</tr>
<tr>
<td>Campus Counseling Center</td>
<td>(801) 832-2465</td>
<td>Shaw Center Lower Level – students only</td>
</tr>
<tr>
<td>Westminster Student Health Services</td>
<td>(801) 832-2239</td>
<td>Shaw Center Lower Level – students only</td>
</tr>
<tr>
<td>State-wide crisis line</td>
<td>(888) 421-1100</td>
<td>24-hour crisis line</td>
</tr>
<tr>
<td>National Sexual Assault Hotline</td>
<td>(800) 656-4673</td>
<td>24-hour hotline</td>
</tr>
</tbody>
</table>
The following resources are not confidential, meaning that any reports of prohibited conduct to them must be shared with the Title IX coordinator. However, they are available to provide assistance and support to reporting parties, complainants, and respondents.

<table>
<thead>
<tr>
<th>NON-CONFIDENTIAL RESOURCES</th>
<th>(Students Only)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resource</td>
<td>Telephone Number</td>
</tr>
<tr>
<td>Dean of Students Office</td>
<td>(801) 832-2230</td>
</tr>
<tr>
<td>Office of Global Peace and Spirituality</td>
<td>(801) 832-2232</td>
</tr>
<tr>
<td>Resident Advisors</td>
<td></td>
</tr>
<tr>
<td>Resident Life Staff Members</td>
<td>(801) 832-2245</td>
</tr>
<tr>
<td>Victim Advocate</td>
<td><a href="mailto:advocate@westminstercollege.edu">advocate@westminstercollege.edu</a></td>
</tr>
</tbody>
</table>

The College’s victim advocate is available to meet with student survivors regarding incidents of sexual or interpersonal violence, refer them to campus and community resources, assist them with obtaining supportive measures from the College, and help them navigate the internal investigation and criminal processes. For each incident reported, the victim advocate is required to provide to the Title IX office the type of incident, date, time, and location. However, no information that would directly or indirectly identify the victim or other parties involved will be shared. The victim advocate can be reached at advocate@westminstercollege.edu.

D. Employee and College Responsibility to Report Prohibited Conduct

1. **Employee Responsibility to Report Disclosures of Prohibited Conduct:** An employee’s responsibility to report incidents of prohibited conduct depends on whether they are designated as a “confidential employee” or a “responsible employee.”

   **Confidential employee** means an employee of the Campus Counseling Center or Westminster Student Health Services. A confidential employee will not disclose information about prohibited conduct to third parties, including the College, without
the express permission of the individual; provided however, that confidential employees may be required by law to report such information to law enforcement in the event of imminent threat of harm to self or others.

**Responsible employee** means any faculty or staff who is not an employee of the Campus Counseling Center or Westminster Student Health Services. A responsible employee is required to report to the College’s Title IX coordinator within 48 hours all relevant details obtained directly or indirectly about an incident of prohibited conduct that involves any student or employee as a reporting party, complainant, respondent, or witness, including dates, times, locations, and names of parties and witnesses.

When any person begins to disclose an incident of prohibited conduct, a responsible employee should inform the reporting party of their designation as a responsible employee and inform them of reporting options. Faculty must include in their syllabi each semester a notice approved by the provost stating that they are responsible employees and providing notice of reporting options.

2. **College Responsibility to Report Prohibited Conduct to Law Enforcement, the State, or the Campus Community:** Under Utah law, the College is required to report to law enforcement and/or the Utah Department of Family Services suspected sexual or physical abuse involving persons under 18 years of age where the sexual partner is more than three years older and entices or coerces participation in sexual activity. Also, under certain circumstances, the College may be required to notify law enforcement and/or the campus community of prohibited conduct in order to provide a safe, non-discriminatory environment for all students. When issuing timely warnings to the College community, the College withholds the names and other personally identifying information of reporting parties while still providing enough information for community members to make safety decisions.

3. **College Responsibility for Clery Act Reporting:** Pursuant to the Clery Act, the College includes statistics about certain offenses in its annual security report and provides those statistics to the United States Department of Education in a manner that does not include any personally identifying information about individuals involved in an incident. The Title IX coordinator is responsible for providing information pertaining to reports of prohibited conduct to the College employee responsible for reporting under the Clery Act.

E. **Reporting Prohibited Conduct**

There are multiple channels for reporting prohibited conduct. A reporting party may choose to report to the College, to law enforcement, to both, or to neither. Reporting parties may simultaneously pursue criminal actions through law enforcement and investigations through the College’s procedures. The College will support reporting parties in understanding, assessing, and pursuing these options.
1. **Reporting to Law Enforcement**

   Reporting parties have the right to notify or decline to notify law enforcement. In keeping with its commitment to taking all appropriate steps to eliminate, prevent, and remedy all prohibited conduct, the College urges reporting parties to report prohibited conduct immediately to local law enforcement by contacting:

   a) 911 (for emergencies)
   b) Salt Lake Police Department (801) 799-3000

   Police have unique legal authority, including the power to seek and execute search warrants, collect forensic evidence, make arrests, and assist in seeking emergency protective orders. Their jurisdiction reaches beyond the boundary of the campus and for that reason reporting to law enforcement may provide the opportunity for broader protection. Although a police report may be made at any time, reporting parties should be aware that a statute of limitations may apply to certain crimes in Utah. The College will assist reporting parties in notifying law enforcement if they choose to do so.

2. **Reporting to the College**

   The College also urges anyone who experiences or becomes aware of an incident of prohibited conduct to report the incident immediately to the College through the following reporting options:

   a) Contact the College’s Title IX coordinator or a deputy Title IX coordinator by telephone, email, or in person during regular office hours at their respective locations, email addresses, and/or phone numbers listed above;
   b) Submit a report online at westminstercollege.edu/about/resources/title-ix. A report may be made anonymously. However, if any information identifying the reporting party or respondent is given, the report will no longer be considered anonymous and the College will proceed accordingly; or
   c) Contact Campus Patrol at (801) 832-2525. Campus Patrol will assist with safety but are not law enforcement officers.

   There is no time limit for reporting prohibited conduct to the College under this policy; however, the College’s ability to respond may diminish over time, as evidence may erode, memories may fade, and respondents may no longer be affiliated with the College. If the respondent is no longer a student or an employee, the College will provide reasonably appropriate supportive measures, assist the reporting party in identifying external reporting options, and take reasonable steps to eliminate prohibited conduct, prevent its recurrence, and remedy its effects.

3. **No Discipline for Drug and Alcohol Violations**
To encourage the reporting of prohibited conduct, the College will not pursue disciplinary action for disclosure of illegal personal consumption of drugs or alcohol where such disclosures are made in connection with a good faith report or investigation of prohibited conduct.

4. Exceptions to Reporting Obligations of Responsible Employees

Responsible Employees are not required to report information disclosed (1) at public awareness events (e.g., “Take Back the Night,” candlelight vigils, protests, “survivor speak-outs” or other public forums in which students may disclose incidents of Prohibited Conduct; collectively “Public Awareness Events”), or (2) during a student’s participation as a subject in an Institutional Review Board-approved human subjects research protocol (“IRB Research”). The College may provide information about students’ Title IX rights and about available College and community resources and support at Public Awareness Events, however, and Institutional Review Boards may, in appropriate cases, require researchers to provide such information to all student subjects of IRB Research.

F. Health and Safety Threat Assessment

If the Title IX coordinator determines that there is a rational basis for concluding that the respondent poses a threat to the health or safety of the reporting party or the College community, the Title IX coordinator will convene a meeting of the Threat Assessment and Behavioral Intervention Committee (“TABIC”). TABIC will follow the Title IX procedures for conducting a health and safety threat assessment when determining whether the respondent poses a threat to the health or safety of the reporting party or to any other member of the College community.

G. Informal Resolution of Reports

If all parties voluntarily agree to participate in an informal resolution that does not involve a full investigation after receiving a full disclosure of the allegations and their options for formal resolution, and if the College determines that the particular situation is appropriate for such a process, the College may facilitate an informal resolution, including mediation, to assist the parties in reaching a voluntary resolution.

6. PROHIBITED CONDUCT UNDER THIS POLICY

Conduct under this policy is prohibited regardless of the sex, sexual orientation, gender identity, or gender expression of the reporting party, complainant, respondent, or third party. Prohibited conduct includes the following forms of behavior as further defined below: sexual assault; sexual harassment; gender-based harassment; gender-based discrimination; sexual exploitation;
interpersonal violence including dating violence, domestic violence, and stalking; retaliation; complicity; and false reporting.

A. Sexual Assault

Sexual assault is actual or attempted sexual or intimate contact with another person without their consent or when they are incapable of giving consent.

1. Prohibited Conduct
   a) Intentionally touching another person’s intimate parts (breasts, buttocks, groin, or genitals, whether clothed or unclothed) without that person’s consent;
   b) Coercing, forcing, or attempting to coerce or force a person to touch their own or another person’s intimate parts without the consent of the person who is being coerced or forced to act;
   c) Rape, which is defined as penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by any sex organ of another person, without that person’s consent;
   d) Sexual activity with a minor under 18 years of age where the sexual partner is more than three years older and entices or coerces participation in sexual activity.

2. Consent
   a) Consent is present when clearly understandable words or actions manifest a knowing, voluntary agreement between parties to engage in specific sexual or intimate contact with each other.
   b) When determining whether consent was present, the College will consider whether a reasonable, sober person would consider the words or actions of the parties to clearly express a knowing, voluntary agreement between them to engage in specific sexual or intimate contact with each other.
   c) Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent.
   d) Consent cannot be inferred from
      i. Silence, passivity, acceptance, or lack of resistance alone;
      ii. A current or previous dating or sexual relationship;
      iii. Consent given on a prior occasion;
      iv. Consent given to another person (i.e., consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another person);
      v. Attire;
      vi. Buying dinner or spending money on a date.
   e) Consent to one sexual activity does not imply consent to another sexual activity.
   f) Consent can be withdrawn at any time and for any reason.
   g) Consent is not effective if it is obtained through the use of physical force, violence, duress, intimidation, coercion, or the threat, either express or implied, of bodily
injury. Whether the party used such methods to attempt to obtain consent will be determined by the perception of a sober, reasonable person in the same or similar circumstances.

i. **Force** is the use or threat of physical violence or physical strength to overcome an individual’s freedom or will to choose whether or not to participate in sexual activity. There is no requirement that a party resists the sexual advance or request, but resistance will be viewed as a clear demonstration of non-consent.

ii. **Coercion** is the use of an unreasonable amount of pressure to compel another individual to initiate or continue sexual activity against their will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. Coercion is more than an effort to persuade, entice, or attract another person to have sexual relations. When a person makes clear that they do not want to have sexual relations, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure can constitute coercion. In evaluating whether coercion was used, the College will consider: (i) the frequency of the application of the pressure, (ii) the intensity of the pressure, (iii) the degree of isolation of the person being pressured, and (iv) the duration of the pressure.

h) Consent may never be given by:

i. Persons who are incapacitated (whether as a result of drugs, alcohol, prescription medications, or lack of sleep), unconscious, asleep, or otherwise physically helpless or mentally or physically unable to make informed, rational judgments;

ii. Persons under 18 years of age where the sexual partner is more than three years older and entices or coerces participation in sexual activity; or

iii. Persons with certain mental disabilities, if their disability was reasonably knowable to a sexual partner.

i) Additional guidance on consent can be found in, Utah Code Ann. 76-5-406 (2015).

3. **Incapacitation**

   a) Incapacitation is defined as lacking the ability make informed, rational judgments.

   b) Intoxication vs. Incapacitation: Consent cannot be given by a person who is incapacitated. Therefore, it is imperative to be able to determine the difference between incapacitation and intoxication. Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking or using drugs. The impact of alcohol and other drugs varies from person to person.

   i. Some signs of **intoxication** include, but are not limited to:
      - Slurred speech
      - Weaving or stumbling while walking
      - Exaggerated emotions

   ii. Some signs of **incapacitation** include, but are not limited to:
      - Inability to speak coherently
c) It is possible for a person who has been drinking to give consent, however, consent given by someone who has been drinking or using drugs must be clear, voluntary, and unambiguous. To give consent, a person must be able to make informed, rational judgments free from undue influence, pressure, or coercion. If a person lacks the ability to act clearly and voluntarily, or if a person is incapacitated, they cannot give consent.

d) In evaluating consent in cases of alleged incapacitation, the College looks for the common signs of incapacitation and asks two questions: (1) Did the respondent know that the complainant was incapacitated and, if not, (2) Should a sober, reasonable person in the same situation have known that the complainant was incapacitated? The College also considers that a person who is incapacitated may not be able to understand some or all of the following questions: “Do you know where you are?” “Do you know how you got here?” “Do you know what is happening?” “Do you know whom you are with?”

e) One should be cautious before engaging in sexual activity when either party has been drinking alcohol or using drugs. The introduction of alcohol or drugs may create ambiguity as to whether consent has been sought or given. If one has doubt about either party’s level of intoxication, the safe thing to do is to forego all sexual activity.

f) The use of alcohol or drugs does not diminish one’s responsibility to obtain consent and does not excuse prohibited conduct under this policy.

4. Guidance on Consent
   a) It is important not to make assumptions about whether a potential partner is consenting. In order to avoid confusion or ambiguity, participants are encouraged to talk with one another before engaging in sexual activity.
   b) If confusion or ambiguity arises during sexual activity, participants are encouraged to stop and ensure that there is a mutual willingness to continue that sexual activity.

B. Sexual and Gender-Based Harassment

1. Sexual harassment is any unwelcome sexual advances, request for sexual favors, or other verbal or physical conduct of a sexual nature when either quid pro quo or hostile environment harassment are present.
   a) Quid pro quo harassment – Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of a person’s education,
employment, living environment, or participation in a College program or activity; or:

b) **Hostile environment harassment**— Such conduct has the purpose or effect of (a) unreasonably interfering with an individual’s employment, academic performance, or participation in College programs or activities, or (b) creating a working, learning, program or activity environment that a reasonable person would find intimidating, hostile or offensive.

i. In determining whether sex or gender-based harassment has created a hostile environment, the College considers the conduct in question from both a subjective and objective perspective. It will be necessary, but not enough, that the conduct was unwelcome to the individual who was harassed. The College will also need to find that a reasonable person in the same position would have perceived the conduct as undesirable or offensive enough to create or contribute to a hostile environment.

ii. To make the ultimate determination of whether a hostile environment exists, the College considers a variety of factors related to the severity, persistence, or pervasiveness of the sexual or gender-based harassment, including (a) the type, frequency, and duration of the conduct, (b) the identity and relationships of persons involved; (c) the number of individuals involved; (d) the location of the conduct and the context in which it occurred; and (e) the degree to which the conduct affected a person’s education, employment, living environment, or participation in a College program or activity. The more severe the sexual or gender-based harassment, the less need there is to show a repetitive series of incidents to find a hostile environment. Indeed, a single instance of sexual assault is sufficient to create a hostile environment. Likewise, a series of incidents may be sufficient even if one incident of sexual or gender-based harassment is not particularly severe.

2. **Gender-based harassment** is any unwelcome conduct of a nonsexual nature based on a person’s actual or perceived sex, including conduct based on sexual orientation, gender identity, gender expression, nonconformity with gender stereotypes, pregnancy, childbirth, or pregnancy-related conditions when hostile environment harassment as outlined in 1(b) above is present.

C. **Gender-Based Discrimination**

**Gender-based discrimination** is conduct that denies or limits a person’s ability to benefit from or fully participate in educational programs or activities or employment opportunities because of their sex, gender, gender identity, gender expression, non-conformity with gender stereotypes, sexual orientation, pregnancy, childbirth, or pregnancy-related conditions excepting any treatment permitted or required by law. Discrimination occurs when the conduct:
1. Adversely affects a term or condition of an employee’s employment; a student’s education, or a third party’s access to College programs or activities; or
2. Is used as the basis for or a factor in decisions affecting an employee’s employment, a student’s education, or a third party’s access to College programs or activities.

D. Sexual Exploitation

Sexual exploitation is purposely or knowingly doing any of the following:

1. Causing the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person’s ability to give consent to sexual activity;
2. Allowing third parties to observe private sexual activity from a hidden location (e.g., closet) or through electronic means (e.g., Skype or livestreaming of images);
3. Engaging in voyeurism (e.g., watching private sexual activity without the consent of the participants or viewing another person’s intimate parts (including genitalia, groin, breasts, or buttocks) in a place where that person would have a reasonable expectation of privacy);
4. Recording or photographing private sexual activity and/or a person’s intimate parts (including genitalia, groin, breasts, or buttocks) without consent;
5. Disseminating or posting images of private sexual activity and/or a person’s intimate parts (including genitalia, groin, breasts, or buttocks) without consent; or
6. Prostituting another person.

E. Interpersonal Violence

Interpersonal violence is an umbrella term that includes dating violence, domestic violence, and stalking.

1. Dating violence is any act of physical violence or threatened act of physical violence that occurs between individuals who are involved or have been involved in an intimate or romantic relationship. The factors used in determining the existence of such a relationship include the length of the relationship, the type of relationship, and the frequency of the interaction between the persons involved in the relationship.
2. Domestic violence means any misdemeanor or felony crime of violence committed against a current or former spouse, current or former cohabitant, person similarly situated under domestic or family law, or anyone else protected under domestic or family violence law.
3. Stalking is a course of conduct directed at a specific person under circumstances that would cause a reasonable person to fear bodily injury or to experience substantial emotional distress. Course of conduct means two or more acts, including acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person’s property. Substantial emotional
distress means significant mental suffering or anguish. Stalking includes “cyber-stalking,” a form of stalking in which a person uses electronic media, such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact.

F. Retaliation

Retaliation means any adverse action taken against a person for making a good faith report of prohibited conduct or participating in any proceeding under this policy. Retaliation includes threatening, intimidating, harassing, coercing, or any other conduct that would discourage a reasonable person from engaging in activity protected under this policy.

All parties to the investigation are expected to maintain the confidentiality of the proceedings and refrain from retaliatory behaviors during the proceeding and after the matter is closed. Repeating allegations of prohibited conduct that have been investigated and closed may give rise to a claim of retaliation. Anyone found to have engaged in retaliatory behaviors may be subject to disciplinary sanctions under this policy.

Retaliation does not include good faith actions lawfully pursued in response to a report of prohibited conduct.

G. Complicity

Complicity is any act taken with the purpose of aiding, facilitating, promoting, or encouraging the commission of an act of prohibited conduct by another person.

H. False Reporting

False reporting is providing information in any report or proceeding under this policy that is intentionally false or made maliciously without regard for the truth. This provision does not apply to reports made in good faith, even if the facts alleged in the report are not substantiated by an investigation.

The allegation of prohibited conduct may have severe consequences and therefore the College takes very seriously the validity of reported information. All College community members are expected to provide truthful information in any report or proceeding under this policy. An individual who provides information during the course of an investigation that is later found to have been intentionally false or made maliciously without regard for the truth may be subject to disciplinary sanctions under this policy. False or malicious reporting may also violate state criminal statutes and civil defamation laws.
7. RIGHTS

A. Proceedings Free of Conflicts of Interest and/or Bias

Students, employees, and third parties involved in a report or investigation of prohibited conduct have the right to proceedings that are free of conflicts of interest and/or bias.

- A **conflict of interest** occurs where a party has multiple interests, and one of those interests could influence the party’s relationship with another interest. Under this policy, actual or potential conflicts arise when financial, professional, academic, or personal considerations compromise, or have the appearance of compromising, a person’s judgment and ability to perform their duties and responsibilities to act in a fair and impartial manner.

- **Bias** is an unfair prejudice in favor of or against one thing, person, or group compared with another.

B. Access, Information, and Assistance

Students, employees, and third parties involved in a report or investigation of prohibited conduct also have the right to:

1. Access to resources and support: All parties will be provided access to on and off campus resources, and supportive measures will be made available as appropriate.
2. Be fully informed regarding process: Reporting parties, complainants, and respondents will be informed about the nature and procedures of the investigative process.
3. Investigation updates: Complainants and respondents will be updated as an investigation moves forward.
4. An advisor: Complainants and respondents will be allowed one advisor of their choice during the investigation process. The College will offer trained advisors to help the parties navigate the investigation process.
5. Notice at the conclusion of the investigation: Complainants and respondents will be notified in writing of the findings of fact, determination, sanctions, and appeal rights.
6. Notice of closing of investigation: All parties to the investigation, including reporting parties, complainants, respondents, and third parties, will be notified in writing that the matter has been investigated and closed.

8. DISCIPLINARY SANCTIONS

The policy prohibits a broad range of conduct, all of which is serious in nature. The propriety of any particular sanction is reviewed on an individual basis based on the unique facts and circumstances of the particular case. In keeping with the College’s commitment to foster an environment that is safe, inclusive, and free from discrimination and harassment, this policy provides the Title IX coordinator with wide latitude in the imposition of sanctions tailored to the
facts and circumstances of the prohibited conduct, the impact of the conduct on the complainant and College community, and accountability for the respondent. The imposition of sanctions is designed to eliminate prohibited conduct, prevent its recurrence, and remedy its effects, while supporting the College’s educational mission and legal obligations. Sanctions may include educational, restorative, rehabilitative, and punitive components. Some conduct, however, is so egregious in nature, harmful to the individuals involved, or so deleterious to the educational and/or employment environment that it requires severe sanctions.

Violations of this policy may result in sanctions and corrective actions, up to and including termination and/or expulsion, as set forth in more detail in applicable procedures under this policy.

9. VIOLATIONS OF CRIMINAL LAW

Behavior that violates this policy may also constitute a crime under state law. For example, the State of Utah criminalizes and punishes forms of sexual assault, domestic violence, stalking, and false reporting. This compilation of criminal statutes is not exhaustive but is offered to notify the College community that some forms of prohibited conduct may subject a person to criminal prosecution and punishment in addition to any sanctions under this policy. Sexual Assault: Unlawful Sexual Activity, Utah Code Ann. 76-5-401; Rape, Utah Code Ann. 76-5-402; Forcible Sodomy, Utah Code Ann. 76-5-403; Forcible Sexual Abuse, Utah Code Ann. 76-5-404; Aggravated Sexual Assault, Utah Code Ann. 76-5-405; Domestic Violence: Utah Code Ann. 77-36-1; Stalking: Utah Code Ann. 76-5-106.5; Criminal Defamation: Utah Code Ann. 76-9-404.

10. PREVENTION AND AWARENESS PROGRAMS

The College is committed to the prevention of prohibited conduct through regular and ongoing education and awareness programs. Incoming students and new employees receive primary prevention and awareness programming as part of their orientation.

11. TRAINING

Incoming students and newly hired employees are required to complete training within 60 days of joining the Westminster community to understand their responsibilities under this policy. Thereafter, all students and employees are required to participate in mandatory training as determined by the responsible administrator to be appropriate or necessary.

12. RELATED POLICIES

1. Policy on Preventing and Addressing Discrimination and Harassment Based on Race, Color, National Origin, Religion, Disability, and Other Protected Categories
2. Policy on Consensual Relationships
3. Supporting Transgender Students and Employees Policy
13. HISTORY

<table>
<thead>
<tr>
<th>Date of Last Action</th>
<th>Action Taken</th>
<th>Authorizing Entity</th>
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<tbody>
<tr>
<td>August 7, 2018</td>
<td>Policy Revision Adopted</td>
<td>Policy Governance Committee</td>
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<tr>
<td>November 29, 2017</td>
<td>Policy Revision Adopted</td>
<td>Policy Governance Committee</td>
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<tr>
<td>April 4, 2017</td>
<td>Policy Revision Adopted</td>
<td>Policy Governance Committee</td>
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<tr>
<td>November 29, 2016</td>
<td>Final Policy Adopted</td>
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<tr>
<td>August 19, 2016</td>
<td>Interim Policy Adopted</td>
<td>Policy Governance Committee</td>
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14. SIGNATURE, TITLE, AND DATE OF APPROVAL

Approved: /s/_________________________________________
Beth Dobkin, President