

**Pine Manor College’s Sexual Misconduct Policy  
Updated August 29, 2018**

SECTION I: INTRODUCTION .....	3
Definitions of Parties .....	3
An Overview of the Sexual Misconduct Policy.....	4
SECTION II: NOTICE OF NON-DISCRIMINATION .....	5
Civil Rights Violations .....	5
SECTION III: PROHIBITED CONDUCT AND DEFINITIONS OF TERMS .....	7
Definition of Sexual Harassment .....	7
Prohibited Sexual Harassment .....	7
Prohibited Sexual Misconduct .....	9
Statement on Consent, Coercion, and Incapacitation .....	11
SECTION IV: CHOOSING TO DISCLOSE A SEXUAL ASSAULT .....	14
Privacy .....	14
Bystander Intervention.....	15
Amnesty .....	15
Statement Against Retaliation.....	15
SECTION V: REPORTING SEXUAL MISCONDUCT .....	16
Private Reporting Options On-Campus .....	16
Confidential Reporting Options On-Campus.....	16
Emergency/Immediate Reporting Options .....	16
Anonymous Reporting On-Campus.....	17
Coordination with Law Enforcement Off-Campus.....	17
Timeframe for Reporting .....	17
SECTION VI: ON AND OFF-CAMPUS RESOURCES.....	19
On-campus Resources.....	19
Emergency Resources .....	19
Non-Emergency Assistance.....	19
Off-Campus Resources .....	22
Emergency Assistance.....	22
Non-Emergency Assistance.....	22
SECTION VII: OBLIGATION OF COLLEGE TO REPORT SEXUAL MISCONDUCT .....	24
SECTION VIII: TITLE IX INVESTIGATION PROCESS .....	25
Timeframe for Resolution.....	25
Interim Measures .....	25
No Contact Order .....	26
Academic, Employment, and/or Residence Modifications .....	27
Counseling.....	27
Interim Suspension .....	28
Emergency Notification System (ENS).....	28



Submitting a Formal Sexual Misconduct Policy Violation Report ..... 28

    Timeframe for Submitting a Formal Report..... 29

    Incomplete and Unofficial Reports ..... 29

    Community Standards and Sexual Misconduct Violations ..... 29

Meeting of the Title IX Coordinator and Deputy to Confirm Allegations and Process ..... 30

Initial Outreach to Involved Parties ..... 30

Investigation Process ..... 31

Investigative Summary/Report ..... 32

Findings ..... 33

Impact Statements ..... 33

Sanctions ..... 33

    Sanctions Panel..... 34

    Potential Sanctions ..... 34

    Voluntary Resolution..... 35

    Admitted Responsibility ..... 35

    Sanction Oversight ..... 35

    Withdrawal of Respondent from PMC College ..... 36

Appeals Process ..... 36

    Appeals Panel ..... 36

SECTION IX: ON-CAMPUS EDUCATION, WORKSHOPS, AND AWARENESS..... 37

**\*\*\* Please know parts of this Policy are explicit and can evoke uncomfortable feelings due to the content area. \*\*\***



## **SECTION I: INTRODUCTION**

Pine Manor College's Sexual Misconduct Policy (also referred to as "the Policy") intends for all members of the Pine Manor College (also referred to as "PMC" or "the College") community to learn, live, and/or work in an environment free from sexual misconduct. The College seeks to foster a safe environment through ongoing education, a clear and consistently upheld sexual misconduct policy, and fair and equitable investigation and grievance procedures.

The College expects members of our community to respect themselves and one another, contribute to the safety and security of our community, and encourage one another to act as active bystanders to prevent, lessen, and curb sexual misconduct. Creating a safe campus environment is the responsibility of all community members.

Sexual assault, sexual harassment, dating violence, domestic violence, stalking, and all forms of discrimination relating to one's sex or gender identity (hereinafter referred to as "prohibited conduct" or "sexual misconduct") violate the rights and dignity of those subjected to the prohibited conduct. When any member of our community (student, faculty, staff, trustee, friend, vendor, or visitor) engages in sexual misconduct, that person exhibits a fundamental failure to act with integrity and to recognize and respect the intrinsic worth of another. Acts of sexual misconduct, as defined in Section III of this Policy, are contrary to the College's educational mission and values and the College will not tolerate such behavior.

All PMC community members are responsible for their actions and behavior on and off campus and have a responsibility to adhere to College policies and all applicable laws (local, state, and federal). Any individual may report breaches to the Sexual Misconduct policy and, if determined that a sexual misconduct violation has occurred, the College will hold those individuals accountable for their behaviors.

This policy applies to incidents between students and other students, students and guests, and/or students and employees. While employees of the College may not engage in any of the prohibited behaviors stated in the Policy, the College's Director of Human Resources will oversee incidents of sexual misconduct between employees (where students are not involved).

## **DEFINITIONS OF PARTIES**

*Complainant* refers to the party that alleges and reports the sexual misconduct.

*Survivor/victim* refers to the person violated. In some cases, the complainant and the survivor may be the same person, while in other cases they may not.

*Respondent* is the party accused of engaging in the sexual misconduct.

*Third party* is any individual with information about the sexual misconduct or incident, including witness(es) and/or reporting parties.



*Employee* generally refers to Pine Manor College staff and faculty members, unless otherwise specified.

*Report* includes any account, statement, information, or incident that puts the College on notice of an allegation of sexual misconduct.

*College community member(s), community, or community members* include PMC students, faculty, staff, trustees, friends of the College, contracted parties, and visitors.

### **AN OVERVIEW OF THE SEXUAL MISCONDUCT POLICY**

This Policy provides the PMC community with clearly articulated behavioral standards, definitions, key concepts, and resources concerning sexual misconduct. In addition, the Sexual Misconduct Policy provides reporting options and a step-by-step overview of the allegation, investigation, and sanctioning processes.

Specifically, in this Policy:

- Section II outlines the Colleges and the local and federal non-discrimination policy.
- Section III lays out prohibited behaviors and defines those behaviors, then defines “consent.”
- Section IV goes through the rights and reasons people may choose to disclose sexual misconduct.
- Section V discusses ways to report sexual misconduct on and off-campus.
- Section VI provides those who experienced sexual misconduct or were impacted by sexual misconduct with resources on and off-campus.
- Section VII tells about the College’s obligation to report the number of sexual misconduct violations within the Campus’s Annual Security Report required through the Clery Act.
- Section VIII details the Title IX investigative process and includes interim measures, an outline of what to expect, potential sanctions, and the appeals process.
- Section IX provides an overview of the trainings and workshops Pine Manor College organizes to ensure the community is informed on topics related to sexual misconduct.

**Pine Manor College reserves the right to amend or modify this Policy at any time to better serve the community. Any changes will be shared on the Pine Manor College webpage and not apply to open cases, unless specifically stated to the involved parties.**



## **SECTION II: NOTICE OF NON-DISCRIMINATION**

Pine Manor College is committed to establishing and maintaining an environment free from all forms of sexual harassment, sexual discrimination, and sexual misconduct (as defined in Section III).

Gender-based misconduct is a form of sexual discrimination that unjustly deprives a person of equal treatment. Such misconduct is prohibited by Title IX, a federal law that provides:

“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 College does not discriminate on the basis of race, color, national or ethnic origin, ancestry, religious creed, sex, pregnancy, sexual orientation, gender identity, gender expression, age, genetics, physical or mental ability, veteran status, military obligations, participation in discrimination complaint-related activities, or any other characteristics protected by federal, state, or local laws in its practices, programs, or activities.

The College takes allegations of sexual harassment, sexual discrimination, and sexual misconduct seriously, and will respond promptly to all reports where inappropriate conduct has occurred, will act promptly to eliminate the conduct, and will impose corrective action as necessary, including disciplinary action where appropriate up to and including termination of employment, expulsion from College, and/or termination of affiliation with the College.

Pine Manor College’s Sexual Misconduct Policy, in accordance with Title IX and Title VII of the Civil Rights Act, Massachusetts General Laws Chapter 151B, Massachusetts Fair Education Practices Act, Massachusetts General Laws 151 C, Section 2(g), and other applicable state and federal statutes, prohibits all forms of sexual and gender harassment and/or misconduct committed by any College community member including, but not limited to, sexual assault, sexual exploitation, gender or sexual harassment, stalking, and relationship violence (including dating and domestic violence).

Despite the withdrawal of Federal laws to the Title IX policy in 2017, Pine Manor College continues to include in our Policy protection to community members regardless of his/her/their gender identity and/or gender expression.

The College’s Title IX Coordinator (as defined in Section VI) is responsible for the oversight of PMC’s Sexual Misconduct Policy and will respond to all related inquiries or concerns. The Title IX Coordinator and Deputy (as defined in Section VI) can be emailed at [TitleIX@pmc.edu](mailto:TitleIX@pmc.edu).

## **CIVIL RIGHTS VIOLATIONS**

As part of the Notice of Non-Discrimination, community members maintain their civil rights, as well. A civil rights violation refers to an offense that discriminates on the basis of race,



color, sex, disability, religion, familial status and national origin (per <https://www.justice.gov/crt>).

Title VII of the Civil Rights Act, Massachusetts General Laws Chapter 151B, Massachusetts Fair Education Practices Act, Massachusetts General Laws 151 C, Section 2(g), and other applicable state and federal statutes prohibit sexual harassment.

An example of a Civil Rights Violation *and* Sexual Misconduct may include if a survivor/victim experienced sexual harassment due to their race that would be a violation of their civil rights (in addition to this Policy).

In a Pine Manor College investigation, civil rights violations may be adjudicated with the sexual misconduct case or separately through the Pine Manor College's community standards process (as outlined in the Pine Manor College Student Handbook) based on a case-by-case basis that prioritizes student safety, well being, equity, and fairness.

For assistance related to civil rights violations outside of Pine Manor College, individuals may contact the following agencies:

Massachusetts Commission Against Discrimination (MCAD)  
John McCormack Building  
One Ashburton Place  
Sixth floor, Room 601  
Boston, MA 02108  
(617) 994-6000

Equal Employment Opportunity Commission (EEOC)  
JFK Federal Building  
475 Government Center  
Boston, MA 02203  
(800) 669-4000

The EEOC and MCAD both prohibit sexual harassment in the workplace. The statute of limitations for filing a complaint is 300 days from the last date of discrimination.



### **SECTION III: PROHIBITED CONDUCT AND DEFINITIONS OF TERMS**

Pine Manor College prohibits all forms of sexual misconduct. Sexual misconduct is a broad term that includes, but is not limited to, sexual assault, sexual harassment, sexual violence, sexual exploitation, stalking, cyber-stalking, dating and domestic violence, bullying, and/or cyber-bullying regardless of one's sex, gender identity, and other protected identities. Pine Manor College also prohibits retaliation relating to reported sexual misconduct.

#### **DEFINITION OF SEXUAL HARASSMENT**

Sexual harassment is a form of unlawful sex discrimination and consists of two basic types:

1. **Intimidating, Hostile, or Demeaning Environment** - Any unwelcome action or verbal expression or a series of actions or expressions, that have either the intent or are reasonably perceived as having the effect of creating an intimidating, hostile, or demeaning educational, employment, or living environment for College community members, either by being sexual in nature or by focusing on a person's sex, gender, sexual orientation, gender identity, and/or gender expression. An intimidating, hostile, or demeaning environment is defined as one that is so severe, pervasive, or objectively offensive that it interferes with a person's ability to learn, live, work (if employed by the College), or have access and opportunity to participate in all and any aspect of campus life.

A single or isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to provide a hostile environment, particularly if the harassment is physical.

2. **Quid Pro Quo Harassment** - Any action in which submission to conduct of a sexual nature is made either explicitly or implicitly a term or condition of an individual's education, grades, recommendations, extra-curricular, or employment opportunities.

Examples of quid pro quo harassment may include:

- A professor telling a student that the student will get an "A" if the student has sex with the professor.
- A supervisor telling a direct report that the direct report will receive a raise if they go out on a date with the supervisor.

In either type of sexual harassment noted, the effect will be evaluated based on the standard of a reasonable person in the position of the survivor/victim.

#### **PROHIBITED SEXUAL HARASSMENT**

In some cases, sexual harassment is obvious and may involve an overt action, threat, or reprisal. In other instances, sexual harassment is subtle and indirect, with a coercive aspect that is unstated.





Sexual harassment can take many forms. For instance:

- Sexual harassment may occur between persons of equal power status (e.g., student to student, staff to staff, faculty member to faculty member, visitor/contracted employee to staff) or between persons of unequal power status (e.g. supervisor to subordinate, faculty member to student, coach to student-athlete, student leader to first-year student). Although sexual harassment often occurs in the context of an exploitation of power by the individual with the greater power, a person who appears to have less power in a relationship can also commit sexual harassment (e.g., student harassing faculty member).
- An individual, group, and/or organization may commit sexual harassment against another individual, organization, and/or group.
- An acquaintance, a stranger, or someone with whom the survivor/victim has a past or current personal, intimate, and/or sexual relationship may commit sexual harassment.
- Sexual harassment may occur by or against an individual of any sex, gender identity, gender expression, and/or sexual orientation.
- Sexual harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents.

Examples of behavior that might be considered sexual harassment include, but are not limited to:

- Unwanted sexual innuendo, propositions, sexual attention, or suggestive comments and gestures; humor and jokes about sex or gender-specific traits; sexual slurs or derogatory language directed at another person's sexuality, gender, gender identity, sexual orientation or gender expression; insults and threats based on sex, gender, gender identity, sexual orientation, or gender expression; and other oral, written, non-verbal, and/or electronic communications of a sexual nature that an individual communicates is unwanted and 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; or the circulation, display, or creation of e-mails, social media content, or web sites of a sexual nature.
- Display or circulation of written or on-line materials or pictures degrading to an individual(s) or groups.
- Unwelcome and objectively inappropriate physical contact or suggestive body language, such as touching, patting, pinching, hugging, kissing, or brushing against an individual's body;
- Undue and unwanted attention, such as repeated flirting, objectively inappropriate or repetitive compliments about clothing or physical attributes, staring, or making sexually oriented gestures;
- Physical coercion or pressure of an individual to engage in sexual activity or punishment for a refusal to respond or comply with sexual advances in a way that makes the other party uncomfortable;
- Change of academic or employment responsibilities (increase in difficulty or decrease of responsibility) based on sex, gender, gender identity, sexual orientation, and/or gender expression;





- Use of a position of power or authority to: (1) threaten or punish, either directly or implicitly, for refusing to tolerate harassment, for refusing to submit to sexual activity, or for reporting harassment; and/or (2) promise rewards in return for sexual favors;
- Sexual assault;
- Abusive, disruptive, or harassing behavior, whether verbal or physical, which endangers another's mental or physical health, including but not limited to threats, acts of violence, or assault based on gender related status and/or in the context of intimate partner violence;
- Demeaning verbal or other expressive behavior of a sexual or gendered nature in instructional settings; and/or
- Acts of verbal, nonverbal, or physical aggression; intimidation; or hostility based on sex or sex-stereotyping. Harassment for exhibiting what is perceived as a stereotypical characteristic for one's sex or gender, or for failing to conform to stereotypical notions of masculinity and femininity, regardless of actual or perceived gender related status of the harasser or his/her/their target.

### **PROHIBITED SEXUAL MISCONDUCT**

Sexual misconduct may vary in its severity and includes a range of behaviors. The following behaviors represent forms of sexual misconduct that violate PMC's community standards and another person's rights, dignity, and integrity.

**Sexual Violence:** Engaging in physical sexual acts with someone who has not given his/her/their consent or who is incapable of giving consent. (Consent is defined later in this section.) This includes rape, sexual assault, battery, and/or sexual coercion. Sexual violence may involve people who know each other, people who have or had an intimate and/or sexual history, and/or people who do not know each other. Examples of sexual violence include, but are not limited to:

- Having or attempting to have sexual intercourse with another individual without consent. Sexual intercourse includes vaginal or anal penetration, however slight, with a body part or object, or oral copulation by mouth-to-genital contact.
- Having or attempting to have sexual contact of any kind with another individual without consent. Sexual contact includes kissing, touching the intimate parts of another, causing the other to touch one's intimate parts, or disrobing of another without permission. Intimate parts may include the breasts, genitals, buttocks, mouth, or any other part of the body that is touched in a sexual manner.

**Relationship Violence (domestic and dating violence):** Relationship violence is any intentionally violent, threatening violent, or controlling behavior by a person who is currently or was previously in a relationship with the victim/survivor/complainant. Relationship violence includes actual or threatened physical injury, sexual assault, psychological abuse, economic control, and/or progressive social isolation. Relationship violence can occur in all types of relationships.

Specifically, dating violence means violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length,



type, and frequency of interaction (as defined in <https://www.acenet.edu/news-room/Documents/VAWA-Summary.pdf>). The relationship does not need to be exclusive or deemed a “dating” for a sexual misconduct incident to fall under dating violence.

Domestic violence includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law (as defined in <https://www.acenet.edu/news-room/Documents/VAWA-Summary.pdf>).

Relationship violence can include, but is not limited to:

- Physical or emotional abuse;
- Controlling/possessive behavior;
- Making the victim/survivor feel like they are walking on eggshells or hiding their real self (e.g. call friends in secret, dress a certain way);
- Observing or allowing another person to observe sexual activity or nudity without the knowledge and consent of all parties involved;
- Non-consensual streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved;
- Photographing or taping/recording someone (via audio, video, or otherwise) involved in sexual activity, sexual intercourse/penetration, or in a state of undress, without their knowledge and/or consent. Even if a person consented to the sexual activity or intercourse/penetration, photographing or taping/recording someone without their knowledge goes beyond the boundaries of that consent. The dissemination of photographs or video/audio or someone involved in sexual activity, intercourse/penetration, or in a state of undress, without their knowledge or consent constitutes a separate and additional act of sexual exploitation;
- Prostituting another individual;
- Voyeurism, which is the act of observing someone involved in sexual contact/activity or in a state of undress, without their knowledge or consent;
- Knowingly exposing another individual to a sexually transmitted disease or virus without his/her/their knowledge; and/or
- Inducing incapacitation, including by providing someone with alcohol and/or drugs, with or without that person’s knowledge, for the purpose of making another person vulnerable to non-consensual sexual activity.

**Sexual Exploitation:** An act or acts committed through non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit, or advantage or any other non-legitimate purpose. The act or acts of sexual exploitation are prohibited even if the behavior does not constitute another sexual misconduct offense. Sexual exploitation may involve individuals who are known to one another, have or had an intimate or sexual relationship, and/or may involve individuals not known to one another.



**Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety, the safety of others, or suffer substantial emotional distress. Examples of stalking behavior include but are not limited to: repeated attempts at communication (phoning, texting, email, social messaging); making direct or indirect threats to harm an individual or the individual's relatives, friends, or pets; physical and/or verbal confrontations; entering one's personal space without permission; following, observing, or lurking; vandalizing or threatening to vandalize the property of another; gaining access to personal online accounts or information, etc.

**Aiding or Facilitating Sexual Misconduct:** Aiding or facilitating sexual misconduct means promoting, expecting, or encouraging the occurrence of any behavior prohibited under this Policy. PMC prohibits community members from both personally engaging in sexual misconduct and from assisting or encouraging another person(s) to engage in sexual misconduct.

**Retaliation:** Acting or attempting to retaliate or seek retribution against a complainant, respondent, or individuals involved in a Title IX investigation and/or resolution of an allegation of sexual misconduct is prohibited. Any individual or group of individuals can commit retaliation. Retaliation may include abuse or violence, other forms of harassment, and/or making false statements about another person in print, on-line/social media, and/or verbally with intent to harm their reputation.

### **STATEMENT ON CONSENT, COERCION, AND INCAPACITATION**

Consent to engage in sexual activity must be known and voluntary and must exist from the beginning to the end of each instance of sexual activity and for each form of sexual contact. Consent to one form of sexual contact does not constitute consent to any other forms of sexual contact. Further, consent to engage in a particular sexual act at any given time is not indefinite or ongoing consent to engage in that same act or any other sexual act on other occasions. A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be mutually understandable communication that clearly indicates willingness to engage in sexual activity each time such activity occurs.

Consent consists of an outward demonstration indicating that an individual has freely chosen to engage in sexual activity. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage freely in sexual activity. Relying on non-verbal communication alone can lead to misunderstandings.

Consent may not be inferred from silence, passivity, lack of resistance, or lack of an active response alone. A person who does not physically resist or verbally refuse sexual activity is not giving consent. In the absence of an outward demonstration, consent does not exist.

Consent cannot be obtained from the use or threat of physical force, intimidation, or coercion, and/or any other factor that would eliminate an individual's ability to exercise his/her/their own free will to choose whether or not to have sexual contact. Coercion includes the use of pressure and/or oppressive behavior, including express or implied threats of harm, severe, and/or pervasive emotional intimidation, which places an individual in fear of immediate or future harm or physical injury or causes a person to engage in unwelcome sexual activity. A person's words



or conduct amount to coercion if he/she/they wrongfully impair the other's freedom of will and ability to choose whether or not to engage in sexual activity. If sexual acts were preceded by threats or coercion, there is no consent.

Consent may be withdrawn at any time. Withdrawal of consent must also be outwardly demonstrated by words or actions that clearly indicate a desire to end sexual activity. Once withdrawal of consent has been expressed, sexual activity must cease.

For consent, "yes" means yes. A lack of consent may be indicated in a variety of ways. For example, a verbal "no" is not consent, even if it sounds indecisive or insincere. If consent is requested verbally, the absence of any explicit affirmative verbal response constitutes lack of consent. If at any time a person's words, actions, or demeanor suggest hesitancy, confusion, or uncertainty about engaging in sexual activity, the parties should stop and obtain verbal consent before continuing sexual activity.

Due to their biological, mental, or chronological age, certain individuals are not legally able to consent to sexual activity regardless of whether their words or actions indicate such consent. Members of the PMC community are expected to know and comply with the statutory age of consent and any other applicable laws regarding sexual activity in any and all jurisdictions where they may reside or travel. In Massachusetts, minors under the age of 16 are legally unable to consent to sexual acts. Engaging in sex with a minor is an unlawful and punishable by imprisonment in state prison for life. Community members have a legal obligation to report any knowledge of child abuse to the Title IX Coordinator.

Individuals of any age are considered incapacitated and unable to consent to sexual activity if they are not able to make rational, reasonable judgments. Incapacitation is the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically unable. Individuals may be incapacitated and unable to consent to sexual activity due to drug and/or alcohol consumption, either voluntarily or involuntarily, or if the individual is unconscious, asleep, blacked-out, or otherwise unaware that the sexual activity is occurring. Individuals are incapacitated if he/she/they is unaware of where he/she/they is, how he/she/they got there, or why or how he/she/they became engaged in a sexual interaction.

Indicators of incapacitation may include, but are not limited to, lack of control over physical movements (e.g., stumbling while walking, vomiting), lack of awareness of circumstances and/or surroundings (e.g., cannot communicate basic information such as physical location), and/or the inability to communicate for any reason (e.g., slurred speech). An individual may experience a blackout state in which he/she/they appears to be giving consent, but do not actually have conscious awareness or the ability to consent. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication. The relevant standard is whether a reasonable person in the same position would know or should have known the other party was incapacitated and therefore could not consent to the sexual activity.

Alcohol and/or drugs impair a person's decision-making capacity, awareness of the consequences, and ability to make informed judgments. Being intoxicated or impaired by drugs and/or alcohol is never an excuse to engage in sexual misconduct and does not excuse one from the responsibility to obtain consent. As stated above, even if a Respondent is intoxicated



he/she/they will be found responsible for sexual misconduct if he/she/they engages in sexual activity with another person who did not consent to the sexual activity.



#### **SECTION IV: CHOOSING TO DISCLOSE A SEXUAL ASSAULT**

PMC recognizes that the decision on whether or not to share sexual or gender-based misconduct is personal, and that there are individual and societal barriers to reporting. Not all individuals are prepared to make a report to the College and/or to law enforcement, and individuals are not expected or required to pursue a specific course of action. PMC recognizes that choosing to come forward with your story and deciding how to proceed is a process that may unfold over time. Therefore, those involved in an incidence of sexual misconduct may come forward at any time, even if it is weeks, months, or years after the incident took place.

PMC recognizes and respects the right of individuals who have experienced sexual misconduct to decide when and whether they wish to report misconduct to the College, to law enforcement authorities, to both, or to neither. The College will honor the right of those impacted by sexual misconduct to decide whether they wish to participate in a College and/or law enforcement investigation. While those involved in the sexual misconduct incident may choose not to participate in the College's investigation, the College does have a responsibility to investigate all incidents that are brought forward to ensure community safety.

Upon receipt of a sexual misconduct allegation, the College will take appropriate steps to investigate the incident(s), determine responsibility, prevent its recurrence, and address its effects (see Section VIII). At any point during the process, if any person involved has questions about the process, support services, resources, etc. they should bring their questions to the Title IX Coordinator, Deputy, or member of the PMC community they trust.

#### **PRIVACY**

Pine Manor College is committed to respecting the privacy of individuals involved in reports of sexual misconduct. In every report of sexual misconduct, the College will balance the privacy interest of the Parties against the need to eliminate sexual misconduct on campus.

Information obtained in a disclosure and Title IX investigation will be provided only to those individuals involved in the investigation and to College staff that "need to know."

In some instances, a survivor/victim may wish to keep his/her/their identity confidential or may request that no investigation occur. In such cases, PMC will balance the request of the survivor/victim/complainant against the College's responsibility to provide a safe and non-discriminatory environment for all College community members.

All Title IX investigative and sanction proceedings, and all related notices or statements issued by PMC will comply with the Family Educational Rights and Privacy Act (FERPA), Health Insurance Portability and Accountability Act of 1996 (HIPPA), the Jeanne Clery Act, Title IX, the current Dear Colleague Letters, Violence Against Women's Act (VAWA), and College Policy. Pine Manor College will not release any information acquired through the sexual misconduct investigation process except as required or permitted by law.



### **BYSTANDER INTERVENTION**

Pine Manor College strongly encourages all community members to take reasonable to prevent or stop sexual misconduct when they observe or become aware of it. Taking action may include directly or indirectly confronting the situation (if it is safe to do so), taking steps to interrupt the situation, seeking assistance from a person in authority to assist, or reporting an incident you are made aware of to a PMC employee. Individuals who assist in stopping sexual misconduct will be supported by the College, protected from retaliation, and receive amnesty.

### **AMNESTY**

Pine Manor College seeks to remove any barriers to reporting sexual misconduct by making the procedures for reporting transparent and straightforward. The College recognizes that a student who has been drinking or using drugs at the time he/she/they is harmed by sexual misconduct or witnesses another person engaging in sexual misconduct may be hesitant to make a report concerning such sexual misconduct because of potential disciplinary consequences for his/her/their own conduct. Any PMC student who reports sexual misconduct, either as a survivor/victim, complainant, respondent, or other will not be subject to disciplinary action by the College for his/her/their own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk. The College may, however, initiate an educational discussion or restorative practices regarding alcohol or other drugs.

### **STATEMENT AGAINST RETALIATION**

Retaliation is an adverse or negative action taken against an individual for reporting concerns about sexual misconduct, participating in a disciplinary process, or otherwise exercising their rights under this Policy. Retaliation may include, but is not limited to:

- Hostility
- Intimidation
- Threats of verbal abuse
- Exclusion
- Different treatment
- Harassment

Retaliation against anyone who reports sexual misconduct or who is involved in a sexual misconduct investigation is strictly prohibited.

The College will take immediate and responsive action to any report of retaliation and will pursue disciplinary action up to and including immediate, interim, and/or permanent termination of employment or college expulsion. Depending on the nature of the retaliation, Student Affairs may put in place interim measures to ensure the safety of the community and campus.





## **SECTION V: REPORTING SEXUAL MISCONDUCT**

There are several options for community members, victims/survivors, and their friends, classmates, and family members to report sexual misconduct.

### **PRIVATE REPORTING OPTIONS ON-CAMPUS**

Pine Manor College students, friends, and family members can talk with any employee they trust at Pine Manor College. Students, friends, and family members should know that nearly all Pine Manor College employees are deemed “responsible employees” or “mandated reporters,” meaning the employee will need to bring the reported incident to the attention of the Title IX Coordinator or Deputy. Pine Manor College students, friends, and family members can also go directly to the Title IX Coordinator or Deputy themselves.

### **CONFIDENTIAL REPORTING OPTIONS ON-CAMPUS**

Pine Manor College students, friends, and families can also talk with confidential resources (listed in Section VI). Confidential resources will not and do not have any obligation to report the incident to the Title IX Coordinator, unless a person expresses self-injury or injury to others.

### **EMERGENCY/IMMEDIATE REPORTING OPTIONS**

In the event that an individual is the victim/survivor of sexual assault or sexual violence, the physical safety and emotional well being of the person is of primary importance. PMC strongly encourages any victim/survivor of sexual assault or violence to seek immediate medical attention from the nearest hospital emergency room (listed in Section VI).

Additionally, if an assault occurred recently, there may be physical evidence present that can be collected for future purposes. The collection of physical evidence does not require a victim/survivor to pursue criminal or civil charges rather it preserves evidence so a victim/survivor has options available to them in the future.

To receive emergency assistance, community members are encouraged to call campus safety when on-campus and 911 when off-campus. On-campus, victims/survivors may ask campus safety to send the Administrator on Call (a member of the live-on Student Affairs team) to respond.

After an act of sexual misconduct, Pine Manor College will not automatically escalate the incident to the local police or emergency personnel unless there is immediate need for medical attention or campus officials do not feel like they can safely secure the campus and ensure the safety of community members. If Pine Manor College does call the police due to medical care and/or campus safety, the victim/survivor can decide whether to proceed forward with a criminal case. Calling the police for medical personnel and safety does not automatically mean the victim/survivor opens a case in the criminal system.

If a victim/survivor decides to go to the hospital, it is encouraged that the victim/survivor does not shower, change their clothing, or brush their teeth as this can help the medical examiner and emergency personnel document the incident and provide appropriate care. The evidence



collected is confidential and can be available to the victim/survivor at a later time. In Section VI, there is a list of resources related to receiving emergency and medical support.

### **ANONYMOUS REPORTING ON-CAMPUS**

Any individual may report an incident to the Title IX Coordinator or Deputy anonymously by sending an email to [TitleIX@pmc.edu](mailto:TitleIX@pmc.edu). The College encourages those reporting anonymously to please share as much information as possible as the College's ability to respond to an anonymous report may be limited with less information available to us.

### **COORDINATION WITH LAW ENFORCEMENT OFF-CAMPUS**

If an individual chooses to report an incident of sexual misconduct to Campus Safety, then the individual can choose for Campus Safety to notify the law enforcement agency that has jurisdiction over the alleged crime. To the extent permitted by law, PMC will assist a victim/survivor in making a criminal report and will cooperate with law enforcement agencies if a victim/survivor decides to pursue a criminal complaint. *PMC will not move forward on notifying law enforcement unless there is eminent danger to the community, medical attention is needed, or the survivor/victim asks for law enforcement to be called.*

PMC's standard of proof for finding a Respondent responsible for sexual misconduct differs than standards and definitions used in criminal cases. A victim/survivor may reasonably seek resolution through PMC's Title IX complaint process, may pursue criminal action, may pursue both options, or may choose to pursue neither PMC resolution or criminal action.

Whether or not law enforcement agencies decide to prosecute a case is separate from Pine Manor College's decisions regarding Title IX cases. However, any criminal disposition related to the Title IX complaint may be considered in a Title IX investigation. Proceedings under this Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus.

PMC will, to the extent possible and consistent with its obligations to promptly address Title IX complaints, cooperate and coordinate with local law enforcement officers and the prosecutor's office. For example, the College will comply with law enforcement agency requests for cooperation and such cooperation may require the College to temporarily suspend the fact-finding portion of a Title IX investigation while the law enforcement agency gathers evidence. In such cases, the College will promptly resume its investigation as soon as it is notified by the law enforcement agency that its evidence gathering process is complete.

### **TIMEFRAME FOR REPORTING**

Individuals are encouraged to report sexual misconduct as soon as possible to maximize the College's and/or law enforcement's ability to respond promptly and equitably. There is no timeframe, though, for reporting an incident, and upon receipt of any report, regardless of when the incident occurred, the College will conduct a Title IX assessment to determine if an investigation should take place. If an incident is brought to our attention after a Respondent is no longer affiliated with PMC, the College cannot impose disciplinary sanctions; however, PMC will take reasonable steps as a College to eliminate sexual misconduct, prevent its reoccurrence,



and remedy its effects, including but not limited to, instituting No Trespass Orders. The College can also provide/assist the victim/survivor with identifying external reporting options, if they so choose.



## **SECTION VI: ON AND OFF-CAMPUS RESOURCES**

The following resources are available to the Pine Manor College community as they may be directly or indirectly involved with a sexual misconduct case. Reaching out for support during a case is critical to ensure one's health and wellness as the investigation process can bring about different emotions.

Please refer to the [Campus Directory](#) for individual's names and contact information.<sup>1</sup> The Campus Director can be found here: <http://www.pmc.edu/directory>

### **ON-CAMPUS RESOURCES**

#### **Emergency Resources**

##### ***Pine Manor College Campus Safety***

(617) 731-7777 (emergency line)

(617) 731-7187

Available 24/7 at the front booth along the College's driveway

#### **Non-Emergency Assistance**

##### ***Confidential Resources***

Certain professionals on and off-campus are "Confidential Resources." Confidential resources include medical care providers, mental health care providers, rape crisis counselors, ordained clergy, and attorneys. Because of their roles, these professionals are required and must keep information told to them confidential. Information provided to Confidential Resources cannot be disclosed unless (1) they are given permission to share the information by the person who disclosed the information; (2) there is an immediate threat of harm to self or others; (3) the conduct involves suspected abuse of a minor under the age of 18; or (4) as otherwise required or permitted by law or court order.

Since a disclosure to a Confidential Resource is confidential, the College will not know about the alleged sexual misconduct. Without notice of an allegation of sexual misconduct, the College cannot address the incident.

Pine Manor College encourages people affected by sexual misconduct to seek help and assistance from a trained counselor. The confidential resources available to students on campus include the College Counselors and Accessibility Services Coordinator.

For employees looking for confidential resources, Pine Manor College encourages the use of the Employee Assistance Program (EAP). More information on PMC's EAP Program can be found on Pine Manor College's Human Resources webpage.

---

<sup>1</sup> Names are not provided in the Sexual Misconduct Policy in effort to keep the document current.



### ***Title IX Coordinator***

The Title IX Coordinator oversees the Title IX process. He/she/they works with the Title IX Deputy (defined below) to confirm alleged Title IX cases that involve members of the Pine Manor College community. The Title IX Coordinator then brings the case to the attention of involved parties, assigns an investigator, ensures compliance with the outlined Sexual Misconduct Policy, reviews the final report submitted by the investigator, presents the case to the sanction panel, communicates the findings to all parties, and coordinates the appeals process, if applicable.

The Title IX Coordinator tracks trends in Title IX cases and provides aggregate reported sexual misconduct data to the Dean of Student Affairs for reporting purposes. In addition, the Title IX Coordinator is responsible for training people that work directly or indirectly with the Sexual Misconduct Policy including, but not limited to, sanctioning and appeal panel members and mandated reporters/responsible employees.

### ***Title IX Deputy***

The Title IX Deputy is the Dean of Student Affairs. The Deputy oversees all aspects of support for parties involved in the case, including, but not limited to academic and housing accommodations, No Contact Orders, and interim suspensions. The Dean of Student Affairs ensures compliance with the outlined Sexual Misconduct Policy with the Title IX Coordinator as a means of checks and balances. In addition, the Deputy oversees trainings, educational programming, and awareness events for the students.

In the event that the Title IX Coordinator cannot perform his/her/their duties, the Deputy will fill in for the Coordinator.

### ***Director of Restorative Practices and Community Standards***

Along with offering support to students involved in Title IX cases, the Director of Restorative Practices and Community Standards oversees cases that fall outside the Sexual Misconduct Policy, including but not limited to, policy violations named in the Student Handbook and violations of interim measures and/or sanctions put in place due to Title IX.

For example:

- If two students have No Contact Orders due to an alleged stalking situation and student #1 sends a text message to student #2, then the breach of the No Contact Order goes to the Director of Restorative Practices and Community Standards.
- If through a sexual misconduct investigation, the findings show that there was no sexual misconduct violation; however, there was an alcohol violation, the case would transfer to the Director of Restorative Practices and Community Standards.

The Director of Restorative Practices and Community Standards also serves on the Title IX Sanction Board (and the Appeals Board, if needed) as a sitting member to ensure consistency and equity between community standards cases and Title IX.



***Responsible Employees/Mandated Reporters***

Pine Manor College employees, resident assistants, and those affiliated with Pine Manor College (e.g., campus safety, food services) are mandated to work in concert with the Title IX Coordinator to ensure a safe and healthy educational environment. Individuals should understand that all employees of Pine Manor College who are not named above as Confidential Resources are obligated to report sexual misconduct if they observe, witness, or otherwise learn about any member of the College community who engaged in or was impacted by sexual misconduct. If a responsible employee receives information about an incident of sexual misconduct, he/she/they should immediately notify the Title IX Coordinator or Deputy. Any community member who has imminent concerns about a person's well being should call Campus Safety immediately.

While the responsible employee must escalate the incident to the Title IX Coordinator or Deputy, the responsible employee can tell the survivor/victim that he/she/they are not required to file a formal complaint or participate in the investigation unless they wish to do so. In reporting the incident to the Title IX Coordinator, a responsible employee should always inform the Title IX Coordinator if the victim/survivor/complainant has requested confidentiality.

Responsible employees who are not themselves a survivor/victim or a respondent in the given case should cooperate in good faith with any College sexual misconduct investigation.

When a responsible employee learns about a disclosure of sexual misconduct, the responsible employee should let the victim/survivor/complainant guide the conversation, rather than solicit further details or seek to investigate the matter.

Employees who learn about a sexual misconduct incident should not discuss the incident with others as the Family Equal Rights and Privacy Act (FERPA) protects the students and the information the student has shared is private and sensitive in nature.

The community member should not take it upon him/her/themselves to contact law enforcement unless the victim/survivor consents to his/her/their doing so or needs emergency medical attention.

All PMC employees can support students. If a student wishes to discuss an incident that occurred, Pine Manor College encourages the student to seek a person they trust. In addition, the following people can lend support and/or assist with accommodations:

- Associate Dean of Student Affairs
- Associate Dean of Academic Affairs
- Director of Restorative Practices and Community Standards
- Director of Residential Life
- Athletic Director
- Student Success Coaches
- Student Affairs Graduate Assistants
- Athletic Coaches
- Resident Assistants



## **OFF-CAMPUS RESOURCES**

### **Emergency Assistance**

#### ***Brookline Police Department***

350 Washington Street

Brookline, MA 02445

Emergency: 911

Non-emergency: (617) 730-2222; Domestic Violence Unit: (617) 730-2244

### **Non-Emergency Assistance**

The organizations listed below are off-campus medical and community support services. The services they offer are confidential to their clients; therefore, conversations between the organization's volunteers/employees and students are not shared with Pine Manor College.

#### ***Beth Israel Deaconess Medical Center (Hospital)***

Rape Crisis Intervention Program

330 Brookline Avenue

Boston, MA 02215

617-667-4645

Request a Sexual Assault Nurse Examiner (S.A.N.E)

#### ***Brigham and Women's Hospital***

75 Francis Street

Boston, MA 02115

617-732-5636

Request a Sexual Assault Nurse Examiner (S.A.N.E)

#### ***Boston Area Rape Crisis Center (BARCC)<sup>2</sup>***

99 Bishop Allen Drive

Cambridge, MA 02139

800-841-8371 (24-hour hotline)

[www.barcc.org](http://www.barcc.org)

BARCC provides counseling, legal advice, and advocacy to help survivors/victims consider their options; medical advocates to accompany survivors/victims to the hospital; and legal advocacy. All services are free and available to survivors/victims of sexual misconduct and their friends and family.

### **SafeLink**

---

<sup>2</sup> Pine Manor College has a working relationship with BARCC where they provide trainings and workshops on campus for Pine Manor College's students, faculty, and staff. Pine Manor College's work with BARCC does not change the confidential status and nature of survivor/victim conversations with BARCC employees and volunteers.





(877) 785-2020 (24-hours); (877) 521-2601 (TTY & 24-hours)

Massachusetts statewide domestic violence hotline and is operated by Casa Myrna Vazquez, Inc. in Boston. SafeLink calls are answered by trained advocates 24 hours a day in English and Spanish, and they have the capacity to provide multilingual translation in more than 140 languages.

**The Network/La Red**

989 Commonwealth Avenue  
Boston, MA 02114  
(617) 742-4911  
[www.tnlr.org](http://www.tnlr.org)

The Network/La Red provides free advocacy, support, and safety planning for LGBTQ victim/survivors of domestic and dating violence.

**REACH: Beyond Domestic Violence**

Waltham, MA 02454  
(800) 899-4000 (free hotline); (781) 891-0724 (office)  
[www.reachma.org](http://www.reachma.org)

Reach Beyond Domestic Violence provides free safety planning, advocacy, 24-hour hotline staffed by domestic violence crisis counselors, and shelter and support services to victim/survivors of domestic and dating violence.

**Fenway Health Center**

1340 Boylston Street  
Boston, MA 02215  
(617) 267-9001 (help line); (617) 267-0900  
[www.fenwayhealth.org](http://www.fenwayhealth.org)

Fenway Health Care provides comprehensive health services for the LGBTQ community and beyond.

**Victims Right Law Center**

115 Broad Street  
Boston, MA 02110  
(617) 399-6720  
[www.victimrights.org](http://www.victimrights.org)

The Victims Right Law Center provides free legal counsel to represent individuals on court-ordered no contact orders, school-based complaints, immigration, and other legal matters related to sexual assault and violence. Assistance is available in both English and Spanish.



**SECTION VII: OBLIGATION OF COLLEGE TO REPORT SEXUAL MISCONDUCT**

The College has a legal duty to report certain incidents based on federal laws within the College's Annual Security Report. The Dean of Student Affairs compiles the reported data once a year with records from Campus Safety and the Title IX Coordinator. In the report, only numbers of reported violations of sexual misconduct are reported; names and details of the incident(s) are not reported and remain confidential.



## **SECTION VIII: TITLE IX INVESTIGATION PROCESS**

This section details the investigative process once the College receives a report of sexual misconduct. This section starts with an overview of the timeframe of a resolution then includes information about (in chronological order):

- Interim measures
- Submitting a formal Sexual Misconduct Policy violation report
- Meeting of the Title IX Coordinator and Deputy to confirm allegations and process
- Initial outreach to involved parties
- Investigation process
- Investigative summary/report
- Findings and responsibility
- Written impact statements
- Sanctions
- Appeal process

During this process, involved parties are encouraged to reach out to Student Affairs professionals (e.g., Student Success Coach, Director of Residential Life, Athletic Coach) or trusted faculty for support. Students may bring a support person or confidant (i.e. family member, PMC community member) to any or all meetings with the Title IX Coordinator and investigator, if that is helpful during this process. Pine Manor College's counselors are also available to all involved parties as a confidential resource.

### **TIMEFRAME FOR RESOLUTION**

The College will work to investigate all reports of sexual misconduct within 90 days. Extenuating circumstances, including but not limited to, the complexity and severity of a report may require the process to extend beyond 90 days. The parties can expect to receive periodic updates from the Title IX Coordinator and/or Investigator as to the status of the investigation and resolution.

In the event that the investigation and resolution exceed this timeframe, PMC will notify all parties of the need for additional time and best efforts made to complete the process in a timely manner.

The College calculates timeframes in the sanctions process pursuant to business days, which refers to those days that the College is open for business. The College excludes all dates when the College is officially closed for business, including, but not limited to, holidays, snow days, and weekends, from the calculation of business days. In addition, the College in extenuating or unusual circumstances may adjust all timeframes in the sanctions process.

### **INTERIM MEASURES**

PMC will provide interim support and reasonable protective measures to prevent further acts of misconduct and to provide a safe educational, living, and work environment. Interim measures are separate than the sanctioning process, which come if responsibility is determined concluding a formal investigation. The process for interim measures includes:



- The Student Affairs On-Call Team will work with the involved parties to determine the necessity and scope of any immediate interim measures.
- The Student Affairs On-Call Team may invoke interim measures when they receive notice of an alleged violation to the sexual misconduct Policy, even if the Title IX Coordinator has yet to receive the formal report in efforts to prioritize the safety and well being of those involved and the community.
- Pine Manor College may choose to impose interim measures even if a victim/survivor, complainant, and/or respondent does not request protective actions.
- A member of the Student Affairs On-Call Team will assign the interim measures in writing (email and/or hard copy) and, ideally, in-person, as well. The interim measures remain in-place until the student(s) receive documented evidence of such changes (via email and/or hard copy) by a member of the Student Affairs leadership team.
- Students that do not abide by any or all of the interim measures in place may be subject to the Community Standards process for a school policy violation. Depending on the severity of the violation, students may face sanctions up to and including expulsion from the College.
  - If students violate their interim measures and receive a suspension or an expulsion for the violation, the Title IX investigation will continue in absentia to bring closure to all involved parties.

Pine Manor College may impose a range of interim measures including, but not limited to:

### **No Contact Order**

A survivor/victim, respondent, or third party may request or the College may impose communication and contact restrictions to prevent further, potentially harmful, interactions in the form of a No Contact Order (NCO). These communication and contact restrictions preclude in-person, telephonic, electronic, or third party communications. Communication includes, but is not limited to, verbal and non-verbal communication, implied or inferred communication, communication targeted to the individual or a broader group about the individual. For example,

When an NCO is in place, a person cannot post on Snap Chat a picture of the place where the alleged incident occurred with the message, “you know what you did here” or “you are lying.”

Involved parties’ friends must also refrain from posting similar messages. If the College puts in place a No Contact Order, details of the NCO are included in the NCO letter.

Individuals may choose to put in place court issued protection in addition to the College’s NCO. Court order protection may include Restraining Orders, Abuse Prevention Orders, or Harassment Prevention Order from the local courts. These orders are part of a civil proceeding independent of the College. If the court issues a court order, PMC will, to the extent possible, assist the protected person in benefiting from the restrictions imposed by the court and will try to facilitate on-campus compliance with the order.



For support in this process, students may reach out to their Student Success Coach, college counselors, and/or one of the resources listed in Section VI, On and Off-Campus Resources.

### **Academic, Employment, and/or Residence Modifications**

Any party involved in a Title IX investigation may request an academic, on-campus employment accommodation, or a change in residence after a report of sexual misconduct. An individual who requests assistance in changing his/her/their academic or living situation after an incident of sexual misconduct will receive appropriate and reasonably available accommodations. These may include:

- Change in class schedule, taking an incomplete, dropping a course without penalty, attending a class via Skype or other alternative means, receiving an academic tutor, or extending deadlines for assignments;
- Change of residence hall assignment (either temporarily or permanently);
- Change in on-campus work assignment or schedule; and/or
- Providing an escort to ensure safe movement between classes and activities.

The College will work to best accommodate all parties from the date(s) of the sexual misconduct moving forward. The College cannot make modifications or accommodations for anything before the incident. For example,

If a professor drops a letter grade for every 2 missed classes, and an involved community member missed four classes before the incident occurred, the Title IX Deputy cannot ask for the professor to waive the initial four absences.

### **Counseling**

Free counseling is available to all Pine Manor College students. To make a counseling appointment on-campus students should email [wellness@pmc.edu](mailto:wellness@pmc.edu).

It is not within Pine Manor College's practices to mandate counseling; however, if students display signs of self-harm or harm to others, the Student Affairs On-Call Team and/or leadership team will escalate the situation immediately and reach out to emergency personnel.

Students on an interim suspension may continue to utilize Pine Manor College's free counseling services if the therapist agrees to tele-therapy or meeting at another location off-campus, determined by the therapist (e.g. their private practice, The Brookline Center). Students with an interim suspension may not come onto campus for counseling.

Students suspended or expelled from Pine Manor College may not use Pine Manor College's free counseling services in person or via tele-therapy. If students suspended or expelled want to continue to receive counseling from their therapist, the student and the therapist can make those arrangements outside of Pine Manor College's contractual relationship with The Brookline Center. Pine Manor College does not cover the co-pay for students seeking counseling who are currently suspended or expelled from the College.



Pine Manor College employees looking for counseling services should reach out the Pine Manor College's Employee Assistance Program (EAP) – New Directions. Employees can reach New Directions at 800-624-5544 or via [www.ndbh.com](http://www.ndbh.com) – login: SGE3F.

### **Interim Suspension**

Where the report of sexual misconduct poses a risk of harm to the safety and/or well being of an individual or members of the campus community, the College may place any of the involved parties on an interim suspension or impose leave for an employee.

While on interim suspension, parties will not have access to campus, co-curricular activities, and classes. PMC will make reasonable efforts to complete the investigation and resolution within a reasonable timeframe when the College has imposed an interim suspension. As the investigation unfolds, the Dean of Student Affairs or members of the Student Affairs leadership team may roll back the interim suspension measures as they see fit.

Interim suspensions are less than ideal, since they usually go into effect immediately and place a hardship on those involved. Pine Manor College is not responsible for making the students' travel arrangements or finding housing options for students who receive interim suspensions. In addition, PMC cannot cover the costs of hotels during interim suspensions. In most cases, the College would recommend students return home during this time.

The College does not note interim suspensions on students' transcripts.

### **Emergency Notification System (ENS)**

If Student Affairs or Campus Safety concludes that a report of sexual misconduct presents an immediate threat to the College campus community, the College will issue a timely notice of the conduct to the College community to protect the health and/or safety of the broader campus community through the Emergency Notification System. The notice will not contain any personal, biographical, or other identifying information of the survivor/victim/complainant.

### **SUBMITTING A FORMAL SEXUAL MISCONDUCT POLICY VIOLATION REPORT**

Any individual may report and is encouraged to report a sexual misconduct violation involving a PMC community member by emailing a formal report to [TitleIX@pmc.edu](mailto:TitleIX@pmc.edu) or contacting Campus Safety. In the report, the victim/survivor/complainant should include the following information:

- The name of the person(s) alleged to have violated the Sexual Misconduct Policy ("respondent") or if his/her/their name is unknown, any information available on the respondent to help the College to identify said respondent (e.g., a picture, describing features, friend groups, or vehicle driven) and contact information;
- The name of the survivor(s)/victim(s) and if his/her/their name is unknown, any information available on them to help the College identify said person(s) (e.g., a picture, describing features, friend groups, or vehicle driven) and contact information;
- A statement explaining the nature and circumstances of the report including a list of witnesses; and,



- The reporting person's contact information.

Formal reports will go in front of the Title IX Coordinator and Deputy and, assuming an alleged violation occurred, result in a Title IX investigation to determine, pursuant to a preponderance of evidence standard of proof, whether the respondent violated any provision(s) of the Sexual Misconduct Policy.

If a victim/survivor/complainant withdraws his/her/their report, the Title IX Coordinator and Deputy will assess whether sufficient evidence of sexual misconduct exists to support completing the investigation without the victim/survivor's support.

If the Title IX Coordinator and Deputy determine there is insufficient evidence than the College will not take action against the respondent and the file will remain with the Title IX Coordinator in case the matter needs to be re-opened if, among other things, the victim/survivor/complainant decides to reinitiate the report or independent evidence of sexual misconduct resurfaces. If the Title IX Coordinator and Deputy determine there is sufficient evidence than they will move forward accordingly.

If a respondent admits to a violation, the Title IX Coordinator and Deputy may forego said investigation and refer the matter directly to the sanction process.

#### **Timeframe for Submitting a Formal Report**

The College does not limit the timeframe for submitting a report. However, victims/survivors/complainants are encouraged to submit any report(s) as soon as possible in order to maximize the College's ability to investigate and implement timely and appropriate resolution(s). The College cannot pursue disciplinary action against a respondent not affiliated with the College; however, the College can invoke a No Trespass Order.

#### **Incomplete and Unofficial Reports**

An individual may verbally report or submit an incomplete written report that a PMC community member engaged in sexual misconduct by bringing the allegation to the attention of a responsible employee, campus safety, the Title IX Coordinator, or the Dean of Student Affairs.

The recipient of a verbal report or an incomplete written report should reach out to the Title IX Coordinator who will follow-up with the victim/survivor/complainant to submit the report in writing and include the aforementioned information. In the interim, the Student Affairs On-Call or Senior Leadership Team may put interim measures into place.

Once the Title IX Coordinator receives the formal report, the Title IX Coordinator and Deputy will convene.

#### **Community Standards and Sexual Misconduct Violations**

When an incident comes forward where a person is reported to have violated both Pine Manor College's Sexual Misconduct Policy and Student Handbook or other policies (e.g., Faculty Handbook), the investigation for sexual misconduct allegations will supersede the other allegations.





If the Title IX investigation concludes that the respondent did not violate the Sexual Misconduct Policy, but did violate other policies, the Title IX Coordinator will refer the case to the Director of Restorative Practices & Community Standards or the Director of Human Resources (in the case of employees) for resolution in accordance with the appropriate policy.

If the Title IX investigation exposes policy violations outside of the Sexual Misconduct Policy by witnesses who are not protected by the Amnesty Policy (outlined in Section IV), the Director of Restorative Practices & Community Standards or the Director of Human Resources (in the case of employees) will manage the resolution to the case in accordance with the appropriate policy.

### **MEETING OF THE TITLE IX COORDINATOR AND DEPUTY TO CONFIRM ALLEGATIONS AND PROCESS**

When the Title IX Coordinator receives a formal report, he/she/they and the Title IX Deputy will come together to review the reported allegation.

During the review of the reported allegations, if the Title IX Coordinator and Deputy believe the Sexual Misconduct Policy does not cover the incident, the Title IX Coordinator will re-assign the case to the Director Restorative Practices & Community Standards for incidents pertaining to students and the Director of Human Resources for incidents involving employees.

If the case falls within the Sexual Misconduct Policy, the Title IX Coordinator will begin oversight of the case to ensure all parties receive appropriate support, the College remains compliant with the Sexual Misconduct Policy, and the College is efficient and thorough throughout the investigative process.

### **INITIAL OUTREACH TO INVOLVED PARTIES**

Upon moving forward with an alleged violation to the Sexual Misconduct Policy, the survivor(s)/victim(s) and respondent(s) will each receive a letter from the Title IX Coordinator that includes:

- Written notification of the allegation(s) of misconduct under investigation including the specific provisions of the PMC Sexual Misconduct Policy alleged to have been violated.
- Written notification of interim measures taken to ensure safety and encouragement to reach out if additional measures are necessary.
- The name of the Title IX Investigator, appointment confirmation, and/or contact information, if confirmed (if not confirmed, the letter will iterate that this information will come in a follow-up email as soon as the investigator is confirmed.)
- The retaliation policy as described in Section IV.
- Notification that they may have one advisor (e.g., mentor, faculty member, friend, or coach) present when they meet with the Title IX Investigator, and that person may be an attorney. While Pine Manor College allows the parties to retain council, PMC does not refer lawyers or pay for them. Any advisor or lawyer attending the investigative



meetings may not speak, pose, or answer questions during the investigation, as their primary presence is in a support role.

- Asking parties to submit a list of witnesses and relevant documentary evidence to the Title IX Investigator (e.g., texts, e-mails, photographs) as soon as possible.
- A reminder to preserve evidence (e.g., texts, e-mails, notes, photograph, etc.) related to the alleged incident and submit them to the Title IX Investigator as soon as possible.
- A list of confidential resources on and off campus.
- A link to the Pine Manor College Sexual Misconduct Policy.
- Advisement to the survivor/victim of his/her/their right to pursue a criminal action against the respondent by contacting the local police and their right to seek a restraining order or harassment prevention order in criminal court. Both of which can occur concurrent to the PMC investigation.
- Advisement that Student Affairs can assist students (and Human Resources, when applicable, for College employees) in offering resources, counseling, support, and contacting/communicating with local police.

In addition, the Title IX Coordinator will have a conversation (via phone or in-person) with the involved parties to walk through the details of the allegation letter, receive a hard copy of the Sexual Misconduct Policy (if meeting in person), and answer any procedural questions.

### **INVESTIGATION PROCESS**

1. Upon determination to open an investigation, the Title IX Coordinator will appoint a Title IX Investigator, a person trained to investigate Title IX complaints who does not have any other role in the Title IX process.
2. The Title IX Investigator will investigate the allegations by meeting separately with the respondent, survivor/victim, and witnesses named as important to the investigation. In efforts to ensure a thorough investigation, the Title IX Investigator may ask to meet with, at a minimum, the respondent and survivor/victim more than once.
3. During the investigative meetings, the investigator will attempt to make all parties feel comfortable and informed about the process. The investigators questions will aim to (i) uncover the facts and (ii) recommend findings as to whether the respondent violated any provision(s) of the PMC Sexual Misconduct Policy. Pine Manor College uses the standard of proof for all investigations by a preponderance of evidence meaning more than 50% probable.
4. After the initial investigative meetings with the respondent and the survivor/victim, the investigator will provide each individual their own written statements for their review and comments. The respondent and survivor/victim will only see their own statements. The Title IX Investigator will review the comments from each party and incorporate relevant and clarifying comments into the responder and survivor/victim's individual written statements. The Investigator will separately note comments that conflict significantly with information previously submitted in the revised statements.
5. The Title IX Investigator will be privy to access and review all documented evidence and applicable College records to assess accuracy in the allegations of sexual misconduct against the respondent. If other sexual misconduct allegations exist, copies



- of those report(s) will be included in the investigation. In the written report, the Investigator will include his/her/their determinations concerning the relevance of the documentary evidence and append (and redact, if necessary) submitted evidence.
6. Concurrently, the Title IX Investigator will make reasonable attempts to interview any relevant witnesses identified by the parties, or otherwise, and produce written summaries of such witnesses' statements. These summaries and the statements of the respondent and survivor/victim will form the basis of the Title IX Investigator's written report.
  7. The Title IX Investigator will also gather and assess any other relevant evidence available to the College (e.g., additional witnesses not identified by the parties, security camera footage, respondent's disciplinary history, expert review of medical records). Relevant information reviewed by the Title IX Investigator will be described in the written report and appended (and redact, if necessary) as appropriate.
  8. After reviewing any witness statements, documentary evidence and other relevant evidence, the Title IX Investigator may choose to conduct follow-up interviews with the parties and supplement the parties' reports as necessary.
  9. Throughout the process, the Investigator will try a reasonable number of times to contact involved parties ideally by email and phone. Parties that do not respond by the given date forfeit their right to participate in the process.

#### **INVESTIGATIVE SUMMARY/REPORT**

1. At the conclusion of the investigation, but before the Title IX Investigator reaches any findings, she/he/they will submit a draft report (with a summary of evidence and attachments, but without findings) to the Title IX Coordinator and Deputy for review. The Title IX Coordinator and Deputy may suggest additional clarification or the gathering of additional evidence, as appropriate.
2. The Title IX Investigator will show the victim/survivor and respondent and their respective advisors, if present, a copy of the draft report (still without findings, but as revised consistent with any suggestions from the Title IX Coordinator and Deputy) under the supervision of the Title IX Coordinator. The victim/survivor and respondent have the opportunity to ask clarifying questions and comments.
3. The Title IX Investigator will incorporate any relevant and clarifying comments provided by either party into the draft report. The Title IX Investigator will note any significant deviations from previous statements in said report. If the revisions produce additional relevant evidence, the Title IX Investigator will gather the evidence and include it in the written report. Depending on the nature of the new evidence, the Title IX Investigator may resubmit a new draft of the report to the survivor/victim and respondent for comment.
4. The Title IX Investigator will use a preponderance of evidence standard to ascertain whether the respondent is responsible to have violated any provision(s) of the PMC Sexual Misconduct Policy.
5. The Title IX Investigator will submit the revised draft report including conclusions and findings to the Title IX Coordinator to share with the Title IX Deputy for review. The report will explain and address each element necessary to establish whether the respondent violated the Sexual Misconduct Policy and explain how the Title IX Investigator reached his/her/their conclusions.



6. The Title IX Coordinator and Deputy may offer feedback to incorporate into the final draft, if applicable. The Title IX Investigator will revise the draft report to reflect the feedback, and the Investigator will resubmit his/her/their revised final draft to the Title IX Coordinator who will share it with the Title IX Deputy.

### **FINDINGS**

The Title IX Coordinator will issue letters to the survivor/victim and respondent informing them of (1) the findings concerning whether the respondent violated any provision of the PMC Sexual Misconduct Policy; (2) the individual opportunity to review the Title IX Investigator's final report with their advisor or other designee present; and, (3) the names of the individuals on the Sanctions Panel (details on the Sanctions Panel are under "Sanctions" in this section) who will review the investigative report and assign sanctions.

The Title IX Coordinator will deliver communication via email and/or hard copy of the findings. Students who receive the hard copy will get it sent to their current physical address if on-campus or to the student's home address (based on PMC records) if off-campus.

### **IMPACT STATEMENTS**

The parties will each have two (2) business days from the date they review the Title IX Investigator's report and findings to submit a written impact statement to the Title IX Coordinator. The written impact statement(s) afford impacted parties the opportunity to reflect on the incident(s) and process. The Title IX Coordinator and Deputy suggests the statements answer the following questions:

- What have you learned about yourself through this process?
- What have you done to practice self-care through this process?
- What would you do differently having now gone through this process?
- What sanctioning would you recommend based on the findings from this case?

Involved parties should submit their written impact statements to the Title IX Coordinator who will share the statements with the members of the Sanctions Panel, who will see the impact statements before determining any sanctions.

### **SANCTIONS**

No later than three (3) business days after the date when the written impact statements are due, the Sanctions Panel will review the following documents: (1) a copy of the final Title IX investigative report; (2) a copy of the respondent's prior disciplinary record, if any; and, (3) a copy of any written impact statements. The Sanctions Panel will then deliberate and decide on what, if any, sanctions are most appropriate to achieve the College's goals of (1) assuring safety of the individuals in the case and the PMC Community and (2) providing consistency and fairness across Title IX cases and between Title IX cases and Community Standards.

The Sanctions Panel will use the ATIXA 2018 Whitepaper: *The ATIXA Guide to Sanctioning Student Sexual Misconduct Violations*, best practices, and consistency with Pine Manor College's Community Standards process as a guide for sanctioning. Potential sanctions,



individually or in combination, are listed below under “Potential Sanctions.” Where appropriate, the statement of the sanction should include the duration, any conditions to be observed during that period, and the conditions for termination of the sanction.

The Sanctions Panel will use consensus for confirming the sanctions issued; however, when the Sanctions Panel cannot reach consensus, they will utilize a majority vote where each person has one vote.

In the event, through the investigative process, that a determination of physical violence and/or penetration has occurred, the sanctions will result in suspension or at most expulsion from the College.

Within two (2) business days of the Sanctions Panel meeting, the Title IX Coordinator will issue the Sanctions letters. The letter will include advising the respondent, in writing, of the sanctions imposed and advising the victim/survivor of the sanctions imposed, in accordance with applicable law. This communication will also inform the Parties of their rights of appeal. The Title IX Coordinator will deliver communication via email and/or hard copy of the Panel’s findings. Students who receive the hard copy will get it sent to their current physical address if on-campus or to the student’s home address (based on PMC records) if off-campus.

### **Sanctions Panel**

The Sanctions Panel consists of 2-4 Pine Manor College community members that receive training on the sanctioning process. No person on the Panel will have reporting responsibilities to another person on the Panel. The Panel is co-lead by two community members who serve in the co-leader role for a maximum of 3 academic years. For each case, the Panel will consist of *at least* one co-leader and one member, all of whom have received appropriate training. The Director of Restorative Practices and Community Standards serves as a sitting member to ensure consistency between Title IX and community standards cases. Questions or concerns raised by the Sanctions Panel should be directed to the Title IX Coordinator.

### **Potential Sanctions**

- *Disciplinary Warning* – a behavioral warning to the respondent. No follow-up actions are typically required and nothing is noted in the College’s student’s records.
- *Disciplinary Probation* – a hold on students’ accounts for a determined period, which may limit students’ participation in activities and awards and cause for more severe sanctions if future cases arise in the probation period.
- *Suspension from the College or residence halls* – a finite time, effective immediately, where students are not allowed on campus and/or in the residence halls as a residential student or guest. Restrictions during this time include No Trespass Orders either onto campus and/or in the residence halls. Students suspended in the middle of a semester will receive withdrawals, “W,” on their transcript for that given semester.
- *Deferred suspension from the College or residence halls* – a suspension (see above) that does not start immediately.



- *Expulsion from the College or residence halls* – an infinite time, effective immediately, where students are permanently withdrawn from the College and not allowed on campus and/or in the residence halls as a residential student or guest. Students expelled in the middle of a semester will receive withdrawals, “W,” on their transcript for that semester and not considered for re-admission to the College.
- *Deferred expulsion from the College or residence halls* – an expulsion (see above) that does not start immediately.
- *Denial of graduation, diploma, and/or degree* – Students may not participate in graduation, receive their diploma, and/or receive their degree from the College.
- *Revocation or withdrawal of degree previously credited, awarded, and/or conferred* – when the College revokes previously awarded degrees and/or diplomas.
- *Restitution* – when the student must financially reimburse the College and/or designated parties for damages, loss, or costs incurred by the College or other party.

### **Voluntary Resolution**

In some instances, the parties may choose to resolve a complaint through voluntary resolution. Voluntary resolution may include conflict mediation or restorative conferencing with a third person trained in mediation or restorative conferences who is not already involved in the case to ensure neutrality. Voluntary resolution may only be used:

- When the Title IX Coordinator and Deputy believe this is a plausible option for resolving the concern **and** both the survivor/victim and respondent (separately) agree to the process; and
- When the complaint does not involve sexual assault or sexual violence as defined in this Policy.

In a voluntary resolution process, the Title IX Coordinator will appoint a neutral third party to conduct and coordinate the conflict mediation or restorative conversation/circle. Because both parties mutually develop and agree upon this process, parties may not appeal the process and/or the results. If the parties are unable to agree on a voluntary resolution or one of the parties does not show up for the mediation or circle, the formal investigative process will continue.

### **Admitted Responsibility**

If the respondent admits responsibility of the sexual misconduct stated in their allegation letter, the respondent and survivor/victim may choose to stop the full investigation and proceed to the findings protocol, impact statements, and sanctioning.

If both parties agree to terminate the full investigation, the Title IX Investigator will submit their report based on facts obtained as of the date the investigation ended. In this case, the respondent also forfeits their right to the appeal process.

### **Sanction Oversight**

In the event of suspensions and expulsions from the College, the Title IX Coordinator will oversee the sanctions as outlined by the Sanction Panel and coordinate the leave with the Division





of Student Affairs. In all other cases (non-suspension and expulsion), the Division of Student Affairs will oversee the sanctions as outlined by the Sanction Panel and keep the Title IX Coordinator informed appropriately.

### **Withdrawal of Respondent from PMC College**

During an open investigation, a respondent may not voluntarily withdraw from the College.

### **APPEALS PROCESS**

The parties have seven business days to submit a written appeal to the Title IX Coordinator upon a finding of a violation of the Sexual Misconduct Policy.

The grounds for appeal are: (1) a lack of fairness in the procedures or investigative process that may alter the outcome; (2) significant new information (previously unknown) that has been revealed or discovered which materially alter the facts of the matter and may alter the outcome; (3) a lack of fairness in the sanctioning process given the findings. Absent extenuating or unusual circumstances, the Title IX Coordinator will notify the Parties within ten (10) business days regarding granting or rejecting the appeal.

The Title IX Coordinator will assign an Appeals Panel (defined below) to oversee a review of the Title IX incident and sanctions issued. The Appeals Board will receive (1) the sanction and appeal letters; (2) the written impact statements from all parties; (3) a copy of the final Title IX investigative report; (4) and, a copy of the respondent's prior disciplinary record, if any.

The Appeals Panel will then deliberate and decide on what, if any, sanctions are most appropriate to achieve the College's goals of (1) assuring safety of the individuals in the case and the PMC Community and (2) providing consistency and fairness across Title IX cases and between Title IX cases and Community Standards. The Appeals Board will use the ATIXA 2018 Whitepaper: *The ATIXA Guide to Sanctioning Student Sexual Misconduct Violations*, best practices, and consistency with Pine Manor College's Community Standards process as a guide for sanctioning. Within the Appeals Board consensus is ideal; however, when the Appeals Board cannot reach consensus, the Board will utilize a majority vote.

In the event that the Appeals Panel grants an appeal, they will let the Title IX Coordinator know to issue a new sanction letter or, if necessary, re-open the case for further consideration.

### **Appeals Panel**

The Appeals Panel consists of 2 Senior Administrators that receive training on the sanctioning process and have no prior connections to the open case. No person on the Panel has reporting responsibilities to another person on the Panel. If warranted, the Director of Restorative Practices and Community Standards can be invited by the Senior Administrators on the panel to join the Appeals Panel as a sitting member to help ensure consistency between Title IX and community standards cases.





**SECTION IX: ON-CAMPUS EDUCATION, WORKSHOPS, AND AWARENESS**

The Division of Student Affairs works collaboratively with the Title IX Coordinator to provide training, education, and resources to the community concerning sexual misconduct. Pine Manor College addresses training and education on sexual misconduct throughout the year, including:

- Orientation/Welcome Week;
- Ongoing educational programming and workshops;
- Tabling throughout the semester; and
- Student Leadership Training.

Pine Manor College, in consultation and collaboration with the Boston Area Rape Crisis Center and other expert/skilled professionals in sexual assault and Title IX, provide training to the campus community on the following topics:

- Bystander intervention;
- Responding to reports and disclosures;
- Reporting disclosures and the role of a responsible employee;
- On and off-campus confidential and non-confidential resources.