



## HARASSMENT AND NON-DISCRIMINATION

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### **POLICY**

#### **INTRODUCTION**

##### **Notice of Non-Discrimination**

Sherman College of Chiropractic ("Sherman College" or "the college") does not discriminate on the basis of race, color, sex, national origin, physical disability, age, veteran status, sexual orientation, gender identity, religion, or any other characteristic or status protected by applicable local, state, or federal law in admission, treatment, or access to, or employment in educational programs and activities that it operates.

As a recipient of federal funds, Sherman College is required by Title IX of the Education Amendments of 1972 (20 U.S.C. §1681, et seq. and its implementing regulations, 34 C.F.R., Part 106) to not discriminate on the basis of sex, in federally assisted education programs and activities: **"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 aid . . ."** In addition, the Supreme Court, Congress, and federal executive department and agencies, including the Department of Education, have recognized that sexual harassment can constitute discrimination which is prohibited by Title IX.

Sherman College is committed to providing a workplace and educational programs and activities that are free from discrimination, harassment, and retaliation. In compliance with federal and state civil rights laws and regulations, Sherman College has developed this policy and procedure to provide a prompt, fair, and impartial process for those alleging discrimination, harassment, or retaliation.

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

Complaints or notice of policy violations, questions, or inquiries about Title IX or nondiscrimination may be made internally to the Title IX Coordinator at the following:

**Dr. Janice Higgins-Fordree**  
**Title IX Coordinator**  
**Sherman College of Chiropractic**  
**Post Office Box 1452**  
**Spartanburg, SC 29304**  
**Telephone: (800) 849-8771 ext. 383**  
**E-Mail: [jfordree@sherman.edu](mailto:jfordree@sherman.edu)**



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Questions or inquiries concerning the application of Title IX may also be made externally to the United States Department of Education's Office of Civil Rights (OCR) at the following:

Office for Civil Rights  
U.S. Department of Health and Human Services  
400 Maryland Avenue, S.W.  
Washington, D.C. 20202-1475  
202-453-6020  
Fax: 202-453-6021  
[OCR@ed.gov](mailto:OCR@ed.gov)  
<http://www.ed.gov/ocr>

### POLICY COVERAGE AND SCOPE

#### **Jurisdiction and Scope**

Sherman College prohibits all forms of discrimination and harassment as defined in the Prohibited Conduct section of this policy. This policy applies to Sherman College students, faculty, administrators, and staff. The policy applies to the education program and activity of Sherman College and to conduct that occurs on campus and property owned or controlled by Sherman College. This policy can also apply to off-campus prohibited conduct if that conduct deprives a person of a Sherman College educational program or affects a substantial college interest. "Education program or activity" includes locations, events, or circumstances over which Sherman College exercised substantial control over both the Respondent and the context in which the harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by Sherman College.

When the Respondent is a Sherman College student, faculty, administrator, or staff, resolution under this policy is available regardless of whether the Complainant is a member of the Sherman College community. If the Respondent is not a current student, faculty member, administrator, or staff person, Sherman College can use its discretion in providing support to Complainant and in assisting Complainant in identifying other resources to report the alleged misconduct, including to law enforcement.

There is no period of limitation provided Respondent is a Sherman College student as defined. However, the college encourages individuals to file complaints as soon as possible.

This policy and related processes may also, at Sherman College's discretion, apply to Respondent's reported violations of other Sherman College policies if, in the college's judgment, those other allegations are directly related to the reported Prohibited Conduct.



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This policy supersedes any other policy on campus regarding discrimination, harassment, or retaliation.

### **Prohibition on Retaliation and False Complaints**

It is a violation of this policy for any member of the Sherman College community to retaliate against any individual who makes a complaint, testifies, supports, participates or refuses to participate in any manner in any report, investigation or resolution under this policy. Retaliation includes intimidation, threats, coercion, discrimination, or adverse action taken or threatened. Any malicious reporting of a false complaint or knowingly submitting false information during a grievance process is also a violation of this policy. Retaliatory conduct or malicious or providing false information will be regarded as a separate violation of the policy.

### **Amnesty**

Sherman College considers the reporting and adjudication of prohibited conduct on campus to be of paramount importance. The college does not condone underage alcohol or illegal drug use. However, the college will extend amnesty from sanctioning to Complainants, Respondents, witnesses, those assisting Complainants, and those reporting prohibited conduct. The college reserves the right to order education and counseling to any in violation of its Student Code of Conduct.

### **DEFINITIONS: PROHIBITED CONDUCT**

Students and employees are entitled to employment and educational environment that is free from discriminatory harassment. This section describes the forms of prohibited conduct.

### **Discriminatory Harassment**

Unwelcome conduct by any member or group of the community on the basis of actual or perceived membership in a class protected by policy or law. Discriminatory harassment of any employee, student, visitor, or guest is not tolerated by the college. If discriminatory conduct rises to the level of hostile environment (one that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits or opportunities and results from harassing verbal, written, graphic, or physical conduct that is severe or pervasive and objectively offensive.

### **Dating Violence**

Any violence on the basis of sex committed by a person:

1. who is or has been in a social relationship of a romantic or intimate nature with the Complainant;  
and



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2. where the existence of such a relationship shall be determined based on Complainant's statement and a consideration of:
  - a. the length of the relationship,
  - b. the type of relationship, and
  - c. the frequency of interaction between the persons involved in the relationship

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of Domestic Violence.

### **Domestic Violence**

Violence on the basis of sex, committed by a current or former spouse or intimate partner of Complainant, by a person with whom Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family Violence laws of the State of South Carolina, or by any other person against an adult or youth Complainant who is protected from that persons acts under the domestic or family Violence laws of the State of South Carolina.

### **Sexual Exploitation**

When any individual takes non-consensual, unjust or abusive sexual advantage of another, for his/her own advantage or benefit; or to benefit or advantage anyone other than the one being exploited; and that behavior does not otherwise constitute rape, sexual assault, or sexual harassment. Sexual exploitation encompasses a wide range of behaviors which include, but are not limited to, the examples below:

1. Inducing incapacitation with the intent to rape or sexually assault another student;
2. Non-consensual electronic recording, photographing, or transmitting intimate or sexual utterances, sounds or images of another person;
3. Allowing others to observe a personal act of consensual sex without knowledge or consent of the partner;
4. Voyeurism;
5. Knowingly transmitting a STI/STD or HIV to another student or intentional or non-consensual tampering with condoms or other forms of birth control;
6. Prostituting or trafficking another student (i.e. personally gaining money, privilege, or power from the sexual activities of another student);
7. Indecent Exposure and/or Illicit Sexual Activity: Indecent exposure and illicit sexual activity are prohibited.



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### **Sexual Harassment**

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC) and the State of South Carolina regard Sexual Harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice. Sherman College has adopted the following definition of Sexual Harassment:

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

- 1) **Quid Pro Quo Sexual Harassment:** when an employee of Sherman College conditioning the provision of aid, benefit, or service of the college on an individual's participation in unwelcome sexual conduct.
- 2) **Hostile Environment Sexual Harassment:** unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Sherman College's education program or activity.
- 3) **Sexual Assault, defined as one or more of the following:**
  - a) Sex Offenses, Forcible: Any sexual act directed against another person, without the consent of the Complainant, including instances when the Complainant is incapable of giving consent.
  - b) Forcible Rape: penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.
  - c) Forcible Sodomy: Oral or anal sexual intercourse with another person, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
  - d) Sexual Assault with an Object: The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
  - e) Forcible Fondling: The touching of the private body parts of another person (buttocks, groin, breasts), for the purpose of sexual gratification, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
  - f) Sex Offense, Non-forcible:



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- i) Incest: Non-forcible sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by South Carolina law; or
- ii) Statutory Rape: non-forcible sexual intercourse, with a person who is under the statutory age of consent of 16.

### **Stalking**

Engaging in a course of conduct on the basis of sex directed at a specific person that would cause a reasonable person to:

- 1. fear for his or her safety or the safety of others; or
- 2. suffer substantial emotional distress.

Course of conduct is defined as two or more acts including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens or communicates to or about a person, or interferes with a person's property.

### **Terminology for Prohibited Conduct**

*Consent* means informed, freely and actively given, in mutually understandable words or actions, by each participant which indicates a willingness to participate in mutually agreed upon sexual activity.

Consent is mutually understandable when a reasonable person would consider the words or actions of the parties to have manifested a mutually understandable agreement between them to do the same act, in the same way, at the same time, with each other.

In the absence of mutually understandable words or actions (a meeting of the minds on what is to be done, where, with whom, and in what way), it is the responsibility of the initiator, that is, the person who wants to engage in the specific sexual activity, to make sure that he/she has consent from their partner(s). Relying solely upon non-verbal communication can lead to miscommunication. It is important not to make assumptions.

If confusion or ambiguity on the issue of consent arises anytime during the sexual interaction, the initiator should stop and verbally clarify the other individual's willingness to continue.

Consent which is obtained through the use of fraud or force, whether that force is physical force, threats, intimidation, or coercion, is not effective consent. Intimidation or coercion is determined by reference to the reasonable perception of a person found in the same or similar circumstances.



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Effective consent is active, not passive. Consent may not be inferred from silence, passivity or lack of active resistance alone. Silence, previous sexual relationships, and/or current relationship with the Respondent (or anyone else) may not, in themselves, be taken to imply consent. Consent cannot be implied by attire, the giving of or exchange of any gifts, or the spending of money on a date.

Consent may never be given by minors (the legal age of consent in South Carolina is 16 years old), mentally disabled persons, or physically incapacitated persons.

Consent to one type of sexual act may not, in itself, be taken to imply consent to another type of sexual act. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another person.

Consent can expire. Consent lasts for a reasonable time, depending on the circumstances. Past consent does not imply future consent.

Consent to sexual activity may be withdrawn at any time, as long as the withdrawal is communicated clearly; upon clear communication, all sexual activity must cease.

*Incapacitated or Incapacitation* means being in a state where a person is asleep, unconscious, or is physically or intellectually disabled thus preventing them from having capacity to consent. A student who deliberately drugs or supplies another with alcohol for the purpose of rendering that person incapacitated or sexually submissive/passive commits a violation of the sexual misconduct policy.

One who is physically incapacitated as a result of alcohol or other drug consumption (voluntary or involuntary), or who is unconscious, unaware, or otherwise physically helpless, is incapable of giving consent. One may not engage in sexual activity with another who one knows, or should reasonably have known, is incapacitated as a result of alcohol or other drugs. The use of alcohol or other drugs can have unintended consequences. Alcohol or other drugs can lower inhibitions and create an atmosphere of confusion over whether consent is freely and effectively given. The perspective of a reasonable person will be the basis for determining whether one should have known about the impact of the use of alcohol or drugs on another's ability to give consent. Being intoxicated or high (intentionally or unintentionally) does not diminish one's responsibility to obtain consent and is never an excuse for sexual misconduct.

*Reasonable person* means a reasonable person under similar circumstances and with similar identities to the Complainant.



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*Substantial emotional distress* means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

### REPORTING PROHIBITED CONDUCT

#### **How to Report**

Notice or complaints of discrimination, harassment, and/or retaliation may be made using any of the following options:

1. File a complaint or give verbal notice to the Title IX Coordinator, in person during business hours or by mail or e-mail using the contact information below:

**Dr. Janice Higgins-Fordree**  
**Title IX Coordinator**  
**Sherman College of Chiropractic**  
**Post Office Box 1452**  
**Spartanburg, SC 29304**  
**Telephone: (800) 849-8771 (ext. 383)**  
**E-Mail: [jfordree@sherman.edu](mailto:jfordree@sherman.edu)**

Any person may make a report of discrimination (including sexual harassment), whether or not the person reporting is the person alleged to be the victim of conduct that could constitute discrimination or sexual harassment. Reports can be made in person or by mail, by telephone, or by electronic mail (any time, including during non-business hours), using the contact information for the Title IX Coordinator shown above, or by any other means that results in the Title IX Coordinator receiving the verbal or written report.

Sherman College has designated and authorized its Title IX Coordinator to be responsible for monitoring, overseeing, and coordinating overall implementation of Title IX Compliance at Sherman College including coordinating training, education, communications, grievance procedures for resolving Title IX Complaints, and administration of procedures for faculty, staff, students, and other members of the college community, as well as visitors at the campus. The Title IX Coordinator is responsible for coordinating the college's response to complaints of discrimination including monitoring outcomes of complaints, identifying and addressing any patterns, and assessing effects on the campus climate. The Title IX Coordinator is to act without bias or conflict of interest.





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The Title IX Coordinator will have the flexibility to address complaints of harassment, discrimination, and retaliation in the most appropriate, fair and effective manner to see that any such misconduct is stopped and prevented from occurring. Anyone may bring a concern or complaint directly to the Title IX Coordinator.

The Title IX Coordinator can provide information about procedures and options to staff, faculty, and students who allege discrimination or harassment due to race, color, religion, national or ethnic origin, sex, sexual orientation, age, disability, veteran status, or gender identity or have realized they have experienced sexual misconduct. They can also provide information about procedures and options to any of the above individuals who are accused of such discrimination, harassment, or sexual misconduct or to those who feel they are the object of retaliation for lodging a complaint and to those who have been accused of retaliation.

2. In addition to the Title IX Coordinator, Sherman College has designated the following to be Officials with Authority to address and correct harassment, discrimination, and retaliation and must forward all reports to the Title IX Coordinator:

LaShanda Hutto-Harris, M.S.W.  
Vice President for Student Affairs  
Sherman College of Chiropractic  
Post Office Box 1452  
Spartanburg, SC 29304  
Telephone: 800-849-8771 ext. 224  
Email: [lhuttoharris@sherman.edu](mailto:lhuttoharris@sherman.edu)

Mandy Smith, A.S., A.B.A.  
Director of Human Resources  
Sherman College of Chiropractic  
Post Office Box 1452  
Spartanburg, SC 29304  
Telephone: 800-849-8771 ext. 231  
Email: [msmith@sherman.edu](mailto:msmith@sherman.edu)

3. Reporting to “Responsible Employees”

A “responsible employee” is a College employee who has the authority to redress sexual harassment, who has the duty to report incident of sexual harassment, or who a student could reasonably believe has this authority or duty.

When a Complainant tells a responsible employee about an incident of sexual harassment, the Complainant has the right to expect the college to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.



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A responsible employee must report all relevant details about the alleged sexual misconduct shared by the Complainant to the Title IX Coordinator and that the college will need to determine what happened – including the names of the Complainant and the alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time, and specific location of the alleged incident.

To the extent possible, the information reported to the responsible employee will be shared only with people responsible for handling the college's response to the report. The responsible employee should not share the information with law enforcement without the Complainant's consent or unless the Complainant has also reported the incident to law enforcement.

The following categories of employees are the college's responsible employees:

- a. All College Administrators;
- b. Faculty and Staff; and
- c. Title IX Coordinator

Before a Complainant reveals any information to a responsible employee, the responsible employee should ensure that the Complainant understands the responsible employee's reporting obligations – and, if the Complainant wants to maintain confidentiality, direct the Complainant to confidential resources.

If the Complainant wants to tell the responsible employee what happened but also maintain confidentiality, the employee should tell the Complainant that the college will consider the request, but cannot guarantee that the college will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the responsible employee will also inform the Title IX Coordinator of the Complainant's request for confidentiality.

Responsible employees will not pressure a Complainant to request confidentiality, but will honor and support the Complainant's wishes, including for the college to fully investigate an incident. By the same token, responsible employees will not pressure a Complainant to make a full report if the Complainant is not ready.

#### 4. Confidential Resources

Individuals that would like to speak with someone without reporting to Sherman College may contact a confidential resource. Professional, licensed counselors and pastoral counselors who provide mental health counsel to members of the Sherman College community are not required to



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report any information about an incident to the college or the Title IX Coordinator without a Complainant's permission. The following is the contact information for confidential resources:

|                                                    |                     |
|----------------------------------------------------|---------------------|
| <b>Sabrina Richardson, Intrinsic Therapy, LLC:</b> | <b>864-314-4537</b> |
| <b>Crisis Number (Evenings and Weekends):</b>      | <b>864-314-6451</b> |
| <b>SAFE Harbor Rape Crisis (24 hours a day):</b>   | <b>800-273-5066</b> |

If a Complainant speaks with a professional or non-professional counselor or victim advocate and wants to maintain confidentiality, the Complainant must understand the college will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator.

Even so, these counselors and advocates will still assist the Complainant in receiving other necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working, or course schedules. A Complainant who at first requests confidentiality may later decide to file a report or formal complaint with the college or report the incident to local law enforcement, and thus have the incident fully investigated. These counselors and advocates will provide the Complainant with assistance if the Complainant wishes to do so.

While these professional and non-professional counselors may maintain confidentiality with the college, they may have reporting requirements under state law, such as in an emergency where information is needed to prevent harm to the alleged victim or others or if such disclosure is warranted by the nature of the information received.

### 5. Reporting to Law Enforcement

Individuals may also report a complaint to law enforcement. Individuals may contact law enforcement directly by the following: Spartanburg County Sheriff's Office at 911. Individuals may also contact the Title IX Coordinator for assistance in filing a complaint with law enforcement.

Collection and preservation of evidence related to the reported sexual assault is essential for law enforcement investigations, so prompt reporting of the incident to law enforcement is especially critical. The Security Office, Title IX Coordinator or any College faculty or staff will, upon request, assist any individual in making a report to law enforcement. The Complainant has the right to report the prohibited conduct to the college and to law enforcement simultaneously. The Complainant has



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the right to seek to obtain an order of protection/restraining order, and the college will cooperate to comply with such orders.

Last, state law may require the college to report sexual misconduct to law enforcement in some circumstances after receiving a report, if required or warranted by the nature of the information received.

### **Requesting the College not Proceed: How the College Will Weigh the Request and Respond**

If a Complainant wishes for their name not to be shared or requests that no investigation into a particular incident be conducted or disciplinary action taken, they may make that request to the Title IX Coordinator. The college must weigh that request against the college's obligation to provide a reasonably safe, non-discriminatory environment for all students, including the Complainant.

If the college honors the request, a Complainant must understand that the college's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator may be limited. Although rare, there are times when the college may not be able to honor a Complainant's request due to its obligation to provide a safe, non-discriminatory environment for all students. Additionally, state law may require the college to report sexual misconduct to law enforcement and/or South Carolina State Law Enforcement Division (SLED) in some circumstances, if required or warranted by the nature of the information received (in reports of Sexual Assault or if the allegation concerns minors).

The college has designated the Title IX Coordinator with the discretion and the task to evaluate these requests. When weighing a Complainant's request for privacy or that no investigation or discipline be pursued, the Title IX Coordinator will consider a range of factors, including the following:

- a. The increased risk that the alleged perpetrator will commit additional acts of sexual or other violence such as whether there have been other complaints about the same alleged perpetrator, whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence, whether the alleged perpetrator threatened further sexual violence or other violence against the victim or others, and whether the sexual violence was committed by multiple perpetrators;
- b. Whether the sexual violence was perpetrated with a weapon;
- c. Whether the Complainant is a minor;
- d. Whether the college possesses other means to obtain relevant evidence of the sexual violence (security cameras, physical evidence);
- e. Whether the Complainant's report reveals a pattern of perpetration at a given location or by a particular group;



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- f. The seriousness of the alleged sexual misconduct; and
- g. Respondent's right to receive information about the allegations if information is maintained by the college as an "educational record" under FERPA, the federal law that protects the privacy of students' educational records.

The presence of one or more of these factors could lead the college to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the college will likely respect the Complainant's request for confidentiality.

**If the college determines that it cannot maintain a Complainant's privacy**, the Title IX Coordinator will sign a formal complaint, and the college will inform the Complainant prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the college's response.

The college will remain mindful of the Complainant's well-being and will take ongoing steps to protect the Complainant from retaliation or harm and work with the Complainant to create a safety plan. Retaliation against the Complainant, whether by students or College employees, will not be tolerated. The college will continue to provide supportive measures and inform the Complainant of a right to report crime to law enforcement and provide assistance if Complainant wishes to do so.

The college may not require a Complainant to participate in any investigation or sexual misconduct hearing. The Complainant (or their Advisor) may have as much or as little involvement in the process as they wish.

Because the college is under a continuing obligation to address the issue of sexual violence campus wide, reports of sexual violence (including non-identifying reports) will also prompt the college to consider broader remedial action – such as increased monitoring, supervision or security at locations where the report of sexual violence occurred; increased education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting its policies and practices.

The college will effort to maintain privacy of parties and witnesses, except as otherwise provided by law including the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, and 34 CFR part 99, or to conduct resolution under this policy.

Further, the college must report incidents statistically and anonymously to comply with the Clery Act (20 U.S.C. 1092(f)) requiring all colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on or near its campus.



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If the college determines that an individual poses a serious and immediate threat to the college community, the college may issue a timely warning to the community. Any such warning should not include any information that identifies the Complainant.

**If the college determines that it can respect a Complainant's request**, the college will not pursue formal resolution but will take steps to protect and assist the Complainant with supportive measures. The Complainant can decide to pursue a formal complaint at a later date.

### THE COLLEGE'S RESPONSE PROCEDURE

Upon receipt of a report of prohibited misconduct, the college will generally proceed as described below. If a formal complaint is filed by Complainant or signed by the Title IX Coordinator, Sherman College must conduct an investigation as described below.

#### Supportive Measures

Supportive Measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant and Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Supportive Measures are intended to restore or preserve equal access to Sherman College's education program or activity without burdening the other party, including measures designed to protect the safety of all parties or of Sherman College's educational environment, or deter sexual harassment.

Supportive Measures may include, but are not limited to:

- a. counseling,
- b. extensions of deadlines and other course-related adjustments,
- c. modification of work or class schedules,
- d. campus escort services,
- e. mutual restrictions on contact between the parties,
- f. changes in work or housing locations,
- g. leaves of absence,
- h. increased security and monitoring of certain areas on campus

Following a report, the Title IX Coordinator will promptly determine the availability of supportive measures to ensure the safety and well-being of the parties and coordinate implementation of Supportive Measures. A Complainant need not file a Formal Complaint in order for Sherman College to implement Supportive



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Measures. However, Sherman College will seek to maintain confidentiality of Supportive Measures (so long as this would not impair the ability to provide the Supportive Measures) and will seek to implement the measures in a way that does not unreasonably burden either party.

The Title IX Coordinator must promptly contact the Complainant to discuss the availability of these supportive measures, consider the Complainant's wishes with regards to supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a Formal Complaint, and explain to Complainant the process for filing a Formal Complaint.

### **Emergency Removal and Administrative Leave**

Sherman College can remove a Respondent partially or entirely from an education program or activity or place on administrative leave on an emergency basis. The Title IX Coordinator and an appropriate administrator (vice president for student affairs for students and director of human resources for employees) will perform an individualized safety and risk analysis and can remove that Respondent if there is an immediate threat to health and safety of any individual. In all cases, the Respondent will be given notice and opportunity to meet with the Title IX Coordinator and appropriate administrator and to show cause why emergency removal or administrative leave should not be implemented.

### **Advisors**

Throughout the resolution process, the parties may each have an Advisor of their choice present with them for all meetings, interviews, and proceedings. The Advisor may be a friend, mentor, family member, attorney, or other individual selected to support and consult with the party during the resolution process. Prior to any live hearing, the parties also have the right to not have an Advisor.

### **Notice of Allegations and Investigation**

Upon receipt of a Formal Complaint, the college will provide the following written notice to both the Complainant and Respondent which will include, but not limited to, the following information:

- a. Names of the Complainant and Respondent;
- b. Explanation of the grievance process;
- c. Explanation of the informal resolution process;
- d. Allegation(s) being brought forward (including sufficient details known at the time such as identities of the parties involved in the incident, the alleged conduct, the date and location of the alleged incident);
- e. Inform both parties they may have an Advisor to accompany them throughout the grievance process or informal resolution process, who may be, but is not required to be an attorney;



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- f. Inform both parties of conduct code prohibiting knowingly making false statements or knowingly submitting false information during the grievance process;
- g. Explain the rights of both parties during the process, including to present witnesses (fact and expert), other evidence and to inspect and review all evidence collected;
- h. Inform both parties the Title IX Coordinator reserves the right to amend the allegations and charges offense within the Notice as more information becomes available throughout the investigation;
- i. Inform the parties that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.

### **Mandatory and Discretionary Dismissal of Sexual Harassment**

The college must dismiss formal complaints of sexual harassment under the following circumstances:

- a. the conduct alleged in the formal complaint would not constitute sexual harassment as defined in this policy;
- b. the conduct alleged in the formal complaint did not occur in a Sherman College education program or activity; or
- c. the conduct alleged in the formal complaint did not occur against a person in the United States.

The college may dismiss formal complaints of sexual harassment or any allegations therein if at any time during the investigation or hearing, if

- a. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein,
- b. The respondent is no longer enrolled or employed by the college, or
- c. Specific circumstances prevent the college from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

If the college dismisses a formal complaint under this section, the college will send simultaneous written notice of dismissal to the parties, noting the reason for the dismissal.

### **Investigation**

The Title IX Coordinator should ensure that in all cases, the college will respond to the formal complaint in a prompt, thorough, procedurally fair, and effective manner. Upon receipt of the formal complaint, the college must conduct an investigation and will strive to complete its investigation and hearing within ninety (90) calendar days. The college may permit temporary delays and limited extensions for good cause and with written notice to Complainant and Respondent of the delay or extension and the reasons therefore.





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“Good cause” may include the absence of a party, a party’s Advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disability.

The Title IX Coordinator will appoint one (1) or more investigator(s) to assist in any investigation. Any investigators appointed may be a College faculty or staff member that has received specific, annual training in investigation of sexual misconduct cases, or the college may utilize external investigator(s). The investigators shall not have a conflict of interest or bias for or against complainants and respondents generally or the individual Complainant or Respondent.

In most cases, the investigation will involve conducting a thorough fact-finding mission, which includes meeting with parties and any witnesses, and reviewing any other relevant information, including any forensic evidence (if available). Investigations must include objective evaluation of all relevant evidence including both inculpatory and exculpatory evidence and ensure that credibility determinations are not made on person’s status as a complainant, respondent, or witness.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the college and not on the parties.

For interviews with parties, investigators will send a written notice to each party including the date, time, location, participants, and purpose of all investigative interviews or other meetings with sufficient time for the party to prepare and participate.

At any time during the course of the investigation, the Complainant, Respondent, or any witnesses may provide a written statement, other supporting materials, or identify other potential witnesses, regarding the matter under review. Parties shall have an equal opportunity to present witnesses, including fact and expert witnesses and any other inculpatory or exculpatory evidence. The college will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

Once the investigator finishes gathering the available evidence, the investigator will compile all the information directly related to the allegations raised in the formal complaint, including the evidence upon which the school does not intend to rely on in reaching a determination. This information is compiled into the “investigative file.” The investigator shall send the parties and their Advisor the “investigative file” (redacted). Both parties shall have an equal opportunity to inspect and review, so that each can meaningfully respond to the evidence prior to the conclusion of the investigation. The investigative file may be sent via hard copy or electronically.



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Upon receiving the “investigative file”, the parties have 10 days to submit a written response, to be included as an addendum to the “investigative file,” which the investigator will consider prior to completion of the Investigative Report. The Investigator will provide party responses to “investigative file” to the other party. Parties have 3 business days to respond to the other party’s response.

### **Investigative Report**

After the parties’ review and response to the investigative file, the Investigator will draft an Investigative Report that fairly summarizes relevant evidence and, at least 10 days prior to hearing, sends to each party and the party’s Advisor, the investigative report for the parties’ review and written response.

Upon reviewing the “investigative report” and any written responses thereto, the Title IX Coordinator will determine whether the investigation reveals facts requiring or permitting dismissal of the formal complaint. If dismissal is warranted, the Title IX Coordinator will inform the parties, in writing, of the dismissal decision, the reason therefore, and an opportunity to appeal the dismissal. If the Title IX Coordinator determines that the matter should not be dismissed, the Title IX Coordinator will send a Notice of Hearing contemporaneously to the parties.

### **Hearing**

The Title IX Coordinator will evaluate the investigative report, and unless no reasonable grounds exist that a violation of Policy occurred, the Title IX Coordinator will direct that the complaint proceed to a hearing. Any allegations that proceed to a hearing will be known as charges.

If after review of the investigative report, the Title IX Coordinator finds there are no reasonable grounds that a violation of policy occurred, the Title IX Coordinator may dismiss the complaint, document the dismissal and promptly notify the parties simultaneously with a written notice of dismissal. The Complainant may appeal the decision to dismiss the complaint by submitting written notice of appeal to the Title IX Coordinator within three (3) days of receipt of the notice of dismissal. All appeals are directed to an Appeal Officer, who will be a Sherman College administrator, faculty, or employee (or an external party retained by the college). The Appeal Officer cannot be a Hearing Officer or investigator that had been previously involved in the complaint, and the Appeal Officer cannot be the Title IX Coordinator. The Appeal Officer shall not have a conflict of interest or bias for or against complainants and respondents generally or the individual Complainant or Respondent.

The Title IX Coordinator will assemble a Hearing Board (“Hearing Board”) composed of a single Hearing Board Officer or a panel of three (3) Hearing Board Officers. Hearing Board Officers will be members of College administrators, faculty or staff, and the college may also appoint one or more external individuals



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to serve as a Hearing Board Officer. If there is a single Hearing Officer, that person is the “Chair,” and if there are three (3) Hearing Board Officers, the Title IX Coordinator shall select the Chair. The Hearing Board Officers shall not have a conflict of interest or bias for or against complainants and respondents generally or the individual Complainant or Respondent.

Live hearings will be conducted with all parties physically present in the same geographic location, or at the college’s discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

If the Complainant, Respondent or witness fails to appear or stops participating before the conclusion of the hearing, the hearing will continue as scheduled, unless the Hearing Panel determines otherwise for good cause.

Once the hearing begins the hearing will continue until completed except for breaks and other adjournments administered by the Hearing Panel. The hearing must not be delayed unnecessarily once it has begun.

### **Persons Present**

During the Hearing, only the Complainant, the Respondent, both parties’ Advisor, the Title IX Coordinator, the college’s legal counsel, and the members of the Hearing Board may be present. The parties (accompanied by their Advisors) and witnesses will testify in the same room as the Hearing Panel, or virtually at the Hearing Panel’s discretion. The Complainant and Respondent will be able to view the testimony of each other and witnesses virtually. Witnesses will not be present for or hear the testimony of the parties or other witnesses. Witnesses shall remain in the hearing room only while giving their statements and answering questions from the Hearing Board officers unless the Hearing Board officers and all involved parties otherwise agree or unless a witness is also one of the parties’ Advisor.

### **Role of Advisors**

The Complainant and Respondent must each be accompanied by one Advisor, who may or may not be an attorney, for the purpose of cross-examining (i.e., questioning) the other party and any witnesses all relevant questions and follow-up questions, including questions challenging credibility.

If either party does not have an Advisor, the college will provide one for them without fee or charge. The Advisor provided to a party by the college may or may not be an attorney, but the Advisor will have training in this Policy. Cross-examination must be conducted directly, orally, and in real time by the party’s Advisor of choice, but never by the parties personally. The Complainant and Respondent are prohibited from questioning each other and witnesses directly. Rather, they may only do so through their Advisors.



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The Advisor's role within the hearing is limited. Advisors must engage in questioning that is relevant, respectful, non-intimidating and non-abusive. Complainants and Respondents are expected to respond to questions from the Hearing Panel and the other party's Advisor on their own. The parties and their Advisors may consult in private during the hearing, but not while a question is pending.

### **Cross-Examination and Refusal to Submit to Cross-Examination.**

The Advisors will ask cross-examination questions in the following manner: The Advisors will pose each question verbally to the Chair, who will determine whether the question is relevant. If the Chair deems the question relevant, the Chair will instruct the party or witness to answer the question. If the Chair deems the question as not relevant, the Chair will instruct the party or witness not to answer the question and explain any decision to exclude a question as not relevant. A question is relevant if it seeks an answer that has the tendency to make the existence of any fact that is of consequence to the determination more or less probable than it would be without it. The Chair's decision on whether a question is relevant is final.

The Hearing Panel cannot rely on a statement made by a party that refuses to submit to cross examination at the hearing in order to determine responsibility. However, the Hearing panel cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

### **Order of Presentation of Statements and Evidence.**

The questioning of the parties and witnesses will generally take place as follows: The Hearing Panel will ask the Complainant questions first, while the Respondent may view the hearing virtually. The Respondent's Advisor may then ask questions of the Complainant. The Hearing Panel will next address the Respondent in the same format as the Complainant. The Complainant's Advisor may then ask questions of the Respondent. The Hearing Panel will next question each witness. After the Hearing Panel questions a witness, the Complainant and then the Respondent's Advisors may ask questions of the witness.

The parties and their Advisors will return to their respective rooms after testifying before the Hearing Panel. Witnesses are permitted to leave the premises after testifying but remain available for re-call. If necessary, the Hearing Panel may recall the Complainant, Respondent, or any witness for further questioning.

Should the parties or Hearing Panelists wish to hear from a witness at the hearing who was not previously disclosed during the investigation process, the Hearing Chair may temporarily adjourn the hearing and request that the investigator interview the witness and provide the interview summary/transcript to the parties before reconvening the hearing, or continue the hearing and invite the witness to appear and submit to questions from the Hearing Panel and the parties Advisors, if the testimony from that witness is relevant.



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The Hearing Panel shall have discretion whether to allow evidence to be presented at the hearing that was available during the investigatory process.

Each party, speaking on their own behalf, shall have 5 minutes to provide a closing statement. The Complainant will speak first followed by the Respondent.

The Hearing Panel Chair will adjourn the hearing.

### **Recording**

The Hearing Board shall arrange for the proceedings to be recorded and the recording will be available to both Complainant and Respondent upon their request until after all appeal options have been exhausted or waived.

### **Evidence Permitted and Not Permitted**

The Hearing Board should consider all relevant testimony, documents, and evidence including statements by Complainant, Respondent, and any witnesses, forensic evidence, law enforcement investigation documents, and reports of the Title IX Coordinator and Investigators. The hearing officers are prohibited from questioning or considering evidence about the Complainant's sexual predisposition or prior sexual behavior unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent or are offered to prove consent. No evidence or questions will be permitted that would violate a legally recognized privilege, unless that that privilege is waived.

### **Standard**

The Hearing Board shall use a "preponderance of the evidence" standard in determining whether Respondent is responsible for violation of this Policy. The preponderance of the evidence standard is a "more likely than not" standard.

### **Written Deliberation Report**

The Hearing Board, after careful consideration of all the evidence and after consultation and deliberation, applying the preponderance of the evidence standard, will deliberate in a closed session to determine whether the Respondent is responsible for the charges of Policy violation. If a Hearing Officer panel is used, a majority vote is required for an outcome. After deliberation, the Hearing Board will draft a written report of the deliberation which shall include:

- a. The allegations of sexual harassment



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- b. A description of the procedural steps taken from receipt of the formal complaint through determination (notifications to parties, interviews with parties and witnesses, etc.)
- c. Findings of fact supporting the determination
- d. Conclusions regarding the application of the policy to the facts
- e. The result of each allegation (responsible or not responsible), and rationale for it.
- f. If finding of responsibility, decision must include the disciplinary sanction imposed, and remedies to preserve/restore equal access for the Complainant.
- g. Provide process and permissible grounds for appeal

### Notice of Outcome

Using the deliberation report, the Chair and the Title IX Coordinator shall coordinate to draft a Notice of Outcome within five (5) days of receipt of the deliberation report. The Notice of Outcome shall be emailed to the parties and their Advisors, simultaneously and in writing, and such notification shall be clearly identified as a final decision of the Hearing Board.

### Sanctions

If the Respondent is found responsible for prohibited conduct, the college will determine a sanction designed to eliminate the misconduct, prevent its recurrence, and remedy its effect by supporting the college's educational mission and obligations under Title IX.

For faculty and employees, both tenured and untenured, disciplinary actions include reprimand, withholding promotion and/or salary increases, and dismissal or termination of employment. For students, sanctions or interventions may include, but are not limited to, one or more of the following:

- a. **Formal reprimand:** a formal notice that the student has violated the policy and that future violations may be dealt with more severely.
- b. **Disciplinary probation:** a designated period of time during which the student is not in good standing with the college and certain student privileges may be suspended provided this suspension of these privileges does not interfere with the student's ability to complete his or her academic work at the college.

A student on disciplinary probation is not considered in good standing with the college and his or her continued enrollment is conditioned upon good conduct for the probationary period. The period of time under which the probation extends shall be set forth in the hearing report.

- c. **Class, workshop, training, or program attendance:** enrollment in and completion of a class, workshop, training, or program that could help a student or the college community.
- d. **No contact:** restriction from entering specific College areas and/or from all forms of contact with certain persons.



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- e. **Suspension:** denial of enrollment, attendance, and other privileges at the college for a given period of time. Need to reapply for admission at the end of the period may be granted with or without qualifications.
- f. **Expulsion:** permanent dismissal from the college.

### Appeals

Both the Complainant and Respondent have the right to appeal the final decision by the Hearing Board by notifying the Title IX Coordinator in writing within five (5) business days after receipt of the Notice of Outcome.

The only grounds for an appeal are:

- a. procedural irregularity that affected the outcome of the matter;
- b. new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter; and
- c. the Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants and respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

In the event of an appeal, the college shall notify the other party in writing when an appeal is filed and provide both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.

All appeals are directed to an Appeal Officer, who will be a Sherman College administrator, faculty, or employee (or an external party retained by the college). The Appeal Officer cannot be a Hearing Officer or investigator that had been previously involved in the complaint, and the Appeal Officer cannot be the Title IX Coordinator. The Appeal Officer shall not have a conflict of interest or bias for or against complainants and respondents generally or the individual Complainant or Respondent.

The Appeal Officer shall decide the issue without a hearing based on the record alone. The Appeal Officer shall contact both the Complainant and Respondent via email simultaneously with the decision. The Appeal Officer may either affirm the decision of the Hearing Board, reverse the decision of the Hearing Board and order a new hearing with or without new hearing officers, or reverse the decision of the Hearing Board and dismiss the matter. The Appeal Officer will issue a written decision describing the result of the appeal and the rationale for the result and will provide the written decision simultaneously to the parties.



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### **Informal Resolution**

The college recognizes that in some limited circumstances a voluntary informal resolution option may be an appropriate means of addressing a formal complaint. Informal resolution can be in the form of a mediation and may not involve full investigation or adjudication.

Informal resolution is in the sole discretion of the Title IX Coordinator but only where a formal complaint has been filed. The Title IX Coordinator can facilitate informal resolution any time prior to reaching a determination regarding responsibility of Respondent if they have reviewed the matter to confirm that it is appropriate for the informal resolution process, that such process would be consistent with the college's legal obligations under Title IX, and Complainant and Respondent both have voluntarily elected in writing to pursue the informal resolution process without pressure or compulsion from others and have been advised that they may withdraw from the informal resolution process at any time.

To facilitate informal resolution, the Title IX Coordinator first must provide written notice to the parties of the allegations, the requirements of the informal resolution process (including that it may preclude the parties from resuming a formal complaint arising out of the same allegations), that prior to at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and that informal resolution records may be maintained or could be shared.

Informal resolution is not available to resolve allegations that an employee sexually harassed a student.

The informal resolution process is a mediation in an informal setting. Both Complainant and Respondent may be accompanied by their Advisor during the entire informal resolution process, any agreement reached during the informal resolution process must be approved by the Title IX Coordinator. By agreeing to the informal resolution process, Respondent agrees to fully comply with any agreement reached during the process regarding sanctions or corrective measures.

### **Records Preservation**

The college must preserve for a period of seven (7) years the following: records (including recordings) of supportive measures, investigation, hearing, appeal, informal resolution; and training materials for investigators, hearing officers, appeal officers, and those facilitating informal resolution.

### **Grievance Terminology**

*Complainant* means an individual who is alleged to be the victim of conduct that could constitute sexual harassment or discrimination based on a protected class, or retaliation for engaging in a protected activity.





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*Complaint/Formal Complaint* means a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment or discrimination based on a protected class, or retaliation for engaging in a protected activity against a Respondent and requesting that the college investigate the allegation. For purposes of this definition, “document filed by a Complainant” shall mean a document or electronic submission that contains the complainant’s physical or digital signature or otherwise indicates that the complainant is the person filing the formal complaint.

*Grievance policy* is the procedures providing prompt and equitable resolution of student and employee complaints under Title IX.

*Respondent* means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment, discrimination based on a protected class, or retaliation for engaging in a protected activity

### **APPENDIX A: Important Information for Individuals Who May Be Victims of Sexual Assault**

If you or someone you know may have been a victim of sexual assault or any other type of prohibited conduct under this Policy, you are strongly encouraged to seek immediate assistance. Assistance can be obtained 24 hours a day, seven days a week from the Spartanburg County Sheriff’s Office (911) or during business hours, you are encouraged to contact the Office of Student Affairs or the Title IX Coordinator at the following:

**Dr. Janice Higgins-Fordree**  
**Title IX Coordinator**  
**Sherman College of Chiropractic**  
**Post Office Box 1452**  
**Spartanburg, SC 29304**  
**Telephone: (800) 849-8771 ext. 383**  
**E-Mail: [jfordree@sherman.edu](mailto:jfordree@sherman.edu)**

For additional information about seeking medical assistance or counseling or academic support, you can contact the Campus or Community resources identified below:

### **Campus Resources**

Sherman College Security Office ..... (864) 316-7576  
Office of Student Affairs ..... (864) 578-8770 ext. 224  
Counseling and Mediation ..... (864) 578-8770 ext. 224



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Title IX Coordinator Dr. Janice Higgins-Fordree ..... (800) 849-8771 ext. 383

### **Community Resources**

|                                              |                |
|----------------------------------------------|----------------|
| EMS .....                                    | 911            |
| Spartanburg County Sheriff's Office .....    | 911            |
| SAFE Home-Rape Crisis Coalition .....        | (864) 585-9569 |
| SAFE Home-Rape Crisis (24-hour hotline)..... | (800) 273-5066 |
| Mary Black Memorial Hospital .....           | (864) 573-3000 |
| Spartanburg Regional Memorial Hospital ..... | (864) 560-6000 |

### **Getting Assistance Following an Incident of Sexual Assault**

1. **Ensure Your Physical Safety.** Friends can be supportive and help, and local law enforcement can assist you in getting to a safe place.
2. **Get Medical Attention.** A physical examination will determine any physical injuries and can prevent or treat sexually transmitted disease. Hospitals listed below can administer rape exams. Throughout this procedure, important evidence is preserved in the event of legal proceedings. Individuals should not bathe, shower, urinate, brush teeth, wash hands, eat, drink, or change clothes before he/she has been examined by a professional health care provider.
3. **Report the Incident.** Contact a College official who can offer professional assistance. Individuals are encouraged to contact the Security Office, Title IX Coordinator or a member of the student affairs staff. Other officials who may be contacted include any faculty member, staff member, or counselor. Please see "Reporting Prohibited Conduct" above regarding reporting options and confidentiality issues associated with various reporting options. Know your options to report to the police, the college, or both. It is the victim's decision to report an attack. There are several ways to take action, including criminal prosecution and/or complaint through the college.
4. **Seek Counseling.** Support through a trained counselor can help individuals work through the trauma of a sexual assault and on an ongoing basis. Counseling is available by contacting the Office of Student Affairs.