1. **INTRODUCTION**

Concordia University Irvine is committed to creating and maintaining a community where all persons who participate in University programs and activities can work and learn together in an environment free from sexual harassment. Sexual harassment is contrary to the religious and moral tenets of the university. Every member of the university community should be aware that the university is strongly opposed to sexual harassment, and that such behavior is prohibited both by law and by university policy. The university will respond promptly and effectively to reports of sexual harassment, and will take appropriate action to prevent, to correct, and if necessary, to discipline behavior that violates this policy.

2. **DEFINITION**

Concordia University Irvine defines sexual harassment as including the following behavior:

2.1 Unwelcome sexual advances; requests for sexual favors; unwelcome touching, fondling, visual display and all other verbal, nonverbal, or physical conduct of a sexual nature, when

   a. submission to such conduct is made, either explicitly or implicitly, a term or condition of instruction, employment, or participation in any university program or activity;

   b. submission to or rejection of such conduct by an individual is used as the basis for evaluation in making academic or personnel decisions affecting such individual, or as the basis for decisions affecting such individual’s participation in any university program or activity; or

   c. such conduct has the purpose or effect of creating a hostile and intimidating environment sufficiently severe or pervasive to substantially impair a reasonable person’s participation in university programs or activities, or use of university facilities.

Some examples that may constitute sexual harassment include:

- Making sexual propositions or pressuring students for sexual favors
- Touching of a sexual nature
- Displaying or distributing sexually explicit drawings, pictures, or written materials
- Performing sexual gestures or touching oneself in front of others
- Telling sexual or dirty jokes
- Spreading sexual rumors or rating other students as to sexual activity or performance
- Circulating or showing email, Web sites of a sexual nature
- Unwelcome leering, whistling, brushing against the body, or suggestive or insulting comments
- Comment on an individual’s body, inquiries into one’s sexual experience and discussion of one’s sexual activities

2.2 In the interest of preventing sexual harassment, the university will respond to reports of any such conduct.

2.3 In determining whether the reported conduct constitutes sexual harassment, consideration shall be given to the record of the conduct as a whole and to the totality of the circumstances, including the location of the incident and the context in which the conduct occurred. In general, a charge of sexual harassment can only be addressed by the university when the
university can reasonably be expected to have some degree of control over the alleged harasser and over the environment in which the conduct occurred.

2.4 Sexual harassment may include incidents between any members of the university community, including faculty and other academic appointees, staff, coaches, students, and non-student or non-employee participants in university programs, such as vendors, contractors and visitors. Sexual harassment may occur in hierarchical relationships or between peers.

3. PROVISION

3.1 Any member of the university community may report conduct that may constitute sexual harassment under this policy. In addition, supervisors, managers, and other designated employees are responsible for taking whatever action is necessary to prevent sexual harassment, to correct it when it occurs, and to report it promptly to the appropriate official designated to review and investigate sexual harassment complaints. An individual also may file a complaint alleging sexual harassment with the designated Complaint Resolution Officer as shown in Attachment A.

As a university, its employees, and students also must be aware of the need for freedom of inquiry and openness of discussion in its educational and research programs, and must strive to create and maintain an atmosphere of intellectual seriousness and mutual tolerance in which these essential features of academic life can thrive. No university can or should guarantee that every idea expressed in its classrooms or laboratories will be inoffensive to all; pursued seriously, education and scholarship necessary entail raising questions about received opinions and conventional interpretation. Concordia University Irvine does guarantee, however, that credible accusations of inappropriate sexual remarks or actions will be investigated promptly, thoroughly, and fairly.

3.2 It is a violation of the university’s policy for any member of the university community to engage in conduct that meets the university definition of sexual harassment.

3.3 This policy also prohibits retaliation against a person who reports sexual harassment, assists someone with a report of sexual harassment, or participates in any manner in an investigation or resolution of a sexual harassment complaint. Retaliation includes threats, intimidation, reprisals, and/or adverse actions related to employment or education.

3.4 As part of the university’s commitment to providing a working and learning environment free from sexual harassment, this policy shall be disseminated widely to the university community through publications, websites, new employee orientations, student orientations, and other appropriate channels of communication. Several key locations on campus shall make educational materials available to all members of the university community to promote compliance with this policy and familiarity with university reporting procedures. In addition, the university shall designate university employees responsible for reporting sexual harassment and provide training to those designated employees. Generally, such persons include supervisors, managers, academic administrators, deans, department chairs, student advisors, graduate advisors, residence hall staff, coaches, security officers, student affairs staff, and health center staff. A written description of the university procedures for the resolution of sexual harassment complaints shall be available upon request from the designated Complaint Resolution Officers (see Attachment A).

3.5 The university shall provide a prompt and effective response to reports of sexual harassment in accordance with the procedure below. A prompt and effective response may include early resolution, formal investigation, and/or targeted training or educational programs. Upon findings of sexual harassment, the university may offer remedies to the individual or individuals harmed by the harassment consistent with applicable complaint resolution procedures. Such remedies may include counseling, an opportunity to repeat course work without penalty, changes to student housing assignments, or other appropriate interventions. Any member of the university community who is found to have engaged in sexual harassment is subject to disciplinary action up to and including dismissal. Generally, disciplinary action will
be recommended when the harassing conduct is sufficiently severe, persistent, or persuasive that it alters the conditions of employment or limits the opportunity to participate in or benefit from university programs or activities. Any manager, supervisor, or designated employee responsible for reporting or responding to sexual harassment who knew about the harassment and took no action to stop it or failed to report it also may be subject to disciplinary action. Conduct by an employee that is sexual harassment or retaliation in violation of this policy is considered to be outside the normal course and scope of employment.

3.6 Because sexual harassment frequently involves interactions between persons that are not witnessed by others, reports of sexual harassment cannot always be substantiated by additional evidence. Lack of corroborating evidence or “proof” should not discourage individuals from reporting sexual harassment under this policy. However, individuals who make reports that are later found to have been intentionally false or made maliciously without regard for truth, may be subject to disciplinary action. This provision does not apply to reports made in good faith, even if the facts alleged in the report cannot be substantiated by an investigation.

4. PROCEDURE

4.1 Making Reports of Sexual Harassment

Any member of the university community who feels that he or she has been the victim of sexual harassment, and any member of the university community witnessing an incident of sexual harassment should report the incident as soon as possible after the alleged conduct occurs. Reports should be brought to the designated Complaint Resolution Officer (see Attachment A). If one of the Complaint Resolution Officers is the alleged offending party, or if the individual is uncomfortable reporting the incident to him (or her), or if it would be inappropriate to discuss the matter with him (or her), it should be reported to one of the other Complaint Resolution Officers.

Individuals making reports of sexual harassment shall be informed by the Complaint Resolution Officer about the range of possible outcomes of the report and the options for resolving potential violations of the university policy on sexual harassment. At a minimum, the options shall include (a) early resolution, and (b) filing of complaints (which includes a formal investigation of complaint).

4.2 Early Resolution

The goal of early resolution is to resolve concerns at the earliest stage possible with the cooperation of all parties involved. Early resolution may involve an inquiry into the facts, but typically does not include a formal investigation. Early resolution shall be flexible and encompass a full range of possible appropriate outcomes. Early resolution may include options such as mediating an agreement between the parties, separating the parties, referring the parties to counseling programs, negotiating an agreement for disciplinary action, conducting targeted educational and training programs, or providing remedies for the individual harmed by the harassment.

Early resolution shall be concluded as promptly as possible and in most cases within thirty (30) days after an incident of sexual harassment has been reported to a Complaint Resolution Officer. The time period for completing early resolution may be extended by agreement of the parties.

4.3 Filing of a Complaint

In cases where early resolution is inappropriate or in cases where early resolution is unsuccessful, the university may conduct a formal investigation. In such cases, the individual making the report shall be encouraged by the Complaint Resolution Officer to: 1) file a written complaint and request for formal investigation or 2) the Complaint Resolution Officer may prepare a written summary of the reported incident(s) based on discussions with the individual
making the report. The individual will be asked, but not required, to initial that summary as a means of verifying the facts.

Upon filing of a sexual harassment complaint, the Complaint Resolution Officer shall: 1) notify the individual accused of conduct violating the university policy on sexual harassment; 2) provide that individual with either a copy of the written complaint or a full and complete written statement of the allegations, and 3) provide copies of the university’s policies and procedures for responding to reports of sexual harassment.

When a student is accused of sexual harassment, regardless of the status of the alleged victim (i.e., another student, a faculty member, etc.), the relevant student disciplinary procedures set forth in this policy shall apply. The individuals involved will be notified that a sexual harassment complaint has been received and will be investigated in accordance with this policy. If a university employee is accused of sexual harassment, his or her supervisor will be notified of the alleged offense. The individuals involved will be notified that a sexual harassment complaint has been received and will be investigated in accordance with this policy. When either a student or employee is accused, depending on the seriousness of the complaint, interim measures, including suspension of the alleged offender from work with pay, if determined to be appropriate, may be taken before the complaint is fully investigated.

4.4 Formal Investigation

Upon the filing of a written complaint and request for investigation by the university or upon direction of the Complaint Resolution Officer, the university will investigate allegations of sexual harassment. The individual(s) conducting an investigation shall be familiar with the university policy on sexual harassment, the legal standards applicable to sexual harassment investigations and the investigative techniques suitable for conducting sexual harassment investigations. In addition, the individual(s) conducting an investigation shall have training or experience conducting sexual harassment investigations.

Investigations will include: 1) a review of relevant documents identified by the investigator; 2) interviews of the complainant and alleged offender; 3) interviews of all relevant witnesses identified by the investigator and the involved parties, and 4) ensure all persons notified maintain confidentiality. Investigations shall be concluded as promptly as possible and in most cases within sixty (60) days after the complaint and request for formal investigation was filed.

Within ten (10) days after completing the investigation, the investigator will prepare a written report that at a minimum includes: 1) a statement of the allegations and issues; 2) the positions of the parties; 3) a summary of the evidence; 4) findings of fact; 5) and a determination by the investigator as to whether university policy has been violated.

No later than five (5) days after the report is completed, the investigator shall submit the report to Complaint Resolution Officer with authority to implement the actions necessary to resolve the complaint.

4.5 Action on Investigative Findings

Within fifteen(15) days after the report of the investigator is received by Complaint Resolution Officer, the Complaint Resolution Officer will inform the complainant and the alleged offender in writing that the investigation has been completed and of the action taken by the university; provided, however, that the complainant shall only be informed in writing of any findings made by the university that university policy was or was not violated and of actions taken by the university to resolve the complaint, if any, that are directly related to the complainant (such as an order that the alleged offender not contact the complainant). The complainant may generally be notified that the matter has been referred for disciplinary action, but shall not be informed of the details of the recommended disciplinary action without the consent of the alleged offender.
Within fifteen (15) days after the report of the investigator is received by Complaint Resolution Officer, the Complaint Resolution Officer will also inform the complainant and the alleged offender that they may request a copy of the final investigative report. However, should the complainant or the alleged offender request a copy of the final investigative report, the report provided by the university shall be redacted to protect the privacy of personal and confidential information regarding all individuals other than the individual requesting the report.

4.6 Appeal Procedure

If the complainant or the alleged offender is not satisfied with the action on the investigative findings, he or she may appeal the case by the provision outlined in this sexual harassment policy. The alleged offender shall be permitted to appeal the actions taken by the university, but shall not be allowed to appeal any factual findings made by the university. The appeal process exists to review the appropriateness of initial decisions. Beyond not liking the original decision or sanction assigned, those appealing should have a defined and clearly articulated rationale. Appeals will be denied if they do not clearly reflect one or more of the following circumstances:

1. A procedural error was prejudicial to the rights of the accused;
2. The sanction is inappropriate; or
3. New information is available which was not available at the time of the investigation, and which would have substantially affected the decision made by the Complainant Resolution Officer.

For Students:

If a student chooses to appeal, the appeal should be submitted electronically by following the link provided in the written notice of the Complainant Resolution Officer. If a student is unable to submit an appeal electronically, he or she may submit a typed letter to the Complainant Resolution Officer. The appeal must be received within ten (10) days of the date on the written notice. Students will have only one opportunity to appeal. Students who do not participate in the investigation forfeit the right to appeal.

Appeals are conducted through: 1) administrative hearing or 2) a board hearing. The appointed Appeals Officer, or his/her designee, reserves the right to determine if an appeal will be presented to the appeals board or remain an administrative appeal. Upon review of the case, the appeals officer or appeals board may:

a. Affirm or modify, either to increase or decrease, the sanction imposed by the Complainant Resolution Officer.

b. In the case of procedural error or new information, direct such information to the investigator.

In all cases, whether adjudication is administrative or board hearing, students are expected to comply with sanctions while an appeal is pending, unless a request for a stay of sanctions (postponement) has been submitted in writing to the Appeal Officer and that request has been granted.

Administrative hearings are most common and are adjudicated by one appeals officer or his/her designee. The appeals officer, or his/her designee, will endeavor to provide the student with a decision within thirty (30) days of the receipt of the filing of the appeal. The decision will be communicated to the student in writing, eagles email account, phone, or combination of these means.

The Appeals Board hearing consists of a represented group of University faculty, staff, and students selected by the Appeals Officer or his/her designee. The Appeals Board holds the right to establish whatever rules and guidelines it deems appropriate for any given hearing, but does not have the authority to interpret or modify University policy or the Concordia Code of Conduct.
For University Employees:

If an employee chooses to appeal, the appeal should be submitted electronically by following the link provided in the written notice of the Complainant Resolution Officer. If an employee is unable to submit an appeal electronically, he or she may submit a typed letter to the Complainant Resolution Officer. The appeal must be received within ten (10) days of the date on the written notice. Employees will have only one opportunity to appeal. Employees who do not participate in the investigation forfeit the right to appeal.

Appeals are conducted through: 1) administrative hearing or 2) a board hearing. The appointed Appeals Officer, or his/her designee, reserves the right to determine if an appeal will be presented to the appeals board or remain an administrative appeal. Upon review of the case, the appeals officer or appeals board may:

a. Affirm or modify, either to increase or decrease, the sanction imposed by the Complainant Resolution Officer.
b. In the case of procedural error or new information, direct such information to the investigator.

In all cases, whether adjudication is administrative or board hearing, employees are expected to comply with sanctions while an appeal is pending, unless a request for a stay of sanctions (postponement) has been submitted in writing to the Appeal Officer and that request has been granted.

Administrative hearings are most common and are adjudicated by one appeals officer or his/her designee. The appeals officer, or his/her designee, will endeavor to provide the employee with a decision within thirty (30) days of the receipt of the filing of the appeal. The decision will be communicated to the employee in writing, via email account, phone, or combination of these means.

The Appeals Board hearing consists of a represented group of University faculty and staff selected by the Appeals Officer or his/her designee. The Appeals Board holds the right to establish whatever rules and guidelines it deems appropriate for any given hearing, but does not have the authority to interpret or modify University policy.

4.7 Recording of Investigative Materials

The Complaint Resolution Officers are responsible for maintaining records relating to sexual harassment reports, investigations and resolutions. Records shall be maintained a minimum of five (5) years after the date the matter is resolved or longer at the discretion of the Complaint Resolution Officer in cases where the parties have a continuing affiliation with the university. If the alleged offender is a university employee, the personnel file of the alleged offender will state that an investigation was made and indicate the final outcome of the investigation. All records pertaining to pending litigation or a request for records shall be maintained in accordance with instructions from legal counsel.

5. ADDITIONAL ENFORCEMENT INFORMATION

The federal Equal Employment Opportunity Commission (EEOC) and the California Department of Fair Employment and Housing (DFEH) also investigate complaints of unlawful harassment in employment. The U.S. Department of Education Office of Civil Rights (OCR) investigates complaints of unlawful harassment of students in educational programs or activities. These agencies may serve as neutral fact finders and attempt to facilitate the voluntary resolution of disputes with the parties. For more information, contact the nearest office of the EEOC, DFEH or OCR listed in the telephone directory.