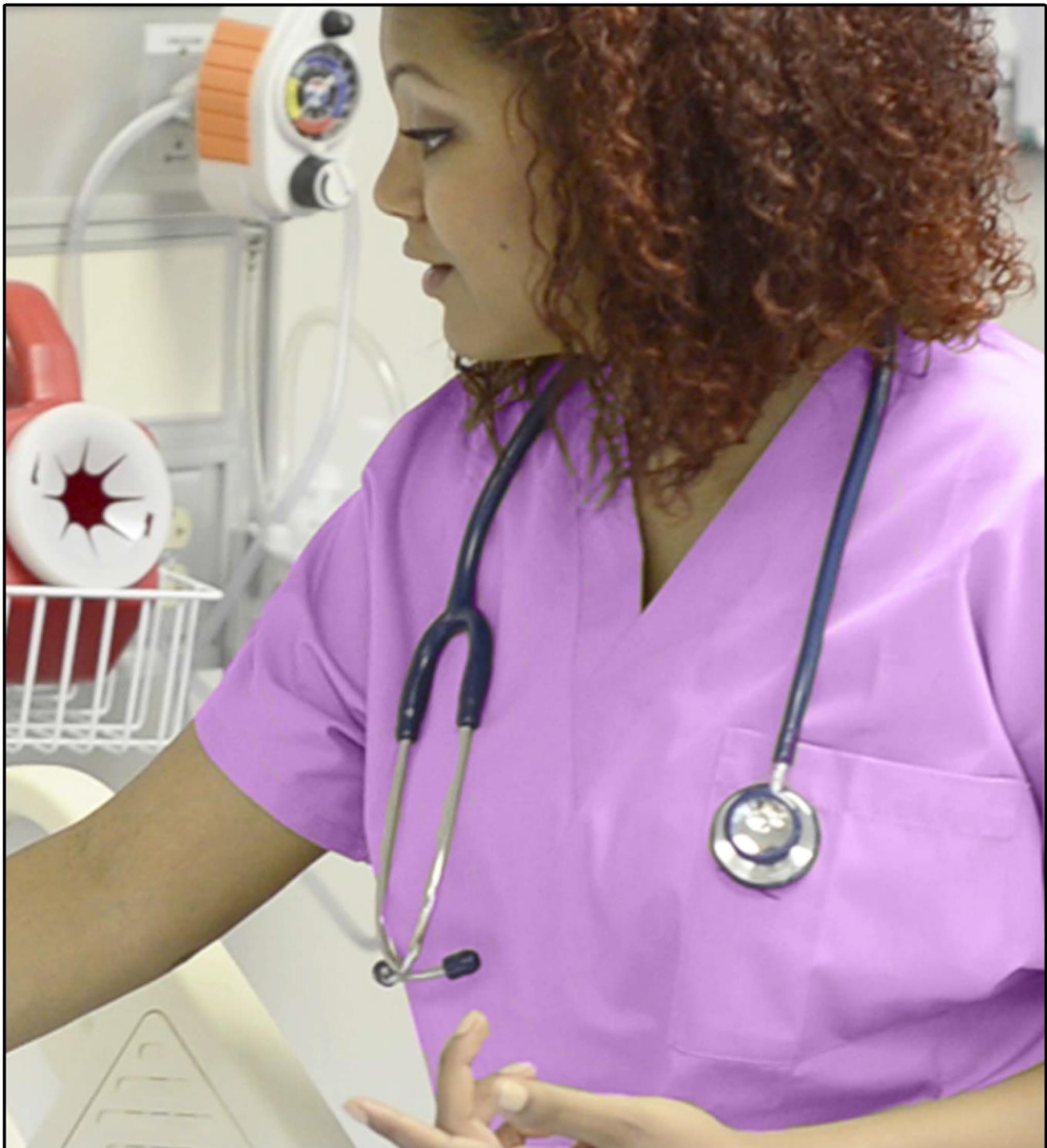




NIGHTINGALE COLLEGE[®]
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ANNUAL SECURITY REPORT



PART I

2016 Annual Campus Security Report

Published October 1, 2017; Updated May 31, 2018

PART II

Title IX Handbook

PART III

DAAPP Policy

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Introduction

The Campus Security Report is presented in accordance with the required reporting under the Clery Act (“The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act,” formerly The Campus Security Act of 1990), as amended, including specifically the Campus Sexual Violence Elimination Act (a 2013 amendment to the Campus Security Act), and the Violence Against Women Reauthorization Act, as amended, and the applicable Higher Education Amendments, including the Higher Education Reauthorization Act of 1998, as amended.

Nightingale College (“the College”) is an accredited, private post-secondary institution of higher learning focused on providing nursing education programs. Currently, the College offers associate and baccalaureate degree nursing programs. Guided by the principles of ***confidence, competence, and compassion***, Nightingale College is committed to creating pathways to personal, educational, and professional success for its learners, alumni, and collaborators; to improving the communities it serves; and to elevating health care.

Facilities

The College **Operations Support Center (OSC)** is located in Salt Lake City, Utah. The OSC serves as the base for the virtual campus operations, from which all education and support services are delivered.

Dedicated Distance Cohort (DDC) nursing skills and simulation labs vary in size but are outfitted with equipment and supplies commensurate with the learner population.

Learner Residency and Course Delivery Modalities

Throughout its publications, the College utilizes several terms designed to describe its course delivery and learner residency modalities, whose definitions are as follows:

Learner Residency Modalities:

Hybrid-Virtual Campus

Refers to learners who are engaged in distance and blended courses and have assigned clinicals in a designated Dedicated Distance Cohort (DDC) geographic area and labs, simulations, and workshops in an approved on-ground separate classroom.

Full-Virtual Campus

Refers to learners who are engaged in distance courses only.

Course Delivery Modalities

Distance

Refers to educational methodologies where there is a separation in space and/or time between learners and faculty.

On-ground

Refers to educational methodologies that do not provide for space nor time separation between learners and faculty. These include labs, simulations, workshops, and clinicals.

Blended

Refers to courses that include both the distance and on-ground educational methodologies.

Crime Awareness and Instructional Sites Security

The College holds that learners, staff, and visitors have the right to be aware of the amount of criminal activity that occurs on its instructional sites in accordance with Title II of the Student Right-to-Know and Campus Security Act of 1990. The College encourages all persons to report criminal activity that occurs on an instructional site to the Director, Internal Control & Audit | Campus Safety Officer or a local Dedicated Distance Cohort (DDC) Area Manager and/or the appropriate law enforcement agency. The College complies with the requirements of the Violence Against Women Act (VAWA).

PART I: ANNUAL SECURITY REPORT

1. REPORTING CRIMES AND OTHER EMERGENCIES

Reporting of Crimes

The College strongly encourages accurate and prompt reporting of information that may raise a safety or security concern, including crimes, threats, emergencies, and public safety related incidents, to the Ogden City Police Department by dialing 911 or (801) 629-8221 or Salt Lake City Police Department at (801) 799-3000. Students (learners), faculty, staff, and guests are encouraged to report all incidents occurring on campus property, off campus involving members of the College community that could have an impact on the College, and any off-campus incident involving College property to any Campus Security Authority (CSA), Title IX Coordinator, Campus Safety Officer, or College's Receptionist in a timely manner.

Who do I contact?

Nightingale College's Title IX Coordinator may be contacted by calling (801) 689-2160. Learners can contact the following campus security authorities (CSAs) for any help regarding Title IX:

- Ashley Thompson (Senior Manager, Learner Support Services)
(801) 689-2160
athompson@nightingale.edu or titleix@nightingale.edu
- Samantha Hanlon (Lead Counselor, Learner Advising and Life Resources)
(801) 633-1918
shanlon@nightingale.edu
- Sylvia Orosco (Front Desk Receptionist)
(801) 689-2160
sorosco@nightingale.edu

- KayDee Wiese (Operations Coordinator, Associate Degree Program)
(801) 689-3871
kwiese@nightingale.edu
- Ashley Thompson (Senior Manager, Learner Support Services)
(801) 689-2160
athompson@nightingale.edu

Designated Campus Security Authorities (CSA)

- Vice President of Operations | Controller
- Director, Internal Audit and Compliance
- Director, Nursing Education Services
- Senior Manager, Learning Support Services | Title IX Coordinator
- Operations Coordinator, Associate Degree in Nursing
- Lead Dedicated Distance Cohort (DDC) Faculty
- Receptionist

More information is posted on the College's website: <https://nightingale.edu/safety-security/>

Emergency Reporting of Crimes

A safe environment is everyone's responsibility. Learners and collaborators are encouraged to report all criminal acts, suspicious activities, or emergencies promptly and have the right to report these matters confidentially. Victims or witnesses to a crime are encouraged to file a report of the incident. Reports can be filed on a voluntary and confidential basis for inclusion in the annual disclosure of crime statistics by contacting the Title IX Coordinator or Director, Internal Audit & Compliance. Reports are kept in a secure location in the Compliance Services office. Names of victims or witnesses are not disclosed in the crime reports. It is the policy of Nightingale College that all criminal acts or other emergencies be properly documented and reported to local authorities as required by law. Learners and collaborators should promptly report all criminal actions and emergencies occurring on or around Nightingale College facilities to the [Title IX Coordinator](#) or [Campus Safety Officer | Director, Internal Audit & Compliance](#), by email, or by calling (801) 689-2160. If the Title IX Coordinator or Director, Internal Audit & Compliance are not available, learners and collaborators may contact the local police department by dialing 911 or calling:

Ogden City Police Department (801) 629-8221;

Salt Lake City Police Department (801) 799-3000;

Pocatello Police Department (208)-234-6100;

Twin Falls Police Department (435) 627-4301;

St. George Police Department (435) 627-4301;

Evanston, Police Department (307) 783-6400;

Laramie, Police Department (307) 783-6400;

Anonymous Reporting of Crimes

The College offers several ways to report criminal activity while preserving privacy. If you are a victim of a crime and do not want to pursue action within the College system, you may still want to consider making a confidential report. With your permission, the title IX coordinator can file a report on the details of the incident without revealing your identity. The purpose of the confidential report is to comply with your wishes to keep the matter confidential, while taking steps to ensure the future safety of yourself and others. With such information, the College can keep an accurate record of the number of incidents involving students or the College community, determine where there is a pattern of crime with regards to a location, method, or assailant, and alert the College community to potential danger. Reports filed in this manner are counted and disclosed in the annual crimes statistics for the institution.

Nightingale College is required to report all criminal activity occurring on campus property, at non-campus facilities, and on public property within, or immediately adjacent to, and accessible from the campus. Witnesses or victims of crimes may confidentially report crimes via the following website: <http://nightingale.edu/safety-security>, by completing [Title IX Report Form](#).

Nightingale College encourages anyone who has experienced or witnessed conduct that may violate [the Title IX policy](#) and wishes to remain anonymous to report it by using [Title IX Anonymous Report Form](#). This information will be used for statistical purposes, to better understand the scope of sexual and interpersonal violence on campus, and to develop and implement prevention efforts. The College will follow up on any identifying information provided. The purpose of this is not to identify who has made an anonymous report but rather to ensure the well-being of those involved.

If you wish to have a Title IX Coordinator contact you about the incident, please use the [TITLE IX REPORT FORM](#) located on the [College's website](#).

Nightingale College will respond to each report in an appropriate manner and consistent with federal and state laws. Prompt reporting will assure timely warning notices on-campus and timely disclosure of crime statistics. All criminal activity is documented by the completion of an Incident Report and is reported to the local police agency and the Campus Safety Office. Criminal activity might include, but is not limited to, murder/non-negligent manslaughter, negligent manslaughter, forcible sex offenses, non-forcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, arson, domestic violence, dating violence, stalking and hate crimes, including crimes perpetrated based on race, gender, religion, sexual orientation, ethnicity/national origin or disability.

In the event of fire or medical emergencies, collaborators should dial 911 and then notify the [Vice President, Operations](#) | Controller, Finance and Operations at (801) 689-3866 or (801) 390-0778.

2. CAMPUS SECURITY

Law Enforcement Authority

Nightingale College does not employ any contracted security companies. All crime occurrences on campus and on public property within or immediately adjacent to and accessible from the campus that is reported to the College's officials, is immediately reported to the appropriate law enforcement agency. All crimes committed by a learner, faculty or staff member can result in immediate dismissal from Nightingale College. The Ogden/Salt Lake City Police Department has primary law enforcement jurisdiction of all property leased, or under the control of the College; therefore, campus security relies on police departments to investigate any serious criminal incidents or situations which occur on any property leased, or under the control of the College. These incidents include violent felony offenses or other situations that may affect the safety of persons on the campus or in the city.

Crimes Involving Student Organizations at Off-Campus Locations

The College does not have any officially recognized student organizations with off-campus locations.

3. SECURITY OF AND ACCESS TO CAMPUS FACILITIES

Security of and Access to Campus Facilities

During business hours, the College is open to learners, parents, faculty, staff, contractors, guests, and invitees. During non-business hours, access to all College facilities is by a controlled access system or issued keys. In case of periods of extended closing, the College will admit only those persons with prior approval.

Residence Halls

Nightingale College does not maintain residential facilities on campuses. In addition, the College does not officially recognize off-campus learner organizations, learner residential living co-ops, or group living housing.

Clinical/Lab Sites

Learners assigned to Clinical Sites are provided with the host site's safety management plan and phone numbers to call in case of emergency or concern.

4. TIMELY WARNING REPORTS

Issuing Timely Warning Reports

The campus safety department issues a timely warning report to the College community after receiving a report of certain types of criminal activity occurring on the College property, or incidents occurring off campus involving members of the College community that appear to pose a serious or continuous threat to learners and/or collaborators. The campus safety officer, in collaboration with the Vice President, Operations | Controller makes the decision to issue a timely warning on a case-by-case basis, after considering all available facts surrounding the College community, whether the crime is considered a serious or continuing threat to learners and/or collaborators, and the possible risk of compromising law enforcement efforts. A timely warning may also be initiated for unusual crime reports occurring off-campus after consultation with the investigating law enforcement agency, depending on the nature and location of each incident, the status of the investigation, and other factors.

Distributing Timely Warning Reports

The campus safety officer will distribute a timely warning using the College's Emergency Notification System (ENS) that includes a campus e-mail, voicemail, and text messaging to collaborator and learner cell phones. This system provides information on crisis or time sensitive events, pertinent information, breaking developments, instructions, and appropriate response measures.

5. EMERGENCY RESPONSE AND EVACUATION PROCEDURES

The College has an [Emergency Response and Evacuation Procedure Plan](#) (Plan) that supports the College's ongoing risk and threat assessment operations, emergency preparedness provisions, and business continuity and recovery plans to provide prompt and effective response for the protection of College learners, faculty, staff, and campus visitors in an emergency. The Plan establishes procedures and an organized structure to guide the College in responding to significant foreseeable emergencies on the College's defined location. It also establishes evacuation procedures for a variety of scenarios. While no plan can absolutely prevent any damage during an emergency, the College has developed this Plan to coordinate the resources, facilities, and personnel of the College, and other external agencies as appropriate, for an effective response to any foreseeable emergency.

For the full [Emergency Response and Evacuation Procedure Plan](#) and [Emergency Response Guide](#) visit College's website: <https://nightingale.edu/safety-security/>.

Emergency Management Authority and Organizational Structure

During an emergency, the College President has ultimate emergency responsibility and authority for activating the Plan and reviewing all strategic decisions. In the absence of the President, responsibility for the College's emergency response will be carried out by the Vice President of Operation | Controller; and thereafter, the Vice President of Partnership and Business Development; and thereafter, the Director of Internal Audit and Compliance; and thereafter, the next most-senior available administrator.

The President has designated the Vice President of Operation | Controller and Director of Internal Audit and Compliance & Campus Safety Officer to oversee the management of all emergency activities, including development and implementation of strategic decisions. The incident commander is the ultimate internal authority for all emergency response efforts involving the College in an emergency. In an emergency, the President and incident commander will undertake an assessment of the situation to confirm that a significant emergency or dangerous situation involving an immediate threat to the health or safety of learners or collaborators is occurring on campus. If they determine there is an emergency, the College will, without delay and considering the safety of the community: 1) determine the content of the notification; 2) determine the appropriate segment or segments of the campus community to receive notification; and 3) initiate the ENS, unless issuing a notification will, in the judgment of the incident commander, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency. The incident commander will utilize the College's emergency communication systems and methods, described below, to notify the campus community of the emergency.

The incident commander will notify the campus safety officer, who serves as the emergency operations center manager during an emergency, that the president has activated the Plan. Together, the incident commander and the campus safety officer will lead a coordinated emergency response effort. The incident commander and the campus safety officer will assemble the emergency management executive team (EMET) and the emergency operations group (EOG). The EMET provides executive leadership, advice, and counsel to the president on high-level emergency management and recovery decisions for the College. The EOG provides tactical response with particular duties and leadership roles based on their areas of expertise. The campus safety officer will oversee the management of the emergency operations center, including development, implementation and review of strategic decisions, and post-event review. The President, in consultation with the incident commander and the campus safety officer, has the sole authority to declare an end to any state of emergency.

Emergency Communication Systems and Methods

The College uses several different systems and methods of communication to alert learners, collaborators, and others of a significant emergency. These include, as appropriate to the type and scope of emergency:

- Brief urgent messages communicated via email, voicemail, and text message using the College's ENS, Text180.
- Information is also posted as follows:
 - College Website (<https://nightingale.edu/>)
 - College Facebook page (<https://www.facebook.com/NightingaleCollegeUtah/>)
 - Social media (<https://twitter.com/NightingaleCCC>)
- Broadcast media: local radio, television, and online media outlets
- Other methods (flyers, building runners, personal emails, and phone calls).

In case of a significant emergency, some or all of these systems will provide information about the nature of the emergency, what to do, and where to get additional details. The College will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the ENS, unless issuing a notification will, in the professional judgement of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency. Emergency updates and further information will be provided by postings to the listed websites, emails, or texts to the College community, and other methods as needed.

Summary of Evacuation Procedures

All members of the College community should become familiar with these recommended evacuation procedures. This includes learning where exits are located in labs, clinicals, and office areas, knowing the location of the assembly area designated for your location, and knowing the off-campus transportation pick-up site. An evacuation may be necessary when conditions are such that it is no longer safe for individuals to remain inside of a single building or area, within a section of lab/clinical area, or anywhere on operation support center, whether due to extensive failure of critical systems or other danger(s). You may be notified of the need to evacuate by the sounding of a fire alarm in the building, a directive from campus security or College facilities personnel, or by an evacuation order communicated through the ENS. However, if you are in a campus building and, despite not having received any order to evacuate, you believe it is not safe for individuals to remain inside the building (due to a fire or hazardous materials leak, for example), pull the nearest fire alarm to alert all those in the building to evacuate, and follow the evacuation procedures below.

1. Building or Area Evacuation

If a fire alarm sounds or you receive an order to evacuate from campus safety office or through the ENS, follow these procedures:

- Stay calm, do not rush, and do not panic.
- If safe to do so, gather your essential personal belongings, including personal identification, purse/wallet, keys, and prescription medications; as it may be hours or days before you are allowed back in the building.
- If safe to do so, close the doors and windows in your immediate area, but do not lock them.
- Proceed to the nearest exit.
- DO NOT use elevators.
- Once outside, move quickly away from the building to the designated evacuation assembly area for your location.
- Report to the appropriate supervisor or instructor and let him/her know that you are safe.
- Report any medical emergencies or individuals remaining in the building to emergency officials, either in person (if emergency officials are present on the scene) or by calling 911.
- Do not reenter the building under any circumstances until it has been cleared for reentry by your supervisor/instructor or through the ENS.
- Await and follow instructions from campus safety, other College personnel, or law enforcement/emergency officials.

Accounting for Individuals following Building/Area Evacuation

It is important to report to your designated assembly area so that the College can attempt to account for all members of the community.

As quickly as possible, depending on the nature and scope of the emergency and the feasibility of meeting at the designated assembly area(s), faculty of classes that were in session, workplace function leaders, or designated building guardians will account for their learners and staff known or presumed to have been in the building/area, and report missing and/or presumed missing individuals to emergency officials. As it is safe to do so, designated individuals will conduct a search of the building/area for any sheltering, entrapped, or injured occupants.

If you leave lab/clinical area after evacuating a building or area without reporting to your designated assembly area, please try to email or call the faculty of your class that was in session at the time of the evacuation, your function leader, or your DDC area manager, as appropriate, to advise them that you are safe and of your location. You may also reply to a message received over the ENS to provide your location and status.

2. DDC Lab or Clinical Site Evacuation

In case of a campus-wide disaster, such as a major earthquake, large hazardous materials release, or widespread fire, the entire facility may need to be evacuated because of extensive failure of critical systems or other dangers. In such cases, the incident commander, in consultation with the EOG and the president (or surrogate/designee), campus safety, and others, depending on the situation, may order an evacuation and, with the coordination of any appropriate external agencies, will determine the scope and method of implementing such an evacuation, as warranted by the situation.

The ENS will alert the campus community on specific evacuation details. However, if an order is given to evacuate the facility or a section of facility, follow these general procedures:

- Individuals should follow the building evacuation procedures set forth above to evacuate the building or area in which they are located. Depending on the nature of the emergency leading to the order to evacuate, the ENS will provide instructions on whether individuals should proceed to their designated assembly location first for an accounting of persons, or take other measures, which may depend on whether they have their own transportation off campus or need transportation.
- Learners should not return to the evacuated building(s) or area(s) to retrieve personal belongings unless advised by DDC area manager/campus safety officer or the ENS that it is safe to do so.
- It may be necessary to implement a phased evacuation, to minimize the time needed to evacuate and manage traffic congestion. The evacuation order and instructions will include specific information regarding the order in which particular campus location or constituents will evacuate, when the evacuation will begin, the logistics and routes to be used, and other relevant information.
- Learners, collaborators, and visitors who have vehicles on or near campus, campus lab, or clinical sites, are encouraged to carpool with others who are without readily available transportation.
- The College will contract with vendors and/or make arrangements with other local or regional transportation organizations to provide buses, vans, or other vehicles to transport learners, faculty, staff and College visitors without their own transportation to safe locations, depending on the nature and scope of the emergency.
- Individuals who do not have their own transportation should report to a designated to pick up area for College-provided transportation.

Accounting for Individuals Following Campus Evacuation

Processes for accounting for learners and collaborators, and to the extent possible, College visitors, will depend on the nature and scope of the emergency, whether individuals have been told to report to designated assembly areas before evacuating College facilities.

If individuals have been told to report to designated assembly areas before evacuating College facilities, faculty of classes that were in session, workplace function leaders, or designated building guardians will try to account for their learners and staff known or presumed to have been in the building/area when the evacuation began, and report missing and/or presumed missing individuals to emergency officials on the scene.

If you leave College facilities after evacuating a building or area without reporting to your designated assembly area, please try to email or call the faculty of your class that was in session at the time of the evacuation, your function leader, or your DDC area manager, as appropriate, to advise them that you are safe and of your location. You may also reply to a message received over the ENS to provide your location and status.

3. Evacuation of Individuals with Disabilities

If you have a disability and are unable to evacuate a building or area on your own, stay calm and take steps to protect yourself, as appropriate. Call 911 and tell the responder where you are or where you will be, and if you have a service animal or other assistive devices or equipment. If you must move:

- Move to an exterior enclosed stairwell.
- Request persons exiting by way of the stairwell to notify emergency officials of your location.
- Follow all other evacuation procedures.

It is suggested that individuals with disabilities prepare for emergencies by learning the locations of exit corridors and enclosed stairwells and by informing co-workers, instructors, and/or classmates of the best methods of assistance during an emergency. These individuals are encouraged to inform College administrators designated to respond to requests for disability accommodations, classmates, co-workers, friends, faculty, and supervisors, of what special assistance they may require to receive effective emergency communications notices; and to respond to emergency situations so that interactive, advance planning can be done to see that such individuals receive emergency communications; and to provide special or additional assistance in an emergency. A few non-exclusive examples of preplanning measures include:

- Learning alternate exit routes from commonly used areas
- Identifying a "buddy" to help
- Keeping extra medication, assistive devices, etc. on hand
- Wearing medical alert tags to inform emergency personnel or volunteers of pertinent health conditions

In an emergency, all members of the College community should help those around them who may need additional assistance, whether by virtue of a disability, impairment, or otherwise. Members of the College community should report to College personnel or emergency responders the condition and location of any person unable to leave a building or area being evacuated.

Testing the Emergency Response and Evacuation Procedures

The College tests its emergency response and evacuation procedures at least annually during the Great Shake Out earthquake drill. Other drills are conducted throughout the academic year with tests that may be announced or unannounced. The campus safety office maintains documentation for each test, a description of the exercise, the date and time of the test, and whether the test was announced or unannounced.

<h2>6. PREVENTING AND RESPONDING TO SEXUAL ASSAULT, STALKING, DATING, AND DOMESTIC VIOLENCE</h2>

The College is committed to providing a safe and non-discriminatory learning and working environment for all members of the College community. The College prohibits sexual misconduct and related relationship violence offenses constituting crimes under Utah and/or federal law; specifically including dating violence, domestic violence, sexual assault, and stalking, as they are defined for purposes of the Clery Act, as well as sexual misconduct prohibited under the College's Policy on Sexual Assault, Sexual and Gender-Based Harassment; Gender-Based Discrimination; and Interpersonal Violence ([Title IX Policy-Handbook](#)).

The College has adopted this policy with a commitment to: 1) eliminating, preventing, and addressing the effects of prohibited conduct; 2) fostering the College's community of trust, in which prohibited conduct is not tolerated; 3) cultivating a climate where all individuals are well-informed and supported in reporting prohibited conduct; 4) providing a fair and impartial process for all parties; and 5) identifying the standards by which violations of this policy will be evaluated and disciplinary action may be imposed.

Learners or collaborators who violate this policy may face disciplinary action up to and including expulsion or termination; and third parties who violate this policy may have their contractual or campus access rights terminated. The College will take prompt and equitable action to eliminate prohibited conduct, prevent its recurrence, and remedy its effects. The College conducts ongoing prevention, awareness, and training programs for learners and collaborators to facilitate the goals of this policy.

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

Definitions

1. Dating Violence

For purposes of the Clery Act, dating violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Any act of physical violence or threatened act of physical violence that occurs between individuals who are involved or have been involved in an intimate or romantic relationship. For the purpose of this definition:

- 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.

2. Domestic Violence

For purposes of the Clery Act, domestic violence is defined as a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim; by a person with whom the victim 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 jurisdiction in which the crime of violence occurred; by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred. For more information on the crime of domestic violence in Utah see Utah Code Ann. 77-36-1. (2017).

3. Sexual Assault

Sexual assault (in Utah referred to as sexual battery) is actual or attempted sexual or intimate contact with another person without their consent, or when they are incapable of giving consent. For purposes of the Clery Act, sexual assault is defined as an offense that meets the definitions of rape, fondling, incest, or statutory rape as used in the FBI's UCR program and included in Appendix A of 34 CFR Part 668.

Sexual or intimate contact is intentionally touching another person's intimate parts (breasts, buttocks, groin, or genitals, whether clothed or unclothed) without that person's consent; coercing, forcing, or attempting to coerce or force a person to touch their own or another person's intimate parts without the consent of the person who is being coerced or forced to act; rape, which is defined as penetration, no matter how slight, of 1) the vagina or anus of a person by any body part of another person, or by an object; or 2) the mouth of a person by any sex organ of another person, without that person's consent; 3) sexual activity with a minor under 18 years of age where the sexual partner is more than three years older and entices or coerces participation in sexual activity. Additional guidance on sexual assault in Utah can be found in, Utah Code Ann. 76-9-702.1 (2015).

Consent is present when clearly understandable words or actions manifest a knowing, voluntary agreement between parties to engage in specific sexual or intimate contact with each other. When determining whether consent was present, the College will consider whether a reasonable, sober person would consider the words or actions of the parties to clearly express a knowing, voluntary agreement between them to engage in specific sexual or intimate contact with each other. Consent may never be given by persons who are incapacitated (whether as a result of drugs, alcohol, prescription medications, or lack of sleep), unconscious, asleep, or otherwise physically helpless, or mentally or physically unable to make informed, rational judgments; persons under 18 years of age where the sexual partner is more than three years older and entices or coerces participation in sexual activity; or persons with certain mental disabilities, if their disability was reasonably knowable to a sexual partner. Additional guidance on consent in Utah can be found in, Utah Code Ann. 76-5-406 (2015).

4. Stalking

For purposes of the Clery Act, stalking is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress. Course of conduct means two or more acts, including acts in which a person directly, indirectly, or through third parties; by any action, method, device, or means; follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person's property. Substantial emotional distress means significant mental suffering or anguish. Stalking includes "cyber-stalking," a form of stalking in which a person uses

electronic media, such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact. For more information on the crime of stalking in Utah see 76-5-106.5 (2017).

Reporting an Incident

The College encourages all learners and collaborators to immediately report incidents of sexual misconduct. There are multiple channels for reporting prohibited conduct. A reporting party may choose to report to the College, to law enforcement, to both, or to neither. Reporting parties may simultaneously pursue criminal actions through law enforcement and investigations through the College's procedures. The College will support reporting parties in understanding, assessing, and pursuing these options.

1. Reporting to Law Enforcement

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

911 (for emergencies)

Ogden City Police Department (801) 629-8221;
Salt Lake City Police Department (801) 799-3000;
Pocatello Police Department (208)-234-6100;
Twin Falls Police Department (435) 627-4301;
St. George Police Department (435) 627-4301;
Evanston, Police Department (307) 783-6400;
Laramie, Police Department (307) 783-6400;

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

2. Reporting to the College

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

- Contact the College's Title IX coordinator by telephone, email, or via Skype/WebEx meetings.
- Submit a report online at <https://nightingale.edu/safety-security/> using ([Title IX Report Form](#)) A report may be made anonymously ([Title IX Anonymous Report Form](#)). However, if any information identifying the reporting party or respondent is given, the report will no longer be considered anonymous and the College will proceed accordingly;

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

3. No Discipline for Drug and Alcohol Violations

To encourage the reporting of prohibited conduct, the College will not pursue disciplinary action for disclosure of illegal personal consumption of drugs or alcohol where such disclosures are made in connection with a good faith report or investigation of prohibited conduct.

Requests for Anonymity or That No Investigation or Discipline Be Pursued

If a party reports prohibited conduct to the College but requests anonymity or that no investigation into a particular incident be conducted or disciplinary action pursued, the College must weigh the reporting party's request against the College's obligation to provide a safe, non-discriminatory environment for all members of the campus community, including the reporting party. If the College honors the request, a reporting party must understand that the College's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be limited. Although rare, there are times when the College may not be able to honor a reporting party's request for anonymity or that no investigation or discipline be pursued in order to provide a safe, non-discriminatory environment for all

members of the campus community. The College has designated the Title IX coordinator to evaluate such requests according to Title IX procedures.

Procedures Victims Should Follow

If you are raped or sexually assaulted, or are the victim of any other domestic/dating violence or stalking, please follow these steps (as applicable):

- Get to a safe place as soon as you can.
- Try to preserve all physical evidence. Don't wash or change clothes if you can avoid it. If you do change clothes, put all of the clothing that you were wearing at the time of the attack in a paper (not plastic) bag.
- Get medical attention as soon as possible to make sure you are physically well, and to collect important evidence in the event you may wish to later take legal action. Note: You do not have to answer any questions from the police, or otherwise cooperate in any criminal investigation, as a condition for receiving a forensic medical exam.
- Contact someone you trust to be with you and support you.
- Talk with a counselor who will maintain confidentiality, help explain your options, and provide information and emotional support.
- Consider notifying local law enforcement.

It is your choice whether to report to law enforcement and whether to pursue criminal charges.

Preservation of Evidence

The College recognizes that making the decision to report prohibited conduct may take time. Nevertheless, pending the decision to report, all individuals are strongly encouraged to take immediate steps to preserve all evidence that might support a future report of prohibited conduct, a protective order; or an investigation by the police, the College, or both. Such evidence may include the following:

- A forensic sexual assault examination (within 72 hours)
- Any clothing, sheets, or other materials (items containing bodily fluids should be stored in cardboard boxes or paper bags)
- Electronic exchanges (e.g., text messages, emails; and Facebook, Instagram, Snapchat, or other social media posts, to the extent that they can be captured or preserved)

- Photographs (including photographs stored on smartphones and other devices)
- Voice mail messages and other physical, documentary and/ or electronic data that might be helpful or relevant in an investigation

Confidential Resources

Learners and collaborators are urged to seek immediate emotional support after any incident of prohibited conduct. There are several confidential sources and “hotlines” for crisis counseling, both at the College and in the local community. Confidential counselors can provide trauma-informed support and offer information about reporting options.

The following resources are available for learners and collaborators seeking confidential, trauma- informed counseling and support:

CONFIDENTIAL RESOURCES		
Resource	Telephone Number	Notes
Rape Recovery Center	801.467.7273	2035 South 1300 East
State-wide crisis line	888.421.1100	24-hour crisis line
National Sexual Assault Hotline	800.656.4673	24-hour hotline
Family Justice Center (YWCA)	801.537.8600	24-hour crisis line 310 East 300 South, Second Floor Salt Lake City, UT 84111
Higher Ed (EAP) Program	800.252-4555	Employee Assistance Program

The following resources are not confidential, meaning that any reports of prohibited conduct to them must be shared with the Title IX coordinator. However, they are available to aid and support to reporting parties, complainants, and respondents.

NON-CONFIDENTIAL RESOURCES (Students Only)		
Resource	Telephone Number	Address
Learner Advising & Life Resources	801.689-2160	athompson@nightingale.edu
Learner Advising & Life Resources	801.633-1918	shanlon@nightingale.edu
Learner Advising & Life Resources	801.689-2160	KKnox@nightingale.edu

7. SUPPORTIVE, INTERIM, REMEDIAL, AND PROTECTIVE MEASURES

Availability of Remedial and Protective Measures

The College offers a wide range of appropriate measures to provide support and guidance to learners and collaborators throughout the initiation, investigation, and resolution of a report of prohibited conduct. The College also offers reasonable measures to protect reporting parties, complainants, and respondents and to facilitate their continued access to education programs and activities. The College will maintain as confidential any accommodations or protective measures provided to the victim to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures.

The Title IX coordinator will determine whether to impose any remedial measures for the protection or well-being of either party, including the extension of any interim measures in place during the investigation. The specific circumstances of each case will determine the availability of remedial and protective measures. The Title IX coordinator will consider several factors in determining which measures to take, including the needs of the learner seeking remedial and/or protective measures; the severity or pervasiveness of the alleged prohibited conduct; any continuing effects on the complainant; whether the complainant and the respondent share the same academic course(s) or job; and whether other judicial measures are in place (e.g., protective orders). Protective and remedial measures may be temporary or permanent and may be modified by the College as circumstances change.

Examples of Supportive, Interim, Remedial, and Protective Measures

Available measures include supportive measures (before an investigation has been initiated), interim measures (during an investigation), remedial measures (after an investigation finding has been issued), and protective measures (those designed to protect someone from harm). These measures include the following:

- No contact orders limiting or preventing communication.
- Limiting access to facilities, activities, or programs.
- No trespass orders.
- Academic schedule changes.

- Alternate course completion options.
- Arranging for incompletes or withdrawal from a course or from campus without penalty.
- Leaves of absence.
- Changing work schedules, job assignments, or work locations.
- Administrative leave.
- Referrals to counseling services and other health providers on and off campus.
- Referrals to community and national organizations and resources.
- Rescheduling an exam or extending assignment deadline.
- Access to academic supports, such as tutoring.
- Preserving eligibility for academic or other scholarships, and financial aid.

Notification of Rights Regarding Remedial and Protective Measures

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

Protective Orders

Where prohibited conduct is reported, it may be possible to obtain a court-ordered emergency or preliminary protective order. These protective orders may be issued if the judge or magistrate believes that there is an immediate threat to health or safety. Later, after a full hearing, the court may agree to issue a permanent protective order, in appropriate cases. “Protective orders” are separate and distinct from “no-contact directives” (described above). Protective orders may be obtained only from a court of law and are enforceable anywhere in the United States; their violation may result in criminal charges. In contrast, the Title IX coordinator arranges no-contact directives which are enforceable through the College. Learners or collaborators may speak with the College’s Vice President, Operations who can explain the process for seeking a protective order and can escort a learner or collaborator to the appropriate office to initiate petition seeking a protective order.

8. VICTIM CONFIDENTIALITY AND COLLEGE DUTY TO REPORT

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

Privacy and Confidentiality

Privacy and confidentiality have distinct meanings under this policy.

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

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

Confidentiality: Confidentiality means that information shared by an individual with designated campus or community professionals cannot be revealed to any other person without the express permission of the individual. Non-identifying, aggregate data may be shared for statistical purposes consistent with the Clery Act.

Responsibility to Report Prohibited Conduct

1. Collaborator Responsibility to Report Disclosures of Prohibited Conduct:

A **responsible employee (Campus Security Authority-CSA)** is required to report to the College's Title IX coordinator all relevant details obtained directly or indirectly about an incident of prohibited conduct that involves any learner or collaborator as a reporting party, complainant, respondent, or witness; including dates, times, locations, and names of parties and witnesses.

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

College Responsibility for Clery Act Reporting: Pursuant to the Clery Act, the College includes statistics about certain offenses in its annual security report and provides those statistics to the United States Department of Education in a manner that does not include any personally identifying information about individuals involved in an incident. The Clery Act also requires the College to issue timely warnings to the College community about certain crimes that have been reported and may continue to pose a serious or continuing threat to learners and collaborators. Consistent with the Clery Act, the College withholds the names and other personally identifying information of complainants when issuing timely warnings or emergency notifications to the College community. The College will also maintain as confidential any accommodations or protective measures provided to the complainant, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures.

9. PROCEDURES FOR INVESTIGATING AND RESOLVING REPORTS AGAINST STUDENTS AND EMPLOYEES; SANCTIONS

Procedures for Investigating and Resolving Reports against Learners and Collaborators

There are College procedures available to all learners and collaborators reporting instances of sexual misconduct, as specified and incorporated in the College's [Title IX policy](#), which are incorporated into this report. The policy and the procedures are designed to provide prompt, fair, and impartial investigation and resolution processes; and will be conducted by individuals who have received annual training on the issues related to sexual misconduct cases (including domestic violence, dating violence, sexual assault, and stalking) and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability. The procedures also address interim measures that can include, but not be limited to, changes in academic and working situations and no-contact directives.

The College's [Title IX policy and related procedures](#) outline the steps for conducting investigations, charges, hearings, and notification of both the complainant and the respondent throughout the process, as well as the range of potential sanctions for sexual misconduct. The respondent and the complainant involved in alleged sexual misconduct cases are entitled to be accompanied to disciplinary proceedings by an advisor of choice specified under the above-referenced procedures. The parties are also entitled to prompt notification of the outcome of these proceedings as specified in the procedures, including simultaneous written notice of the decision, the appeal process, any change to the decision, and when the decision becomes final. The College uses a preponderance of evidence standard during any College disciplinary proceeding arising from an allegation of dating violence, domestic violence, sexual assault, or stalking. "Preponderance of the evidence" means that it is more likely than not that a policy violation occurred.

Sanctions

The College may impose sanctions, detailed in the [Title IX Policy](#) and related procedures, ranging from a warning to dismissal from the College for individuals found to be responsible for dating violence, domestic violence, sexual assault, or stalking in violation of the policy.

Following are the sanctions which may be imposed on learner respondents:

DISCIPLINARY SANCTIONS FOR LEARNERS	
Verbal warning	No trespass order issued by Police Department
Written warning	No contact order
Advisory letter	Loss of privileges
Monitoring	Degree revocation
Required training or education	Withholding diploma
Probation	Expulsion
Transcript notation regarding non-academic suspension/expulsion	Revocation of admissions offer
Disciplinary suspension	Community service
Campus property access restrictions	

Sanctions for collaborator respondents are:

DISCIPLINARY SANCTIONS FOR COLLABORATORS	
Staff	Faculty
Verbal warning	Verbal warning
Written warning	Written warning
Required training or education	Required training or education
Transfer or demotion	Suspension with pay
Revocation of employment offer	Suspension without pay
Suspension with pay	Termination of contract
Suspension without pay	
Termination of contract	
Termination of employment	

10. SEX OFFENDER REGISTRATION – CAMPUS SEX CRIMES PREVENTION ACT

In accordance with the Campus Sex Crimes Prevention Act, law enforcement agency information concerning registered sex offenders may be obtained from the State of Utah at corrections.utah.gov.

11. CAMPUS SECURITY POLICIES, CRIME PREVENTION, AND SAFETY AWARENESS PROGRAMS

The College expects all members of the College community to assume responsibility for their own personal safety and the security of their personal property. In addition, the College has established a number of policies and procedures related to ensuring a reasonably safe College community.

Responsibilities of College Community

Members of the College community must assume responsibility for their own personal safety and the security of others. The following precautions should be used for guidance.

- Report all suspicious persons or activity to campus security authority immediately.
- Never take your personal safety for granted: remain alert and attentive to your surroundings for potential danger.
- Avoid walking alone at night; always walk with a companion.
- Tell a roommate or friend who you will be with, where you are going, and when you expect to return.
- Limit your alcohol consumption and do not use illegal drugs so as not to dull your senses and make you more vulnerable to becoming a victim.
- Carry only small amounts of cash.
- Never leave valuables (wallets, purses, books, computers, etc.) unattended.
- Lock up your bicycles. Lock your car doors and close the windows when leaving your car.
- Never leave valuables in your vehicle, especially if they are easily noticeable.

Threat Assessment Team

To extend our efforts on emergency preparedness and prevention, the College has established a Campus Safety Committee. The College's safety committee team is an active group of College staff who provide resources helpful to administrators, faculty, and staff dealing with threatening or disruptive individuals. Members of the group represent Campus Safety and Compliance Department, Department of the Nursing Education, Campus Counseling Office, Office of People Service and Office of Operations.

Weapons Policy

The possession, use, or display of firearms or any other dangerous weapons, including, but not limited to, switchblades, large knives, butterfly knives, hatchets, axes, swords, explosives, chemicals, stun guns, BB guns, or ammunition for weapons, is strictly prohibited on campus operations properties or while conducting College business off campus. The possession, storage, display, or use of any hazardous chemical, explosive, or incendiary device (including firecrackers or fireworks) is also prohibited.

Each member of the campus community has the responsibility and duty to immediately report any knowledge they may have regarding the possession, use, or display of weapons or ammunition on campus related properties. Failure to abide by this policy may result in disciplinary action.

Violence on Campus Related Properties

The College is committed to providing a safe environment that will be orderly, civil, and stable for all members of the campus community. Accordingly, violent or harassing behavior of any kind and at any level will not be tolerated. Such behavior includes, but is not limited to, threatening or intimidating words or gestures, throwing or directing objects at or near others, refusal to follow the instructions of campus authorities. Each member of the campus community has the responsibility and duty to immediately report any violent or threatening behavior. Failure to follow this policy is grounds for immediate suspension and/or expulsion.

Educational Resources

Manager, Learner, Career, and Alumni Services, in cooperation with the Learner Advising and Life Resources department, the campus safety office, and the title IX coordinator, provide learner drug and alcohol prevention programs, sexual misconduct awareness/prevention and reporting/resources programs, general crime prevention programs, and emergency evacuation and safety programs, beginning with first-year orientation and continuing throughout each academic year.

- All new learners are required to complete a Title IX online training during the orientation.
- Learners and collaborators are informed about campus security procedures, general crime prevention programs, and emergency evacuation and safety programs, and are encouraged to be responsible for their own security and the security of others.

All College faculty and staff receive in person training on the College's policies, procedures, and resources for sexual assault, domestic/dating violence and stalking during the faculty development workshops and Flame! Forward! collaborator workshops.

- All collaborators receive in person training on the College's policies, procedures and resources for sexual assault, domestic/dating violence, and stalking during the new collaborator orientation workshops.

12. POLICIES GOVERNING USE OF ILLEGAL DRUGS AND ALCOHOL

In accordance with the Drug-Free Workplace Act of 1988 and the Drug-Free Schools and Communities Act of 1989, while on College property and while conducting College-related activities off College premises or as part of College activities learners and collaborators are prohibited from the unlawful possession, use, or distribution of illicit drugs or alcohol. Possession of paraphernalia (including, but not limited to, hookahs and bong) associated with the use, possession, or manufacture of a controlled or illegal substance is also prohibited.

All learners are expected to abide by applicable federal, state, and local laws. In Utah, you must be at least 21 years of age to purchase, possess, or be provided with any alcoholic beverage. The College will report individuals found responsible for the unlawful possession, use, or distribution of illicit drugs or alcohol to local law enforcement authorities.

The College has a comprehensive Drug and Alcohol Abuse Prevention Program (DAAPP) that is available to all members of the College community. A copy of the College's DAAPP is found at: <https://nightingale.edu/safety-security/>.

The College distributes annually to students and employees information on DAAPP including the standards of conduct prohibiting the unlawful use of illicit drugs and alcohol, legal sanctions for the unlawful use of illicit drugs and alcohol, health risks associated with the use of illicit drugs and the abuse of alcohol, availability of drug and alcohol programs such as prevention, counseling, treatment, rehabilitation and re-entry to the academic environment or workforce, and disciplinary sanctions including law enforcement referral. The College also conducts a biennial review of the DAAPP to determine the effectiveness of the program and to ensure that the College is enforcing disciplinary sanctions for violating standards of conduct consistently.

13. DISCLOSURE OF CRIME STATISTICS

Preparing the Annual Disclosure of Crime Statistics

The Clery Act requires that colleges and universities collect and report statistics for certain offenses to provide transparency around campus crime policy and statistics. The campus safety officer is responsible for collecting and reporting Clery crime statistics for the College. The Director, Internal Audit and Compliance/Campus Safety will: 1) make a reasonable, good-faith effort to obtain statistics from local law enforcement for Clery crimes that occurred on or within the College's Clery geography; and 2) include statistics for Clery crimes that occurred on or within the College's Clery geography that are reported by Campus Security Authorities.

Campus Security Authorities are individuals who are required for collecting statistical information for making timely warning reports and the annual statistical disclosure. The College has designated the following individuals as CSAs:

Designated Campus Security Authorities (CSA)

- Vice President of Operations | Controller
- Director, Internal Audit & Compliance
- Director, Nursing Education Services
- Senior Manager, Learner Support Services | Title IX Coordinator
- Lead Counselor, Learner Advising & Life Resources
- Operations Coordinator, Associate Degree in Nursing
- Lead Dedicated Distance Cohort (DDC) Faculty
- Receptionist

Definitions of Reportable Crimes

Aggravated Assault – An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault when a gun, knife or other weapon is used, which could and probably would result in serious personal injury if the crime were successfully completed.)

Arson – Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

Burglary – The unlawful entry of a structure to commit a felony or a theft; for reporting purposes this definition includes unlawful entry with intent to commit a larceny or felony, breaking and entering with intent to commit a larceny, housebreaking, safecracking, and all attempts to commit any of the aforementioned.

Criminal Homicide – Manslaughter by Negligence—the killing of another person through gross negligence.

Criminal Homicide – Murder and Non-Negligent Manslaughter— the willful (non-negligent) killing of one human being by another.

Dating Violence – Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and 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. It does not include acts covered under the definition of domestic violence.

Destruction/Damage/Vandalism of Property – To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

Domestic Violence – A felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Drug Abuse Violations – The violation of laws prohibiting the production, distribution and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use; includes the unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation, or importation of any controlled drug or narcotic substance. These statistics include arrests for violations of state and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing and making of narcotic drugs.

Hate crime – A crime reported to local police agencies or to a Campus Security Authority that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim. For the purposes of this section, the categories of bias include the victim's actual or perceived race, religion, gender, gender identity, sexual orientation, ethnicity, national origin, and disability. The crimes of:

Larceny-Theft, Sexual Assault, Intimidation, or Destruction/Damage/Vandalism of Property are also reported under Clery Act requirements if it is determined the victim was intentionally selected because of the perpetrator's bias against the victim.

The following are descriptions of the hate crime categories of bias.

- A. Race – A preformed negative attitude toward a group of persons who possess common physical characteristics, e.g., color of skin, eyes, and/or hair; facial features, etc., genetically transmitted by descent and heredity which distinguish them as a distinct division of humankind, e.g., Asians, blacks or African Americans, whites.
- B. Religion – A preformed negative opinion or attitude toward a group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being, e.g., Catholics, Jews, Protestants, atheists.
- C. Sexual Orientation – A preformed negative opinion or attitude toward a group of persons based on their actual or perceived sexual orientation. Sexual Orientation is the term for a person's physical, romantic and/or emotional attraction to members of the same and/or opposite sex, including lesbian, gay, bisexual, and heterosexual (straight) individuals.
- D. Gender – A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender, e.g., male or female.
- E. Gender Identity – A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender identity, e.g., bias against transgender or gender non-conforming individuals.
- F. Ethnicity – A preformed negative opinion or attitude toward a group of people whose members identify with each other, through a common heritage, often consisting of a common language, common culture (often including a shared religion) and/or ideology that stresses common ancestry.
- G. National Origin – A preformed negative opinion or attitude toward a group of people based on their actual or perceived country of birth.
- H. Disability – A preformed negative opinion or attitude toward a group of persons based on their physical or mental impairments, whether such disability is temporary or permanent, congenital or acquired by heredity, accident, injury, advanced age, or illness.

Intimidation – To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

Larceny-Theft (Except Motor Vehicle Theft) – The unlawful taking, carrying, leading or riding away of property from the possession or constructive possession of another, including attempted larcenies. Embezzlement, confidence games, forgery, worthless checks, etc., are excluded.

Liquor Law Violations – The violation of state or local laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession or use of alcoholic beverages, not including driving under the influence and drunkenness.

Motor Vehicle Theft – The theft or attempted theft of a motor vehicle. (This includes all cases where automobiles are taken by persons not having lawful access, even if the vehicles are later abandoned – including joyriding.)

Referred for Campus Disciplinary Action (Liquor Laws, Drugs, and Weapons Violations) – The referral of any person to any campus official who initiates a disciplinary action of which a record is kept, and which may result in the imposition of a sanction.

Robbery – The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence, and/or by putting the victim in fear.

Sexual Assault – Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

- A. Rape – The 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 victim.
- B. Fondling – The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age, or because of his/her temporary or permanent mental incapacity.
- C. Incest – Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- D. Statutory Rape – Non-forcible sexual intercourse with a person who is under the statutory age of consent.

Simple Assault – An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.

Stalking – Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others, or to suffer substantial emotional distress. For the purpose of this definition “course of conduct” means two or more acts, including, but not limited to, acts in which the stalker 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. “Substantial emotional distress” means significant mental suffering or

anguish that may, but does not necessarily, require medical or other professional treatment or counseling. “Reasonable person” means a reasonable person under similar circumstances and with similar identities to the victim.

Weapons: Carrying, Possessing, etc. – The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons.

Crime Statistics

The below listed reports on crime statistics reflect the offenses and arrests reported to Campus Security Authorities, and Ogden City Police Department for crimes occurring within the College’s Clery geography. The statistics are compiled in accordance with the definitions used in the Uniform Crime Reporting System of the Department of Justice, and the Federal Bureau of Investigations, as modified by the Hate Crime Statistics Act.

The statistics reported here generally reflect the number of criminal incidents reported to the various authorities. The statistics reported for the subcategories on liquor laws, drug laws and weapons offenses represent the number of people arrested or referred to campus judicial authorities for respective violations, not the number of offenses documented. Because all crimes may not have been reported to the local law enforcement agency or the Campus Security Authorities of the College, these statistics may or may not represent the actual crime rates on campus.

15. 2016 CRIME STATISTICS REPORT

The data included in the 2016 Crime Statistics Report includes reported violations for the periods January 1 – December 31, 2016; January 1 – December 31, 2015; and January 1 –December 31, 2014. Nightingale College was located at 4155 Harrison Blvd. Suite 100, Ogden, UT 84403 during this reporting period.

2016 CRIME STATISTICS REPORT

Offenses	Year	Campus Property	Residential Facilities	Non-Campus Properties	Public Property
Aggravated Assault	2016	0	N/A	N/A	0
	2015	0	N/A	N/A	0
	2014	0	N/A	N/A	0
Arson	2016	0	N/A	N/A	0
	2015	0	N/A	N/A	0
	2014	0	N/A	N/A	0
Burglary	2016	0	N/A	N/A	0
	2015	0	N/A	N/A	0
	2014	0	N/A	N/A	0
Dating Violence	2016	0	N/A	N/A	0
	2015	0	N/A	N/A	0
	2014	0	N/A	N/A	0
Domestic Violence	2016	0	N/A	N/A	0
	2015	0	N/A	N/A	0
	2014	0	N/A	N/A	0
Drug Law Arrests	2016	0	N/A	N/A	0
	2015	0	N/A	N/A	0
	2014	0	N/A	N/A	0
Drug Law Violations Referred	2016	0	N/A	N/A	0
	2015	0	N/A	N/A	0
	2014	0	N/A	N/A	0
Hate Crimes					
Race/Intimidation	2016	0	N/A	N/A	0

	2015	0	N/A	N/A	0
	2014	0	N/A	N/A	0
Religion/Property	2016	0	N/A	N/A	0
	2015	0	N/A	N/A	0
	2014	0	N/A	N/A	0
Illegal Weapons Arres	2016	0	N/A	N/A	0
	2015	0	N/A	N/A	0
	2014	0	N/A	N/A	0
Illegal Weapons Referred	2016	0	N/A	N/A	0
	2015	0	N/A	N/A	0
	2014	0	N/A	N/A	0
Liquor Law Arrests	2016	0	N/A	N/A	0
	2015	0	N/A	N/A	0
	2014	0	N/A	N/A	0
Liquor Law Violations Referred	2016	0	N/A	N/A	0
	2015	0	N/A	N/A	0
	2014	0	N/A	N/A	0
Motor Vehicle Thefts	2016	0	N/A	N/A	0
	2015	0	N/A	N/A	0
	2014	0	N/A	N/A	2
Murder/ Non-Negligent Manslaughter	2016	0	N/A	N/A	0
	2015	0	N/A	N/A	0
	2014	0	N/A	N/A	0
Negligent Manslaughter	2016	0	N/A	N/A	0
	2015	0	N/A	N/A	0
	2014	0	N/A	N/A	0
Robbery	2016	0	N/A	N/A	0
	2015	0	N/A	N/A	0
	2014	0	N/A	N/A	0

Sex Offenses Non-Forcible	2016	0	N/A	N/A	0
	2015	0	N/A	N/A	0
	2014	0	N/A	N/A	0
Sex Offenses Forcible					
Rape	2016	0	N/A	N/A	0
	2015	0	N/A	N/A	0
	2014	0	N/A	N/A	0
Foundling	2016	0	N/A	N/A	0
	2015	0	N/A	N/A	0
	2014	0	N/A	N/A	0
Incest	2016	0	N/A	N/A	0
	2015	0	N/A	N/A	0
	2014	0	N/A	N/A	0
Statutory	2016	0	N/A	N/A	0
	2015	0	N/A	N/A	0
	2014	0	N/A	N/A	0
Stalking	2016	0	N/A	N/A	0
	2015	0	N/A	N/A	0
	2014	0	N/A	N/A	0

Hate Crime Definitions

Hate Crimes: A criminal offense committed against a person or property which is motivated, in whole or part, by the offender's bias. Bias is a preformed negative opinion or attitude toward a group of persons based on their race, gender, gender identity, religion, disability, sexual orientation or ethnicity/national origin.

Unfounded Crimes: An institution may withhold, or subsequently remove, a reported crime from its crime statistics in the rare situations where sworn or commissioned law enforcement personnel have fully investigated the reported crime and, based on the results of this full investigation and evidence, have made a formal determination that the crime report is false or baseless and therefore "unfounded." Only sworn or commissioned law enforcement personnel may "unfound" a crime report for purposes of reporting under this section. The recovery of stolen property, the low value of stolen property, the refusal of the victim to cooperate with the prosecution and the failure to make an arrest do not "unfound" a crime report.

Hate Crime Reporting

2016: No hate crimes reported.

2015: No hate crimes reported.

2014: No hate crimes reported.

Unfounded Crime Reporting

2016: No unfounded crimes reported.

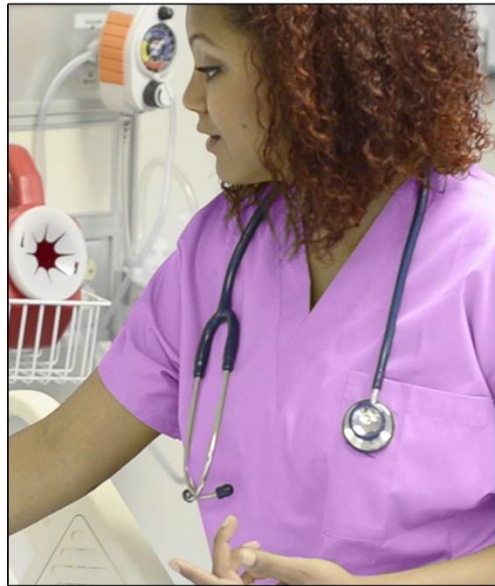
2015: No unfounded crimes reported.

2014: No unfounded crimes reported.



NIGHTINGALE COLLEGE®
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TITLE IX HANDBOOK



MARCH 15, 2018

NIGHTINGALE COLLEGE

OPERATIONS SUPPORT CENTER 175 S MAIN ST. SUITE 400; SALT LAKE CITY, UT 84111



Title IX Policy

POLICY TITLE	Policy on Sexual Assault, Sexual and Gender-Based Harassment, Gender-Based Discrimination, and Interpersonal Violence (Title IX Policy)
Effective Date	March 12, 2018

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1. STATEMENT OF POLICY

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

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

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

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

2. TO WHOM THIS POLICY APPLIES

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

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

The College administers a separate policy that addresses other forms of discrimination and harassment: The Policy on Preventing and Addressing Discrimination and Harassment Based on Race, Color, National Origin, Religion, Disability, and Other Protected Categories (“Equal Opportunity Policy”). This policy supersedes any conflicting provisions contained in the Equal Opportunity Policy. Where a reporting party jointly alleges conduct that may violate this policy and other conduct that may violate the Equal Opportunity Policy, the Title IX coordinator will determine how the reports should be addressed. The College’s response to claims of sexual assault, sexual or gender-based harassment, gender-based discrimination, and interpersonal violence will be governed by the procedures referenced in this policy.

3. APPLICABLE PROCEDURES UNDER THIS POLICY

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

A student or employee determined by the College to have committed an act of prohibited conduct is subject to disciplinary action, up to and including expulsion or separation from the College.

Third parties who commit prohibited conduct may have their relationships with the College terminated and/or their privileges of being on College premises withdrawn.

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

A. Where the Respondent is a Student

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

B. Where the Respondent is an Employee

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

C. Where the Respondent is a Third Party

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

4. RESPONSIBLE ADMINISTRATOR – TITLE IX COORDINATOR

Under Title IX:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.

The Title IX coordinator is charged with monitoring the College's compliance with Title IX; ensuring appropriate education and training; coordinating the College's investigation, response, and resolution of all reports under this policy; and ensuring appropriate actions to eliminate prohibited conduct, prevent its recurrence, and remedy its effects. The Title IX coordinator is available to meet with any student, employee, or third party to discuss this policy or the accompanying procedures. The College has also designated deputy Title IX coordinators who assist the Title IX coordinator in the discharge of these responsibilities. The Title IX coordinator delegates authority to a deputy Title IX coordinator to act on their behalf when appropriate under the circumstances. The Title IX coordinator and deputy Title IX coordinators receive appropriate training to fulfill their responsibilities.

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

College Recourses:

The Title IX coordinator and deputy Title IX coordinators can be contacted by telephone, email, or Skype/WebEx meeting:

Ashley Thompson
Title IX Coordinator 801-689-2160
athompson@nightingale.edu

Kimberly Knox
Deputy Title IX Coordinator
801-689-2160
KKnox@nightingale.edu

Campus Security Authorities (CSA)

KayDee Wiese (Assistant Manager, Operations)
(801) 689-3871
kwiese@nightingale.edu

Ashley Thompson (Senior Manager, Learner Support Services)
(801) 689-2160
athompson@nightingale.edu

Samantha Hanlon (Lead Counselor, Learner Advising and Life Resources)
(801) 633-1918
shanlon@nightingale.edu

Sylvia Orosco (Front Desk Receptionist)
(801) 689-2160
rarave@nightingale.edu

Campus Safety

Nerima Pasic (Director, Internal Audit & Compliance)
(801) 689-2160
npasic@nightingale.edu

5. SUPPORTIVE MEASURES, RESOURCES, AND REPORTING

A. Supportive, Interim, and Remedial Measures

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

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

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

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

B. Notification of Rights Regarding Remedial and Protective Measures

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

C. Confidential and Non-Confidential Resources

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

Privacy and confidentiality have distinct meanings under this policy.

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

The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“**FERPA**”). The privacy of an individual’s medical and related records generally is protected by the Health Insurance Portability and Accountability Act (“**HIPAA**”), and there are additional protections under FERPA and

Title IX Policy

Utah law. Access to an employee’s personnel records may be restricted in accordance with Utah law and/or human resources departmental policies.

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

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

CONFIDENTIAL RESOURCES		
Resource	Telephone Number	Notes
Rape Recovery Center	(801) 467-7273	2035 South 1300 East
State-wide crisis line	(888) 421-1100	24-hour crisis line
National Sexual Assault Hotline	(800) 656-4673	24-hour hotline
Family Justice Center (YWCA)	(801) 537-8600	24-hour crisis line 310 East 300 South Second Floor Salt Lake City, UT 84111
Higher Ed EAP Program	(800) 252-4555	Employee Assistance Program

The following resources are not confidential, meaning that any reports of prohibited conduct to them must be shared with the Title IX coordinator. However, they are available to provide assistance and support to reporting parties, complainants, and respondents.

NON-CONFIDENTIAL RESOURCES		
(Students Only)		
Resource	Telephone Number	Address
Learner Support Services	(801) 689-2160	athompson@nightingale.edu

Title IX Policy

Learner Advising & Life Resources	(801) 633-1918	shanlon@nightingale.edu
Learner Advising & Life Resources	(801) 689-2160	KKnox@nightingale.edu

D. College Responsibility to Report Prohibited Conduct

1. **College Responsibility to Report Prohibited Conduct to Law Enforcement, the State, or the Campus Community:** Under Utah law, the College is required to report to law enforcement and/or the Utah Department of Family Services suspected sexual or physical abuse involving persons under 18 years of age where the sexual partner is more than three years older and entices or coerces participation in sexual activity. Also,

under certain circumstances, the College may be required to notify law enforcement and/or the campus community of prohibited conduct in order to provide a safe, non-discriminatory environment for all students. When issuing timely warnings to the College community, the College withholds the names and other personally identifying information of reporting parties while still providing enough information for community members to make safety decisions.

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

E. Reporting Prohibited Conduct

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

1. Reporting to Law Enforcement

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

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

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

2. Reporting to the College

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

a) Contact the College's Title IX coordinator or a deputy Title IX coordinator by telephone, email, or in person during regular office hours at their respective locations, email addresses, and/or phone numbers listed above;

b) A report may be made anonymously, at <https://nightingale.edu/safety-security/>

However, if any information identifying the reporting party or respondent is given, the report will no longer be considered anonymous and the College will proceed accordingly; or

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

3. No Discipline for Drug and Alcohol Violations

To encourage the reporting of prohibited conduct, the College will not pursue disciplinary action for disclosure of illegal personal consumption of drugs or alcohol where such disclosures are made in connection with a good faith report or investigation of prohibited conduct.

F. Requests for Anonymity or That No Investigation or Discipline Be Pursued

If a party reports prohibited conduct to the College but requests anonymity or that no investigation into a particular incident be conducted or disciplinary action pursued, the College must weigh the reporting party's request against the College's obligation to provide a safe, non-discriminatory environment for all members of the campus community, including the reporting party. If the College honors the request, a reporting party must understand that the College's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be limited. Although rare, there are times when the College may not be able to honor a reporting party's request for anonymity or that no investigation or discipline be pursued in order to provide a safe, non-discriminatory environment for all members of the campus community. The College has designated the Title IX coordinator to evaluate such requests.

When weighing a reporting party's request for anonymity or that no investigation or discipline be pursued, the Title IX coordinator will consider the following factors:

1. The increased risk that the alleged perpetrator will commit additional acts of sexual or interpersonal violence, such as:
 - a. whether there have been other sexual or interpersonal violence complaints about the same alleged perpetrator;
 - b. whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence; or
 - c. whether the alleged perpetrator threatened further sexual or interpersonal violence against the reported victim/survivor or others;
2. Whether the sexual or interpersonal violence was committed by multiple perpetrators;
3. Whether the sexual or interpersonal violence was committed by deceit or manipulation;
4. Whether the sexual or interpersonal violence was perpetrated with a weapon;
5. Whether the reported victim/survivor is a minor;
6. Whether the reported victim/survivor was incapacitated;
7. Whether the College possesses other means to obtain relevant evidence of the sexual or interpersonal violence (e.g., security cameras or personnel, physical evidence); and
8. Whether the reporting party's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

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 reporting party's request for anonymity or that no investigation or discipline be pursued.

If the College determines that it cannot carry out a reporting party's request, the College will inform the reporting party prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the College's response. If the College pursues an investigation, it may be required to disclose the identity of the reporting

party and provide all relevant details to the respondent so that they have an opportunity to fully defend themselves against any accusations. Only confidential employees – those listed in Section C above – are able to assure reporting parties of anonymity, subject to limited exceptions. The College will remain ever mindful of the reporting party’s well-being and will take ongoing steps to protect the reporting party from retaliation or harm and work with them to create a safety plan.

The College may not require a reporting party to participate in any investigation or disciplinary proceeding. Because the College is under a continuing obligation to address the issue of sexual and interpersonal violence campus-wide, reports of prohibited conduct (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 reported sexual or interpersonal violence occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting its policies and practices.

If the College determines that it can respect a reporting party’s request for anonymity or that no investigation or discipline be pursued, the College will also take immediate action as necessary to protect and assist them.

G. Conflict Resolution Prohibited

The College prohibits mediation or conflict resolution in all matters involving sexual harassment, sexual assault, dating violence, or domestic violence.

6. PROHIBITED CONDUCT UNDER THIS POLICY

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

A. Sexual Assault

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

1. Prohibited Conduct

- a) Intentionally touching another person’s intimate parts (breasts, buttocks, groin, or genitals, whether clothed or unclothed) without that person’s consent;

- b) Coercing, forcing, or attempting to coerce or force a person to touch their own or another person's intimate parts without the consent of the person who is being coerced or forced to act;
 - c) Rape, which is defined as penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by any sex organ of another person, without that person's consent;
 - d) Sexual activity with a minor under 18 years of age where the sexual partner is more than three years older and entices or coerces participation in sexual activity.
2. Consent
- a) Consent is present when clearly understandable words or actions manifest a knowing, voluntary agreement between parties to engage in specific sexual or intimate contact with each other.
 - b) When determining whether consent was present, the College will consider whether a reasonable, sober person would consider the words or actions of the parties to clearly express a knowing, voluntary agreement between them to engage in specific sexual or intimate contact with each other.
 - c) Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent.
 - d) Consent cannot be inferred from
 - i. Silence, passivity, acceptance, or lack of resistance alone;
 - ii. A current or previous dating or sexual relationship;
 - iii. Consent given on a prior occasion;
 - iv. Consent given to another person (i.e., consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another person);
 - v. Attire; or
 - vi. Buying dinner or spending money on a date.
 - e) Consent to one sexual activity does not imply consent to another sexual activity.
 - f) Consent can be withdrawn at any time and for any reason.
 - g) Consent is not effective if it is obtained through the use of physical force, violence, duress, intimidation, coercion, or the threat, either express or implied, of bodily injury. Whether the party used such methods to attempt to obtain consent will be determined by the perception of a sober, reasonable person in the same or similar circumstances.
 - i. **Force** is the use or threat of physical violence or physical strength to overcome an individual's freedom or will to choose whether or not to participate in sexual activity. There is no requirement that a party resists the sexual advance or request, but resistance will be viewed as a clear demonstration of non-consent.
 - ii. **Coercion** is the use of an unreasonable amount of pressure to compel another individual to initiate or continue sexual activity against their will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. Coercion is more than an effort to persuade, entice, or

attract another person to have sexual relations. When a person makes clear that they do not want to have sexual relations, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure can constitute coercion. In evaluating whether coercion was used, the College will consider: (i) the frequency of the application of the pressure, (ii) the intensity of the pressure, (iii) the degree of isolation of the person being pressured, and (iv) the duration of the pressure.

- h) Consent may never be given by:
- i. Persons who are incapacitated (whether as a result of drugs, alcohol, prescription medications, or lack of sleep), unconscious, asleep, or otherwise physically helpless or mentally or physically unable to make informed, rational judgments;
 - ii. Persons under 18 years of age where the sexual partner is more than three years older and entices or coerces participation in sexual activity; or
 - iii. Persons with certain mental disabilities, if their disability was reasonably knowable to a sexual partner.
- i) Additional guidance on consent can be found in, Utah Code Ann. 76-5-406 (2015).
3. Incapacitation
- a) Incapacitation is defined as lacking the ability to understand one's actions.
 - b) Intoxication vs. Incapacitation: Consent cannot be given by a person who is incapacitated. Therefore, it is imperative to be able to determine the difference between incapacitation and intoxication. Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking or using drugs. The impact of alcohol and other drugs varies from person to person.
 - i. Some signs of **intoxication** include, but are not limited to:
 - Slurred speech
 - Weaving or stumbling while walking
 - Exaggerated emotions
 - ii. Some signs of **incapacitation** include, but are not limited to:
 - Inability to speak coherently
 - Confusion on basic facts (day of the week, birthdate, etc.)
 - Inability to walk unassisted
 - Vomiting
 - Incontinence
 - Passing out
 - Blacking out
 - c) It is possible for a person who has been drinking to give consent, however, consent given by someone who has been drinking or using drugs must be clear, voluntary, and unambiguous. To give consent, a person must be able to make informed decisions free from undue influence, pressure, or coercion. If a person lacks the ability to act clearly, voluntarily, and unambiguously, or if a person is unable to

make informed decisions free from undue influence, pressure, or coercion, they are incapacitated and cannot give consent.

- d) In evaluating consent in cases of alleged incapacitation, the College looks for the common signs of incapacitation and asks two questions: (1) Did the respondent know that the complainant was incapacitated and, if not, (2) Should a sober, reasonable person in the same situation have known that the complainant was incapacitated? The College also considers that a person who is incapacitated may not be able to understand some or all of the following questions: “Do you know where you are?” “Do you know how you got here?” “Do you know what is happening?” “Do you know whom you are with?”
 - e) One should be cautious before engaging in sexual activity when either party has been drinking alcohol or using drugs. The introduction of alcohol or drugs may create ambiguity as to whether consent has been sought or given. If one has doubt about either party’s level of intoxication, the safe thing to do is to forego all sexual activity.
 - f) The use of alcohol or drugs does not diminish one’s responsibility to obtain consent and does not excuse prohibited conduct under this policy.
4. Guidance on Consent
- a) It is important not to make assumptions about whether a potential partner is consenting. In order to avoid confusion or ambiguity, participants are encouraged to talk with one another before engaging in sexual activity.
 - b) If confusion or ambiguity arises during sexual activity, participants are encouraged to stop and ensure that there is a mutual willingness to continue that sexual activity.

B. Sexual and Gender-Based Harassment

1. **Sexual harassment** is any unwelcome sexual advances, request for sexual favors, or other verbal or physical conduct of a sexual nature when either quid pro quo or hostile environment harassment are present.
 - a) **Quid pro quo harassment** – Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of a person’s education, employment, living environment, or participation in a College program or activity; or:
 - b) **Hostile environment harassment**– Such conduct has the purpose or effect of (a) unreasonably interfering with an individual’s employment, academic performance, or participation in College programs or activities, or (b) creating a working, learning, program or activity environment that a reasonable person would find intimidating, hostile or offensive.
 - i. In determining whether sex or gender-based harassment has created a hostile environment, the College considers the conduct in question from both a subjective and objective perspective. It will be necessary, but not enough, that the conduct was unwelcome to the individual who was harassed. The College will also need to find that a reasonable person in the same position would have

perceived the conduct as undesirable or offensive enough to create or contribute to a hostile environment.

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

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

C. Gender-Based Discrimination

Gender-based discrimination is conduct that denies or limits a person's ability to benefit from or fully participate in educational programs or activities or employment opportunities because of their sex, gender, gender identity, gender expression, non-conformity with gender stereotypes, sexual orientation, pregnancy, childbirth, or pregnancy-related conditions excepting any treatment permitted or required by law. Discrimination occurs when the conduct:

1. Adversely affects a term or condition of an employee's employment; a student's education, or a third party's access to College programs or activities; or
2. Is used as the basis for or a factor in decisions affecting an employee's employment, a student's education, or a third party's access to College programs or activities.

D. Sexual Exploitation

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

1. Causing the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity;

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

E. Interpersonal Violence

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

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

F. Retaliation

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

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

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

G. Complicity

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

H. False Reporting

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

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

7. RIGHTS

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

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

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

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

B. Access, Information, and Assistance

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

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

8. DISCIPLINARY SANCTIONS

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

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

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9. VIOLATIONS OF CRIMINAL LAW

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

10. PREVENTION AND AWARENESS PROGRAMS

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

11. TRAINING

Incoming students and newly hired employees are required to complete training within 30 days of joining the Nightingale community to understand their responsibilities under this policy. Thereafter, all students and employees are required to participate in mandatory training as determined by the responsible administrator to be appropriate or necessary.

12. HISTORY

Date of Last Action	Action Taken	Authorizing Entity
March, 2018	Policy Revision Adopted	Campus Safety Committee
March, 2017	Policy Revision Adopted	Campus Safety Committee
September, 2016	Final Policy Adopted	Campus Safety Committee
August 20 2016	Interim Policy Adopted	Campus Safety Committee



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POLICY TITLE	Procedures for Reports and Investigations Against Students Under the Title IX Policy – Appendix A
Effective Date	November 1, 2017

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1. INTRODUCTION

Nightingale (“College”) is committed to providing a safe and non-discriminatory environment for all members of the College community. The College prohibits sexual assault, sexual and gender-based harassment, gender-based discrimination, sexual exploitation, interpersonal violence (including dating violence, domestic violence, and stalking), complicity, false reporting, and retaliation (collectively “prohibited conduct”). These forms of prohibited conduct, which are defined in Section 6 of the College’s Policy on Sexual Assault, Sexual and Gender-Based Harassment, Gender-Based Discrimination, and Interpersonal Violence (“Title IX Policy”), are unlawful, undermine the character and purpose of the College, and will not be tolerated.

This appendix identifies the procedures the College follows when it receives a report alleging prohibited conduct by a student. The College uses these procedures to investigate and adjudicate any such allegations and to impose disciplinary sanctions against students found responsible for violating the policy.¹

2. REPORTING

The College encourages anyone who experiences or becomes aware of an incident of prohibited conduct involving a student or employee to immediately report the incident to the College through the following reporting options:²

- By contacting the College’s Title IX coordinator or a deputy Title IX coordinator by telephone, email, or in person during regular office hours at their respective locations, email addresses, and/or phone numbers:

College Recourses:

The Title IX coordinator and deputy Title IX coordinators can be contacted by telephone, email, or Skype/WebEx meeting:

Ashley Thompson
Title IX Coordinator 801-689-2160
athompson@nightingale.edu

Kimberly Knox
Deputy Title IX Coordinator
801-689-2160
KKnox@nightingale.edu



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A reporting party may choose to make a report to the College to pursue resolution under these procedures, may also choose to make a report to law enforcement, or do neither. A reporting party may pursue internal resolution and criminal action at the same time. A reporting party who wishes to pursue criminal action should contact law enforcement directly:

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

The College also offers access and referrals to confidential resources for individuals who are unsure about whether to report prohibited conduct or are seeking trauma-informed counseling or other emotional support in addition to (or without) making a report to the College.

CONFIDENTIAL RESOURCES		
Resource	Telephone Number	Notes
Rape Recovery Center	(801) 467-7273	2035 South 1300 East
State-wide crisis line	(888) 421-1100	24-hour crisis line
National Sexual Assault Hotline	(800) 656-4673	24-hour hotline
Family Justice Center (YWCA)	(801) 537-8600	24-hour crisis line 310 East 300 South Second Floor Salt Lake City, UT 84111
Higher Ed EAP Program	(800) 252-4555	Employee Assistance Program

A broad range of information, assistance, and supportive measures are available to Reporting Parties, complainants, and respondents as enumerated in Section 7 (B) below.

3. INFORMATION PROVIDED TO REPORTING PARTY

Upon receipt of a report of prohibited conduct, the Title IX coordinator will provide the following information to the reporting party as may be suggested by the circumstances:



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- A. The option to seek medical treatment and the importance of obtaining and preserving forensic and other evidence;
- B. The right to contact law enforcement, decline to contact law enforcement, and/or seek a protective order;
- C. College and community resources, the right to seek appropriate and available supportive and interim measures as described in Section 7(B), and how to request those resources and measures;
- D. The right to seek an investigation under these procedures;
- E. The right to an advisor if an investigation is pursued, and the availability of trained staff and faculty to serve as an advisor; and
- F. The College's prohibition against retaliation and that the College will take prompt action in response to any act of retaliation.

4. MEETING WITH REPORTING PARTY AND INITIAL ASSESSMENT

Upon receiving a report of prohibited conduct, the Title IX coordinator will offer to meet with the reporting party in person or by phone to discuss the report. At this meeting the items in Section III above will be re-addressed, and the Title IX coordinator will ensure that the reporting party receives or has received a written explanation of all available resources and options. The Title IX coordinator will assess or ascertain the following at this meeting:

- A. The reporting party's safety and well-being and any necessary supportive measures;
- B. Any concerns or barriers the reporting party has about participating in the College investigation, including concerns regarding disclosure of their identity;
- C. The general nature and circumstances of the report, including the name of the respondent, other parties involved, and any other party with knowledge of the reported incident;
- D. The ages of the reporting party and the respondent;
- E. Whether the reported information and any other available information provides a rational basis for concluding that there is a threat to the health or safety of the complainant or to any other member of the College community, as set forth in the Section 6.

At the meeting with the reporting party, the Title IX coordinator will not request that the reporting party recount the incident(s). Rather, they will only solicit information necessary to determine whether the reported prohibited conduct, if true, would be a violation of the policy.

5. REPORTING TO CLERY OFFICER

Within 24 hours, or as soon as practicable, the Title IX coordinator will communicate the report to the College employee responsible for reporting under the Clery Act ("Clery officer"). The Clery officer will determine whether the report triggers any Clery Act obligations, including entry of the report in the daily crime log and/or issuance of a timely warning, and will take steps to meet those obligations.



6. HEALTH AND SAFETY THREAT ASSESSMENT

If the Title IX coordinator determines that there is a rational basis for concluding that the respondent poses a threat to the health or safety of the reporting party or the College community, the Title IX coordinator will convene a meeting of the Campus Safety Committee (“CSC”). CSC will consider the following risk factors when determining whether the respondent poses a threat to the health or safety of the reporting party or to any other member of the College community:

- A. The increased risk that the alleged perpetrator will commit additional acts of sexual or interpersonal violence, such as:
 - 1. whether there have been other sexual or interpersonal violence complaints about the same alleged perpetrator;
 - 2. whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence; or
 - 3. whether the alleged perpetrator threatened further sexual or interpersonal violence against the reported victim/survivor or others.
- B. Whether the sexual or interpersonal violence was committed by multiple perpetrators;
- C. Whether the sexual or interpersonal violence was committed by deceit or manipulation;
- D. Whether the sexual or interpersonal violence was perpetrated with a weapon;
- E. Whether the reported victim/survivor is a minor;
- F. Whether the reported victim/survivor was incapacitated;
- G. Whether the College possesses other means to obtain relevant evidence of the sexual or interpersonal violence (e.g., security cameras or personnel, physical evidence); and
- H. Whether the reporting party’s report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

7. COLLEGE ACTIONS FOLLOWING HEALTH AND SAFETY THREAT ASSESSMENTS

A. Timely Warnings

Following the threat assessment, the Clery officer will determine whether the respondent or any other individual identified in the report of prohibited conduct poses a serious and ongoing threat to the College community. If appropriate, the College will issue a timely warning in accordance with the Clery Act Timely Warning Policy.

B. Supportive and Interim Measures

When a student or employee reports to the College that they have been a victim of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off campus, the Title IX coordinator will ensure students and employees receive written



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notification of all their rights and options, regardless of whether they choose to report prohibited conduct to the College or to the police.

The Title IX coordinator will implement whatever reasonable supportive and/or interim measures they deem appropriate, with or without the request of the reporting party, to ensure the safety and well-being of the reporting party and the broader College community. These measures may include the following:

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

Supportive measures are available to the reporting party before an investigation has been initiated and will be designed such that they have no impact on the respondent. Interim measures are available to the complainant and respondent once an investigation has been initiated until a final determination on a policy violation has been made, including after the parties have exercised their rights to appeal as set forth below. Interim measures will be designed such that they have minimal impact on the respondent unless the respondent poses a safety threat to the complainant or other members of the College community.

C. Determination Regarding Whether Investigation Pursued

1. Request for Investigation

When a reporting party requests an investigation in writing, the Title IX coordinator will consider the information provided by the reporting party to determine the course of the investigation including, in their discretion, whether the allegations meet the



threshold of a policy violation and whether a formal investigation as described in Section VIII will be pursued.

2. Request for Anonymity, No Investigation, No Discipline

A reporting party may request that personally-identifying information not be shared with the respondent, that no investigation be pursued, and/or that no disciplinary action be taken. The College will seek to honor the reporting party's request(s) if it is possible to do so while also protecting the health and safety of the complainant and the College community. The Title IX coordinator will consider the following factors in evaluating such request(s): (i) the totality of the known circumstances; (ii) the presence of any risk factors, as described in Section 6 of these procedures; (iii) the potential impact of such action(s) on the reporting party and respondent; (iv) any evidence showing that the respondent made statements of admission or otherwise accepted responsibility for the prohibited conduct; (v) the existence of any independent information or evidence regarding the prohibited conduct; and (vi) any other available and relevant information.

- *Determination the request can be honored* – Where the Title IX coordinator determines that the request(s) can be honored, they may nevertheless take steps designed to eliminate the reported conduct, prevent its recurrence, and remedy its effects on the reporting party and the College community, including to offer supportive measures to the reporting party, to provide targeted training or prevention programs, and/or to provide or impose other remedies tailored to the circumstances.
- *Determination the request cannot be honored* – Where the Title IX coordinator determines that a reporting party's request(s) cannot be honored, such as where to do so would impede the College's ability to ensure the health and safety of the College community, the Title IX coordinator will take appropriate actions as may be suggested by the circumstances, including initiating an investigation under these procedures and/or arranging, imposing, or extending supportive or interim measures.
- *Determination to proceed with investigation* – Where the Title IX coordinator determines that the College must proceed with an investigation despite a reporting party's request to the contrary, the College will make reasonable efforts to protect the privacy of the complainant. However, as part of the investigation, the College may be required to speak with the respondent and others who may have relevant information, in which case the reporting party's identity may have to be disclosed in order for the respondent to have an opportunity to fully defend the accusations.
- *Reporting party determination not to participate* – Where a reporting party declines to participate in an investigation, the College's ability to meaningfully investigate and respond to a report may be limited. In such cases, the Title IX coordinator may pursue the report if it is possible to do so without the reporting party's participation in the investigation (e.g., where there is other relevant evidence of the prohibited



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conduct such as recordings from security cameras, corroborating reports from other witnesses, physical evidence, or any evidence showing that the respondent made statements of admission or otherwise accepted responsibility for the prohibited conduct). In the absence of such other evidence, however, the College will only be able to respond to the report in limited and general ways (e.g., through the provision of supportive measures). Although a report may be re-opened and investigated at any time, the College will only be able to pursue sanctions where the respondent is a current employee, student, or third party affiliated with the College.

D. Notice to Reporting Party and Respondent of College Actions

The Title IX coordinator will promptly inform the reporting party of any action(s) undertaken by the College to respond to a health or safety threat to the reporting party or the College community, including the decision to proceed with an investigation. The Title IX coordinator also will promptly inform the respondent of any action(s) (including any interim measures) that will directly impact the respondent and provide an opportunity for the respondent to respond to such action(s). The Title IX coordinator retains the discretion to impose and/or modify any supportive or interim measures based on all available information. Interim measures will remain in effect until a final determination on a policy violation has been made, including after the parties have had the opportunity to exercise their right to appeal as set forth in these procedures. A reporting party, complainant, or respondent may challenge supportive or interim measures or other actions, or failure to impose supportive or interim measures or take other actions, by contacting the Title IX coordinator to address any concerns.

E. Documentation of Initial Assessment and Determination Regarding Investigation

The initial report, the health and safety threat assessment, and the determinations of the Title IX coordinator regarding whether an investigation is pursued will be documented and retained by the College in accordance with the College's record retention policy.

8. INVESTIGATION

An investigation commences when the Title IX coordinator determines that information provided by a reporting party meets the threshold of a policy violation or the College initiates an investigation based on a health and safety threat assessment as described in Section 6. There is no time limit for requesting an investigation.

A. Investigation of Other Forms of Discrimination or Harassment

If a report of prohibited conduct also implicates other forms of discriminatory and/or harassing conduct prohibited by the Equal Opportunity Policy, the Title IX coordinator will evaluate all reported allegations to determine whether the alleged prohibited conduct and



the alleged Equal Opportunity Policy violation(s) may be appropriately investigated together without unduly delaying the resolution of the report of prohibited conduct. Where the Title IX coordinator determines that a single investigation is appropriate, the investigation will be conducted in accordance with these procedures.

B. Assignment to Investigators

After assessing any actual or perceived conflicts of interest and/or bias, the Title IX coordinator will designate one or more internal investigators or an external investigator to conduct a prompt, thorough, fair, and impartial investigation. All investigators will receive annual training on issues related to sexual assault, sexual and gender-based harassment, sex discrimination, dating violence, domestic violence, and stalking, and on how to conduct an investigation that is fair and impartial and that protects the safety of complainants, respondents, and the College community while promoting accountability.

C. Meeting with Respondent

After an investigation is initiated, the Title IX coordinator will meet with the respondent to explain the investigation process, advise them of and explain any interim measures in place, and discuss interim measures and resources available to the respondent. At the meeting, the Title IX coordinator will provide the respondent a written Notice of Investigation and arrange for any reasonable interim measures the respondent requests.

D. Notice of Investigation

The Title IX coordinator will notify the complainant and the respondent, in writing, of the commencement of an investigation. Such notice will (1) identify the complainant and the respondent; (2) specify the date, time (if known), location, and nature of the alleged prohibited conduct; (3) identify potential policy violation(s); (4) identify the investigator(s); (5) include information about the parties' respective expectations under the policy and these procedures; (6) explain the prohibition against retaliation; (7) instruct the parties to preserve any potentially relevant evidence in any format; (8) inform the parties how to challenge participation by the investigator on the basis of bias or conflict of interest; and (9) provide a copy of the policy and these procedures. If additional prohibited conduct is alleged during the course of an investigation, a new Notice of Investigation will be issued.

E. Investigation Process

1. Overview

During the investigation, the parties will have an equal opportunity to be heard, to submit information and corroborating evidence, to identify witnesses who may have relevant information, and to submit questions that they believe should be directed by



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the investigator to each other or to any witness. The investigator will exercise discretion in establishing the scope of the investigation. The investigator will notify and seek to meet separately with the complainant, the respondent, and appropriate witnesses and will gather other relevant and available evidence and information, including, without limitation, electronic or other records of communications between the parties or witnesses (via voice-mail, text message, email, and social media sites), and photographs (including those stored on computers and smartphones). The Title IX coordinator will meet with the investigators periodically to ensure that the investigation process is completed in accordance with applicable regulations and guidance and these procedures.

2. Review of Interview Notes

The complainant and respondent will have the opportunity to meet with the investigator and review and comment on the investigator's notes from their respective interviews but will not have access to the notes from the other party's or witnesses' interviews. The investigators may or may not incorporate the comments into their investigation summary.

3. Advisors

During the investigation, the complainant and respondent have the right to choose and consult with an advisor. The advisor may be any person, including an attorney, who is not otherwise a party or witness involved in the investigation, and whose job duties, under the circumstances, do not create a conflict with the advisory role. The parties may be accompanied by their respective advisors at any meeting or proceeding related to the investigation under these procedures. While the advisors may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties or otherwise participate in, or in any manner disrupt, such meetings and/or proceedings. The College offers trained advisors to help the parties navigate the investigation process.

4. Coordination with Law Enforcement

The Title IX coordinator will contact any law enforcement agency that is conducting its own investigation to inform that agency that a College investigation is also in progress; to ascertain the status of the criminal investigation; and to determine the extent to which any evidence collected by law enforcement may be available to the College in its investigation. At the request of law enforcement, the Title IX coordinator may delay the College investigation temporarily while an external law enforcement agency is gathering evidence. The Title IX coordinator will cause the investigation to promptly resume when notified that law enforcement has completed the evidence-gathering stage of its criminal investigation.



5. Cooperation and Participation

Students are required to cooperate and participate fully in any Title IX investigation and/or request for information by the Title IX coordinator.

6. Timeframe for Completion of Investigation; Extension for Good Cause

Typically, the period from commencement of an investigation through delivery of the letters of determination to the parties will not exceed sixty (60) calendar days. The investigation commences on the date the respondent receives the Notice of Investigation. This 60-day timeframe may be extended for good cause, which may exist if additional time is necessary to ensure the integrity and completeness of the investigation; to comply with a request by external law enforcement for temporary delay to gather evidence for a criminal investigation; to accommodate the availability of witnesses and College faculty and staff; to account for College breaks or vacations; to account for complexities of a case including the number of witnesses and volume of information provided by the parties; to account for the failure of the parties to respond in a timely manner to requests for information or meetings; or for other legitimate reasons. The Title IX coordinator will notify the parties in writing of any extension of this timeframe and the reason for such extension.

7. Reopening a Closed Investigation

Where a complainant has requested that the College close an investigation and the College has done so, a complainant may request that the investigation be reopened provided that a determination on a policy violation has not been made.

8. Site Visit(s)

The investigator may visit relevant sites or locations and record observations through written, photographic, or other means.

9. Expert Consultation(s)

The investigators may consult medical, forensic, technological, or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation.

10. Findings of Fact

The investigation is a neutral fact-gathering process conducted by investigators who find facts; investigators do not make determinations of policy violations. Following the fact-gathering process, the investigators will make findings of fact after



consideration of the evidence, credibility of the witnesses, and any other available information including the following:

- a. *Prior or subsequent conduct* – The investigator may consider evidence of prior or subsequent conduct of either party in determining pattern, knowledge, intent, or motive. The determination of relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar prohibited conduct.
- b. *Relevance* – The investigator has the discretion to determine the relevance of any proffered evidence and to include or exclude certain types of evidence. In general, the investigator will not consider statements of personal opinion or statements as to any party's general reputation for any character trait. Rather, investigators will rely on direct observations and reasonable inferences from the facts.
- c. *Prior sexual history* – The investigator will never use the sexual history of a complainant or respondent as evidence of character or reputation.

11. Investigation Summary

After the investigators complete their investigation, they will prepare and submit to the Title IX coordinator an investigation summary which will include the names and dates of meetings with complainant, respondent, and witnesses; a summary of evidence; a determination of the credibility of the witnesses and parties; and a clear and concise statement setting forth their findings of fact. Any relevant documentation will be attached to the investigation summary.

F. Determination of Policy Violation; Standard of Review

Following a review of the investigation summary and consultation with the investigators, the Title IX coordinator will make determinations of policy violations. Using the preponderance of evidence standard, the Title IX coordinator will determine whether it is more likely than not that the respondent engaged in prohibited conduct in violation of the policy.

G. Determination of Sanctions and Remedial Measures

1. Determination of Sanctions

In the event the Title IX coordinator determines by a preponderance of the evidence that the respondent engaged in prohibited conduct in violation of the policy, the Title IX coordinator will determine appropriate sanctions. In determining appropriate sanctions for students, the Title IX coordinator may consult with the Director of Nursing Education.

The Title IX coordinator will consider the following factors in determining appropriate sanctions:



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- The severity, persistence, or pervasiveness of the prohibited conduct;
- Whether the prohibited conduct is violent in nature and, if so, whether weapons were involved;
- The impact of the prohibited conduct on the complainant including, by way of example, their ability to participate effectively in College programs, and activities;
- The impact or implications of the prohibited conduct within the College community with reference to the maintenance of a safe, nondiscriminatory and respectful environment conducive to learning, working, and living;
- Prior misconduct by the respondent known to the College, as determined by the respondent’s relevant prior disciplinary history at the College or elsewhere, and any known criminal convictions;
- Whether the respondent has accepted responsibility for the prohibited conduct;
- The sanctions that have been levied for similar prohibited conduct under similar circumstances in the past; and
- Any other mitigating, aggravating, or compelling factors.

2. Available Sanctions

Violations of this policy may result in sanctions and corrective actions, which can include, but are not limited to the following:

DISCIPLINARY SANCTIONS FOR STUDENTS	
Verbal warning	No trespass order issued by SLPD
Written warning	No contact order
Advisory letter	Loss of privileges
Monitoring	Degree revocation
Required training or education	Withholding diploma
Probation	Expulsion
Transcript notation regarding non-academic suspension/expulsion	Revocation of admissions offer
Disciplinary suspension	Community service
Campus access restrictions	

3. Remedial Measures

The Title IX coordinator will determine whether to impose any remedial measures for the protection or well-being of either party, including the extension of any interim measures in place during the investigation. This determination will include the time period for which the remedial measures will remain in effect. Upon request, the Title



IX coordinator will consider additional remedial measures. If the Title IX coordinator determines that interim measures will not be continued as remedial measures, they may advise the party of the option of requesting an ADA accommodation through student disability services or the human resources department if applicable under the circumstances.

H. Notice of Determination and Sanctions

1. Sanctions

If respondent is found responsible, sanctions will be set forth in the determination letters in the following manner:

- If the respondent has engaged in prohibited conduct, the determination letter to respondent will set forth all sanctions levied against them.
- If the prohibited conduct would not constitute a crime of violence under Utah or federal law, complainant's letter will include only those sanctions that would directly impact them.
- If the prohibited conduct would constitute a crime of violence under Utah or federal law, the complainant's letter will include all sanctions levied against respondent.

2. Determination Letters

The Title IX coordinator will draft separate but similar letters of determination for complainant and respondent that will set forth the findings of fact from the investigation; whether the respondent is responsible or not responsible for any policy violations; what sanctions, if any, will be imposed; and remedial measures, if any, that will be enacted, together with the rationale for the policy determination and sanctions. The determination letters will also advise the complainant and respondent of their right to a review by an appeal panel in accordance with these procedures. The Title IX coordinator will notify the complainant and respondent that their determination letter is available for review in the Title IX coordinator's office.

3. Meeting with Parties to Review Determination

At a mutually agreeable time, the Title IX coordinator will meet with each party to review their determination letter and will provide a copy of their determination letter, discuss any sanctions and remedial measures that will be put into place, answer any questions regarding the investigation or determination, and notify them of their right to have the determination reviewed by an appeal panel.

4. Sanctions Effective



Sanctions will be implemented upon the expiration of five (5) school days unless a timely appeal has been filed.

9. APPEAL OF DETERMINATION

A. General Procedures

1. Grounds

Within five (5) school days of receiving the Determination Letter, the complainant or the respondent may appeal the determination in writing. The grounds for appeal are the following:

- *Procedural Error* – The investigation was not conducted in accordance with these procedures and this resulted in substantial error in the determination of whether there was a policy violation.
- *Bias* – The investigators conducted the investigation or the Title IX coordinator reached a determination in a biased or partial manner.
- *New Evidence* – There is evidence which was available at the time of the determination, but unknown to the Title IX coordinator, and not in the possession of the party providing the new evidence that would substantially affect the determination. The Title IX coordinator will determine the appropriate course of action depending on the new evidence submitted.

2. Appealing Party

To appeal a determination, the appealing party must submit a written statement citing the grounds for appeal and providing an explanation of their position to the Title IX coordinator or a deputy Title IX coordinator. Under circumstances alleging that the Title IX coordinator reached a determination in a biased or partial manner, a deputy coordinator will be assigned to serve as the acting Title IX coordinator for purposes of the appeal.

3. Title IX Coordinator Duties Regarding Appeal

Upon receipt of a notice of appeal, the Title IX coordinator will:

- Inform the party who has not appealed, in writing, of the appeal;
- Appoint a panel of three trained staff or faculty members without conflicts of interest to serve as members of the appeal panel;
- Provide the appeal panel the investigator's interview notes; the investigation summary, including any documentary evidence; and the determination letters.



In cases alleging bias in determination, a person other than the Title IX coordinator who made the determination will be designated to manage all aspects of the appeal.

4. Appeal Panel

Within ten (10) school days of their appointment, the appeal panel will meet at a mutually agreeable time to consider the information provided to them and to determine whether the determination should be upheld. The appeal panel has the discretion to speak to the complainant, respondent, witnesses, investigators, or Title IX coordinator in reaching its conclusion but is not required to do so. The appeal panel will not review any other written evidence or documentation besides that provided by the Title IX coordinator.

B. Decision of Appeal Panel and Further Appeals

1. Affirmation of Determination

If the appeal panel determines by a majority vote that there was neither bias nor failure of process, it will affirm the determination and submit its affirmation letter to the Title IX coordinator. The determination will be final and not subject to further appeal. The Title IX coordinator will provide the affirmation letter to the parties within five school days.

2. Procedural Error

If the appeal panel decides by a majority vote that the investigation was not conducted in accordance with these procedures, it will submit a letter to the Title IX coordinator setting forth specific procedural error(s). The Title IX coordinator will direct the investigators to re-open the investigation and re-examine the evidence in light of the identified procedural error(s) and provide a revised investigation summary, if appropriate. The Title IX coordinator may assign new investigators to examine the evidence if appropriate under the circumstances. The Title IX coordinator will issue new determination letters and the determination may be appealed in accordance with these procedures by the party who did not file the original appeal.

3. Bias

- *Bias in Investigation* – If the appeal panel decides by a majority vote that the investigation was conducted in a biased or partial manner, it will submit a letter to the Title IX coordinator setting forth the specific ways in which the investigation was biased or partial. The Title IX coordinator will take such action as necessary to correct the bias or partiality, which may include assigning a new investigator(s) and/or re-opening the investigation. Once any additional fact finding is complete and a revised investigation summary is received, if appropriate, the Title IX



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coordinator will issue a new determination letter and the determination may be appealed in accordance with these procedures.

- *Bias in Determination* – If the appeal panel decides by a majority vote that the Title IX coordinator was biased or partial in reaching the determination, it will submit a letter to the acting Title IX coordinator setting forth the specific ways in which, in its opinion, the determination was biased or partial and requesting a review of the determination. The acting Title IX coordinator will review all documentation provided to the appeal panel and issue a new determination letter and the determination may be appealed in accordance with these procedures.

4. No Further Appeal

There is no right of appeal beyond the appeal panel. Any concerns with the adequacy of an investigation can be addressed to the Department of Education, Office for Civil Rights, at OCR@ed.gov or (800) 421-3481.

10. CLOSURE OF INVESTIGATION FILE

A. Notice of Closure

1. Notice to Parties

Within five (5) school days of the conclusion of the investigation (including exhaustion of all appeals), the Title IX coordinator will provide the complainant, respondent, reporting party, and witnesses written notification that the investigation has been closed and that retaliation is prohibited conduct.

2. Notice to Director of Nursing Education

Within five (5) school days of the conclusion of the investigation (including exhaustion of all appeals), the Title IX coordinator will provide the Director of Nursing Education a copy of the respondent's determination letter and a written notification that the investigation has been closed.

B. Records Retention

The College will retain all records relating to a report of prohibited conduct, including investigation files and personnel record documentation of disciplinary or other personnel actions, in accordance with the College's record retention policy.



Procedures for Reports and Investigations against
Employees under the Title IX Policy – Appendix B

POLICY TITLE	Procedures for Reports and Investigations Against Employees Under the Title IX Policy – Appendix B
Effective Date	March 12, 2018

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Procedures for Reports and Investigations against Employees under the Title IX Policy – Appendix B

1. INTRODUCTION

Nightingale (“College”) is committed to providing a safe and non-discriminatory environment for all members of the College community. The College prohibits sexual assault, sexual and gender-based harassment, gender-based discrimination, sexual exploitation, interpersonal violence (including dating violence, domestic violence, and stalking), complicity, false reporting, and retaliation (collectively “prohibited conduct”). These forms of prohibited conduct, which are defined in Section 6 of the College’s Policy on Sexual Assault, Sexual and Gender-Based Harassment, Gender-Based Discrimination, and Interpersonal Violence (“Title IX Policy”), are unlawful, undermine the character and purpose of the College, and will not be tolerated.

This appendix identifies the procedures the College follows when it receives a report alleging prohibited conduct by an employee. The College uses these procedures to investigate and adjudicate any such allegations and to impose disciplinary sanctions against employees found responsible for violating the policy.¹

2. REPORTING

The College encourages anyone who experiences or becomes aware of an incident of prohibited conduct involving a student or employee to immediately report the incident to the College through the following reporting options:²

- By contacting the College’s Title IX coordinator or a deputy Title IX coordinator by telephone, email, or in person during regular office hours at their respective locations, email addresses, and/or phone numbers:

Ashley Thompson
Title IX Coordinator
801-689-2160
athompson@nightingale.edu

Kimberly Knox
Deputy Title IX Coordinator
801-689-2160
KKnox@nightingale.edu

¹ These procedures should be read in conjunction with the Title IX Policy. Certain terms used and not otherwise defined in these procedures are defined in the policy.

² Certain College collaborators, referred to as responsible employees, are required to report to the Title IX coordinator all information disclosed to them about an incident of prohibited conduct. See Title IX policy.



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- Online at nightingale.edu/about/resources/Title-IX. A report may be made anonymously. However, if any information identifying the reporting party or respondent is given, the report will no longer be considered anonymous and the College will proceed accordingly; or

A reporting party may choose to make a report to the College to pursue resolution under these procedures, may also choose to make a report to law enforcement, or do neither. A reporting party may pursue internal resolution and criminal action at the same time. A reporting party who wishes to pursue criminal action should contact law enforcement directly:

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

The College also offers access and referrals to confidential resources for individuals who are unsure about whether to report prohibited conduct or are seeking trauma-informed counseling or other emotional support in addition to (or without) making a report to the College.

CONFIDENTIAL RESOURCES		
Resource	Telephone Number	Notes
Rape Recovery Center	(801) 467-7273	2035 South 1300 East
State-wide crisis line	(888) 421-1100	24-hour crisis line
National Sexual Assault Hotline	(800) 656-4673	24-hour hotline
Family Justice Center (YWCA)	(801) 537-8600	24-hour crisis line 310 East 300 South Second Floor Salt Lake City, UT 84111
Higher Ed EAP Program	(800) 252-4555	Employee Assistance Program

A broad range of information, assistance, and supportive measures are available to reporting parties, complainants, and respondents as enumerated in Section 7 (B) below.

3. INFORMATION PROVIDED TO REPORTING PARTY

Upon receipt of a report of prohibited conduct, the Title IX coordinator will provide the following information to the reporting party as may be suggested by the circumstances:



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- A. The option to seek medical treatment and the importance of obtaining and preserving forensic and other evidence;
- B. The right to contact law enforcement, decline to contact law enforcement, and/or seek a protective order;
- C. College and community resources, the right to seek appropriate and available supportive and interim measures as described in Section 7(B), and how to request those resources and measures;
- D. The right to seek an investigation under these procedures;
- E. The right to an advisor if an investigation is pursued, and the availability of trained staff and faculty to serve as an advisor; and
- F. The College's prohibition against retaliation and that the College will take prompt action in response to any act of retaliation.

4. MEETING WITH REPORTING PARTY AND INITIAL ASSESSMENT

Upon receiving a report of prohibited conduct, the Title IX coordinator will offer to meet with the reporting party in person or by phone to discuss the report. At this meeting the items in Section III above will be re-addressed, and the Title IX coordinator will ensure that the reporting party receives or has received a written explanation of all available resources and options. The Title IX coordinator will assess or ascertain the following at this meeting:

- A. The reporting party's safety and well-being and any necessary supportive measures;
- B. Any concerns or barriers the reporting party has about participating in a college investigation, including concerns regarding disclosure of their identity;
- C. The general nature and circumstances of the report, including the name of the respondent, other parties involved, and any other party with knowledge of the reported incident;
- D. The ages of the reporting party and the respondent;
- E. Whether the reported information and any other available information provides a rational basis for concluding that there is a threat to the health or safety of the complainant or to any other member of the College community, as set forth in the Section 6.

At the meeting with the reporting party, the Title IX coordinator will not request that the reporting party recount the incident(s). Rather, they will only solicit information necessary to determine whether the reported prohibited conduct, if true, would be a violation of the policy.

5. REPORTING TO CLERY OFFICER

Within 24 hours or as soon as practicable, the Title IX coordinator will communicate the report to the College employee responsible for reporting under the Clery Act (“**Clery Officer**”). The Clery Officer will determine whether the report triggers any Clery Act obligations, including entry of the report in the daily crime log and/or issuance of a timely warning, and will take steps to meet those obligations.



6. HEALTH AND SAFETY THREAT ASSESSMENT

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

- A. The increased risk that the alleged perpetrator will commit additional acts of sexual or interpersonal violence, such as:
 - 1. whether there have been other sexual or interpersonal violence complaints about the same alleged perpetrator;
 - 2. whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence; or
 - 3. whether the alleged perpetrator threatened further sexual or interpersonal violence against the reported victim/survivor or others.
- B. Whether the sexual or interpersonal violence was committed by multiple perpetrators;
- C. Whether the sexual or interpersonal violence was committed by deceit or manipulation;
- D. Whether the sexual or interpersonal violence was perpetrated with a weapon;
- E. Whether the reported victim/survivor is a minor;
- F. Whether the reported victim/survivor was incapacitated;
- G. Whether the College possesses other means to obtain relevant evidence of the sexual or interpersonal violence (e.g., security cameras or personnel, physical evidence); and
- H. Whether the reporting party’s report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

7. COLLEGE ACTIONS FOLLOWING HEALTH AND SAFETY THREAT ASSESSMENTS

A. Timely Warnings

Following the threat assessment, the Clery officer will determine whether the respondent or any other individual identified in the report of prohibited conduct poses a serious and ongoing threat to the College community. If appropriate, the College will issue a timely warning in accordance with the **Clery Act Timely Warning Policy**.

B. Supportive and Interim Measures

When a student or employee reports to the College that they have been a victim of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off campus, the Title IX coordinator will ensure students and employees receive written



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notification of all their rights and options, regardless of whether they choose to report prohibited conduct to the College or to the police.

The Title IX coordinator will implement whatever reasonable supportive and/or interim measures they deem appropriate, with or without the request of the reporting party, to ensure the safety and well-being of the reporting party and the broader College community. These measures may include the following:

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

Supportive measures are available to the reporting party before an investigation has been initiated and will be designed such that they have no impact on the respondent. Interim measures are available to the complainant and respondent once an investigation has been initiated until a final determination on a policy violation has been made, including after the parties have exercised their rights to appeal as set forth below. Interim measures will be designed such that they have minimal impact on the respondent unless the respondent poses a safety threat to the complainant or other members of the College community.

C. Determination Regarding Whether Investigation Pursued

1. Request for Investigation

When a reporting party requests an investigation in writing, the Title IX coordinator will consider the information provided by the reporting party to determine the course of the investigation including, in their discretion, whether the allegations meet the threshold of a



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policy violation and whether a formal investigation as described in Section VIII will be pursued.

2. Request for Anonymity, No Investigation, No Discipline

A reporting party may request that personally-identifying information not be shared with the respondent, that no investigation be pursued, and/or that no disciplinary action be taken. The College will seek to honor the reporting party's request(s) if it is possible to do so while also protecting the health and safety of the complainant and the College community. The Title IX coordinator will consider the following factors in evaluating such request(s): (i) the totality of the known circumstances; (ii) the presence of any risk factors, as described in Section 6 of these procedures; (iii) the potential impact of such action(s) on the reporting party and respondent; (iv) any evidence showing that the respondent made statements of admission or otherwise accepted responsibility for the prohibited conduct; (v) the existence of any independent information or evidence regarding the prohibited conduct; and (vi) any other available and relevant information.

- *Determination the request can be honored* – Where the Title IX coordinator determines that the request(s) can be honored, they may nevertheless take steps designed to eliminate the reported conduct, prevent its recurrence, and remedy its effects on the reporting party and the College community including to offer supportive measures to the reporting party, to provide targeted training or prevention programs, and/or to provide or impose other remedies tailored to the circumstances.
- *Determination the request cannot be honored* – Where the Title IX coordinator determines that a reporting party's request(s) cannot be honored, such as where to do so would impede the College's ability to ensure the health and safety of the College community, the Title IX coordinator will take appropriate actions as may be suggested by the circumstances including initiating an investigation under these procedures and/or arranging, imposing, or extending supportive or interim measures.
- *Determination to proceed with investigation* – Where the Title IX coordinator determines that the College must proceed with an investigation despite a reporting party's request to the contrary, the College will make reasonable efforts to protect the privacy of the complainant. However, as part of the investigation, the College may be required to speak with the respondent and others who may have relevant information, in which case the reporting party's identity may have to be disclosed in order for the respondent to have an opportunity to fully defend the accusations.
- *Reporting party determination not to participate* – Where a reporting party declines to participate in an investigation, the College's ability to meaningfully investigate and respond to a report may be limited. In such cases, the Title IX coordinator may pursue the report if it is possible to do so without the reporting party's participation in the



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investigation (e.g., where there is other relevant evidence of the prohibited conduct such as recordings from security cameras, corroborating reports from other witnesses, physical evidence, or any evidence showing that the respondent made statements of admission or otherwise accepted responsibility for the prohibited conduct). In the absence of such other evidence, however, the College will only be able to respond to the report in limited and general ways (e.g., through the provision of supportive measures). Although a report may be re-opened and investigated at any time, the College will only be able to pursue sanctions where the respondent is a current employee, student, or third party affiliated with the College.

D. Notice to Reporting Party and Respondent of College Actions

The Title IX coordinator will promptly inform the reporting party of any action(s) undertaken by the College to respond to a health or safety threat to the reporting party or the College community, including the decision to proceed with an investigation. The Title IX coordinator also will promptly inform the respondent of any action(s) (including any interim measures) that will directly impact the respondent and provide an opportunity for the respondent to respond to such action(s). The Title IX coordinator retains the discretion to impose and/or modify any supportive or interim measures based on all available information. Interim measures will remain in effect until a final determination on a policy violation has been made, including after the parties have had the opportunity to exercise their right to appeal as set forth in these procedures. A reporting party, complainant, or respondent may challenge supportive or interim measures or other actions, or failure to impose supportive or interim measures or take other actions, by contacting the Title IX coordinator to address any concerns.

E. Documentation of Initial Assessment and Determination Regarding Investigation

The initial report, the health and safety threat assessment, and the determinations of the Title IX coordinator regarding whether an investigation is pursued will be documented and retained by the College in accordance with the College's record retention policy.

8. INVESTIGATION

An investigation commences when the Title IX coordinator determines that information provided by a reporting party meets the threshold of a policy violation or the College initiates an investigation based on a health and safety threat assessment as described in Section 6. There is no time limit for requesting an investigation.

A. Investigation of Other Forms of Discrimination or Harassment

If a report of prohibited conduct also implicates other forms of discriminatory and/or harassing conduct prohibited by the Equal Opportunity Policy, the Title IX coordinator will evaluate all reported allegations to determine whether the alleged prohibited conduct and



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the alleged Equal Opportunity Policy violation(s) may be appropriately investigated together without unduly delaying the resolution of the report of prohibited conduct. Where the Title IX coordinator determines that a single investigation is appropriate, the investigation will be conducted in accordance with these procedures.

B. Assignment to Investigators

After assessing any actual or perceived conflicts of interest and/or bias, the Title IX coordinator will designate one or more internal investigators or an external investigator to conduct a prompt, thorough, fair, and impartial investigation. All investigators will receive annual training on issues related to sexual assault, sexual and gender-based harassment, sex discrimination, dating violence, domestic violence, and stalking, and on how to conduct an investigation that is fair and impartial and that protects the safety of complainants, respondents, and the College community while promoting accountability.

C. Meeting with Respondent

After an investigation is initiated, the Title IX coordinator will meet with the respondent to explain the investigation process, advise them of and explain any interim measures in place, and discuss interim measures and resources available to the respondent. At the meeting, the Title IX coordinator will provide the respondent a written Notice of Investigation and arrange for any reasonable interim measures the respondent requests.

D. Notice of Investigation

The Title IX coordinator will notify the complainant and the respondent, in writing, of the commencement of an investigation. Such notice will (1) identify the complainant and the respondent; (2) specify the date, time (if known), location, and nature of the alleged prohibited conduct; (3) identify potential policy violation(s); (4) identify the investigator(s); (5) include information about the parties' respective expectations under the policy and these procedures; (6) explain the prohibition against retaliation; (7) instruct the parties to preserve any potentially relevant evidence in any format; (8) inform the parties how to challenge participation by the investigator on the basis of bias or conflict of interest; and (9) provide a copy of the policy and these procedures. If additional prohibited conduct is alleged during the course of an investigation, a new Notice of Investigation will be issued.

E. Investigation Process

1. Overview

During the investigation, the parties will have an equal opportunity to be heard, to submit information and corroborating evidence, to identify witnesses who may have



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relevant information, and to submit questions that they believe should be directed by the investigator to each other or to any witness. The investigator will exercise discretion in establishing the scope of the investigation. The investigator will notify and seek to meet separately with the complainant, the respondent, and appropriate witnesses and will gather other relevant and available evidence and information, including, without limitation, electronic or other records of communications between the parties or witnesses (via voice-mail, text message, email, and social media sites), and photographs (including those stored on computers and smartphones). The Title IX coordinator will meet with the investigators periodically to ensure that the investigation process is completed in accordance with applicable regulations and guidance and these procedures.

2. Review of Interview Notes

The complainant and respondent will have the opportunity to meet with the investigator and review and comment on the investigator's notes from their respective interviews but will not have access to the notes from the other party's or witnesses' interviews. The investigators may or may not incorporate the comments into their investigation summary.

3. Advisors

During the investigation, the complainant and respondent have the right to choose and consult with an advisor. The advisor may be any person, including an attorney, who is not otherwise a party or witness involved in the investigation. The parties may be accompanied by their respective advisors at any meeting or proceeding related to the investigation under these procedures. While the advisors may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties or otherwise participate in, or in any manner disrupt, such meetings and/or proceedings. The College offers trained advisors to help the parties navigate the investigation process.

4. Coordination with Law Enforcement

The Title IX coordinator will contact any law enforcement agency that is conducting its own investigation to inform that agency that a College investigation is also in progress; to ascertain the status of the criminal investigation; and to determine the extent to which any evidence collected by law enforcement may be available to the College in its investigation. At the request of law enforcement, the Title IX coordinator may delay the College investigation temporarily while an external law enforcement agency is gathering evidence. The Title IX coordinator will cause the investigation to promptly resume when notified that law enforcement has completed the evidence-gathering stage of its criminal investigation.

5. Cooperation and Participation



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Employees are required to cooperate and participate fully in any Title IX investigation and/or request for information by the Title IX coordinator.

6. Timeframe for Completion of Investigation; Extension for Good Cause

Typically, the period from commencement of an investigation through delivery of the letters of determination to the parties will not exceed sixty (60) calendar days. The investigation commences on the date the respondent receives the Notice of Investigation. This 60-day timeframe may be extended for good cause, which may exist if additional time is necessary to ensure the integrity and completeness of the investigation; to comply with a request by external law enforcement for temporary delay to gather evidence for a criminal investigation; to accommodate the availability of witnesses and College faculty and staff; to account for College breaks or vacations; to account for complexities of a case including the number of witnesses and volume of information provided by the parties; to account for the failure of the parties to respond in a timely manner to requests for information or meetings; or for other legitimate reasons. The Title IX coordinator will notify the parties in writing of any extension of this timeframe and the reason for such extension.

7. Reopening a Closed Investigation

Where a complainant has requested that the College close an investigation and the College has done so, a complainant may request that the investigation be reopened that a determination on a policy violation has not been made.

8. Site Visit(s)

The investigator may visit relevant sites or locations and record observations through written, photographic, or other means.

9. Expert Consultation(s)

The investigators may consult medical, forensic, technological, or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation.

10. Findings of Fact

The investigation is a neutral fact-gathering process conducted by investigators who find facts; investigators do not make determinations of policy violations. Following the fact-gathering process, the investigators will make findings of fact after



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consideration of the evidence, credibility of the witnesses, and any other available information including the following:

- *Prior or subsequent conduct* – The investigator may consider evidence of prior or subsequent conduct of either party in determining pattern, knowledge, intent, or motive. The determination of relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar prohibited conduct.
- *Relevance* – The investigator has the discretion to determine the relevance of any proffered evidence and to include or exclude certain types of evidence. In general, the investigator will not consider statements of personal opinion or statements as to any party's general reputation for any character trait. Rather, investigators will rely on direct observations and reasonable inferences from the facts.
- *Prior sexual history* – The investigator will never use the sexual history of a complainant or respondent as evidence of character or reputation.

11. Investigation Summary

After the investigators complete their investigation, they will prepare and submit to the Title IX coordinator an investigation summary which will include the names and dates of meetings with complainant, respondent, and witnesses; a summary of evidence; a determination of the credibility of the witnesses and parties; and a clear and concise statement setting forth their findings of fact. Any relevant documentation will be attached to the investigation summary.

F. Determination of Policy Violation; Standard of Review

Following a review of the investigation summary and consultation with the investigators, the Title IX coordinator will make determinations of policy violations. Using the preponderance of evidence standard, the Title IX coordinator will determine whether it is more likely than not that the respondent engaged in prohibited conduct in violation of the policy.

G. Determination of Sanctions and Remedial Measures

1. Determination of Sanctions

In the event the Title IX coordinator determines by a preponderance of the evidence that the respondent engaged in prohibited conduct in violation of the policy, the Title IX coordinator will determine appropriate sanctions. In determining appropriate



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sanctions for faculty, the Title IX coordinator will consult with the president, the provost, and the appropriate school dean, as further described in the faculty manual. In determining appropriate sanctions for staff, the Title IX coordinator may consult with the executive director of human resources.

The Title IX coordinator will consider the following factors in determining appropriate sanctions:

- The severity, persistence, or pervasiveness of the prohibited conduct;
- Whether the prohibited conduct is violent in nature and, if so, whether weapons were involved;
- The impact of the prohibited conduct on the complainant including, by way of example, their ability to participate effectively in College employment, programs, and activities;
- The impact or implications of the prohibited conduct within the College community with reference to the maintenance of a safe, nondiscriminatory and respectful environment conducive to learning, working, and living;
- Prior misconduct by the respondent known to the College, as determined by the respondent’s relevant prior disciplinary history at the College or elsewhere, and any known criminal convictions;
- Whether the respondent has accepted responsibility for the prohibited conduct;
- The sanctions that have been levied for similar prohibited conduct under similar circumstances in the past; and
- Any other mitigating, aggravating, or compelling factors.

2. Available Sanctions

Violations of this policy may result in sanctions and corrective actions, which can include, but are not limited to the following:

DISCIPLINARY SANCTIONS FOR EMPLOYEES	
Staff	Faculty
Verbal warning	Verbal warning
Written warning	Written warning
Required training or education	Required training or education
Transfer or demotion	Suspension with pay
Revocation of employment offer	Suspension without pay
Suspension with pay	Termination of contract
Suspension without pay	
Termination of contract	
Termination of employment	



3. Remedial Measures

The Title IX coordinator will determine whether to impose any remedial measures for the protection or well-being of either party, including the extension of any interim measures in place during the investigation. This determination will include the time period for which the remedial measures will remain in effect. Upon request, the Title IX coordinator will consider additional remedial measures. If the Title IX coordinator determines that interim measures will not be continued as remedial measures, they may advise the party of the option of requesting an ADA accommodation through student disability services or the human resources department if applicable under the circumstances.

H. Notice of Determination and Sanctions

1. Sanctions

If respondent is found responsible, sanctions will be set forth in the determination letters in the following manner:

- If the respondent has engaged in prohibited conduct, the determination letter to respondent will set forth all sanctions levied against them.
- If the prohibited conduct would not constitute a crime of violence under Utah or federal law, complainant's letter will include only those sanctions that would directly impact them.
- If the prohibited conduct would constitute a crime of violence under Utah or federal law, the complainant's letter will include all sanctions levied against respondent.

2. Determination Letters

The Title IX coordinator will draft separate but similar letters of determination for complainant and respondent that will set forth the findings of fact from the investigation; whether the respondent is responsible or not responsible for any policy violations; what sanctions, if any, will be imposed; and remedial measures, if any, that will be enacted, together with the rationale for the policy determination and sanctions. The determination letters will also advise the complainant and respondent of their right to a review by an appeal panel in accordance with these procedures. The Title IX coordinator will notify the complainant and respondent that their determination letter is available for review in the Title IX coordinator's office.

3. Meeting with Parties to Review Determination

At a mutually agreeable time, the Title IX coordinator will meet with each party to review their determination letter and will provide a copy of their determination letter,



discuss any sanctions and remedial measures that will be put into place, answer any questions regarding the investigation or determination, and notify them of their right to have the determination reviewed by an appeal panel.

4. Sanctions Effective

Sanctions will be implemented upon the expiration of five school days unless a timely appeal has been filed.

9. APPEAL OF DETERMINATION

A. General Procedures

1. Grounds

Within five (5) school days of receiving the determination letter, the complainant or the respondent may appeal the determination in writing. The grounds for appeal are the following:

- *Procedural Error* – The investigation was not conducted in accordance with these procedures and this resulted in substantial error in the determination of whether there was a policy violation.
- *Bias* – The investigators conducted the investigation or the Title IX coordinator reached a determination in a biased or partial manner.
- *New Evidence* – There is evidence which was available at the time of the determination but unknown to the Title IX coordinator and not in the possession of the party providing the new evidence that would substantially affect the determination. The Title IX coordinator will determine the appropriate course of action depending on the new evidence submitted.

2. Appealing Party

To appeal a determination, the appealing party must submit a written statement citing the grounds for appeal and providing an explanation of their position to the Title IX coordinator or a deputy Title IX coordinator. Under circumstances alleging that the Title IX coordinator reached a determination in a biased or partial manner, a deputy coordinator will be assigned to serve as the acting Title IX coordinator for purposes of the appeal.

3. Title IX Coordinator Duties Regarding Appeal



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Upon receipt of a notice of appeal, the Title IX coordinator will:

- Inform the party who has not appealed, in writing, of the appeal;
- Appoint a panel of three trained staff or faculty members without conflicts of interest to serve as members of the appeal panel;
- Provide the appeal panel the investigator's interview notes; the investigation summary, including any documentary evidence; and the determination letters.

In cases alleging bias in determination, a person other than the Title IX coordinator who made the determination will be designated to manage all aspects of the appeal.

4. Appeal Panel

Within ten (10) school days of their appointment, the appeal panel will meet at a mutually agreeable time to consider the information provided to them and to determine whether the determination should be upheld. The appeal panel has the discretion to speak to the complainant, respondent, witnesses, investigators, or Title IX coordinator in reaching its conclusion but is not required to do so. The appeal panel will not review any other written evidence or documentation besides that provided by the Title IX coordinator.

B. Decision of Appeal Panel; No Further Appeals

1. Affirmation of Determination

If the appeal panel determines by a majority vote that there was neither bias nor failure of process, it will affirm the determination and submit its affirmation letter to the Title IX coordinator. The determination will be final and not subject to further appeal. The Title IX coordinator will provide the affirmation letter to the parties within five school days.

2. Procedural Error

If the appeal panel decides by a majority vote that the investigation was not conducted in accordance with these procedures, it will submit a letter to the Title IX coordinator setting forth specific procedural error(s). The Title IX coordinator will direct the investigators to re-open the investigation and re-examine the evidence in light of the identified procedural error(s) and provide a revised investigation summary, if appropriate. The Title IX coordinator may assign new investigators to examine the evidence if appropriate under the circumstances. The Title IX coordinator will issue new determination letters and the determination may be appealed in accordance with these procedures by the party who did not file the original appeal.



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3. Bias

- *Bias in Investigation* – If the appeal panel decides by a majority vote that the investigation was conducted in a biased or partial manner, it will submit a letter to the Title IX coordinator setting forth the specific ways in which the investigation was biased or partial. The Title IX coordinator will take such action as necessary to correct the bias or partiality, which may include assigning a new investigator(s) and/or re-opening the investigation. Once any additional fact finding is complete and a revised investigation summary is received, if appropriate, the Title IX coordinator will issue a new determination letter and the determination may be appealed in accordance with these procedures.
- *Bias in Determination* – If the appeal panel decides by a majority vote that the Title IX coordinator was biased or partial in reaching the determination, it will submit a letter to the acting Title IX coordinator setting forth the specific ways in which, in its opinion, the determination was biased or partial and requesting a review of the determination. The acting Title IX coordinator will review all documentation provided to the appeal panel and issue a new determination letter and the determination may be appealed in accordance with these procedures.

4. No Further Appeal

There is no right of appeal beyond the appeal panel. Any concerns with the adequacy of an investigation can be addressed to the Department of Education, Office for Civil Rights, at OCR@ed.gov or (800) 421-3481.

10. CLOSURE OF INVESTIGATION FILE

A. Notice of Closure

1. Notice to Parties

Within five (5) school days of the conclusion of the investigation (including exhaustion of all appeals), the Title IX coordinator will provide the complainant, respondent, reporting party, and witnesses written notification that the investigation has been closed and that retaliation is prohibited conduct.

2. Notice to Executive Director of Human Resources or Provost

Within five (5) school days of the conclusion of the investigation (including exhaustion of all appeals), the Title IX coordinator will provide the executive director of human




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resources or provost, as appropriate, a copy of the respondent's determination letter and a written notification that the investigation has been closed.

B. Records Retention

The College will retain all records relating to a report of prohibited conduct, including investigation files and personnel record documentation of disciplinary or other personnel actions, in accordance with the College's record retention policy.

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	Published: 4/30/2015	Last Revised:	04/30/2018
	Title: Drug and Alcohol Abuse Prevention Program (DAAPP) Policy		

STATEMENT OF POLICY

In accordance with the Drug-Free Workplace Act of 1988 and the Drug-Free Schools and Communities Act of 1989, the College has a comprehensive Drug and Alcohol Abuse Prevention Program (DAAPP).

The College distributes the DAAPP information to learners and collaborators annually. The DAAPP information includes the standards of conduct and legal sanctions for the unlawful use of illicit drugs and alcohol, health risk associated with the use of illicit drugs and the alcohol, and availability of drug and alcohol programs (prevention, counseling, treatment, disciplinary sanctions, rehabilitation and re-entry to the academic environment/workforce). The College conducts a biennial review to determine the effectiveness of DAAPP and ensure the College is enforcing disciplinary sanctions for violating standards of conduct.

Outside of the legal requirements, the College provides confidential resources that are made available to learners and collaborators to use for their health and well-being. The Learner Support Services (LSS) department is available for all learners and the Coordinator of People Services department is available for all collaborators to obtain confidential referrals and information regarding substance counseling, treatment, and rehabilitation programs. All personnel information is kept safe and confidential.

UnitedHealth, the College's health care provider, offers collaborators with a range of free services through the employee assistance program; which include face-to-face visits with a network provider for behavioral issues, telephonic support for work/life concerns, and crisis support.

TO WHOM THIS POLICY APPLIES

This policy applies to all College learners, and collaborators.


DEFINITIONS

- College: College refers to Nightingale College.
- Collaborators: College faculty and staff.
- Faculty: full-time, part-time, adjunct faculty and instructors of the College.
- Learners: Refers to students who are registered/enrolled for credit- or non-credit bearing coursework.
- People Services: Refers to Human Services Department.
- Staff: full-time, part-time individuals employed by the College for executive, clerical, sales work, etc.

APPLICABLE PROCEDURES

A. DISTRIBUTION OF THE DAAPP

The College distributes notification of the DAAPP in writing annually to all learners and

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collaborators in the following ways:

- Campus Safety Officer is responsible to incorporate the DAAPP into the Annual Security Report (ASR) and distribute the ASR;
- Senior Manager, LSS includes the DAAPP in emails sent to all learners and collaborators at the start of the fall, spring, and summer semesters, on the first day after the Add/Drop Deadline (approximately 10 days after the start of classes);
- Coordinator, People Services is responsible to email the DAAPP to all new collaborators as part of the new hire process;
- Senior Manager, LSS is responsible for incorporating DAAPP in a New Learner Orientation (NLO) workshop and New Collaborator Orientation (NCO) workshop;
- The policy administrator (Director, Internal Audit & Compliance) is responsible to post the DAAPP on the College's website.

B. BIENNIAL REVIEW OF THE DAAPP

The College will review its DAAPP every two (2) years to determine the effectiveness and implement any needed changes to the DAAPP, and to ensure the disciplinary sanctions for violating standards of conduct are enforced consistently. The College follows the following procedures in conducting the review:

1. Review Period. The College will complete its review by the end of each even-numbered calendar year for the preceding two academic years. For example, the 2020 biennial review for 2018 and 2019 should be completed by December 31, 2020.
2. Review Committee. The College will convene a committee that has a diverse representation of campus constituencies which will include at least one representative from Learner Support Services, Campus Safety, People Services, Nursing Education Services, Operations, and Compliance. These constituencies will have the required knowledge of alcohol and drug related problems the College is experiencing and the programs and policies the College has in place to address them.
3. Contents of Biennial Review Report. The report will include the following:
 - a) Description of Program Elements: This section will provide a general description of the types of activities that address the following areas of environmental interventions:
 - i. How does the College provide an environment with alcohol-free options?
 - ii. How does the College create a social, academic, and residential

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- environment that supports health-promoting norms?
 - iii. How does the Program limit alcohol availability?
 - iv. How does the Program limit marketing and promotion of alcohol on and off campus?
 - v. How does the Program develop and enforce its Program policies on and off campus?

- b) Statement of Program Goals and Discussion of Goal Achievement: Identify the problem that the College seeks to address and the outcome it seeks to achieve, such as the increases in positive behavior and decreases in negative behavior that are expected when Program goals are met.

- c) Summary of Program Strength and Weaknesses: Identify Program strengths and weaknesses. Strengths might include infrastructure support such as a reasonable budget for intended efforts, and campus and community involvement. Weaknesses are barriers of progress, including lack of data about the scope of the problem, a lack of allies, or a lack of leadership.

- d) Procedures for Distributing Annual Notification: List the methods the College used in distributing its annual Program notification to learners and collaborators, as well as any special considerations that were addressed to ensure that all collaborators and learners received policy information annually.


- e) Number of Drug and Alcohol Related Violations and Fatalities: Include a determination of the number of drug and alcohol-related violations and fatalities that occur on the campus, or as part of the campus activities; and the number and type of sanctions imposed by the College because of drug and alcohol-related violations, and fatalities that occur on the campus or as part of the campus activities.

- f) Ensuring that Disciplinary Sanctions are Consistently Enforced: Review the data regarding sanctions and provide an assessment of the fairness, consistency, and effectiveness of the Program.

- g) Recommendations: Assess any gaps in programmatic efforts and the problems faced by learners and make recommendations for revising the Program to address the most salient issues for the campus community.

- h) Copies of the Policies: Include copies of the policies distributed to learners and collaborators in the review.

- 4. Distribution and Retention of Biennial Review Report. The original biennial review report shall be maintained in the office of Director, Internal Audit & Compliance with copies distributed to the members of the executive council. The original report shall be retained for five years.

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RESPONSIBLE ADMINSTRATOR

The Senior Manager, LSS has oversight responsibility for administration of the DAAPP including updates, coordination of information required in the DAAPP, coordination of the annual notification to collaborators and learners, and the biennial review. The Senior Manager, LSS coordinates with the Director, Nursing Education, Director, Internal Audit and Compliance, Coordinator, People Services, and other administrators as necessary.

RELATED POCLICIES

- Drug and Alcohol Abuse Policy
- Drug and Alcohol Abuse Prevention Program

HISTORY

Date of Last Action	Action Taken	Authorizing Entity
April 28, 2018	Reviewed by Kevin Smith	V.P. Operations Controller

SIGNATURE, TITLE, AND DATE OF APPROVAL

Approved: Vice President, Operations | Controller:
 Kara D McDonald-Harmon
 Date: 5/31/2018