Cornish College of the Arts Sexual Misconduct Policy

Title IX
Cornish College of the Arts is committed to creating and providing a learning, living and working environment free from gender-based discrimination. Gender-based discrimination, including Sexual Misconduct (as defined in this policy) committed by members of our community, guests and visitors will not be tolerated. All members of our community, including guests and visitors, are expected to conduct themselves in a manner that does not infringe on the rights of others. Cornish complies with all applicable state and federal statutes, including Title IX of the federal Higher Education Amendment of 1972, which prohibits discrimination on the basis of sex under any education program or activity receiving federal financial aid. Sexual assault and sexual harassment are forms of sex discrimination prohibited by Title IX.

Any student, faculty or staff member, who has concerns about sexual discrimination, including any concerns pertaining to Sexual Misconduct, is encouraged to seek assistance from our coordinator (listed below).

The Title IX Coordinator provides information about resources for assistance and about options for addressing concerns. Those options may vary depending on the nature of the complaint, whether the complainant is a student, faculty or staff member, the wishes of the complainant regarding confidentiality, and whether the complainant prefers to proceed formally or informally. This process plays an integral role in fulfilling Cornish’s commitment to provide a positive learning, teaching and working environment for the entire community.

Title IX Coordinator
Jerry Hekkel,
Dean of Student Life,
1st Floor, Cornish Commons
206-726-5111
jhekkel@cornish.edu

Title IX Deputy Coordinator
Director of Human Resources (Faculty & Staff)
7th Floor MCC
206-726-5004

SEXUAL MISCONDUCT POLICIES AND PROCEDURES
Due to the sensitive nature of sexual misconduct concerns, as well as federal requirements, the following policies and procedures pertain specifically to sexual misconduct matters at Cornish.

Cornish strictly prohibits Sexual Misconduct of any kind. Incoming students and employees are informed about ways to prevent Sexual Misconduct, through New Student Orientation, and new employee orientation programs. Additionally, ongoing
campus-wide programs to prevent such incidents are conducted during the academic year through passive informational campaigns and workshop opportunities.

WHAT IS SEXUAL MISCONDUCT?
Cornish College defines Sexual Misconduct as:

- Sexual harassment
- Hostile environment caused by sexual harassment
- Sexual assault
- Non-consensual sexual contact,
- Non-consensual sexual intercourse
- Domestic violence
- Dating violence
- Sexual exploitation
- Stalking
- Retaliation
- Intimidation

The above terms are defined in Appendix B-1 (located in back of this document).

REQUIREMENT OF CONSENT
- Consent for sexual contact must be clearly understood and obtained prior to sexual activity, including the escalation of any ongoing sexual activity;
- Consent for sexual contact is an active state that is informed, knowing and voluntary;
- Someone who is incapacitated cannot consent (due to use of drugs, alcohol, when a person is asleep, unconscious, or because of intellectual or other disability that prevents the student from having the ability to give consent;
- Silence, or an absence of resistance, cannot be interpreted as consent;
- Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another;
- Consent can be given by words or actions, as long as those words or actions create clear and mutually understandable permission regarding the conditions of sexual activity;
- Consent to one form of sexual activity cannot imply Consent to other forms of sexual activity, even within the same intimate situation. Previous relationships or Consent cannot imply Consent to future sexual acts. Consent cannot be procured by use of physical force, threats, intimidating behavior or coercion.
- Consent can be withdrawn at any time

EVIDENCE COLLECTION
Victims of sexual violence can have evidence collected up to 96 hours after a sexual assault. All Seattle-area hospital emergency departments can provide evidence collection and call for a survivor advocate to be with the victim. Evidence collection does not mean the victim has to file a report or press charges; it does, however, secure any evidence in the event that the victim would like the option of filing/pressing charges in the future.

The Emergency Department will have to call law enforcement to file a report, but the victim has the option to remain anonymous or not talk to law enforcement personnel.
If a victim would like to wait and think about evidence collection, brushing teeth, wiping from the bathroom, showering, smoking, and eating can damage evidence. It is recommended that the victim bring any clothes that may have evidence on them from the assault.

**FILING A REPORT**
Victims have the option of filing a report with any or all of these departments:

- The Office of Student Life, Housing & Residence Life, Human Resources and Safety & Security at Cornish College of the Arts. This could lead to an internal investigation and findings related to a violation of the Student Code of Conduct.

- The Title IX Coordinator/Deputy Title IX Coordinator This could lead to an internal investigation and findings related to a violation of the Student Code of Conduct.

- The Seattle Police Department. This could lead to a criminal investigation and legal proceedings.

**REPORTING AN ALLEGATION TO CAMPUS AUTHORITIES**
Students who believe they have been a victim of sexual misconduct (including sexual assault, harassment or discrimination) should tell someone! All faculty and staff, desk assistants, resident assistants, administrators are responsible employees who are obligated to report allegations of sexual misconduct to campus authorities. They will report this information to the Title IX Coordinator (Jerry Hekkel, Dean of Student Life-206-726-5111, located on 1st Floor Cornish Commons). Students may also complete an incident report or provide a witness statement to the Director of Safety & Security, 3rd floor MCC, 206-726-5824.

Faculty or staff are obligated to report this to the Title IX Coordinator. If the Title IX Coordinator is not available faculty and staff may also complete an incident report or witness statement to the Director of Safety & Security, 3rd floor MCC, 206-726-5824.

**AMNESTY**

1) **For Complainant**
The College provides amnesty to complainants who may be hesitant to report to College officials because they fear that they themselves may be accused of minor policy violations, such as underage drinking, at the time of the incident. Educational options will be explored, but no conduct proceedings or conduct record will result.

2) **For Those Who Offer Assistance**
To encourage students to offer help and assistance to others, College pursues a policy of amnesty for minor violations when students offer help to others in need. At the discretion of the Administrative Hearing Officer, amnesty may also be extended on a case-by-case basis to the person receiving assistance. Educational options will be explored, but no conduct proceedings or conduct record will result.
3) For those Who Report Serious Violations
Students who are engaged in minor violations but who choose to bring related serious violations by others to the attention of the College are offered amnesty for their minor violations. Educational options will be explored, but no conduct proceedings or record will result.

Abuse of amnesty requests can result in a decision by the Dean of Students (or Designee) not to extend amnesty to the same person repeatedly.

4) Safe Harbor
The College has a Safe Harbor rule for students. The college believes that students who have a drug and/or addiction problem deserve help. If any College student brings their own use, addiction, or dependency to the attention of College officials outside the threat of drug tests or conduct sanctions and seeks assistance, a conduct complaint will not be pursued. A written action plan may be used to track cooperation with the Safe Harbor program by the student. Failure to follow the action plan will nullify the Safe Harbor protection and campus conduct processes will be initiated.

DUTY TO INVESTIGATE & LIMITS OF CONFIDENTIALITY
When an allegation of sexual misconduct comes to the attention of any school official, the incident may be investigated by the college. Cornish is required by law to investigate allegations of sexual misconduct, whether communicated verbally, in writing, or through hearsay. This obligation may exist whether or not the Impacted Party chooses to pursue charges or to participate in the investigatory process because of potential impact on other community members. Incidents involving sexual assault may be reported to local law enforcement authorities, but the College will not disclose the name(s) of those involved individual(s) to law enforcement authorities without their permission. The Impacted Party or any other reporting individual may choose not to participate in any action taken by the college. If the Impacted Party chooses to file a complaint, he or she will be referred to as the complainant.

Requests for anonymity, while not guaranteed, will be respected to the greatest extent possible; however, a request for anonymity may result in conditions that make it difficult for the college to conduct a full and proper investigation. Students who desire strict confidentiality may discuss their concerns with a licensed counselor in the Cornish Counseling Office, who is exempt from legal requirements to report the incident to other college administrators or law enforcement personnel, except in cases where the individual or others are at significant risk of harm.

SEXUAL MISCONDUCT INVESTIGATION AND HEARING PROCEDURES
The administrative investigator will conduct a fact-finding investigation with involved individuals or those who may have relevant information to share about the case. The respondent will be notified at least two calendar days prior to the date of any investigatory meeting or hearing, unless the coordinating investigator determines that extenuating circumstances require an earlier meeting or hearing date. The notice will include a general description of the alleged policy violation(s) and the time, date, and location of the meeting or hearing.

After conducting the investigation, the administrative investigator will present the case file to the Title IX Coordinator and/or Deputy Coordinator-Human Resources. The Title
IX Coordinator will either make an administrative finding based on the investigation/evidence presented or assign an Administrative Hearing Officer (non-voting member) to convene the Conduct Board to hold a hearing. The Title IX Coordinator reserves the right to add or change hearing administrators or conduct board members, if deemed necessary.

During any meetings or hearings, the Hearing Administrator may separate the complainant and respondent, or any witnesses, from the other party in order to provide an orderly and emotionally safe environment for the proceedings. The complainant and the respondent will have the right to have witnesses speak on their behalf to the administrative investigator. If a hearing is held, witnesses or other individuals may be invited to speak to the Conduct Board during the hearing at the discretion of the Hearing Administrator or board. Witnesses may be in the room only when testifying.

The complainant and the respondent have the right to have legal counsel with them during any portion of the investigation, including a hearing; however, individuals from outside the college community, including legal representation, will not be permitted to speak (other than giving private advice to their client) unless asked a direct question by the investigator, the Hearing Administrator, or the hearing board.

At its discretion, the College may impose immediate and temporary remedies to protect any individuals involved during the time that the investigation and hearing is underway. In particular, the complainant or the respondent may receive assistance through the Title IX Coordinator in changing academic schedules and on campus living arrangements.

Campus investigations and hearings conform to basic rules of fairness and are conducted by individuals who receive training on conducting such processes. A campus hearing is not a court trial. The main purpose of any investigation and hearing is to consider allegations and determine the likelihood of a violation of Cornish policy by considering the evidence presented. The Administrative Hearing Officer or Board will use a preponderance of the evidence standard (in other words, “more likely than not”) to determine whether a student is or is not responsible for a violation.

In the absence of an involved party at a hearing, the Administrative Hearing Officer or panel will decide whether to continue without the missing individual present. Failure to attend a meeting or hearing may affect the outcome and the sanctions imposed. A student’s absence, without sufficient reason, may be grounds for disciplinary action as well.

A record of any meetings or hearings may be made either by audio or video recording at the discretion of the coordinating investigator or hearing panel. All persons present will be notified if a meeting is being recorded.

Both the complainant and the respondent will be informed of the outcome of any investigation and hearing, including the finding and any sanctions imposed, within a reasonable timeframe (typically within five working days) by email sent to their Cornish email address. In some cases, the victim or his or her next of kin will be notified when the law requires it or when it is permitted by law at the discretion of the Title IX Coordinator.
Additionally, some faculty or staff members may be informed of the outcome if the information is necessary for them to conduct their responsibilities.

It is the position of Cornish College of the Arts that mediation is never appropriate in sexual misconduct cases.

RETALIATION
Retaliation of any kind in response to an individual’s participation in the investigation or hearing is strictly prohibited and will result in an immediate response from the college, which may involve temporarily separating the responsible individual from the campus community. Any concerns about the retaliation should be addressed promptly with the Dean of Students.

RIGHT TO APPEAL
Both the complainant and the respondent may appeal the initial findings and/or sanctions from a sexual misconduct investigation process to the Provost. Grounds for Appeal Requests

Appeals requests are limited to the following grounds:

1) A procedural or substantive error occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.);
2) To consider new evidence, unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included;
3) The appeal must be made in writing to the Provost within five business days of having received notice of the initial findings, unless otherwise notified in the findings letter. Generally, findings and sanctions remain in effect during the appeal process.

The Provost may make a direct decision on the appeal, convene a new hearing panel, or remand the case back to an investigator for further consideration. The decision of the Provost is final.

RIGHTS OF COMPLAINTANT AND RESPONDENT
Throughout the investigative and hearing process, Cornish endeavors to treat both the complainant and respondent fairly and equitably, in accordance with the procedures developed by the college. Both the complainant and respondent are entitled to the following:

A. Notification of Investigation or Hearing
Notice of an investigation will be provided as soon as is practicable. Written notice of the date, time and place for any hearing and a written copy of the complaint will be given to both students. This notice will be sent to the student’s Cornish email account at least three days, excluding weekends and holidays, prior to the scheduled hearing. The student(s) may agree to shorter notice.

Students named in a complaint or investigation is required to attend the hearing, unless prior arrangements have been made with the Administrative Hearing Officer / Title IX Coordinator at least 24-hours before the hearing. The Administrative Hearing Officer / Deputy Title IX Coordinator determine the appropriateness of the request and whether
to reschedule the hearing. Conflicts with class schedules are considered when scheduling hearings; however, there may be circumstances that require students to miss a class in order to attend a meeting. Students who fail to attend a hearing without approval may be found responsible for conduct violations. Cornish reserves the right to impose interim sanctions prior to the hearing if in Cornish’s sole discretion they are warranted for the safety and well-being of the college community.

B. Disclosure of Review Documents
Students must submit all written information they want considered by the Administrative Hearing Office or Conduct Board prior to the start of the hearing, except that written materials offered in strict rebuttal of information offered during the hearing may be received and considered, when in the sole discretion of the hearing administrators, such consideration is necessary to maintain fairness. Each student will have the opportunity to review each document before the meeting if that is reasonably possible under the circumstances, as determined by the Administrative Hearing Officer, in his or her sole discretion and subject to disclosure restrictions imposed by law, and if not, then at the time of the meeting. A student may request a copy of each document from the Administrative Hearing Officer. Requests will be considered in light of FERPA requirements.

C. An Orderly Meeting
Students are entitled to an orderly meeting to review and discuss the complaint submitted. In special circumstances as determined by the Dean of Student Life/Title IX Coordinator in his/her sole discretion, hearings may be conducted via phone conference or other electronic means.

D. Witnesses
Witnesses with firsthand and relevant information about the incident may be asked to participate in the hearing. Witnesses may be in the room only when testifying.

E. To Speak on His or Her Own Behalf
Students may present his or her own account as to what happened regarding the incident in question. In circumstances where safety may be a concern, as determined by the Dean of Student Life/Title IX Coordinator in his/her sole discretion, any student, regardless of his/her role in the hearing, may be required to attend via phone conference or other electronic means.

F. Support Person
The complainant and the respondent in an incident that includes sexual misconduct or physical assault may have a support person present during the hearing process. Students may select one support person per conduct process and this support person must be a member of the Cornish community. A support person who accompanies a student is present for emotional support only and may not speak on the students behalf. The student and the support person may confer at reasonable times as determined at the sole discretion of administrative hearing officer. A student involved in another type of incident may have a support person (same characteristics as noted above) upon the approval of the hearing officer. A request should be made via email to the Administrate Hearing Officer at least 24 hours prior to the scheduled hearing. If the student’s request is approved, other students (Respondent(s) and Complainant(s) involved in the hearing
will be afforded the same opportunity to have a support person present. The support person may not also serve as a witness.

G. Fair and Impartial Decision Makers
(Consult with the Dean of Student Life/Title IX Coordinator for additional information on disqualification of board members)

H. A Written Outcome Decision
This document will include a summary of facts, decision(s), and sanction information, if applicable.

I. An Opportunity for Self-Initiated Appeal as outlined above.

RESOURCES AND OPTIONS FOR VICTIMS OF SEXUAL VIOLENCE
Victims/survivors are entitled to protective measures, support and access to resources for healing regardless of whether a formal report is filed. Victims/survivors also have the right to be free from retaliation for reporting an act of sexual assault or harassment. Cornish strictly prohibits anyone from retaliating (which includes intimidating, threatening, coercing or in any way discriminating) against an individual for reporting sexual assault or harassment, or participating in a related investigation or hearing process. Anyone who engages in retaliation will be subject to discipline, up to and including dismissal from school or termination of employment.

Cornish encourages individuals to seek assistance if they believe they have been sexually harassed, assaulted or subjected to sexual misconduct or retaliation by a Cornish student or employee. Cornish provides a variety of options, so that each person may choose a path of response best suited to his or her particular situation. Cornish procedures are intended to protect the rights of the complaining party (“the complainant”), the accused (“the respondent”) and other participants in investigations of complaints.

Victims/survivors have the right to file reports both on and off campus. For example, you can file a report with a Title IX Coordinator and also the Seattle Police. Offices designated as “confidential” (Cornish Counseling Offices) will not report any information to the Title IX Coordinator(s). These conversations are kept strictly confidential and, except in rare, extreme circumstances, nothing will be shared without your permission.

Offices designated as “private” will keep the conversation as confidential as possible, but information from these offices about incidents of sexual misconduct must be shared with the Title IX Coordinator so that the college can take action if necessary for reasons of safety. In planning any response, the wishes of the person initiating the conversation will be given full consideration.

Confidential Resources at Cornish (for Students)
Cornish Counseling Services
1st Floor, Cornish Commons 206-726-5027
24/hour On-Call Counselor Available by calling Public Safety

Private Resources include:
Safety & Security 206-726-5038
Reports can be made anonymously. Officers are available 24/7. They can also provide assistance with filing a report with Seattle Police. Title IX Coordinator – Jerry Hekkel, Dean of Student Life, 206-726-5111 Office of Human Resources (Employees) 206-726-5004

Office of Student Life
Dean of Student Life, Cornish Commons, 1st Floor, 206-726-5111
Associate Dean of Student Life, Cornish Commons, 1st Floor 206-726-5174

Additional Support Services:
Seattle Police Department  Emergency phone: 911

Seattle Crisis Hotline (24 hour access): 206.461.3222 or toll-free at 866-427-4747

King County Sexual Assault Resource Center
24 hour resource line if in crisis, therapy, legal advocacy
(425) 226-5062

Countywide Social Service Referral
dial 211

National Domestic Violence Hotline
1-800-799-SAFE

National Sexual Assault Hotline
1-800-656-HOPE

EMPLOYEE INFORMATION
It is unlawful to subject another individual, regardless of his/her gender or gender identity, to sex discrimination, which includes sexual harassment. Cornish is committed to creating a learning, living and working environment free from discrimination, including sexual harassment and sexual violence. Members of our community, guests and visitors have the right to be free from all forms of violence and abuse, including sexual and relationship violence, stalking, sexual harassment and hate crimes. All members of our community, including guests and visitors, are expected to conduct themselves in a manner that does not infringe upon the rights of others.

Cornish complies with applicable state and federal statutes, including Title IX of the federal Higher Education Amendment of 1972, which prohibits discrimination on the basis of sex under any education program or activity receiving federal financial aid. Sexual assault and sexual harassment are forms of sex discrimination prohibited by Title IX.

SEXUAL MISCONDUCT REPORTING & INFORMATION
Any allegation of sexual misconduct brought against a Cornish student or employee, regardless of where the alleged sexual misconduct occurred, will be taken seriously. Sexual misconduct alleged to have occurred off the Cornish campus may be more difficult to investigate. If a person who is not a member of the Cornish community notifies Cornish of alleged sexual misconduct by a Cornish student or employee,
Cornish will determine whether the conduct described is a sufficient risk to the safety of the Cornish community to review further.

Jerry Hekkel, 206-726-5111, jhekkel@cornish.edu, serves as the Title IX Coordinator and is responsible for tracking and monitoring incidents of gender based discrimination, including sexual misconduct, to ensure that Cornish responds effectively to each complaint, and, where necessary, to conduct an investigation into a particular situation.

Approved 8.19.20

APPENDIX B.1

Definitions – Violations of Sexual Misconduct, VAWA Informed

Violations of Sexual Misconduct under the Cornish policy include, but are not limited to the following prohibited behaviors:

**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; and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, the frequency of interaction between the persons involved in the relationship.

**Domestic Violence**: A pattern of abusive behavior that is used by an intimate partner to gain or maintain power and control over the other intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, inure, or wound someone.

Washington State additionally defines domestic violence as physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; sexual assault of one family or household member by another; or stalking of one family or household member by another family or household member.

**NonConsensual Sexual Intercourse**: NonConsensual Sexual Intercourse is any sexual intercourse (anal, oral, or vaginal), however slight, with any object, by a person upon another regardless of gender, without consent.

**NonConsensual Sexual Contact**: NonConsensual Sexual Contact is any intentional sexual touching, however slight, with any object, by a person upon another regardless of gender, without consent.

**Relationship Violence**: Dating Violence and/or Domestic Violence
**Sexual Assault:** Any type of sexual contact or behavior that occurs by force or without consent of the recipient of the unwanted sexual activity. Falling under the definition of sexual assault is sexual activity such as forced sexual intercourse, sodomy, child molestation, incest, fondling, and attempted rape. It includes sexual acts against people who are unable to give consent either due to age or lack of capacity.

**Sexual Harassment:** Sexual Harassment is gender-based verbal or physical conduct that unreasonably interferes with or deprives someone of educational access, benefits or opportunities. There are three types of Sexual Harassment:

1. **Hostile Environment:** This includes any situation in which there is harassing conduct that is sufficiently severe, pervasive/persistent and patently/objectively offensive that it alters the conditions of education, employment, or residence from both a subjective (the Complainant's) and an objective (reasonable person's) viewpoint.

2. **Quid Pro Quo Sexual Harassment:** This exists when there are unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature; and submission to or rejection of such conduct results in adverse educational or employment action.

3. **Retaliatory Harassment:** This includes any adverse employment or educational action taken against a person because of the person’s participation in a complaint or investigation of discrimination or Sexual Misconduct.