

NOTICE OF NONDISCRIMINATION

Valley Grande Institute for Academic Studies does not discriminate or tolerate discrimination or harassment against individuals on the basis of sex, sexual orientation, gender identity, gender expression, pregnancy (including related conditions), parental status, marital status, family status, religion, race, color, ethnicity, national origin, age, disability, genetic information, or veteran status (collectively, "Protected Status") in its employment, admissions, and/or education programs and activities.

This Policy covers Prohibited Conduct that occurs on campus, in connection with an official Institute program or activity (regardless of location), and off-campus conduct when the conduct could deny or limit a person's ability to participate in or benefit from the Institute's programs and activities, or when the Institute, in its sole discretion, has an identifiable interest in the off-campus conduct. The Institute will provide a prompt and equitable response to any report of prohibited Harassment or Discrimination as set forth in this policy.

Questions and concerns, including questions and concerns about sex, sexual orientation, gender identity, gender expression, and pregnancy-related harassment and discrimination, may be referred to the Valley Grande Institute for Academic Students Title IX / EEO Coordinator or to the U.S. Department of Education Office for Civil Rights.

Monica Benavides, LVN
Title IX/EEO Coordinator
Valley Grande Institute for Academic Students
Building A1, Room 103
414 S. Missouri
Weslaco, TX 78596
(956) 973-1945 ext. 307
mbenavides@vgi.edu

Office of Civil Rights
U.S. Department of Education
1999 Bryan Street, Suite 1620
Dallas, Texas 75201
Phone: (214) 661-9600
Fax: (214) 661-9587
Email: OCR.Dallas@ed.gov

POLICY PROHIBITING HARASSMENT AND DISCRIMINATION BASED ON PROTECTED STATUS

Valley Grande Institute is committed to providing a work and educational environment free of discrimination and harassment. The Institute does not discriminate or tolerate discrimination or harassment against individuals on the basis of sex, sexual orientation, gender identity, gender expression, pregnancy (including related conditions), parental status, marital status, family status, religion, race, color, ethnicity, national origin, age, disability, genetic information, or veteran status (collectively, “Protected Status”) in its employment, admissions, and/or education programs and activities.

Prohibition against Harassment and Discrimination

The Institute prohibits harassment and discrimination on the basis of sex, gender, sexual orientation, gender identity, gender expression, race, color, ethnicity, religion, national origin, age, disability, genetic information, veteran status, or citizenship status (collectively, “Protected Status”) in its employment, admissions, and education programs and activities by administrators, faculty, staff, students, volunteers, contractors, applicants and guests. This Policy covers Prohibited Conduct that occurs on campus, in connection with an official Institute program or activity (regardless of location), and off-campus conduct when the conduct could deny or limit a person’s ability to participate in or benefit from the Institute’s programs and activities, or when the Institute, in its sole discretion, has an identifiable interest in the off-campus conduct. The Institute will provide a prompt and equitable response to any report of prohibited Harassment or Discrimination as set forth in this policy

Prohibition against Retaliation

Retaliation against a person who engages in protected activity under this policy is prohibited. Protected activity under this policy includes but is not limited to reporting an incident that may implicate this policy, assisting in providing information relevant to an investigation, or otherwise participating in the investigation, resolution or adjudication process, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Interaction with the Policy Prohibiting Sexual Harassment and Sexual Misconduct

This policy addresses Harassment and Discrimination on the basis of a Protected Status. Sexual Harassment and Sexual Misconduct are handled under the Institute’s Policy Prohibiting Sexual Harassment and Sexual Misconduct.

All allegations of sex discrimination which fall within the definition of Sexual Harassment occurring within the Institute’s education programs and activities as defined by the Policy Prohibiting Sexual Harassment and Sexual Misconduct are handled exclusively pursuant to the procedures outlined in that Policy. All other acts of discrimination—including acts of sex discrimination which do not fall within the definition of sexual harassment occurring within the Institute’s education programs and activities as defined by the Policy Prohibiting Sexual Harassment and Sexual Misconduct—are handled pursuant to this Policy.

If a case alleges violations of both the Policy Prohibiting Sexual Harassment and Sexual Misconduct and this Policy, these charges may be simultaneously investigated and adjudicated by the same set of investigators and adjudicators.

Reporting Complaints of Prohibited Conduct

Community members who experience or witness Prohibited Conduct should submit a complaint to:

Monica Benavides, LVN
Title IX/EEO Coordinator
(956) 973-1945 extension 307
mbenavides@vgi.edu
Building A1, Room 103
414 S. Missouri
Weslaco, TX 78596

While verbal reports of Prohibited Conduct will be received and responded to as appropriate considering the wishes of the reporting individual(s) and the circumstances of each case, the Institute strongly recommends reports of violations of this Policy be submitted in writing. The written complaint should identify the parties involved; describe the Policy violation, including when and where it occurred; and identify by name or description any witnesses and/or evidence. Written complaints will be treated as confidentially as practical and shared only on a need-to-know basis, including as necessary to investigate or resolve the complaint.

Supportive Measures

Regardless of the complaint resolution process utilized in response to a complaint of Prohibited Conduct, the Institute will, to the extent practicable based on the Institute's resources, provide supportive measures and resources to restore or preserve equal access to the Institute's education programs and activities and/or employment. Supportive measures are available to assist employees and students relating to a reported matter, regardless of whether they are the Complainant or Respondent, and whether or not a formal complaint is filed.

Complaint-Resolution Process

A. Receipt of a Complaint and Preliminary Assessment

Upon receipt of a complaint, the Title IX/EEO Coordinator (or their designee) will conduct a preliminary inquiry designed to assess:

1. the institutional policy or policies potentially invoked by the alleged conduct,
2. the appropriate Institute official to respond to the complaint, and
3. the best path of resolution for the complaint.

In the event the Title IX/EEO Coordinator determines there are no reasonable grounds for believing the conduct at issue constitutes a violation of this Policy, the Title IX/EEO Coordinator will close the complaint.

There may be reports that do not constitute a policy violation. The Title IX/EEO Coordinator may refer Bias Incidents that do not rise to the level of Prohibited Conduct to other offices/departments as appropriate. Bias Incidents may be addressed in a variety of ways, including but not limited to: counseling regarding the alleged conduct, directives to end the conduct, training, mediation, restorative justice, or other forms of alternative resolution.

B. Informal Resolution

The Title IX/EEO Coordinator will determine whether informal resolution is an appropriate mechanism of resolution based on the information provided about the incident. Options for informal resolution include, but are not limited to, counseling regarding the alleged conduct, directives to end the conduct, training, mediation, restorative justice, or other forms of alternative resolution. If an informal resolution is determined to be appropriate, the Title IX/EEO Coordinator or their designee will meet separately with both parties to discuss an informal resolution based on the information available. If the proposed resolution satisfies the Institute's obligation to provide a safe and non-discriminatory environment for the Institute Community, the resolution will be implemented, and the matter will be closed. Equal Opportunity Services will maintain records of all reports and conduct referred for informal resolution.

C. Formal Resolution Procedures

If the Title IX/EEO Coordinator determines that a formal investigation is warranted to resolve a complaint, the Institute will determine whether a Respondent is responsible for a violation of this Policy and what, if any, corrective action is appropriate, in accordance with the procedures described below.

1. Assignment of Investigator

The Title IX/EEO Coordinator will appoint a trained investigator or investigative team. The investigator(s) may be the Title IX/EEO Coordinator, an employee of the Institute, or an external investigator engaged to assist the Institute in its fact gathering.

2. The Investigation

The investigation will be conducted in a manner appropriate in light of the circumstances of the case. The investigation may include, but is not limited to, conducting interviews of the Complainant(s), the Respondent(s), and any witnesses (witnesses must have observed the acts in question or have information relevant to the incident); reviewing law enforcement investigation documents, if applicable; reviewing personnel files; and gathering, examining, and preserving other relevant documents and physical, written, and electronic evidence. The parties will be afforded an opportunity to identify relevant witnesses and evidence to the investigator.

3. Advisors

Participants may be accompanied by an advisor of their choice during any meeting under this policy, including investigatory interviews. Advisors may not speak on behalf of the participant or make a presentation, but they may ask to briefly suspend any meeting, interview, or proceeding to consult with their advisee. In order to preserve the integrity of the process, if an advisor is also a witness in the case, the procedural aspects of this policy may be amended to accommodate the witness's testimony and role as an advisor. Accommodations, including the scheduling of meetings, interviews or hearings, will not be made for advisors if they unduly delay the process.

4. The Investigator's Report and Conclusions

The investigator(s) will make conclusions as to whether the Respondent violated any provision of this Policy. The standard of proof shall be by a preponderance of the evidence. A written report of the investigator's findings and conclusions may be shared with the Title IX/EEO Coordinator and the Administrator(s) with authority to take action against the Respondent based upon their status at the Institute (e.g. employee or student).

Determination of No Policy Violation. If the investigator(s) determines that the Respondent did not violate any provision of this policy, the Administrator will determine and document the appropriate resolution of the complaint and notify the parties of that determination. Appropriate resolutions may include, but are not limited to, dismissal of the complaint, conferences with one or more of the parties, and the introduction of remedial and community-based efforts such as educational initiatives and/or trainings.

Determination of a Policy Violation. If the investigator determines there is sufficient information to find, by a preponderance of the evidence, that the Respondent violated this Policy, the matter will be referred for corrective action.

Issues not Covered by this Policy. During the course of an investigation, allegations or information may arise that are outside of the scope of this Policy. Other Unprofessional/ Inappropriate Conduct or Bias Incidents identified during the course of an investigation may be relevant to a finding, recommendations, and/or result in corrective action. Other issues not related to this Policy may also be referred to the appropriate administrator for follow up and action.

Regardless of the determination, both parties will be provided an opportunity to review a copy of the report.

5. Corrective Action

If the Respondent is found responsible, corrective action will be addressed as follows:

- a. For Policy violations by employees (including staff, faculty, and students acting in their capacity as student employees), the Dean of Education or their designee will consult with the individual's supervisor and department head to determine appropriate corrective action up to and

including termination of employment. Applicable policies will be followed in carrying out such corrective action.

b. For Policy violations by contractors, vendors, volunteers, and other third-parties, the Dean of Education will consult with the contracting department to determine the appropriate resolution, up to and including termination of a contractual relationship or barring individuals from campus.

c. For Policy violations by students, the Dean of Education will determine appropriate corrective action, up to and including expulsion from the Institute, in accordance with applicable policy and procedure for student conduct.

6. Appeals

Appeals of findings of responsibility or sanctions, if any, against Respondents will be handled by the Office of the Dean of Education. Volunteers, third-party contractors, etc. do not have appellate rights. They are in their role at the Institute's discretion and their role can be terminated at the Institute's discretion as well.

Knowingly Filing a False Complaint

Knowingly filing a false complaint is a violation of this Policy. Such conduct may result in corrective action up to and including separation from the Institute. Such allegations will be referred to the appropriate administrator(s).

Academic Freedom

This Policy is not intended to inhibit or restrict academic freedom.

Terms and Definitions

“Complainant” means an individual who is alleged to be the victim of Prohibited Conduct.

“Discrimination” is conduct directed at a specific individual or a group of identifiable individuals that subjects the individual or group to treatment that adversely affects their education or employment because of their Protected Status.

“Harassment” as used in this Policy is verbal and/or physical conduct (i) that is severe or pervasive, (ii) that is based on an individual's Protected Status, and (iii) that unreasonably interferes with the individual's work or academic activities, or that creates an intimidating, hostile, or offensive Institute environment.

“Bias” generally refers to any belief, attitude, behavior or practice that reflects, appears to be motivated by, or is perceived by the victim or victims to be motivated by an assumed superiority of one group over another. Bias is expressed through prejudice or discrimination and can be overt or covert. Bias can be directed against individuals or groups, but it can also be institutionalized

into policies, practices and structures. While freedom of expression and the open exchange of ideas are a vital part of the educational discourse, bias activity dehumanizes people, erodes individual rights, debilitates morale, and interferes with the effectiveness of work and learning environments.

“Bias Incident” is an act involving a member of the Valley Grande community directed at a member or group because of their Protected Status. A bias incident can occur whether the act is intentional or unintentional.

“Other Unprofessional/Inappropriate Conduct” is behavior or conduct that is unprofessional and/or inappropriate for the educational and/or working environment, but does not fit the definition of Prohibited Conduct as defined by this Policy, or Sexual Harassment or Sexual Misconduct as defined by the Policy Prohibiting Sexual Harassment and Sexual Misconduct.

“Prohibited Conduct” includes Discrimination, Harassment, and Retaliation as defined in this policy and may result in disciplinary action when committed by Institute faculty, staff, and students, as well as third-parties within the Institute’s control (such as contractors, volunteers, visitors, etc.).

“Protected Status” is defined in the Prohibition Against Harassment and Discrimination section, and includes sex, gender, sexual orientation, gender identity, gender expression, race, color, ethnicity, religion, national origin, age, disability, genetic information, veteran status, and citizenship status.

“Respondent” means an individual who has been alleged to be the perpetrator of prohibited conduct.

“Retaliation” includes, but is not limited to, any behavior, adverse action, treatment, or condition that intimidates, threatens, coerces, discriminates against or is taken against a person for the purpose of interfering with their rights under this policy or otherwise participating under this policy. This includes direct or indirect behavior or actions taken by an individual or at the direction of a party or someone participating under this policy. Any behavior that has the purpose or effect of intimidating or improperly influencing any individual’s participation in the investigation or adjudication process may also be retaliation. Any act of actual or threatened Retaliation may be investigated and adjudicated as a separate violation of this policy. Retaliation may also result in immediate removal from the Institute. Any person who believes they have been subjected to Retaliation should immediately report this to the Compliance Officer/Title IX Coordinator. The exercise of rights protected under the First Amendment does not constitute retaliation. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute Retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

POLICY PROHIBITING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT

Valley Grande Institute does not discriminate on the basis of sex, pregnancy (including related conditions), as well as applicable state and local laws that prohibit sex and gender-based discrimination, including sexual misconduct such as sexual harassment, sexual assault, dating violence, domestic violence, and stalking in the Institute's education program or activities, and is required by law, including Title IX and 34 CFR Part 106 and Title VII of the Civil Rights Act of 1964 not to discriminate in such a manner.

This requirement to not discriminate extends to admission and employment. Inquiries about the application of Title IX and 34 CFR Part 106 and Title VII of the Civil Rights Act of 1964 and Title VII of the Civil Rights Act of 1964 to Valley Grande Institute can be referred to the Title IX/EEO Coordinator or to the U.S. Department of Education.

Valley Grande Institute's Policy Prohibiting Sexual Harassment and Sexual Misconduct provides information about options and obligations for reporting sexual harassment and sexual misconduct, as well as information about rights, resources, response, investigation, and resolution of reports and complaints.

Other forms of discrimination on the basis of sex are handled under the Institute's Policy Prohibiting Harassment and Discrimination Based on Protected Status.

Prohibition against Sexual Harassment and Sexual Misconduct

Valley Grande Institute prohibits sexual harassment and sexual misconduct, which include acts of sexual assault, sexual exploitation, intimate partner violence, domestic violence, dating violence, and stalking, all as defined in this policy. Retaliation is also prohibited. The Institute will provide a prompt and equitable response to any report of sexual harassment, sexual misconduct, and/or retaliation as set forth in this policy.

Reporting

Any person may report sexual harassment and sexual misconduct to the Institute's Title IX/EEO Coordinator and/or to law enforcement. A report to the Title IX/EEO Coordinator results in a review under the Institute's administrative process, while a report to law enforcement results in a criminal process. Either, both, or neither of these options may be pursued. To make a complaint of sexual harassment or sexual misconduct, an individual may contact one or more of the following:

Administrative Complaint to the Institute

Monica Benavides, LVN
Title IX/EEO Coordinator
(956) 973-1945 extension 307
mbenavides@vgi.edu

Building A1, Room 103
414 S. Missouri
Weslaco, TX 78596

To make a report against the Title IX/EEO Coordinator or raise any concern about bias or conflict of interest of the Title IX/EEO Coordinator, contact the Dean of Education and submit the [Valley Grande Institute Information and Resolution Form](#).

Criminal Complaint to Law Enforcement

An individual who has been the victim of a crime has the right to choose whether to report the matter to law enforcement, to be assisted by the institution in reporting the crime to law enforcement, or to decline to report the crime to law enforcement.

Anonymous Reporting

Allegations that the Policy Prohibiting Sexual Harassment and Sexual Misconduct has been violated may also be reported anonymously using the Institute's online reporting form or by contacting the Campus Conduct hotline at 866-943-5787 or through the Campus Conduct online reporting form. The Institute's ability to respond to anonymous reports may be limited. Anonymous reports will be included in the Institute's required disclosures.

Confidential Reporting Options

Any information conveyed by faculty, staff, students, or other individuals in a circumstance where the communication is confidential or privileged by law (e.g., attorney-client privilege, HIPAA, etc.) will be confidential.

Individuals who are confidential resources and who receive information on a confidential basis are only required to share information with the Title IX Coordinator/EEO about the type of incident reported. Individuals designated as confidential or who receive information under circumstances confidential or privileged by law will not share information that violates an expectation of privacy without consent, unless otherwise required by law to do so.

Off-campus clergy, health and mental health professionals, victim advocates, and rape-crisis counselors can also provide confidential assistance. Off-campus resources can be found at this [link](#).

Responsible Employees and Mandatory Reporting Requirements

Except for the employees designated as "confidential" above, all non-student employees and are designated as Responsible Employees and are required to report Sexual Harassment and Sexual Misconduct to the Title IX Coordinator/EEO in circumstances where the employee witnesses or receives information in the course and scope of employment, and this information is about the occurrence of an incident that the employee reasonably believes is Sexual Harassment or Sexual

Misconduct, and when the incident was committed by or against someone who was a Valley Grande Institute student, employee, or contractor at the time of the incident.

This reporting responsibility applies regardless of where the incident occurred (on or off campus) and regardless of whether the individual(s) are still affiliated with the Institute. An employee is not required to report an incident in which they are the victim. In addition, employees are not required to report information shared during an organized, public awareness event sponsored by the Institute or a student organization, such as “Take Back the Night” or similar events.

Employees are not required to report information received when they are not acting in the course and scope of employment or if the incident took place at a time when none of the individuals involved were affiliated with the Institute, but are encouraged to do so. Reporting is important so that the Title IX Coordinator/EEO can provide information related to rights and resources that may be beneficial to the person who has reportedly experienced misconduct or take action to otherwise protect the Institute community.

Responsible employees must promptly submit reports of all information known to them to the Title IX/EEO Coordinator via phone, email, in person, or by web (preferred):

Monica Benavides, LVN
Title IX/EEO Coordinator
(956) 973-1945 extension 307
mbenavides@vgi.edu
Building A1, Room 103
414 S. Missouri
Weslaco, TX 78596

[Valley Grande Institute Information and Resolution Form](#)

External Reporting Options

To make a report outside the Institute about the handling of cases:

Office of Civil Rights
U.S. Department of Education
1999 Bryan Street, Suite 1620
Dallas, Texas 75201
Phone: (214) 661-9600
Fax: (214) 661-9587
Email: OCR.Dallas@ed.gov

Employees may also contact the following to complain of sex discrimination, sexual harassment, or the handling of cases:

U.S. Equal Employment Opportunity Commission
San Antonio District Office

5410 Fredericksburg Rd.
San Antonio, Texas 78229
Phone: (800) 669-4000
Fax: (210) 281-7690

Texas Workforce Commission
Civil Rights Division
101 E. 15th Street
Guadalupe CRD
Austin, Texas 78778-0001
Phone: (512) 452-4778
Fax: (512) 463-2643 or (512) 463-2755
EEOIntake@twc.state.tx.us

Response to Reports of Sexual Harassment and Sexual Misconduct

The Institute will respond to all reports of Sexual Harassment and Sexual Misconduct, regardless of whether the acts took place on or off campus, and will take these reports seriously. All members of the Institute community have the right to have Sexual Harassment and Sexual Misconduct promptly, fairly, and equitably investigated and resolved through established procedures that include an objective evaluation of all relevant evidence (including both inculpatory and exculpatory evidence), and do not utilize credibility determinations based on a person's status as a Complainant, Respondent, or witness.

Such processes will be conducted by impartial individuals who have received training on handling sexual harassment and sexual misconduct matters in a way that protects the safety of the participants and promotes accountability, and who do not have a conflict of interest or bias for or against Complainants or Respondents generally or individually. For the purposes of this policy, bias means actual bias, not the mere appearance or possibility of bias. Any party who believes one or more of these institution officials has a material conflict of interest or bias must raise the concern promptly so that the institution may evaluate the concern and find a substitute, if appropriate. The failure of a party to timely raise a concern of a conflict of interest or bias may result in a waiver of the issue for the purposes of appeal or otherwise.

The policy will be implemented fairly regardless of the parties' identification with any protected class or their role in the process. The Title IX/EEO Coordinator or designee may investigate a matter in accordance with this policy, regardless of whether there is a participating complaining party. Support and resources will be offered to all individuals involved.

Once the Title IX/EEO Coordinator receives information about an allegation of sexual harassment and sexual misconduct, the Title IX/EEO Coordinator or their designee will seek more information about the incident, the people involved, potential witnesses and evidence, the date, time, and location, etc. The Title IX/EEO Coordinator or their designee will promptly contact the person who has reportedly experienced sexual harassment and sexual misconduct to

provide written information about the individual's rights under applicable Institute policy and supportive measures, accommodations, and resources that are available. The individual will be asked how they would like the Institute to respond, and can request from a range of administrative responses including no administrative response, only accessing resources, informal resolution, or filing a formal complaint.

If the individual who has experienced sexual harassment and sexual misconduct requests that the Institute not respond or investigate, the Institute will make a decision regarding whether or not to conduct an investigation after considering the seriousness of the reported incident; whether the Institute has received other reports of misconduct by the same alleged individual(s); whether the reported incident poses a risk of harm to others; whether the Complainant is a minor; and all other relevant factors, as determined by the Institute. The Institute will inform the individual of the decision whether or not to investigate. When the Institute determines it is necessary to investigate a report despite the potential Complainant's request, the Institute will do so in accordance with the confidentiality requirements of applicable law. When the Institute determines it will not undertake an investigation, the Institute will still take reasonable steps, consistent with the law and Institute policy, to protect the health and safety of the community.

A Respondent may be alleged to have engaged in conduct that constitutes sexual harassment and sexual misconduct. The Respondent is presumed not responsible for the conduct alleged to violate this policy until a determination regarding responsibility is made at the conclusion of the process.

Decisions about whether a Respondent has violated this policy will be by a preponderance of the evidence standard. Information protected under a legally recognized privilege (e.g., medical and mental health records, attorney-client privilege, etc.) will not be used in a process under this policy unless the person holding the privilege has waived the privilege. If the alleged conduct or conduct discovered during the investigation of the allegation does not constitute Title IX Prohibited Sexual Harassment, the Institute may still address the conduct under other applicable policies, rules, or expectations for the Respondents' conduct.

The Institute's process is separate from any related criminal matter. Although the Title IX/EEO Coordinator may determine it is appropriate to temporarily delay Institute action so any related criminal investigation is not compromised, the Institute will not delay its action until a criminal matter is complete. In addition, the Institute uses a different standard of proof and different evidentiary standards, so the outcome of the Institute's process is independent of any criminal matter.

Supportive Measures

Supportive measures are available to assist faculty, staff, and students relating to a reported matter, regardless of whether they are the Complainant or Respondent, and whether or not a formal complaint is filed. Supportive Measures are non-disciplinary and non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge. Supportive measures are administrative actions and not sanctions. Such measures include, but are not limited to:

- administrative no contact orders;
- arrangements to provide on campus support or enforcement of judicial restraining orders issued by the court;
- on-campus housing accommodations, such as modification of living arrangements;
- academic accommodations, such as reassignment of classes, as available, or removal from classes (Note: an individual who chooses to drop a course in which the other party is enrolled will be permitted to do so without academic penalty.);
- changes to on-campus working situations (e.g., alternate work location, change in duties, alternate work hours, provision of information related to a leave of absence, etc.);
- accommodations in transportation, such as parking;
- referral for on-campus or off-campus counseling, health, and mental health support (Note: to the greatest extent practicable, the Institute will ensure that each party is offered counseling by an individual who does not provide counseling to any other person involved in the incident);
- information and accommodations relating to student financial aid through Student Financial Services;
- referral for off-campus support;
- referral for visa and/or immigration assistance;
- referral for possibilities of off-campus legal assistance;
- assistance with reporting the matter to law enforcement; and
- other reasonable accommodations and resources requested by an individual.

Supportive measures are designed to preserve or restore equal access to the Institute's education program or activity without unreasonably burdening the other party. To the extent practicable, the Institute will provide equal access for participants under this policy who have a disability. Individuals who have a disability may request that the Institute consult with appropriate individuals about any needed accommodations. Accommodations and protective measures will be kept confidential to the extent the Institute is able to do so while providing the accommodation. The Title IX/EEO Coordinator designee will also provide information about on-campus and off-campus support and resources to the individuals involved.

Preserving Evidence

Individuals who have experienced Sexual Misconduct are encouraged to preserve evidence to the greatest extent possible in order to aid with proving an alleged criminal offense, to provide evidence in an administrative action, or to aid in securing a protective order. Evidence of an act of sexual misconduct and the attacker's identity may be left on the victim's body. In addition, anyone who may have ingested an unknown substance (such as a date rape drug) should also be screened. Some experts recommend that someone who has experienced Sexual Misconduct not wash in any way until after a special forensic examination is performed. However, even if a person has already washed themselves or believes that too much time has passed for the collection of physical evidence, the forensic exam may still identify and preserve extremely important evidence such as the information provided verbally.

In addition, anyone who experienced sexual harassment or sexual misconduct should preserve all other potential evidence, such as text or social media messages, emails, phone messages, photos or videos, etc. One way to do this is to save this information to the cloud or email it to themselves or a trusted friend. Information can be secured with the use of a password or encryption.

Administrative Leave and Emergency Removal from Campus

The Institute reserves the right, in its sole discretion, to take whatever measures it deems necessary in response to an allegation of Sexual Harassment or Sexual Misconduct in order to protect individuals' rights, personal safety, and the welfare or safety of the Institute community, including but not limited to banning someone from all or part of campus, conducting an emergency removal of a student, or placing someone on administrative leave pending the outcome of an investigation. Any such action will be made after an individualized safety and risk analysis, and will be in accordance with applicable Institute policy.

An Emergency Removal for Title IX Prohibited Sexual Harassment is appropriate when there is an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment or Sexual Misconduct. If the Institute determines that Emergency Removal is justified, the Respondent(s) will be notified and will have the opportunity to challenge the decision immediately following the removal. To challenge the decision for emergency removal, student Respondents must request an appeal in writing to the Dean of Education. Emergency Removal for other violations will be in accordance with established Institute processes.

Confidentiality

The identity of the individuals involved in a process governed by this policy will be treated as sensitive information and in accordance with applicable law, unless waived in writing. Identifying information will be shared by the Institute as necessary to coordinate the response to an incident, implement interim or supportive measures, take action under this policy, and investigate and adjudicate a report. In addition, identifying information may also be shared by the Institute with law enforcement as necessary to conduct a criminal investigation of the report, a healthcare provider in an emergency, and the individuals involved in a process under this policy to the extent necessary and as required by law.

The Institute is required by law to publicly disclose certain crime statistics and information pertaining to reports, investigations, and outcomes under this policy. The Institute will not disclose the identity of any individual in publicizing these statistics.

Informal Resolution

Any party to an alleged violation of this policy may request that the report be resolved informally at any time. For conduct alleged to constitute Title IX Prohibited Sexual Harassment, Informal Resolution is only available after a formal complaint has been filed and is not available to resolve allegations that an employee engaged in Title IX Prohibited Sexual Harassment against a

student. The Institute may also initiate the informal resolution process. Informal resolution may not be appropriate in all cases, and the Title IX/EEO Coordinator or designee is responsible for determining whether informal resolution may be explored. Once the informal resolution process is initiated, it must be completed within thirty (30) days or the process will be terminated and the matter will be referred for consideration under the formal resolution process. The informal resolution process may also be terminated at any time by any of the parties involved or by the Title IX/EEO Coordinator, at which point the matter may proceed to a formal resolution.

The informal resolution process requires the written agreement of all parties and the approval of the Title IX/EEO Coordinator to reach a conclusion. Outcomes of an informal resolution may include agreement that the person alleged to have violated the policy will participate in training, separation of the parties, referral to counseling programs, or other restrictions or conditions agreed upon by the parties. Informal resolutions do not constitute an admission of responsibility or an Institute determination of a policy violation. No party has the right to appeal after they have entered into an informal resolution.

Formal Resolution

A report may be processed through a formal resolution either at the request of an individual who is reported to have experienced Sexual Harassment or Sexual Misconduct (Complainant) or, after a preliminary factual investigation, upon initiation by the Title IX/EEO Coordinator or designee. Formal resolution involves a factual investigation of the alleged violations of this policy and preparation of an investigative report. All findings during an investigation, adjudication, or appeal will be determined by a preponderance of the evidence (more likely than not) standard.

Formal Complaint

To initiate the formal resolution process, a formal complaint must be filed by a Complainant or the Title IX/EEO Coordinator. To make a formal complaint, a Complainant will submit a document to the Title IX/EEO Coordinator alleging a violation of this policy and requesting that the Institute investigate this allegation. This document must be signed by the Complainant, though this signature can be electronic.

If the Title IX/EEO Coordinator signs a formal complaint, the Title IX/EEO Coordinator does not become a Complainant and is not a party. In cases where the Institute initiates formal investigation, the complaint will be based upon the information gathered during the preliminary factual investigation. In such a case, the individual reported to have experienced Sexual Harassment or Sexual Misconduct will have the same rights as if they were a Complainant.

There is no time limit to initiate a formal complaint, but the Institute's ability to investigate allegations and impose sanctions against someone found responsible for violating the policy may decrease with the passage of time. A Formal Complaint alleging a policy violation will use the definitions in place at the time of the incident(s), but use the current procedure.

Notice of Allegations

Within a reasonable period of time from when the Title IX/EEO Coordinator receives a formal complaint and determines there is a basis for an investigation, the Party(ies) will be notified of the allegation(s) and their rights in the process. The notice will also provide sufficient details for a Respondent to prepare a response before an initial interview, including, if known, the identity of the parties, a general description of the conduct alleged to constitute the violation along with which provision(s) of this policy are at issue, and the date and location of the incident. If, in the course of the investigation, the Institute decides to investigate additional allegations, an updated notice of allegations will be sent to the parties whose identities are known.

At the start of an investigation, it may not be clear if the alleged Sexual Harassment or Sexual Misconduct constitutes a violation of Title IX Prohibited Sexual Harassment, Institute Prohibited Sexual Harassment, or Institute Prohibited Sexual Misconduct. As such, Respondent(s) may be given notice that they are alleged to have engaged in conduct that violated both Title IX and Institute definitions of prohibited conduct until more information is gathered.

The Institute may consolidate formal complaints by the same Complainant(s), against the same Respondent(s), or between the parties where the allegations of sexual harassment or sexual misconduct arise out of the same set of facts or circumstances.

Investigation

One or more trained Investigators will be assigned to investigate the allegation. Concerns of bias or a potential conflict of interest by a Title IX team member should be raised with the Title IX/EEO Coordinator. The Institute will strive to complete an investigation under this policy within sixty (60) calendar days of receiving a formal complaint; however, the length of investigations may vary and the timeline may be extended for good cause, as determined by the Title IX/EEO Coordinator. If the investigation or grievance process will be delayed, the Complainant(s) and Respondent(s) will receive written notice of and the reason for the delay or extension.

Generally, the Investigator(s) will interview the Complainant(s), the Respondent(s), and relevant witnesses, and will gather and review other information related to the allegation(s) as part of the investigation process. The burden of proof and the burden of gathering evidence sufficient to reach a determination of responsibility rests on the Institute and not the parties. It is in each party's best interest to ensure the investigators are aware of all evidence that the party considers relevant to the matters under investigation. The Complainant(s) and Respondent(s) will have the opportunity to be interviewed, provide written statements, identify and present fact and expert witnesses, and provide documentary and other exculpatory and inculpatory evidence for consideration. The Investigator(s) have sole discretion to determine how and when information will be shared with the parties and witnesses during the investigation process.

Neither party is prohibited from discussing the allegations under investigation, though the Institute suggests restraint in order to preserve the efficacy of the investigation. Neither party is prohibited from gathering or presenting evidence.

At the conclusion of the investigation, the investigator(s) will draft an investigative report. The parties will have ten (10) business days to review (in electronic format or hard copy) the draft investigative report and all evidence gathered during the investigation that is directly related to the allegations raised in a formal complaint, including evidence upon which the Institute does not intend to rely on in reaching determination regarding responsibility, and inculpatory or exculpatory evidence whether obtained from a party or other source (e.g., statements by parties and witnesses, information stored electronically, written or electronic communications, social media posts, or physical evidence, redacted as necessary to comply with legal requirements pertaining to confidentiality). The parties may submit a written response to the draft investigative report within the review period.

The investigator(s) will review and consider the written response(s) provided by the parties and may undertake additional actions or make changes to the draft summary investigative report, in their sole discretion, prior to the completion of the investigative report.

The investigative report will be forwarded to the following administrator(s) for handling under the applicable disciplinary process:

The parties will also receive a copy of the investigative report in an electronic or hard copy for their review and written response in preparation for the adjudication of the formal complaint, which will take place no sooner than ten (10) business days after issuance of the investigative report.

The Complainant(s) and Respondent(s) are expected to provide all relevant information during the investigation. If a party wishes to present new information after the investigative report has been forwarded for a final determination, a determination will be made as to whether the information was available at the time of the investigation and whether the information was likely to have significantly impacted the Investigator(s)' Investigator's/Investigators' determination of responsibility. If the new information was not available during the investigation and would have significantly impacted the determination of responsibility or sanction recommendation, the investigation may be reopened before proceeding with the adjudication.

Dismissal of a Formal Complaint

In some instances, an investigation may be terminated or a case may not be referred for adjudication, including but not limited to the following:

- A Complainant states in writing that they would like to withdraw all or part of their complaint,
- Specific circumstances prevent the Institute from gathering evidence sufficient to make a determination regarding the allegations in the complaint,
- The allegations, even if proven, do not constitute a violation of this policy,
- The parties agree to informal resolution, or

- Both parties agree in writing to waive their rights to a hearing and accept the Investigator's recommendations as to the finding and sanction as the final result of the case.

In all cases, the Institute reserves the right to continue the process in the best interest of the health and safety of the greater Valley Grande community or as required by law.

Dismissal of a Formal Complaint Alleging Title IX Prohibited Sexual Harassment

In handling a matter, the Title IX/EEO Coordinator or designee will review the formal complaint and conduct an initial assessment to determine whether the alleged conduct would violate the definition of Title IX Prohibited Sexual Harassment under this policy. The portion of the formal complaint involving Title IX Prohibited Sexual Harassment must be dismissed if the allegations in the formal complaint would not constitute a violation of the definition of Title IX Prohibited Sexual Harassment even if proved (both in terms of alleged conduct and the jurisdictional components of the definition). If a formal complaint alleging Title IX Prohibited Sexual Harassment is dismissed for this reason, the Institute is not precluded from addressing conduct that would be a violation of any other Institute policy, and a complaint under this policy may still move forward based upon such alleged violations even if dismissed for Title IX purposes. The decision to dismiss a Formal Complaint alleging Title IX Prohibited Sexual Harassment may be appealed within as set forth in the Appeals Section below. If a dismissal is not appealed in a timely manner, the dismissal decision is final.

Withdrawal or Graduation Pending Disciplinary Charges

If a student withdraws or graduates pending a disciplinary charge alleging the student violated this policy, the Institute will not end the disciplinary process or issue a transcript to the student until a final determination of responsibility is made, unless otherwise prohibited by law. In such a case, the Institute will expedite the disciplinary process as necessary to accommodate both parties' interest in a speedy resolution.

Consideration of Past History

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior must comply with applicable rape shield laws and are not relevant except when:

1. The evidence is to prove that someone other than the Respondent committed the conduct alleged by the Complainant/in question, or
2. If the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Demonstration of a pattern, repeated, and/or predatory behavior by the Complainant or the Respondent, including previous findings in any legal or campus proceeding, may be relevant to the finding, not just the sanction.

Hearing Process for Title IX Prohibited Sexual Harassment for all Respondents

The following hearing process (“Title IX Hearing Process”) will be used for formal complaints involving allegations of Title IX Prohibited Sexual Harassment, regardless of if the formal complaint also includes other allegations and regardless of the Respondent’s status at the Institute.

The Title IX Hearing Process will involve a live hearing, which may take place in person or via technology that allows the participants to hear and see one another virtually. The Title IX Hearing Process will be overseen by a Hearing Panel (composed of one or more individuals), which acts as the decision maker and will be responsible for making a determination regarding the outcome of the case and sanctions, if applicable. The Institute or a Hearing Panel may establish rules of conduct and decorum, applicable to all parties, including rules that restrict a party’s advisors’ ability to participate in the proceedings for any purpose other than cross examination relating to Title IX Prohibited Sexual Harassment. The Hearing Panel will be comprised of the following:

The Dean of Education and up to two additional individuals appointed by that person.

During the live hearing, the Hearing Panel may ask questions and consider all relevant evidence, including information from the investigator(s), the parties, any fact or expert witnesses, the investigative report, and documentary or other evidence. A party’s advisor may cross examine the other party and any witnesses by asking all relevant questions and follow-up questions, including questions challenging credibility, relating to allegations of Title IX Prohibited Sexual Harassment. This cross examination must be conducted directly, orally, and in real time by a party’s advisor of choice, and never by a party personally. Only relevant questions will be allowed. Before a party or witness answers a question, a determination must be made by the Hearing Panel that the question is relevant. If the Hearing Panel decides that a question is not relevant, an explanation must be provided as to the decision to exclude a question as not relevant. This decision may be amended or supplemented after the hearing.

If a party has not chosen an advisor or their advisor of choice is not present at the hearing, the Institute will provide an advisor of the Institute’s choice to conduct cross-examination on behalf of that party without charge to the party. This advisor may be an attorney, but is not required to be.

Any party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. The Panel can only rely on whatever relevant evidence is available through the investigation and hearing in making the ultimate determination of responsibility. If a Party or witness does not attend or does not submit to cross-examination at the hearing, the Decision Makers may nevertheless rely on any relevant statement of that Party or witness in reaching a Determination Regarding Responsibility. The Hearing Panel may not draw an inference on responsibility solely on the party or witness’s absence from the hearing or refusal to answer questions.

The Institute will create an audio recording, audiovisual recording, or transcript of any live hearing and will make it available to the parties for inspection and review. Following the hearing, the Hearing Panel will issue a written determination regarding responsibility and any sanctions. Detailed information about the possible sanctions is outlined in the Consequences section of this policy. This determination will be issued to the parties simultaneously and will include information regarding how both parties can file an appeal under this Policy.

Disciplinary Process and Sanctions

Upon receipt of the final investigative report, the Dean of Education or designee will convene a Hearing Panel and appoint a facilitator, who may or may not be a member of the panel, to oversee the hearing. The role of the Hearing Panel is to review the work of the Investigator(s) (not to reinvestigate the allegations) and recommend a finding and sanction to the Dean of Education. The Complainant(s), Respondent(s), and witnesses, if any, will have an opportunity to attend the hearing but are not required to do so.

During the hearing, the Complainant(s) and the Respondent(s) may make opening statements, primarily to address issues raised in the investigative report and explain why they agree or disagree with the investigative report. The Hearing Panel may question the Investigator(s), the parties, and any witnesses present at the hearing. The parties may submit questions to the Hearing Panel before and during the hearing to be asked of the Investigator(s), other party, and witnesses, if the same are present at the hearing. The Hearing Panel will consult with the Hearing Facilitator to review the questions and determine whether to ask the questions submitted. Advisers/Support People are not permitted to speak on behalf of a party or to question any witness, Investigator, or the panel during a hearing. The parties may make a closing statement to respond to any issues raised in the hearing. If the panel rejects the recommendations or adjusts the sanctions, they must do so within the framework of the policy and cite evidence to support the adjustments.

Upon conclusion of the hearing, the panel will confer in a closed session to reach their decision. The panel will recommend a finding and sanction to the Dean of Education. The Dean of Education or designee will determine whether or not to accept, reject, or modify the Hearing Panel's findings and recommendations and make the decision in the case. The parties will simultaneously be notified in writing of the outcome and any options for appeal.

Individuals found responsible for violating this policy will be sanctioned and may also be subject to educational or remedial measures. Detailed information about the possible sanctions is outlined in the Consequences section of this policy.

Appeals

Grounds for Appeals. All parties have the right to appeal the decision to dismiss a complaint of Title IX Prohibited Sexual Harassment, or the decision on responsibility and/or sanction by submitting their appeal within three (3) business days to the administrator identified below, as applicable based upon the Respondent's status at the Institute. The non-appealing party(ies) will

be notified of the appeal in writing. All parties will have the opportunity to submit a written statement in support of, or challenging the outcome.

Appeal requests are limited to the following grounds:

1. A procedural or substantive irregularity or error occurred that affected the outcome of the case;
2. The presence of new evidence, not reasonably available at the time of dismissal or at the time of the determination of responsibility, that could affect the outcome of the matter or sanction. A summary of this new evidence and its potential impact must be included;
3. The Title IX /EEO Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or actual bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter; or
4. The sanctions imposed are substantially disproportionate to the severity of the violation.

An appeal of a decision should be submitted in writing to the Dean of Education. This appeal will be reviewed and decided by the Dean of Education or their designee within thirty (30) calendar days unless extended by that individual, who may request any existing or new information they deem necessary to resolve the appeal.

Decision on Appeal. The parties will be simultaneously notified in writing of the outcome of the appeal and the rationale for the result. The decision on appeal is the final decision in the case and is not subject to further review within the Institute. This is the sole mechanism for appeal of a dismissal, decision, and disciplinary action taken under this policy, and such decisions are not subject to any other grievance policy.

Prohibition Against Retaliation

Retaliation against a person who engages in protected activity under this policy is prohibited. Protected activity under this policy includes but is not limited to reporting an incident that may implicate this policy, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, or otherwise participating in the investigation, resolution or adjudication process, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Retaliation includes but is not limited to any behavior, adverse action, treatment, or condition that intimidates, threatens, coerces, discriminates against or is taken against a person for the purpose of interfering with their rights under this policy or otherwise participating under this policy. This includes direct or indirect behavior or actions taken by an individual or at the direction of a party or someone participating under this policy. Any behavior that has the purpose or effect of intimidating or improperly influencing any individual's participation in the investigation or adjudication process may also be retaliation. Any act of actual or threatened retaliation may be investigated and adjudicated as a separate violation of this policy. Retaliation may also result in immediate removal from the Institute. Any person who believes they have been subjected to retaliation should immediately report this to the Title IX/EEO Coordinator.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

False Allegations and Evidence

Deliberately false and/or malicious accusations under this policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under Institute policy.

Amnesty

A person acting in good faith who reports an allegation, assists in an investigation, or otherwise participates in a process under this policy will not be subjected to any disciplinary action by the Institute for any violation of Institute policy when the conduct reasonably relates to the incident, unless suspension, expulsion, or termination from the institution is a possible punishment. For example, a student involved as a party or witness will receive amnesty for minor policy violations (such as alcohol or drug infractions) that are secondary to the alleged incident, though the Institute may provide purely educational options with no disciplinary finding.

A person who is found to have violated this policy is not entitled to amnesty under this provision.

Amendment to this Policy

Technical and non-substantive amendments to this policy may be made administratively. Substantive amendments will be adopted by a vote of the Board of Trustees, following a vote by the Faculty Senate, Faculty Assembly, and TSEC.

Consequences of Policy Violation

For Engaging in Sexual Harassment or Sexual Misconduct

Individuals found responsible for violating this policy will be sanctioned. The Institute reserves the right to impose a range of sanctions depending on the severity of the offense and taking into account any previous disciplinary history. The Institute may also impose restrictions (such as no contact orders or bans from particular locations on campus) or educational remedies (such as training) at its discretion. Except for matters solely involving Title IX Prohibited Sexual Harassment, restrictions and educational remedies may be used whether or not a party is found responsible for violating the policy. For violations of Title IX Prohibited Sexual Harassment, remedies are designed to restore or preserve equal access to Valley Grande's education program

or activity. The Title IX Coordinator/EEO is responsible for effective implementation of any remedies. Variation from the guidelines below is possible but will be explained in writing.

Range of Sanctions for students:

- Any student found responsible for violating the policy regarding either Title IX Prohibited conduct or Institute Prohibited conduct definitions of Sexual Harassment, Sexual Exploitation, Stalking, or Retaliation will likely receive one of the following sanctions: warning, general warning, probation, probation with suspension of privileges, suspension, or expulsion.
- Any student found responsible for violating the policy regarding either Title IX Prohibited conduct or Institute Prohibited conduct definitions of Forcible Fondling, Dating Violence, Domestic Violence, or the Institute Prohibited conduct definition of Intimate Partner Violence will likely receive one of the following sanctions: probation, probation with suspension of privileges, suspension, or expulsion.
- Any student found responsible for violating the policy regarding either Title IX Prohibited conduct or Institute Prohibited conduct definitions of Forcible Rape, Forcible Sodomy, Sexual Assault With An Object, Incest or Statutory Rape will likely receive a sanction of suspension or expulsion.

Note: Students who are suspended or expelled will have a notation placed on their transcript in accordance with Institute policy.

Range of Sanctions for Employees:

Any Institute employee, faculty member or staff member, found responsible for violating the policy may receive counseling or the sanctions of warning, suspension without pay, or termination.

Range of Sanctions for a Third-Party:

Any volunteer, contractor, or other individual within the Institute's control who is found responsible for violating the policy may be counseled, warned, removed from their position, and/or banned from participation in certain Institute activities.

Failure to Comply with Reporting Requirements

Texas law requires that employees who fail to comply with their reporting responsibilities are also subject to the following consequences:

- An employee who the Institute determines, in accordance with the Institute's disciplinary procedure, to have knowingly failed to make a required report or to have knowingly made a false report with the intent to harm or deceive shall be terminated from employment.
- An employee who knowingly failed to make a required report or who knowingly made a false report with the intent to harm or deceive commits the criminal offense of a Class B

misdemeanor, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that the employee intended to conceal the incident that the employee was required to report.

Definitions:

Sexual Harassment Sexual Misconduct means unwelcome, sex-based verbal or physical conduct that: (1) in the employment context, unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment; or (2) in the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from educational programs or activities at a postsecondary educational institution.

It includes Sexual Assault as defined below; Intimate Partner Violence (including Domestic Violence and Dating Violence as defined below); Stalking, as defined below; and Sexual Exploitation, as defined below.

Rape is the carnal knowledge of a person, without consent of the victim, including instances where the victim is unable to give consent because of his/her age or because of his/her temporary or permanent mental or physical disability.

Non-consensual Sodomy: Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Sexual Assault With An Object means to use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Fondling is the touching of the private 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.

Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape is sexual intercourse within a person who is under the statutory age of consent (17 years old in the state of Texas).

Sexual exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to the advantage or benefit of anyone other than the one being exploited, and which behavior does not constitute any other form of

Sexual Misconduct. Examples of sexual exploitation include, but are not limited to, engaging in the following activities without the other person's consent:

- Sexual voyeurism such as watching or recording a person undressing, using the bathroom, or engaging in sexual acts in a place where they would have a reasonable expectation of privacy;
- Taking or sharing pictures or recording another in a sexual act, or in any other private activity (such as allowing another person to hide in a closet and observe sexual activity), or disseminating sexual pictures, including as an act of revenge, without the consent of all individuals depicted;
- Exposing one's genitals or breasts in non-consensual circumstances or inducing another to expose his or her genitals or breasts;
- Going beyond the boundaries of consent (such as engaging in actions that were not consented to during an otherwise consensual encounter);
- Threatening to disclose or disclosing a person's sexual activities, sexual orientation, gender identity, or gender expression with the intent to harm the person;
- Administering alcohol or drugs (such as date rape drugs) to another person without their knowledge and consent;
- Prostitution; and
- Intentionally aiding a violation of this Policy.

Intimate Partner Violence includes both Dating and Domestic Violence, defined below, as well as any act, threat, or pattern of abusive behavior (including sexual, physical, psychological, and economic) that one person uses against a current or former partner in a sexual, dating, spousal, domestic, parenting or other intimate relationship, to gain or maintain power or control over another. Intimate Partner Violence can be a single act or a pattern of behavior within a relationship. The determination of whether any conduct constitutes Intimate Partner Violence is whether the conduct is so severe, pervasive, or persistent as to interfere with an individual's ability to learn and/or work or cause substantial emotional distress, when judged both objectively (meaning that a "reasonable person" would find the behavior to be intimidating, frightening, terrorizing, or threatening) and subjectively (meaning the impacted individual felt the behavior was intimidating, frightening, terrorizing, or threatening). The existence of such a relationship shall be determined based on consideration of the following factors: the length of the relationship; the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

Dating Violence means 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. For the purposes of this definition -

(A) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

(B) Dating violence does not include acts covered under the definition of domestic violence.

Domestic Violence means felony or misdemeanor crimes 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; 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.

Stalking means 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. For the purposes 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.

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

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

Consent is knowing, voluntary, and clear permission by word or action to engage in mutually agreed upon sexual activity or contact. A person can withdraw consent at any time during sexual activity by expressing in words or actions that they no longer want the act to continue, and, if that happens, the other person must stop immediately. Continued pressure can be coercive, which negates consent given under such circumstances. Consent cannot be inferred from silence or the absence of resistance. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous dating or sexual relationship is not sufficient to constitute consent. There is no requirement that someone resist the sexual advance or request, but resistance is a clear demonstration of non-consent. Consent cannot be obtained by coercion, force, or from someone who is incapacitated. In order to give effective consent, one must be 17 years old in Texas. Proactively talk to your partner about sexual decisions when you're not in the moment. If you are in a relationship, you should be talking about these things on an ongoing basis. The Institute will determine the existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced. The use of coercion to obtain consent invalidates the consent. Coercion is the act of unreasonably pressuring another person into sexual activity against their will. Sexual coercion can involve using physical force and/or convincing another person to engage in sexual activity by use of verbal and emotional pressure including manipulation, intimidation, blackmail, and/or the use of alcohol or other drugs to make someone more vulnerable. What is unreasonable will be determined on a case-by-case basis, considering a number of factors such as the intensity, frequency, and duration of persuasion, and the isolation of individuals. The use of force to obtain consent invalidates the

consent. Force is the direct or indirect use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent. A person is incapacitated and cannot consent to sexual activity if that person is asleep, unconscious, or otherwise unable to resist; is unaware that sexual activity is occurring; does not have the ability to make informed, rational judgments about whether or not to engage in sexual activity; and/or the person does not have the legal capacity to consent. Someone can be incapacitated due to the voluntary or involuntary use of alcohol or drugs. Some signs that someone may be incapacitated include stumbling, slurring words, a lack of control of their motor skills, or an inability to understand what is happening. An individual who engages in sexual activity when the individual knows, or should know, that the other person is incapacitated, has violated this Policy. "Should have known" is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment. Being drunk or intoxicated is not a defense for not obtaining consent. Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk. A person who is not sure if they are interacting with a person who has diminished capacity should, as a matter of practice, avoid engaging in sexual activity with that person at that time. A person who has sexual interactions with anyone who may be under the influence of any substance is vulnerable to accusations of violations of this policy.

"Student": For the purpose of this policy, the Institute defines "student" as any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with the Institute.

"Valley Grande Education Program or Activity": Valley Grande education program or activity includes locations, events, or circumstances over which the recipient exercised substantial control over both the Respondent and the context in which the sexual harassment occurs. For purposes of Title IX Prohibited Sexual Harassment, education program or activity also means any building owned or controlled by a student organization that is officially recognized by the Institute; however, no such buildings exist at Valley Grande.