

**BURRELL COLLEGE  
OF OSTEOPATHIC MEDICINE  
POLICY MANUAL**

SECTION: General Administration & Leadership

BCOM Policy B1043

TOPIC: Title IX: Sex Discrimination  
and Harassment

Approval Date: 8/11/16, 9/27/17  
Effective Date: 9/27/17  
Ratified: 11/29/16  
Revised: 11/15/19 - *Previously B2070*  
08/14/2020

Approved: Signature on File

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## **POLICY**

The Burrell College of Osteopathic Medicine shall comply with the regulations promulgated by the US Department of Education under Title IX of the Education Amendments Act of 1972. The College shall not tolerate sexual discrimination or misconduct, including sexual harassment within a scope of conduct that occurs within the United States in the College's education program or activities. All forms of prohibited conduct under Title IX may result in disciplinary action in accordance with College policies and procedures up to and including suspension/expulsion/termination. Applicable state and federal laws that address conduct may also meet the College's definitions of prohibited conduct and criminal prosecution may take place independently of disciplinary action instituted by the College.

## **DEFINITIONS**

- **Complainant:** An individual who is alleged to be the victim of conduct that could constitute sexual harassment or sexual discrimination. May also be referred to as the Reporting Party.
- **Respondent:** An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment or sexual discrimination.
- **Actual Knowledge:** means notice of sexual misconduct, sexual harassment or allegations of sexual harassment to the College's Title IX Coordinator or any official who has authority to institute corrective measures on behalf of the College.
- **Consent:** Knowing, voluntary, informed, mutual and affirmative permission. Consent can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats or duress is used. Silence or absence of resistance does not imply consent. Past consent to sexual activity does not imply ongoing or future consent. If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption, or being asleep or unconscious.
- **Formal Complaint:** A document signed and filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment or sexual discrimination against a respondent and requesting that the College investigate the allegation. The document may be filed in person, mailed, sent by email or by any additional method designated by the College to the Title IX Coordinator by the complainant. If electronically filed, the complaint must contain the complainant's physical or digital signature, or indicate that the complainant is the person filing the complaint. At the time of filing a formal complaint, the complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed.
- **Education program or activities:** meaning a) locations, events, or circumstances over which the College exercises substantial control over both the respondent and the context in which the Title IX Sexual Harassment occurs, and b) any building owned or controlled by a student organization that is officially recognized by the College; and, at the time of filing a formal complaint, a complainant is participating in or attempting to participate in the education program or activity at the College; and c) at the time of filing a

formal complaint, the complainant is participating or attempting to participate in the education program or activity at the College

○ **Prohibited Conduct:**

- **Sexual Discrimination:** includes but is not limited to circumstances when an employee or student suffers adverse employment or academic consequence (such as denial or loss of employment or academic opportunities or status) on the basis of sex, sexual orientation and also includes circumstances where an employee or student is subjected to sexual harassment or sexual violence.

- **Sexual Harassment:**

- **Unwelcome Sexual Conduct:** Unwelcome sexual conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies an individual equal access to the College's education program or activity;
- **Quid Pro Quo Sexual Harassment:** An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct;
- **Sexual Assault:** as defined in 20 U.S.C. 1092(f)(6)(A)(v) is any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Sexual assault can occur between individuals of the same or different sexes and/or genders.
  - **Rape:** penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
    - **Statutory Rape:** sexual intercourse with a person who is under the statutory age of consent.
  - **Fondling:** touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
  - **Incest:** sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Domestic Violence:** as defined in 34 U.S.C. 12291 (a)(8) is a felony or misdemeanor crime of violence committed: (a) by a current or former spouse or intimate partner of the victim; (b) by an individual with whom the victim shares a child in common; (c) by an individual who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; (d) by an individual similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the felony or misdemeanor crime of violence occurred; (e) by any other individual against an adult or youth victim who is protected from that individual's acts under the domestic or family violence laws of the jurisdiction in which the felony or misdemeanor crime of violence occurred. For purposes of this policy, an intimate partner is defined as an individual with whom one has or had a short- or long-term relationship that provides romantic and/or physical intimacy or emotional dependence.
- **Dating Violence:** as defined in 34 U.S.C. 12291(a)(10) is violence committed by an individual 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 individual's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the individuals involved in the relationship. This includes, but is not limited to, sexual or

physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

- **Stalking:** as defined in 34 U.S.C. 12291 (a)(30) is engaging in a course of conduct directed at a specific individual that would cause a reasonable person to: (a) fear for the individual's safety or the safety of others; or (b) suffer substantial emotional distress. For the purposes of the Stalking definition: *Course of conduct* means two or more acts, including 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 an individual, or interferes with an individual'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.
- **Retaliation under this policy:** No individual may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by this policy or because an individual has made a report or formal complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.
- **Supportive Measures:** non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

**RESPONSIBLE OFFICIAL:**

Title IX Coordinator

**PROCEDURES**

1. The College shall ensure a Title IX Coordinator is designated and accessible with contact information provided on the College website and in its college catalog and student handbook. The College shall provide notification to all students, applicants, and employees of the Title IX Coordinator's name and contact information.
2. The College shall post all training Title IX personnel receive on its website.
3. The College shall respect the privacy of individuals reporting or accused of sexual harassment to the extent reasonably possible in accordance with all applicable laws, rules, and regulation. The College shall keep confidential the identity of any individual who has made a report or formal complaint under this policy, including any complainant, any individual reported to be the perpetrator, any respondent, any witness, except as may be permitted by Family Educational Rights and Privacy Act (FERPA), or as required by law, or to carry out the purposes of conducting any investigation or hearing under this policy.
4. When the College learns of an allegation of sexual harassment, the College shall provide supportive measures as described in its Title IX grievance procedures and explain the process of filing a formal complaint.
5. The College shall maintain a Title IX grievance process to provide due process and fundamentally fair procedures to adjudicate the allegations of sexual harassment filed through a formal complaint.
6. All students and employees are subject to local, state, and federal laws, and have the right to file a complaint or charge with appropriate federal, state, or local departments or agencies.
7. Students and employees may contact the appropriate regulatory agency for inquiries concerning the application of Title IX as well as the implementation of its regulations:

- a. For Students:
  - i. U.S. Department of Education  
Office for Civil Rights  
32 Old Slip, 26th Floor  
New York, New York 10005  
Phone: (646) 428-3800  
Fax: (646) 428-3843  
email: [OCR.NewYork@ed.gov](mailto:OCR.NewYork@ed.gov)
- b. For Employees:
  - i. U.S. Equal Employment Opportunity Commission  
131 M Street, NE  
Washington, DC 20507  
202-663-4900

**CROSS REFERENCES:**

Policy B1040 Non Discrimination

Title IX Grievance Procedures

<https://sites.ed.gov/titleix/policy/>

<https://bcomnm.org/title-ix/>