

# Sexual Misconduct and Discrimination Policy

## Table of Contents

Sexual Misconduct and Discrimination Policy .....	2
1 Policy Statement.....	2
2 Scope.....	2
3 Assistance Options following an instance of Sexual Misconduct .....	2
3.1 Immediate Assistance .....	2
3.3 Ongoing Assistance: Counseling, Advocacy, and Support.....	3
4 Academic Accommodations and Interim Measures.....	3
5 Title IX Coordinators .....	4
5.1 Euphoria Title IX Coordinator .....	4
6 Definitions .....	5
6.9 Consent and Incapacitation .....	7
6.10 Additional Definitions .....	8
7 Reporting Policies and Protocols.....	9
8 Investigation Procedures & Protocols.....	10
8.1 Informal Complaint.....	11
8.2 Informal Resolution .....	12
8.3 Formal Investigation .....	12
8.4 Formal Hearing and Resolution .....	13
9 Grievance and Adjudication Procedures .....	15
9.6 Title IX Appeals .....	17
10 Prevention and Education .....	19
11 Employee Training .....	20
12 Appendix A: Off-Campus Resources .....	22
12.1 Rape Crisis Center of Central New Mexico (Albuquerque) .....	22
12.2 Agora Crisis Center, (Albuquerque) .....	22
12.3 TESSA (Colorado Springs).....	22
12.4 Latimer House (Grand Junction) .....	23
12.5 Pueblo Rape Crisis Services (Pueblo) .....	23
12.6 National Resources .....	23

# Sexual Misconduct and Discrimination Policy

Version 3.2

Approved: March 29, 2016

Updated: August 1, 2024

## 1 Policy Statement

Euphoria Institute (“Euphoria”) is committed to providing equal opportunity in employment and educational opportunities, and an environment free of all forms of improper or unlawful harassment, discrimination, and violence in its educational programs and activities, including admissions and employment practices.

Euphoria will not tolerate any discrimination, harassment, or violence of any kind including, but not limited to, discrimination, harassment or violence based on sex/gender (including pregnancy and childbirth), sexual orientation, gender identity, gender expression, nonconformity with sex stereotypes, age, national origin, disability, veteran status, or any other category protected by federal, state, or local law.

More specifically, Euphoria complies with Title IX of the Education Amendments of 1972, Titles VI and VII of the Civil Rights Act of 1964, Violence Against Women Reauthorization Act (VAWA) and regulations for any other applicable federal, state, or local law and will promptly address conduct deemed to be in violation of this policy.

## 2 Scope

This policy applies to all members of the Euphoria community, including students, faculty, and administration as well as third parties (*e.g.*, vendors and invitees). Discrimination or harassment on those bases listed above is not tolerated at our institution. In addition, this policy applies to all conduct involving students, faculty, staff, and third parties that occurs on Institute-controlled properties and at sponsored events, as well as off-site conduct when that conduct can affect the College community. This policy applies to all individuals identified regardless of sex, gender, sexual orientation, gender identity, or gender expression. *Confidentiality: see Sections 7.1 and 7.2.*

## 3 Assistance Options following an instance of Sexual Misconduct

### 3.1 Immediate Assistance

Euphoria College prohibits the crimes of dating violence, domestic violence, sexual assault, and stalking as defined by the Clery Act. **In the event of an emergency, please contact 911.** Immediate assistance can also be obtained by contacting the Deputy Title IX Coordinator designated for your campus or Euphoria’s Title IX Coordinator. Additional off-campus confidential assistance may be obtained by requesting a list of local resources.

Local community resources may be available at each campus; please see the Campus Director, Director of

Education (DOE), or the campus Deputy Title IX Coordinator for additional assistance. If there is no immediate emergency, additional law enforcement assistance may be obtained by contacting:

**Las Vegas Police Department**

**(702) 828-3111**

### 3.2 Healthcare Options for Treatment of Sexual Assault

Victims should seek treatment for injuries, preventative treatment for sexually transmitted diseases, and other health services, including but not limited to mental health services for post-traumatic event counseling. Rapid medical treatment is often key to preserving key evidence of assault; it is recommended that victims seek treatment as soon as possible following an incident.

*See Appendix A for available local resources.*

### 3.3 Ongoing Assistance: Counseling, Advocacy, and Support

Resource packets with materials relating to sexual violence, national and local resources, are available from your Deputy Title IX Coordinator and Director of Education.

Immediately following a report of sexual misconduct, Euphoria will provide written notification to students and employees regarding counseling options, victim's school and local resources, and other support services that the campus and local community can provide. In addition, options for accommodations and interim measures are provided including whom to contact to request such assistance. Student and employees will be informed of their rights and options moving forward after the complaint.

Individuals may also seek ongoing support during institutional disciplinary or criminal processes from the campus Deputy Title IX Coordinator or from others in campus administration such as the Campus Director or Director of Education.

## 4 Academic Accommodations and Interim Measures

Upon receipt of a complaint or report of a violation of this policy, Euphoria Institute will provide reasonable and appropriate interim measures designed to preserve the complainant's educational experience, the safety of all parties, and the broader Euphoria community. In addition, Euphoria will maintain the integrity of the investigative and/or resolution process and place a strong emphasis on deterring retaliation. Certain interim measures may be available to the complainant regardless of whether the complainant seeks formal disciplinary action. Interim measures may include but are not limited to:

- Re-scheduling of assignments and/or testing without penalty;
- No penalty for absence or missed professional grades;
- Leave of absence (LOA) process;
- Completion of a Student Support Plan (SSP);
- Special arrangements for completion of labs or hands-on testing;
- Waiving or compensation of re-take test fees;
- Access to counseling services;
- Changes in class schedule, including the ability to transfer course sections or withdraw from a

- course;
- Change in work schedule or job assignment;
- Ability to re-take courses with no charge or penalty to the student;
- Additional tutoring or open lab time, as needed;
- Enforcement of any court, college, or law enforcement no contact or restraining order;
- Assistance or accommodations with any disabilities that may have occurred according to the Euphoria Institute's Accommodation Policy;
- And other remedies that can be used to achieve the goals of this policy and are reasonable in nature.

Any interim measures will not disproportionately impact the complainant. Requests for interim measures may be made by the complainant to Euphoria's Campus Deputy Title IX Coordinator. The Deputy Title IX Coordinator is responsible for ensuring the implementation of interim measures and coordinating Euphoria's response with the appropriate offices on campus. All individuals are encouraged to report concerns about the failure of another to abide by any restrictions imposed through interim measures. Euphoria will take immediate action to enforce a previously implemented measure, and disciplinary penalties can be imposed for failing to abide by a college-imposed interim measure.

Euphoria will maintain as much confidentiality as possible when providing accommodations or protective measures for individuals. Only employees who need to know will be informed to ensure the accommodations and/or protective measures can be carried out appropriately.

## 5 Title IX Coordinators

### 5.1 Euphoria Title IX Coordinator

Euphoria Institute Title IX Coordinator is responsible for providing assistance and oversight of all aspects of the response to any allegations which would violate the sexual misconduct and discrimination policy. Euphoria's Title IX Coordinator is Katie Hager and she may be contacted at [khager@intellitec.edu](mailto:khager@intellitec.edu). Assistance and oversight is provided by the Title IX Coordinator to all the campus Deputy Title IX Coordinators and Campus Directors. Additional details regarding specific duties of Euphoria's Title IX Coordinator may be found in the following sections:

- Section 4: Academic Accommodations and Interim Measures
- Section 7: Reporting Policies and Protocols
- Section 8: Investigation Procedures and Protocols
- Section 9: Grievances and Adjudication Procedures

### 5.2 Deputy Title IX Coordinators

Euphoria also maintains Deputy Title IX Coordinator's at each campus who are responsible for providing oversight of all aspects of the response to any allegations which would violate the sexual misconduct policy at their campus. Most Deputy Title IX Coordinators also act as Investigators.

## 6 Definitions

### 6.1 Sex Discrimination

Sex discrimination is adverse treatment of an individual based on sex, rather than individual merit. Sex discrimination encompasses but is not limited to, sexual violence, sexual harassment, sexual assault, stalking, dating/domestic violence, retaliation, and other related forms of sex discrimination. Examples of conduct that can constitute sex discrimination because of sex include, but are not limited to:

- Singling out or targeting an individual for different or adverse treatment (e.g., more severe discipline, lower salary increase);
- Failing or refusing to hire or allow participation by an individual in a College activity;
- Terminating or removing an individual from employment or an educational program; or
- Verbally harassing, abusing, or demeaning a targeted individual with conduct designed to impact that individual adversely.

### 6.2 Sexual Harassment:

Sexual Harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

- Quid pro quo harassment. An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
- Hostile environment harassment. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
  - The degree to which the conduct affected the complainant's ability to access the recipient's education program or activity;
  - The type, frequency, and duration of the conduct;

- The parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- The location of the conduct and the context in which the conduct occurred; and
- Other sex-based harassment in the recipient's education program or activity;

### 6.3 Sexual Violence:

The following behaviors constitute sexual violence and are prohibited under this policy. All forms of sexual violence are serious offenses and will result in discipline. Sexual violence involving force, duress, or inducement of incapacitation, or where the perpetrator has deliberately taken advantage of another person's state of incapacitation, will be deemed especially egregious and may result in expulsion or termination of employment. The consumption of alcohol or use of illegal substances will not ordinarily constitute a mitigating factor or circumstance when it contributes to, or is involved in, an alleged act of sexual violence.

#### 6.3.1 Non-Consensual Sexual Penetration:

Any act of vaginal or anal penetration by a person's penis, finger, other body part, or an object, or oral penetration by a penis, without consent.

#### 6.3.2 Non-Consensual Sexual Contact:

Any sexual touching other than non-consensual sexual penetration without consent. Examples of non-consensual sexual contact may include genital-genital or oral-genital contact not involving penetration; contact with breasts, buttocks, or genital area, including over clothing; removing the clothing of another person; and kissing.

#### 6.3.3 Dating Relationship Violence:

This policy prohibits acts of violence, threat, or intimidation that harm or injure a partner in a current or former dating relationship (defined below). These acts include, but are not limited to, sexual or physical abuse or the threat of such abuse. Dating relationship violence can be a single act or pattern of behavior. 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; and
- The frequency of interaction between the persons involved in the relationship

#### 6.3.4 Domestic Violence:

Domestic violence under this policy includes acts of violence, threat, or intimidation that harm or injure members of a family or household. A "household" exists when:

- Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
- Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- Shares a child in common with the victim; or
- Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or

#### 6.4 Stalking:

Stalking under this policy is a course of conduct (i.e., more than one act) directed at a specific person which would cause a reasonable person to feel fear, to experience substantial emotional distress, or to fear for their safety or the safety of a third person. Acts that together constitute stalking may be direct actions or may be communicated by a third party, and can include, but are not limited to, threats of harm to self, others, or property; pursuing or following; non-consensual (unwanted) communication by any means; unwanted gifts; trespassing; and surveillance or other related types of observation.

#### 6.5 Sexual Exploitation:

Sexual exploitation is any act whereby one person violates the sexual privacy of another or takes unjust or abusive sexual advantage of another who has not provided consent, and that does not constitute non-consensual sexual penetration or non-consensual sexual contact. Examples may include, but are not limited to, voyeurism (i.e., spying on others who are in intimate or sexual situations); or recording, photographing, transmitting, viewing, or distributing intimate or sexual images or sexual information without the knowledge and consent of all parties involved.

#### 6.6 Sexually Inappropriate Conduct:

Unwelcome sexual conduct may not rise to the level of sexual harassment or sexual exploitation, but that is sexual in nature, is also prohibited under this policy. Examples include but are not limited to, lewdness and obscene or sexually offensive gestures and comments.

#### 6.7 Retaliation:

Retaliation is any attempt to seek retribution against an individual or group of individuals involved in filing a complaint or report under this policy, filing an external complaint, participating in a disciplinary process, or opposing in a reasonable manner an action believed to constitute a violation of this policy. Retaliation can take many forms, including, but not limited to, adverse action or violence, threats, and intimidation. Actions in response to a good faith report or response under this policy are considered retaliatory if they have a materially adverse effect on the working, academic, or College-controlled environment of an individual or if they hinder or prevent the individual from effectively carrying out his/her College responsibilities.

#### 6.8 Dating Relationship:

Dating relationship means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based upon consideration of (1) the length of the relationship, (2) the nature of the relationship, and (3) the frequency and type of interaction between the persons involved in the relationship. Dating relationships may include, but are not limited to, dating relationships, "hook-up" relationships, and relationships in which partners are characterized as "girlfriends" or "boyfriends."

#### 6.9 Consent and Incapacitation:

In reviewing possible violations of sexual misconduct, Euphoria considers consent as the voluntary, informed, un-coerced agreement through words and/or actions freely given, which a reasonable person

would interpret as a willingness to participate in mutually agreed-upon sexual acts. Consensual sexual activity happens when each partner willingly and affirmatively chooses to participate.

#### 6.9.1 Consent

Indications that consent is not present may include, but are not limited to, when physical force is used or there is a reasonable belief of the threat of physical force, when duress is present, when one person overcomes the physical limitations of another person, and when a person is incapable of making an intentional decision to participate in a sexual act, which could include instances in which the person is in a state of incapacitation. Important points regarding consent include:

- Consent to one act does not constitute consent to another act.
- Consent on a prior occasion does not constitute consent on a subsequent occasion.
- The existence of a prior or current relationship does not, in itself, constitute consent.
- Consent can be withdrawn or modified at any time.
- Consent is not implicit in a person's manner of dress.
- Accepting a meal, a gift, or an invitation for a date does not imply or constitute consent.
- Silence, passivity, or lack of resistance does not necessarily constitute consent.
- Initiation by someone who a reasonable person knows or should have known to be deemed incapacitated is not consent.

#### 6.9.2 Incapacitation

Incapacitation is the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless, either voluntarily or involuntarily, or the individual is unconscious, asleep, or otherwise unaware that the sexual activity is occurring. In addition, an individual is incapacitated if they demonstrate that they are unaware of where they are, how they got there, or why or how they became engaged in a sexual interaction. When alcohol is involved, incapacitation is a state beyond drunkenness or intoxication. When drug use is involved, incapacitation is a state beyond being under the influence of the drug. Some indicators of incapacitation may include, but are not limited to, lack of control over physical movements, lack of awareness of circumstances or surroundings, or the inability to communicate for any reason. An individual may experience a blackout state in which he/she appears to be giving consent, but do not actually have conscious awareness or the ability to consent. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication. The relevant standard that will be applied is whether the respondent actually knew, or a sober reasonable person in the same position should have known, that the other party was incapacitated and therefore could not consent to the sexual activity.

#### 6.10 Additional Definitions

- **Complainant** refers to the individual(s) who has been the subject of prohibited conduct, regardless of whether that individual makes a complaint or seeks disciplinary action.
- **Respondent** refers to the individual(s) who has been accused of prohibited conduct. The term third party refers to any individual who is not a student, faculty member, or staff member (e.g., vendors, alumni/ae, or local residents).
- **Responsible Employee** refers to all faculty, academic and campus management, and all persons in a position of perceived authority. This means they are required to disclose any complaints including names of those involved to the Title IX Deputy Coordinators and/or Euphoria's Title IX Coordinator to



ensure proper measures are taken. The responsible employee must notify complainants of their responsibilities to report the incident or suspected Title IX violation to appropriate personnel.

## 7 Reporting Policies and Protocols

Euphoria Institute encourages all individuals to report any alleged or suspected violation of the Sexual Misconduct and Discrimination Policy including domestic violence, dating violence, stalking, and sexual assault to the campus Title IX Deputy Coordinator and to report potential criminal conduct to law enforcement. Euphoria employees who become aware of potential violations of this policy are required to notify Euphoria Institute. You may notify the following personnel regarding an incident or suspected Title IX violation:

- Campus Director
- Deputy Title IX Coordinators,
- Euphoria Corporate Title IX Coordinator,
- members of management,
- or a Responsible Employee.

Euphoria strongly encourages that any criminal conduct be reported to law enforcement and will provide any assistance necessary in contacting and notifying appropriate law enforcement if requested. In addition, should the individual decline to notify such authorities, Euphoria will support that decision.

### 7.1 Confidentiality

Euphoria Institute has independent obligations to report and/or investigate potential misconduct, even if a complainant does not wish to initiate an official process. Therefore, absolute confidentiality cannot be promised with respect to a formal complaint of discrimination, harassment, sexual harassment, violence (i.e., dating violence, domestic violence, sexual assault, or stalking), or retaliation received through Euphoria's reporting options. Euphoria wishes, however, to create an environment in which legitimate complaints are encouraged, while also protecting the privacy of all involved in an investigation. Complaints about violations of these policies will therefore be handled in strict confidence, with facts made available only to those who need to know in order for Euphoria to promptly and thoroughly investigate and resolve the matter. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

### 7.2 Confidential Resources

While Euphoria Institute does not offer on-campus confidential resources, Euphoria does make local resources available to all students and staff.

### 7.3 Options for Complainants and Other Reporting Parties

Anyone who seeks to make a complaint or report may complete one of the following actions. These options are considered official notifications or complaints and will initiate Euphoria's investigation procedures under Title IX.

- File an internal complaint or report with Euphoria's Title IX Coordinator or Deputy Title IX Coordinators, thereby invoking Euphoria's internal investigation process. This can be completed

by:

- Scheduling an appointment or walk-in and see responsible employees as listed above.
- Call appropriate personnel to report a potential violation. *See Sections 5.1 and 5.2 for contact information.*
- Email or submit written complaints to the Deputy Title IX Coordinators or Euphoria Title IX Coordinator. *See Sections 5.1 and 5.2 for contact information.*
- Request interim measures from Euphoria's Title IX Coordinator.
- If on or off campus, contact the local police department (*See Section 3.1*) for assistance in filing a criminal complaint and preserving physical evidence.

An individual may pursue some or all of these steps at the same time (e.g., one may simultaneously pursue an internal complaint and a criminal complaint). When initiating any of the above options, an individual does not need to know whether he/she wishes to request any particular course of action nor how to label what happened.

#### 7.4 Amnesty

In order to encourage reports of conduct prohibited under this policy, Euphoria Institute will offer amnesty to the alleged victim or reporting witness with respect to any alcohol and drug use violations as defined in Euphoria's student conduct code. Euphoria may also offer amnesty or leniency to the alleged victim or reporting witness with respect to other violations of campus policy which may be disclosed as a result of such reports, depending on the circumstances involved. Euphoria may recommend alcohol or drug counseling/education services through LifeWorks to students violating Euphoria's student conduct code or drug and alcohol policies.

#### 7.5 Non-Retaliation

Euphoria prohibits retaliation against an employee or student for filing a complaint or for assisting in a complaint investigation. If you perceive retaliation for making a complaint or for your participation in an investigation, please follow the complaint procedure outlined above (*See section 7.3*). The situation will be investigated and responded to appropriately, based upon the finding(s) of the investigation. Interim measures may be taken to prevent or mitigate retaliation.

#### 7.6 Clery Act Reporting

Euphoria Institute must be in compliance with the Clery Act and will annually report crime data statistics for public release as required. Euphoria's Title IX Coordinator in conjunction with the Clery Act Coordinator must report statistics related to Title IX violations which meet the requirements of the Clery Act reports. The Clery Act Coordinator will contact local law enforcement to obtain any anonymous statistics in regards to campus safety and security.

In addition, certain incidents that are a violation of Title IX may trigger the Clery Act requirement for timely warnings and emergency notifications to students. In the event that such an incident does occur, Euphoria will issue necessary warnings and notifications as required to ensure the safety of all students and employees.

### 8 Investigation Procedures & Protocols

In determining whether alleged conduct violates this policy, Euphoria makes a commitment to consider

the totality of the facts and circumstances involved in the incident, including the nature of the alleged conduct and the context in which it occurred. Any of the prohibited conduct defined in this policy can be committed by individuals of any sex, and it can occur between individuals of the same or different sex(es). It can occur between strangers or acquaintances, as well as persons involved in sexual, dating, or family relationships. The Institute will treat complainants and respondents equitably.

The Institute presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

The Institute may consolidate complaints against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations arise out of the same facts or circumstances.

### 8.1 Informal Complaint

If the individual reporting would still like to maintain privacy and does not wish for a formal investigation or Euphoria Institute to address the matter the Deputy Title IX Coordinator and Campus Director will weigh and determine that request against the school's obligation to provide a safe, nondiscriminatory environment for all students, faculty, and staff. In making that decision they will consider a range of factors, including the following:

- The risk that the alleged perpetrator will commit additional acts of misconduct or other violence;
- The seriousness of the alleged misconduct, including risk of repeat incident, whether the respondent threatened further misconduct or other violence against the complainant or others, whether the alleged misconduct was facilitated by the incapacitation of the complainant, or whether the respondent has been found responsible in legal or other disciplinary proceedings for acts of misconduct or other violence;
- Whether the alleged misconduct was perpetrated with a weapon;
- Whether the complainant is a minor;
- Whether the Institute possesses means other than the complainant's testimony to obtain relevant evidence of the alleged misconduct (e.g., security cameras, personnel records, or physical evidence);
- Whether the alleged misconduct reveals a pattern of perpetration at a given location or by a particular group.

If it is concluded that a formal investigation is not needed the Deputy Title IX Coordinator and/or the Campus Director may determine that the most effective way to address the concern is through provision of support measures and/or policy compliance remedy. This would not involve a Formal Investigation or written report to determine if a policy has been violated. Instead, this approach allows the school to tailor a remedy to the specific facts and circumstances of the incident. Resolution can include but are not limited to the following:

- Provide interim or long-term support measures to the complainant and/or the respondent;
- Provide a training to address the incident;
- Provide a referral to other campus resolution processes as appropriate based on the specific facts of the case;

- Provide information about external resources available.
- Conduct a Policy Education Meeting with the respondent to (1) discuss the behavior as alleged and provide an opportunity to respond; (2) review prohibited conduct under the Applicable Policies; (3) identify and discuss appropriate future conduct and behavior as well as how to avoid behavior that could be interpreted as retaliatory; (4) inform the
  - complainant of the respondent's responses if appropriate; and determine whether any other disciplinary action is appropriate. All the above must be documented.

## 8.2 Informal Resolution

Informal resolutions are not available if the allegations are filed against a Institute employee. The informal Resolution process is a voluntary process that is separate from the school's formal investigation process. If an informal resolution can be reached a formal investigation is no longer warranted.

- Depending on the seriousness of the allegations the Informal Resolution process might not be available.
- Participation in an Informal Resolution process is voluntary, and the Institute will not require, encourage, or discourage the parties from participating in the Informal Resolution process.
- After a Formal Complaint has been submitted, the complainant or respondent may request an informal resolution in writing. The Deputy Title IX Coordinator, Campus Director, or an assigned Resolution Facilitator will meet with the complainant and respondent separately to see if a resolution is possible and collect the requested remedies from both parties in writing. Both parties must consent in writing to participate.
- The Facilitator will share the written requests with the other party and identify areas of agreement.
- Any agreements reached must first be approved by the Campus Director and both parties will sign an Informal Resolution Agreement.
- Upon signing the agreement both parties are bound by its terms and cannot elect for a formal resolution process unless circumstances change significantly.
- Failure to comply with the signed agreement may result in disciplinary action for either party.
- The Informal Resolution process may be discontinued at any time by either the Deputy Title IX Coordinator (or designee), the complainant, or the respondent.
- If the Informal Resolution process is discontinued for any reason or if the parties fail to reach a mutually agreeable outcome, the complainant may request to re-engage an investigation and formal resolution process.
- If an Informal Resolution process is terminated, the Informal Resolution process will no longer be made available as a remedy to resolve the complaint. Because Euphoria Institute has an obligation to address reports of sexual assault, dating violence, domestic violence, and stalking, the school may use party admissions or other information learned during the Informal Resolution Process in the Formal Investigation.

## 8.3 Formal Investigation

The investigation will be overseen by either Euphoria's Deputy Title IX Coordinators, the Corporate Title IX Coordinator, and/or Campus Director and will entail a thorough review of all evidence, interviews, electronic records, audio, etc. related to the complaint. In some situations, a third party may be utilized

for investigations if the above employees are unable to oversee the investigation. Euphoria does not provide any confidential resources on campus; therefore, any complaints will be investigated in accordance with this policy. We will keep the manner as confidential as possible and will include only parties that must be informed.

All parties must be notified of the formal complaint and informed of their rights during an investigation. This notification will be made within (4) business days of the complaint. Euphoria Institute will make every effort to conduct and complete an investigation with action within thirty (30) days of the initial complaint notification. Some situations of a more complex nature may require additional time to ensure that all evidence and claims are thoroughly investigated. All those involved will be notified in writing of any extensions to timeframes needed. The thirty (30) days may also be extended in the event that one of the following occurs:

- Availability or unavailability of a witness or relevant/material documents;
- Recalcitrance of a witness and/or any necessary party;
- Delay or other uncooperative actions of any necessary party;
- Number of witnesses;
- Coordination with law enforcement efforts;
- Holidays and vacation periods; or
- Any other unforeseeable event/circumstance which impacts the investigation.

Each party, whether a Complainant or a Respondent, may have an advisor of their choice present during any interview, which can include, but is not limited to an attorney or advocate. Advisors are not authorized to speak or participate instead of the complainant or respondent in interviews. If a complainant or respondent chooses to have an advisor present for interviews, it is complainant or respondent's obligation to select an advisor whose schedule allows attendance within the timeframes designated.

Once notified of a formal investigation, all parties are required to preserve any and all evidence pertaining to the investigation. Euphoria will make every effort to investigate fully all aspects of every claim to ensure equitable treatment of all parties during the investigative process. At the conclusion of the investigation, Euphoria will create a report summarizing the investigation including evidence reviewed, interviews conducted, and any additional resources consulted during the investigation.

#### 8.4 Formal Hearing and Resolution

The investigator, typically the Deputy Title IX Coordinator, will submit the complete investigation report to the respondent, the complainant, and their advisors, if any, for their review and response at least (10) days prior to a hearing.

The Institute shall, upon receipt of the final investigative report, proceed to schedule a live hearing on the matter. A hearing shall be conducted unless both the respondent and the complainant both waive the right to such a hearing. The Institute shall designate a Title IX hearing examiner or hearing committee to hear discipline cases. The Institute shall have the right to decide whether the matter will be heard by a hearing examiner or a hearing committee. The hearing may be conducted live via a electronic video conferencing platform.

A fair hearing shall include all of the following:

- A right to the names of witnesses and of access to documentary and other evidence which serve as the basis for seeking discipline.
- Evidence collected during the investigative process will be made available to the Complainant, Respondent, and their Advisors for review and comment at least ten (10) days prior to the hearing. New evidence (evidence not gathered and considered during the investigative phase) may not be introduced during the live hearing. Likewise, new witnesses (who have not been interviewed by the investigators) are not permitted at the hearing.
- A right for the complainant and employee to be heard on their own behalf.
- A right to an advisor, counsel, or other representatives, and to offer witnesses. The respondent's or complainant's advisor or counsel may ask all witnesses relevant questions and follow-up questions, including those challenging credibility. Credibility determinations, however, may not be made based on a person's status as a complainant, respondent, or witness.
- A right to cross-examine witnesses. The respondent's or complainant's advisor shall conduct cross examination directly, orally, and in real time. The respondent and the complainant may not personally conduct cross-examination. If the respondent, the complainant, or a witness does not submit to cross-examination at the hearing the hearing committee or hearing examiner may not draw a negative inference in reaching its findings and recommendations based solely on the absence of a respondent, complainant, or witness from the hearing or refusal to answer cross-examination or other questions.
- The hearing examiner will determine whether a proposed question is relevant and not otherwise impermissible before the question is posed and will explain any decision to exclude a question as not relevant or otherwise impermissible. Questions that are unclear or harassing of the party or witness being questioned will not be permitted. The examiner will give a party an opportunity to clarify or revise a question that the decisionmaker determines is unclear or harassing. If the party sufficiently clarifies or revises the question, the question will be asked.
- A verbatim record of all hearings, which might be a sound recording, made available at no cost for inspection and review.
- All parties are expected to be civil and not engage in behavior that violates collegial standards, such as talking over someone, yelling, taking an aggressive stance towards someone (i.e., shaking a fist or standing too close to someone's face), or any other behavior that is deemed disruptive by the hearing committee.
- During the hearing the hearing committee or hearing facilitator will have the right to determine the relevancy of any questions asked on cross-examination and can exclude any irrelevant questioning.
- Upon request, the Institute shall provide for the hearing to occur with the respondent and complainant located in separate rooms with technology enabling the hearing committee or hearing examiner, the respondent, and the complainant to simultaneously see and hear witnesses answering questions.
- Upon scheduling the hearing, the above rules and additional detailed procedures will be sent to the respondent, complainant, and their advisors.

After the hearing the hearing examiner or the hearing committee will finalize a conclusion and act as the Decision Maker(s) for the allegations. The report and conclusions are also sent to the Corporate Title IX Coordinator for review of the final outcomes prior to release to the notifications to all parties involved. If the Corporate Title IX Coordinator is unavailable results should be sent to appropriate corporate management such as the CFO or Vice President of Operations for review.

Euphoria Institute will fully comply with any investigation efforts conducted by law enforcement and will

share all necessary information requested. As there are no confidential resources on campus, anything shared with Euphoria may be provided to law enforcement.

Euphoria will take immediate steps to protect complainants pending the final outcome of an investigation, including academic accommodations and other interim measures. These steps may include any of the interim measures listed in this policy.

## 9 Grievance and Adjudication Procedures

Euphoria is committed to conducting an investigation that is thorough, prompt, and impartial.

### 9.1 Preponderance of the Evidence

In making his/her determination, the Decision Maker(s) shall observe a preponderance of the evidence standard. This means reaching a conclusion based upon all available facts and information as to whether one party's evidence outweighs the evidence of the other.

### 9.2 Conflicts of Interest

Investigations will be conducted by either the Deputy Title IX Coordinators, Euphoria's Corporate Title IX Coordinator, and/or the Campus Director. If there are any conflicts of interests in the investigation, a different internal or external party will be assigned to the investigation. If the complaint is in regards to the campus Title IX Deputy Coordinator the Campus Director and/or the Corporate Title IX Coordinator will investigate. If the complaint is in regards to the Campus Director and/or the Corporate Title IX Coordinator the complaint will be referred to the Vice President of Operations or CFO. A third party investigator also may be used in lieu of the above employees.

Based on the outcomes of the investigation, appropriate sanctions, if any, will be determined by the company student disciplinary process and then approved by campus and/or corporate management. Complainants should submit in writing any concerns regarding conflict of interest or impartiality to Euphoria's Title IX Coordinator, Vice President of Operations, or CFO.

During the investigation process, both parties may and are encouraged to present any evidence related to the claim. Euphoria will not allow either party to question directly the other party. Parties may submit questions to the investigator in relation to the claim and Euphoria will ensure it is included in the investigation, if it is relevant to the case. Evidence of a prior consensual dating or sexual relationship between the parties by itself does not imply consent or preclude a finding of sexual misconduct.

### 9.3 Adjudication Process

Employees, faculty, and students who violate Euphoria's policies may be subject to disciplinary action. Employees who have violated this policy will be subject to disciplinary action including and up to termination depending on the investigation and determination of wrongdoing. Students will be subject to disciplinary action including and up to expulsion depending on the investigation and determination of wrongdoing. Interim measures (*See Section 4*) may become permanent measures as needed. Additionally, Euphoria has the ability to bring in a crisis counselor and make them available to our students necessary.

The parties will be informed of the results of the adjudication, including:

- Simultaneous written notice to both parties of the outcome of the complaint and the option to appeal, if applicable;

- a statement that the school will not require a party to abide by a nondisclosure agreement, in writing or otherwise, that would prevent the re-disclosure of information related to the outcome of the proceeding.

All parties are strongly encouraged to not discuss the investigation or proceedings with other witnesses to preserve the quality of evidence and the subsequent investigation.

#### 9.4 VAWA Sanctions

Euphoria Institute takes all reports and incidents of Clery crimes and VAWA offenses very seriously. Sanctions can range from written warnings and suspensions to termination or expulsion. Below are specific sanctions as they relate to VAWA offenses.

Domestic and dating violence incidents will result in a written warning for minor offenses that do not involve physical harm. Serious offenses which involve physical harm or repeat offenses of any severity would result in expulsion or termination.

Stalking incidents may result in anything from a written warning to expulsion or termination depending on the severity of the offense. In addition, any protective or restraining orders will be enforced and offenders may be required to change schedules or classes to avoid potential contact. If the stalking incident(s) are combined with additional offenses such as domestic or dating violence, immediate expulsion or termination would result. Refusal to accept class or schedule changes may also result in expulsion or termination.

Sexual Assault (specifically rape, fondling, incest, or statutory rape) incidents will result in termination or expulsion.

#### 9.5 VAWA Sanctions

After the hearing committee has made a final decision and notified parties in writing of the results of the Title IX hearing. An appeal may be submitted through the Title IX Coordinator within (5) days of receiving the final decision.

The appeal will be forwarded to a designated Appeal Officer that was not previously involved in the related investigation or hearing. The Appeal Officer will have (3) business days to respond that the appeal has been received and filed. Responses will be shared with all parties. Grounds for appeal are as follows:

- A procedural error or omission occurred that significantly impacted the outcome of the process.
- To consider new evidence, unavailable during the original investigation or adjudication, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included. NOTE: The party previously had knowledge of this evidence and failed to provide this evidence previously it will not be considered "new evidence"
- A conflict of interest or bias by an investigator, coordinator, or hearing committee member that substantially impacted the outcome of the investigation or adjudication.

If the request meets the above ground for appeal the Appeal Officer will submit a Notice of Appeal Outcome



limited to the below withing (6) days of receiving the Appeal:

- Affirming the decision of the original Hearing Committee and or investigation.
- In cases where it is determined that the procedural error did significantly impact the finding or sanction, the Appeal Officer will require one of the following two remedies:
  - Remand the case back to the original coordinators, investigators and/or hearing committee with instruction to repair the procedural error.
  - Remand the case back to be reinvestigated by new investigators, new coordinator, and/or new hearing committee. This is typically done in cases where the procedural error is so profound as to render the original investigation and/or adjudication too biased or influenced.
- In cases where it is determined that the new evidence, unavailable during the original investigation, is now available and could substantially impact the original finding or sanctions of the hearing committee, the Appeal Officer will remand the case back to the original hearing committee with instruction to consider the new evidence.
  - In these cases, the original hearing committee will convene solely to consider the new evidence.

## 9.6 Title IX Appeals

After the hearing committee has made a final decision and notified parties in writing of the results of the Title IX hearing. An appeal may be submitted through the campus Deputy Title IX Coordinator or the Title IX Coordinator within (5) days of receiving the final decision. The appeal will be forwarded to a designated Appeal Officer that was not previously involved in the related investigation or hearing. The Appeal Officer will have (3) days to respond that the appeal has been received and filed. Responses will be shared with all parties.

Grounds for appeal are as follows:

- A procedural error or omission occurred that significantly impacted the outcome of the process.
- To consider new evidence, unavailable during the original investigation or adjudication, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included. NOTE: The party previously had knowledge of this evidence and failed to provide this evidence previously it will not be considered "new evidence"
- A conflict of interest or bias by an investigator, coordinator, or hearing committee member that substantially impacted the outcome of the investigation or adjudication.

The Appeal Officer will submit a decision limited to the below withing (6) days of receiving the Appeal:

- Affirming the decision of the original AHP and or investigation.
- In cases where it is determined that the procedural error did significantly impact the finding or sanction, the Appeal Officer will require one of the following two remedies:
  - Remand the case back to the original coordinators, investigators and/or hearing committee with instruction to repair the procedural error.

- Remand the case back to be reinvestigated by new investigators, new coordinator, and/or new hearing committee. This is typically done in cases where the procedural error is so profound as to render the original investigation and/or adjudication too biased or influenced.
- In cases where it is determined that the new evidence, unavailable during the original investigation, is now available and could substantially impact the original finding or sanctions of the hearing committee, the Appeal Officer will remand the case back to the original hearing committee with instruction to consider the new evidence.
  - In this case, the original hearing committee will convene solely to consider the new evidence.

### 9.7 General Grievance and Appeals (Non-Title IX)

Students are strongly encouraged to report alleged misconduct and policy violations of any established policies to the lowest staff level. Individuals, who receive such reports, will immediately relay them to the Campus Director for further investigation and appropriate action. Institute Management must also ensure that affected individuals have all health, counseling, and safety needs met. This may include referral to the Employee Assistance Program and/or law enforcement agencies, as deemed appropriate.

The below grievance procedure should be followed by all students/staff who seek resolution of a grievance, complaint, or concern related to their attendance at the Institute. Certain grievances related to Title IX may require different procedures and the campus Sexual Misconduct policy will then apply. ***Under no circumstance will any adverse action be taken against a complainant for registering a complaint in good faith. Please refer to the non-retaliation policy.***

- The student should attempt to resolve the grievance at the staff or faculty level nearest the source or cause of the concern; most concerns can be resolved there. However, if there is a perceived conflict or it is not resolved satisfactorily, the student should escalate the issue to secure the involvement of a person who will serve as an impartial representative of the Institute and who is not directly involved in the area of complaint.
- If the issue cannot be resolved at the source, the student is encouraged to present the concern to the Department/Supervisor.
- If the concern is not resolved at the Department / Supervisor level, the student may contact the Director of Education/Associate Director of Education.
- If, after a timely review with the above management staff, (which may include a report to the student of the findings and decision) the student remains dissatisfied with the decision, the student may submit a written grievance to be considered by the Campus Director.
  - The written document must include a clear statement of the grievance, complaint or concern, and request a specific remedy, corrective action, or suggest a resolution for the Campus Director's consideration.
  - The Campus Director will be allowed five working days in which to discuss the matters with all interested parties and provide the student a written determination stating the reasons for the decision.
- When further appeal is desired, the student may pursue the matter by contacting:

Wayne Zellner  
Corporate Vice President of Operations

DVMD LLC DBA Euphoria Institute  
2504 E. Pikes Peak Avenue, Suite 305  
Colorado Springs, Colorado 80909  
719.726-2126

If you feel your complaint has not been successfully resolved through Euphoria's internal processes, there are additional outside sources that may be contacted. Once you have exhausted all complaint and appeals processes available at the school and are still dissatisfied with the results, you may appeal to the below locations listed below.

**Please direct all inquiries to:**

Accrediting Commission of Career Schools and Colleges  
2101 Wilson Blvd., Ste. 302  
Arlington, VA 22201  
(703) 247-4212  
Website: [www.accsc.org](http://www.accsc.org)

A copy of the Commission's Complaint Form is available at the school and may be obtained by contacting the Campus Director.

In the event that a dispute cannot be satisfactorily resolved through the use of the preceding actions, then the dispute between the student and the Institute shall be resolved through binding arbitration. The selection of the arbitrator and location shall be governed by the Student Arbitration agreement.

## 10 Prevention and Education

Euphoria strives to provide consistent and accurate prevention and educational tools to students and employees. Euphoria Institute's environment encourages students and staff to report any violations or perceived violations to their Deputy Title IX Coordinator, Euphoria's Title IX Coordinator, or other responsible employees who may be able to assist.

Mandatory student and employee education includes:

- New Student Orientation Outlining the Title IX Policy,
- New Employee Orientation Outlining the Title IX Policy
- Annual Employee Training regarding school policy and prevention.

In addition, potential student and staff training may include:

- Guest speakers and Community advocates,
- Participation in Community events,
- And other on-site resources as needed.

The training specifically includes a complete review of Euphoria Institute's Title IX Policy including what constitutes sexual violence, the definition of consent, investigation procedures, reporting options, grievance procedures, and disciplinary actions. In addition, training will include information on the effects of trauma, bystander intervention, alcohol and drug roles in sexual violence incidents, retaliation policies, and education on who to contact and how to report incidents of sexual violence.

## 11 Employee Training

Euphoria Institute seeks to ensure that all employees and staff are well-educated and trained on the Euphoria's Title IX Policy and federal regulations involving Title IX, the Clery Act, and VAWA. Euphoria provides initial training through the New Employee Orientation and on-boarding process and will provide follow-up annual training for all responsible employees. Additionally, the Deputy Title IX Coordinators receive initial training regarding their roles and investigative processes and receive additional follow-up annual training to ensure compliance and understanding of Euphoria's policies and procedures. Euphoria's Title IX Coordinator receives annual outside training to ensure the campus is meeting all requirements and keeping policies and procedures up to date.

Employees will be specifically trained on:

- the scope of the policy,
- options for assistance regarding a notification,
- The role of the Title IX & Title IX Deputy Coordinators
- Definitions,
- Reporting, Investigating, and Grievance Policies,
- Education and prevention,
- The role of a responsible employee,
- And confidentiality requirements and notifications to students.

In addition, any employees that may conduct an investigation will be trained on:

- Scope of investigation,
- Investigation planning,
- Communication with witnesses,
- Confidentiality/privacy,
- Evidence gathering and retention,
- Interviews,
- Investigation documentation,
- And investigation finding and reporting.

Please contact the Title IX Deputy Coordinators or the Title IX Coordinator if you suspect a student or colleague may have been affected by sexual violence. If there is any doubts or concerns, report.

## 12 Appendix A: Off-Campus Resources

Listed below are local resources for each campus that can be contacted for a variety of support services. In addition, national resources are listed below with basic contact information for ongoing support and assistance for students and employees.

### 12.1 National Resources

#### **Rape, Abuse & Incest National Network (RAINN)**

- <https://rainn.org/>
- National Sexual Assault Hotline: 1-800-656-HOPE (4673)

#### **National Center for Victims of Crime**

- <https://victimsofcrime.org/>
- Victim Connect (Referral Service) 1-855-4-VICTIM

#### **Colorado Coalition Against Domestic Violence**

- <http://ccadv.org/>
- <http://nmcsap.org/>
- <https://www.notalone.gov/>

#### **The National Domestic Violence Hotline**

- <http://www.thehotline.org/>
- 1-800-799-SAFE (7233)

#### **Veterans Crisis Line**

- <https://www.veteranscrisisline.net/>
- 1-800-273-8255 or text 838255