

## Pine Manor College Sexual Misconduct Policy

### I. Pine Manor Values, Purpose of Policy, & Statement on Nondiscrimination

#### A. Statement of Institutional Values

Pine Manor College (“Pine Manor” or “the College”) is committed to establishing and maintaining an educational, employment, recreational, and living environment that is free from sexual misconduct. Sexual misconduct, as defined below, is a violation of a person’s rights, dignity, and integrity, and is contrary to the mission and values of Pine Manor. Acts of sexual misconduct are strictly prohibited and will not be tolerated.

Pine Manor takes all allegations of sexual misconduct seriously and is committed to providing information, education, resources, support, interim measures, and direction to the College community to prevent and address sexual misconduct. In response to any report that a member of the Pine Manor community has engaged in sexual misconduct, Pine Manor will take all appropriate steps to eliminate the misconduct, prevent its recurrence, and address its effects. To achieve equitable results, Pine Manor will carefully review and/or investigate all reports and complaints of sexual misconduct with an earnest intent to understand the perspective and experiences of each individual involved, and to provide for fair and impartial evaluation and resolution.

#### B. Purpose & Scope of Policy

The purpose of this policy is to provide the Pine Manor community with a clear set of behavioral standards, definitions, and descriptions of sexual misconduct. The policy is intended to protect and guide Pine Manor community members who have been affected by sexual misconduct, whether as a Complainant, a Respondent, or a third party.

When used in this policy, “Complainant” refers to those persons who have reported to Pine Manor that they have been the subject of prohibited conduct. “Respondent” refers to those persons that have been accused of engaging in prohibited conduct. “Third party” refers to any other person with information concerning a report of prohibited conduct, including any witness to the incident or any individual who makes a report to the College concerning someone else. “Employee” refers generally to all staff and faculty members, unless otherwise specified. A “report” refers to any incident or concern regarding prohibited conduct that is reported to the College. A “complaint” is an allegation of sexual misconduct filed against a member of the Pine Manor community that initiates the disciplinary process outlined in this policy.

In addition to defining prohibited conduct relating to sex or gender that violates the standards of our community, this policy will also:

- Identify resources for all Pine Manor community members who are impacted by prohibited conduct;
- Identify Pine Manor’s Title IX Coordinator, Deputy Coordinators, and their roles;

- Provide information about where a Pine Manor community member can obtain confidential support and access resources without triggering a report to the College’s Title IX Coordinator;
- Provide information about how a Pine Manor community member can report an incident of sexual misconduct to the College, to outside law enforcement, or to neither; and,
- Provide information about how a report of prohibited conduct concerning a Pine Manor community member will be investigated, evaluated, and resolved by the College.

This policy applies to all Pine Manor community members, including students, faculty, and staff. Vendors, visitors, and others who conduct business with the College or on College property are also expected to comply with this policy. All Pine Manor community members are responsible for their actions and behavior, both on campus and off campus. Members of the Pine Manor community have a responsibility to adhere to both College policies and all laws (local, state, and federal) of wherever they reside or travel. Therefore, this policy applies both to on-campus and off-campus conduct, including, but not limited to, off-campus conduct that has an actual or potential adverse impact on any member of the Pine Manor community or the College.

Any individual may make a report alleging a violation of this policy, whether or not he/she is affiliated with the College. The College will provide resource options and respond promptly and equitably to all reports of prohibited conduct involving a College community member. The College will engage in a Title IX review during which it is committed to maintaining fairness for all parties and balancing the needs and interests of individuals with the safety of the community.

Violations of this policy may result in disciplinary action. Depending on the nature of the violation, disciplinary consequences for violations of this policy may include denial of privileges, written warnings, disciplinary probation, suspension, and expulsion for students, and may include warnings (verbal or written), demotions, suspensions, and termination for employees. In addition, the College community should be aware that the conduct described in this policy may also violate federal or state laws and regulations.

**Pine Manor reserves the right to amend or modify this policy at any time.**

#### C. Coordination with College’s Nondiscrimination Policy

Pine Manor recognizes that discrimination or harassment related to an individual’s sex, gender identity or gender expression (collectively, “gender related status”), which is prohibited by this policy, can occur in conjunction with discrimination or harassment related to an individual’s race, color, ethnicity, national origin, religion, age, disability, sexual orientation, or any other legally protected characteristics (“protected characteristics”). Targeting individuals on the basis of any protected characteristics also violates Pine Manor’s community standards. When misconduct relates solely to a person’s gender related status, Pine Manor will address such conduct pursuant to this policy. When the College receives a report that a community member has engaged in misconduct related to both a person’s gender related status and other protected characteristics, the College has discretion to decide under which policy or policies to address the report and will coordinate the investigation and resolution efforts to address any and all harassment and discrimination.

## II. Notice of Nondiscrimination

Pine Manor is committed to establishing and maintaining an environment free of all forms of harassment and discrimination for all College community members. Pine Manor does not discriminate on the basis of race, color, ethnicity, national origin, sex, sexual orientation, gender identity or expression, disability, or age in its programs or activities.

Pine Manor does not discriminate on the basis of sex in its educational, extracurricular, athletic, or other programs, or in the context of employment. Sexual misconduct, including sexual harassment as defined in this policy, is a form of sex discrimination that unjustly deprives a person of equal treatment. It is prohibited by Title IX of the Educational Amendments of 1971, a federal law that provides that:

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

Sexual harassment is also prohibited under Title VII of the Civil Rights Act of 1964, Massachusetts General Laws Chapter 151B, and other applicable statutes.

This policy prohibits sexual misconduct committed by any Pine Manor community member, regardless of gender related status. This policy also prohibits gender-based harassment and violence that may not involve conduct of a sexual nature, including, but not limited to, certain reports of domestic violence, dating violence, or stalking.

For assistance related to civil rights, students may visit the Department of Education, Office for Civil Rights website at <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm>, which provides information regarding the address and phone number of the OCR office that serves your area, or may call 1-800-421-3481.

## III. Statement on Privacy, Confidential Resources, & Other Resources

### A. Privacy & Confidentiality

Pine Manor is committed to respecting the privacy of all individuals involved in a report of prohibited conduct. In any Title IX review of a report or complaint of prohibited conduct, every effort will be made to protect the privacy and interests of the individuals involved in a manner that is consistent with the need for a thorough review of the allegation. Such a review is essential to protecting the safety of the Complainant, the Respondent, and the broader campus community, and to maintaining an environment free from sex or gender-related discrimination.

At all times, Pine Manor will respect and safeguard the privacy of those involved in a report of misconduct, and information relating to such a report will be shared only with individuals who “need to know” in order to assist in the College’s investigation and/or resolution of the report or complaint. In some cases, the Complainant may wish to keep his/her/their identity or other aspects of an incident confidential, or may request that Pine Manor not pursue an investigation. In such cases, Pine Manor must balance these requests against the College’s responsibility to provide a safe and non-discriminatory environment for all College community members. This responsibility may require that Pine Manor disclose certain aspects of the report to the alleged perpetrator, law enforcement officials,

or others with a need to know such information. Pine Manor will seek to respect the request of the Complainant and, where it cannot do so, it will consult with the Complainant and keep her/him/them informed about the chosen course of action.

When considering a request for confidentiality, the College's Title IX Coordinator will determine the degree of confidentiality that can be afforded, taking into account a range of factors, including, but not limited to, the following:

- Whether the Respondent is alleged to have committed sexual misconduct in the past;
- The risk that the Respondent will commit additional acts of sexual misconduct;
- Whether the misconduct was perpetrated with a weapon;
- Whether the Complainant is a minor;
- Whether Pine Manor possesses other means of obtaining relevant evidence; and,
- Whether the report suggests a pattern of sexual misconduct at a particular location or within a particular group.

If Pine Manor concludes that a report of sexual misconduct represents an immediate threat to the College campus community, the College may issue a timely notice of the conduct to the College community to protect the health or safety of the broader campus community. This notice will not contain any biographical or other identifying information of the Complainant.

All Title IX investigative and sanction proceedings, and all related notices or statements issued by Pine Manor, will comply with the requirements of the Family Educational Rights and Privacy Act (FERPA), the Clery Act, Title IX, and College policy. No information shall be released from such proceedings by Pine Manor, except as required or permitted by law or College policy.

#### B. Confidential Resources

Pine Manor encourages victims of sexual misconduct to talk to a trained counselor about the incident. If a member of the College community wishes to obtain confidential assistance through on-campus or off-campus resources without making report to the College, he/she may use the following Confidential Resources:

##### **On-Campus Resources**

College Counseling Services:

##### **Contact Information**

Annenberg Library, 2<sup>nd</sup> Floor  
(617) 731-7172

##### **Off-Campus Resources**

Boston Area Rape Crisis Center  
(BARCC):

##### **Contact Information**

99 Bishop Allen Drive  
Cambridge, MA 02139

(800) 841-8371 (24 hour hotline)  
[www.barcc.org](http://www.barcc.org)

BARCC provides counseling, legal advice, and advocacy to help you consider your options; medical advocates to accompany you to the hospital; and legal advocacy. All services are free and available to victims of sexual misconduct and their friends/family.

The Network/La Red:

PO Box 6011  
Boston, MA 02114  
(617) 742-4911  
[www.tnlr.org](http://www.tnlr.org)

Provides free advocacy, support, and safety planning for LGBTQ victims of domestic and dating violence.

REACH Beyond Domestic Violence:

PO Box 540024  
Waltham, MA 02454  
(800) 899-4000 (free hotline)  
(781) 891-0724 (office)  
[www.reachma.org](http://www.reachma.org)

Provides free safety planning, advocacy, 24-hour hotline staffed by domestic violence crisis counselors, and shelter and support services to victims of domestic and dating violence.

Fenway Health Center:

1340 Boylston Street  
Boston, MA 02215  
(617) 267-9001 (help line)  
(617) 267-0900  
[www.fenwayhealth.org](http://www.fenwayhealth.org)

Provides comprehensive health services for the LGBTQ community and beyond. Also provides support via the above help line.

Victims Right Law Center:

115 Broad Street  
Boston, MA 02110  
(617) 399-6720  
[www.victimrights.org](http://www.victimrights.org)

Provides free lawyers to represent you on court-ordered no contact orders, school-based complaints, immigration, and other legal matters related to sexual assault and violence. Assistance available in both English and Spanish.

The persons identified above are available to offer support services and are able, if requested, to maintain the confidentiality of the victim’s identity. If confidentiality is a concern, the victim should clarify the extent to which information should be kept confidential before disclosing information about the incident.

All Pine Manor employees, including faculty, who are not designated as Confidential Resources are expected to notify the College’s Title IX Coordinator if they receive information that any member of the community has engaged in conduct prohibited by this policy. Those employees must otherwise keep such information as private as possible.

C. Other Campus Resources

In addition to the Confidential Resources listed above, all Pine Manor community members have access to a variety of resources provided by the College that can provide crisis intervention services, counseling, academic support, and nursing services. All of the staff and faculty listed below are trained to support individuals affected by sexual misconduct and to coordinate with the Title IX Coordinator consistent with the College’s commitment to a safe and healthy educational environment. While not bound by confidentiality, these resources will nevertheless maintain the privacy of an individual’s information within the limited circle of those involved in the Title IX resolution process.

<b><u>Resource</u></b>	<b><u>Contact Information</u></b>
Campus Safety:	Ashby Student Center, Basement Floor (617) 731-7777 (emergency) (617) 731-7187 Office Hours, M-F, 9 am – 5 pm
Dean of Student Affairs	Ashby Student Center, 2 <sup>nd</sup> Floor (617) 731-7195 Office Hours: M-F, 9 am – 5 pm
Residence Life Office:	Ashby Student Center, 2 <sup>nd</sup> Floor (617) 731-7136 Office Hours: M-F, 10 am – 5 pm
Title IX Coordinator:	William Opava Vice President of Human Resources Ferry Administration Building,

(617) 731-7143  
wopava@pmc.edu

Title IX Deputy Coordinator  
for Students:

Lisa Rodrigues  
Ashby Center  
617-731-7136  
lrodrigues@pmc.edu

Title IX Deputy Coordinator  
for Athletics:

John Griffith  
Director of Athletics  
617-731-7160  
jgriffith@pmc.edu

Title IX Deputy Coordinator for  
Employees and Visitors:

To Be Determined

Section 504 Coordinator

Donna Defuria  
Disability Specialist  
Annenberg Communications Center, Learning  
Resource Center  
(617) 731-7178  
ddefuria@pmc.edu

#### D. Administrative Resources

Various administrative agencies can provide resources and legal assistance for victims of sexual misconduct. Some agencies in the local Boston-area community include:

Massachusetts Commission Against Discrimination (MCAD)  
John McCormack Building  
One Ashburton Place  
Sixth floor, Room 601  
Boston, MA 02108  
(617) 994-6000

The MCAD prohibits sexual harassment in the workplace. The statute of limitations for filing a complaint is 300 days from the last date of discrimination.

Equal Employment Opportunity Commission (EEOC)  
JFK Federal Building  
475 Government Center  
Boston, MA 02203  
(800) 669-4000

The EEOC prohibits sexual harassment in the workplace. The statute of limitations for filing a complaint is 300 days from the last date of discrimination.

U.S. Department of Education, Office for Civil Rights (OCR)

5 Post Office Square, 8th floor

Boston, MA 02109

(617) 289-0111

While OCR complaints should generally be filed within 180 days of the last date of the alleged discrimination, OCR may extend this filing deadline in a variety of circumstances.

#### IV. Prohibited Conduct & Definitions

Pine Manor prohibits all forms of sexual misconduct and gender-based harassment. Sexual misconduct is a broad term that includes, but is not limited to, sexual assault, sexual harassment, sexual violence, sexual exploitation, stalking, cyber-stalking, relationship violence, bullying or cyber-bullying relating to one's sex or gender identity, and aiding or facilitating the commission of any such prohibited conduct. Gender-based harassment is also a broad term, and includes acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex, gender identity, gender expression or sex-stereotyping, even if those acts do not involve conduct of a sexual nature, and regardless of whether the gender-based harassment rises to the level of violating the law.

Pine Manor policy also prohibits retaliation relating to the reporting of any sexual misconduct or gender-based harassment.

##### A. Definition of Sexual Harassment

Sexual harassment is a form of unlawful sex discrimination and consists of three basic types:

Unwelcome Advances: Any unwelcome and objectively inappropriate requests or advances upon another person to engage in sexual actions.

Intimidating, Hostile, or Demeaning Environment: Any unwelcome action or verbal expression, or a series of actions or expressions, that have either the intent, or are reasonably perceived as having the effect, of creating an intimidating, hostile, or demeaning educational, employment, or living environment for a Pine Manor student or employee, either by being sexual in nature or by focusing on a person's gender, sexual orientation, gender identity, or gender expression. An intimidating, hostile, or demeaning environment is defined as one that is so severe, pervasive, or objectively offensive that it interferes with a person's ability to learn, exist in living conditions, work (if employed by Pine Manor), or have access and opportunity to participate in any and all aspects of campus life.

A single or isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to provide a hostile environment, particularly if the harassment is physical.

Quid Pro Quo Harassment: Any action in which submission to conduct of a sexual nature is made either explicitly or implicitly a term or condition of an individual's education, grades, recommendations, or extra-curricular or employment opportunities.



In any type of sexual harassment noted above, the effect will be evaluated based on the standard of a reasonable person in the position of the Complainant.

#### B. Forms of Prohibited Sexual Harassment

In some cases, sexual harassment is obvious and may involve an overt action, a threat, or a reprisal. In other instances, sexual harassment is subtle and indirect, with a coercive aspect that is unstated.

Sexual harassment can take many forms:

- It can occur between persons of equal power status (e.g., student to student, staff to staff, faculty member to faculty member, visitor/contracted employee to staff) or between persons of unequal power status (e.g., supervisor to subordinate, faculty member to student, coach to student-athlete, student leader to first-year student). Although sexual harassment often occurs in the context of an exploitation of power by the individual with the greater power, a person who appears to have less power in a relationship can also commit sexual harassment (e.g., student harassing faculty member).
- It can be committed by an individual or may be a result of the collective actions of an organization or group.
- It can be committed against an individual, an organization, or a group.
- It can be committed by an acquaintance, a stranger, or someone with whom the Complainant has a personal, intimate, or sexual relationship.
- It can occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation.
- It does NOT have to include intent to harm, be directed at a specific target, or involve repeated incidents.

Examples of behavior that might be considered sexual harassment include, but are not limited to:

- Unwanted sexual innuendo, propositions, sexual attention or suggestive comments and gestures; unwanted indecent exposure towards another person; humor and jokes about sex or gender-specific traits; sexual slurs or derogatory language directed at another person's sexuality, gender, gender identity, sexual orientation or gender expression; insults and threats based on sex, gender, gender identity, sexual orientation or gender expression; and other oral, written or electronic communications of a sexual nature that an individual communicates is unwanted and unwelcome;
- Unwelcome leering or whistling at another in a sexually suggestive manner;
- The creation, display, or distribution of sexually explicit drawings, pictures, or written materials; sexually charged name-calling; sexual rumors or ratings of sexual activity/performance; or the circulation, display, or creation of e-mails or websites of a sexual nature;

- Non-academic display or circulation of written materials or pictures degrading to an individual or gender group;
- Unwelcome and objectively inappropriate physical contact or suggestive body language, such as touching, patting, pinching, hugging, or kissing, or brushing against an individual's body;
- Undue and unwanted sexual attention, such as repeated flirting, objectively inappropriate or repetitive compliments about clothing or physical attributes, sexual activities, or sexual prowess; objectively inappropriate inquiries into one's sexual activities; or making sexually oriented gestures;
- Physical coercion or pressure of an individual to engage in sexual activity or punishment for a refusal to respond or comply with sexual advances;
- Change of academic or employment responsibilities (increase in difficulty or decrease of responsibility) based on sex, gender identity, sexual orientation, or gender expression;
- Use of a position of power or authority to: (1) threaten or punish, either directly or by implication, for refusing to tolerate harassment, for refusing to submit to sexual activity, or for reporting harassment; or (2) promise rewards in return for sexual favors;
- Sexual assault;
- Abusive, disruptive, or harassing behavior, whether verbal or physical, which endangers another's mental or physical health, including but not limited to threats, acts of violence, or assault based on gender related status and/or in the context of intimate partner violence;
- Demeaning verbal or other expressive behavior of a sexual or gendered nature in instructional settings; and
- Acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping; harassment for exhibiting what is perceived as a stereotypical characteristic for one's sex, or for failing to conform to stereotypical notions of masculinity and femininity, regardless of actual or perceived gender related status of the harasser or her/his/their target.

#### C. Additional Forms of Prohibited Sexual Misconduct

Sexual misconduct may vary in its severity and includes a range of behaviors. The following descriptions represent forms of sexual misconduct that violate Pine Manor's community standards and another person's rights, dignity, and integrity.

Sexual Violence: Engaging in physical sexual acts with someone who has not given her/his/their consent or who is incapable of giving consent. This includes rape, sexual assault, battery, and sexual coercion. Sexual violence may involve individuals who are known to one another or have an intimate and/or sexual relationship (relationship violence), or may involve individuals not known to one another. Examples include, but are not limited to:

- Having or attempting to have sexual intercourse with another individual without consent. Sexual intercourse includes vaginal or anal penetration, however slight, with a body part or object, or oral copulation by mouth-to-genital contact;
- Having or attempting to have sexual contact of any kind with another individual without consent. Sexual contact includes kissing, touching the intimate parts of another, causing the other to touch one's intimate parts, or disrobing of another without permission. Intimate parts may include the breasts, genitals, buttocks, mouth or any other part of the body that is touched in a sexual manner; and,
- Knowingly exposing another individual to a sexually transmitted disease or virus without his or her knowledge;

Sexual Exploitation: An act or acts committed through non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit, or any other non-legitimate purpose. The act(s) of sexual exploitation are prohibited even if the behavior does not constitute another sexual misconduct offense. Sexual exploitation may involve individuals who are known to one another, have an intimate or sexual relationship, or may involve individuals not known to one another. Examples include, but are not limited to:

- Observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
- Non-consensual streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved;
- Photographing or taping someone (via audio, video, or otherwise) involved in sexual activity, sexual intercourse/penetration, or in a state of undress, without their knowledge or consent. Even if a person consented to the sexual activity or intercourse/penetration, photographing or taping someone without their knowledge goes beyond the boundaries of that consent. The dissemination of photographs or video/audio of someone involved in sexual activity, intercourse/penetration, or in a state of undress, without their knowledge or consent constitutes a separate and additional act of sexual exploitation;
- Voyeurism, which is the act of observing someone involved in sexual contact/activity or in a state of undress, without their knowledge or consent;
- Prostituting another individual; and,
- Inducing incapacitation for the purpose of making another person vulnerable to non-consensual activity.

Stalking & Intimidation: A course of conduct (two or more acts) involving more than one instance of unwanted attention, harassment, physical or verbal contact, or any other course of conduct directed at an individual that could be reasonably regarded as likely to alarm that individual or place

him/her in fear of harm or injury, including physical, emotional, or psychological harm. This includes cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or make unwelcome contact with another person. Stalking and cyber-stalking may involve individuals who are known to one another or have an intimate or sexual relationship, or may involve individuals not known to one another. Prohibited sexual intimidation involves threats to commit unwanted physical contact against someone based on his/her/their sex or gender related status.

Examples of stalking and intimidation include, but are not limited to:

- Unwelcome following or surveillance of a another person;
- Unwelcome appearances at a person's home, work, or place of study;
- Making/sending frequent and unwelcome phone calls, emails, or text messages to another person;
- Leaving unwelcome written messages or objects for a person;
- Making verbal or written threats to harm another based on their sex or gender-related status;
- Vandalizing a person's property;

Relationship Violence: Relationship violence is any intentionally violent or controlling behavior by a person who is currently or was previously in a relationship with the victim. Relationship violence can also involve domestic violence committed by a person with whom the Complainant shares a child and/or residence. Relationship violence includes actual or threatened physical injury, sexual assault, psychological abuse, economic control, and/or progressive social isolation. Relationship violence can occur in all types of relationships. Relationship violence can include, but is not limited to:

- physical abuse or violence;
- psychological/emotional abuse, such as demeaning or humiliating language and conduct;
- controlling/possessive behavior, including social and economic control (such as limiting access to funds or interfering with employment);
- making you feel like: you are walking on eggshells; you have to call your friends in secret; you must dress a certain way; and,
- any sexual exploitation, as defined above, that arises in the context of a relationship.

Aiding or Facilitating Sexual Misconduct: Aiding or facilitating sexual misconduct means promoting or encouraging the commission of any behavior prohibited under this policy. Members of

the Pine Manor community are prohibited both from personally engaging in sexual misconduct, as well as from engaging in conduct that assists or encourages another person to engage in such misconduct.

**Retaliation:** Retaliating or attempting to retaliate or seek retribution against a Complainant, Respondent, or any other individual or group of individuals involved in the investigation and/or resolution of an allegation of sexual misconduct. Retaliation can be committed by any individual or group of individuals, not just a Respondent or Complainant. Retaliation may include abuse or violence, other forms of harassment, and/or making defamatory statements about another person.

D. Consent, Coercion, & Incapacitation

**Consent to sexual activity must be clear, knowing, and voluntary.** Consent must exist from the beginning to the end of each instance of sexual activity and for each form of sexual contact. Consent to one form of sexual contact does not constitute consent to any other forms of sexual contact. Further, consent to engage in a particular sexual act at any given time is not indefinite or ongoing consent to engage in that same act, or any other sexual act, on other occasions. Mutually understandable consent must be obtained by the initiator at every stage of sexual interaction.

**Consent requires an affirmative, outward demonstration indicating that an individual has freely chosen to engage in sexual activity.** Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage freely in sexual activity. Consent is mutually understandable when a reasonable person would consider the words and/or actions of the parties to have expressed a mutually understandable agreement between them to do the same thing, in the same way, at the same time, with one another. Relying on non-verbal communication can lead to misunderstandings. When in doubt, ask before acting.

A lack of consent may be indicated in a variety of ways. First, a verbal “no,” even if it sounds indecisive or insincere, must be accepted as a lack of consent. If consent is requested verbally, the absence of any explicit affirmative verbal response constitutes lack of consent. In addition, if at any time a person’s words, actions, or demeanor suggest hesitancy, confusion, or uncertainty about engaging in sexual activity, the parties should stop and obtain verbal consent before continuing sexual activity.

Consent may NOT be inferred from silence, passivity, lack of resistance, or lack of an active response alone. A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent. In the absence of an outward demonstration, consent does not exist. If at any time it is reasonably apparent that either party is hesitant, confused, or uncertain, both parties should stop and obtain mutual verbal consent before continuing sexual activity. In the absence of mutually understandable words or actions, it is the responsibility of the initiator, or the person who wants to engage in the specific sexual activity to make sure that he/she/they have consent from his/her/their partner(s).

**A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent.** Even in the context of a relationship, there must be mutually understandable communication that clearly indicates willingness to engage in sexual activity each time such activity occurs.

**Consent may be withdrawn by either party at any time.** Withdrawal of consent must also be outwardly demonstrated by words or actions that clearly indicate a desire to end sexual activity. Once withdrawal of consent has been expressed, sexual activity must cease.

**In Massachusetts, consent can never be given by a minor under the age of 16.**

**Consent cannot be obtained from the use or threat of physical force, intimidation, or coercion, or any other factor that would eliminate an individual's ability to exercise his or her own free will to choose whether or not to have sexual contact.** Coercion includes the use of pressure and/or oppressive behavior, including express or implied threats of harm, and severe and/or pervasive emotional intimidation that places an individual in fear of immediate or future harm or physical injury or causes a person to engage in unwelcome sexual activity. A person's words or conduct amount to coercion if they wrongfully impair the other's freedom of will and ability to choose whether or not to engage in sexual activity. If sexual acts were preceded by threats or coercion, there is no consent.

**Individuals of any age are considered incapacitated and unable to consent to sexual activity if they are not able to make rational, reasonable judgments.** Incapacitation is the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless. Individuals may be incapacitated and unable to consent to sexual activity due to drug or alcohol consumption, either voluntarily or involuntarily, or if the individual is unconscious, asleep, or otherwise unaware that the sexual activity is occurring. Individuals are incapacitated if they are unaware of where they are, how they got there, or why or how they became engaged in a sexual interaction. Where alcohol is involved, incapacitation is a state beyond drunkenness or intoxication.

Some indicators of incapacitation may include, but are not limited to:

- lack of control over physical movements or equilibrium;
- lack of awareness of circumstances or surroundings;
- an inability to communicate coherently or other signs of confusion or disorientation; and,
- vomiting and/or lack of consciousness.

An individual may experience a blackout state in which he/she/they appear 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 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.

Alcohol or drugs impair a person's decision-making capacity, awareness of the consequences, and ability to make informed judgments. However, being intoxicated or impaired by drugs or alcohol is never an excuse to engage in sexual misconduct and does not excuse one from the responsibility to obtain consent. As stated above, even if Respondents are intoxicated they will be found responsible for sexual misconduct if they engage in sexual activity with another person who did not consent to the sexual activity.

## V. Reporting

## A. Reporting Obligation

**Except for employees designated as Confidential Resources (see Section III(B)), all Pine Manor employees, including faculty, staff, and administrators, student employees who have a responsibility for student welfare, and student volunteers who have a responsibility for student welfare, are required to share with a member of the Title IX team any report of sexual misconduct they receive or of which they become aware.** Examples of students who have a duty to share the information with the Title IX team include, but are not limited to, Resident Assistants, First-Year Success Mentors, and Peer Leaders. All other Pine Manor community members are strongly encouraged to notify the Title IX Coordinator, a Deputy Title IX Coordinator, and/or law enforcement if they receive information that a member of the community has been impacted by sexual misconduct.

When Pine Manor receives a report of sexual misconduct, it is obligated to take immediate steps to investigate the incident and, where possible, to prevent and remediate any violations of this policy. The College will promptly and thoroughly investigate and respond to all reports of sexual misconduct. The College will respond to all reports in an integrated, consistent manner that treats each individual with dignity and respect. The College will approach each report with an earnest intent to understand the perspective and experiences of each individual involved in order to ensure fair and impartial evaluation and resolution.

Pine Manor recognizes that the decision whether or not to report sexual misconduct is personal, and that there are many barriers to reporting, both individual and societal. Not every individual will be prepared to make a report to the College or to law enforcement, and individuals are not expected or required to pursue a specific course of action. Pine Manor recognizes that choosing to make a report, and deciding how to proceed after making the report, can be a process that unfolds over time. Therefore, an individual does not have to decide whether or not to request disciplinary action at the time the report is made.

Pine Manor will respect an individual's autonomy in making these important decisions and will provide support that will assist each individual in making these determinations. Pine Manor will also honor a victim's decision as to whether or not to report the incident to law enforcement. **A criminal complaint will not terminate the College's internal investigation or its response to sexual misconduct in its programs or activities.**

## B. Emergency/Immediate Reporting Options

In the event that an individual is the victim of sexual assault or sexual violence, the physical safety and emotional well-being of the person is of primary importance. A victim may have been physically injured in a number of ways, may have been exposed to a sexually transmitted disease, and/or may be at risk of impregnation. Pine Manor strongly encourages any person who has been the victim of sexual assault/violence to seek immediate medical attention from the nearest hospital emergency room.

Additionally, if an assault has occurred very recently, there may be physical evidence present that can be collected. Although the collection of physical evidence does not require a victim to pursue criminal or civil charges, preserving evidence allows a victim to make the decision to do so in the future. If you are assaulted: do not shower, change your clothing, or brush your teeth. The decision to seek medical attention and gather any evidence will remain confidential. Local medical resources include the following:

Beth Israel Deaconess Medical Center: Rape Crisis Intervention Program  
330 Brookline Avenue  
Boston, MA 02215  
(617) 667-4645 (**Request a Sexual Assault Nurse Examiner (S.A.N.E.)**)

Brigham and Women's Hospital: 75 Francis Street  
Boston, MA 02115  
(617) 732-5636 (**Request a Sexual Assault Nurse Examiner (S.A.N.E.)**)

On Campus Nurse: Ashby Student Center, 2<sup>nd</sup> Floor  
(617) 731-7171

Individuals are strongly encouraged to call 911 if they are feeling unsafe and wish to reach local law enforcement or emergency medical care (including an ambulance) anywhere within the United States. Local law enforcement can also be reached at:

Brookline Police Department  
350 Washington Street  
Brookline, MA 02445  
Non-emergency: (617) 730-2222  
Chief's Office: (617) 730-2249  
Domestic Violence Unit: (617) 730-2244

In addition, Campus Safety can be reached at (617) 731-7777 (emergency line). Campus Safety will assist and escort any community member to safety and will provide transportation to a hospital. They will also coordinate with local police, provide the victim with information about the College's recourse and complaint process, and provide the victim with information about the available Confidential Resources.

### C. Campus Reporting Options

To enable the College to respond to all reports in a prompt and equitable manner, the College encourages all individuals to directly report any incident of sexual misconduct to the Title IX Coordinator or a member of the Title IX team (see Section III(C)).



Pine Manor recognizes that a student or employee may choose to report sexual misconduct to any trusted employee of the College. For example, a student may choose to confide in a Resident Life, a faculty member, or a coach, all of whom must report the incident to the College. Likewise, an employee may choose to confide in a supervisor. Under this policy, any employee who receives a report of sexual misconduct must share the report with the Title IX Coordinator or a member of the Title IX team. The Title IX Coordinator and Title IX team are specifically charged with investigating and responding to allegations of sexual misconduct.

#### D. Timeframe for Reporting

Individuals are encouraged to report sexual misconduct as soon as possible to maximize the College's and/or law enforcement's ability to respond promptly and equitably. Pine Manor does not limit the timeframe for reporting an incident, and upon receipt of any report, regardless of when the incident occurred, the College will conduct a Title IX assessment to determine if an investigation and/or any safety measures are necessary to maintain the community's safety. **Pine Manor will not be able to impose disciplinary sanctions against an individual who is no longer affiliated with the College.** However, Pine Manor will provide reasonably appropriate remedial measures, assist the Complainant in identifying external reporting options, and take reasonable steps to eliminate sexual misconduct, prevent its reoccurrence, and remedy its effects.

#### E. Coordination with Law Enforcement

Pine Manor encourages Complainants to pursue criminal action for incidents of sexual misconduct when the incident constitutes a crime under the law of the jurisdiction where the incident occurred. If an individual chooses to report an incident of sexual misconduct to Campus Safety, then Campus Safety will notify the law enforcement agency with jurisdiction over the alleged crime. To the extent permitted by law, Pine Manor will also assist a Complainant in making a criminal report and will cooperate with law enforcement agencies if a Complainant decides to pursue the criminal process.

Pine Manor's definitions of sexual misconduct, and its process and standard of proof for finding a Respondent responsible for sexual misconduct differ from those used in criminal prosecutions. Thus, a Complainant may reasonably seek resolution through Pine Manor's complaint process, may pursue criminal action, may choose one but not the other, or may choose to report an incident to both or neither. Law enforcement's determination regarding whether or not to prosecute a Respondent is not determinative of whether Pine Manor will conduct a Title IX investigation or conclude that a member of the community has committed sexual misconduct in violation of College policy. However, any criminal disposition related to the Title IX complaint will be taken into consideration in a Title IX investigation. Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus. However, Pine Manor will, to the extent possible and consistent with its obligations to promptly address Title IX complaints, cooperate and coordinate with local law enforcement officers and the prosecutor's office. For example, the College will comply with law enforcement agency requests for cooperation and such cooperation may require the College to temporarily suspend the fact-finding portion of a Title IX investigation while the law enforcement agency gathers evidence. In such cases, the College will promptly resume its investigation as soon as notified by the law enforcement agency that it has completed its evidence gathering process.

#### F. Amnesty

Pine Manor encourages reporting and seeks to remove any barriers to reporting by making the procedures for reporting transparent and straightforward. Pine Manor recognizes that an individual who has been drinking or using drugs at the time of the incident may be reluctant to make a report for fear of being subject to discipline under the College's Drug and Alcohol Policy. An individual who reports sexual misconduct will not be subject to disciplinary action by the College for his/her own violation of these policies.

#### G. Bystander Intervention

Pine Manor strongly encourages all community members to take reasonable and prudent actions to prevent or stop sexual misconduct, including relationship violence, stalking, and sexual assault, which they observe or of which they otherwise become aware. Taking action may include directly or indirectly confronting the situation (if it is safe to do so), taking steps to interrupt the situation, or seeking assistance from a person in authority. Community members who choose to exercise this positive moral obligation will be supported by the College and protected from retaliation.

#### H. Statement Against Retaliation

It is a violation of Pine Manor policy to retaliate in any way against an individual or a group because the individual or group made a report concerning sexual misconduct, was the subject of such a report, or otherwise participated in the College's investigation of such a report.

Pine Manor recognizes that retaliation can take many forms, may be committed by an individual or a group against an individual or a group, and that a Respondent can also be the subject of retaliation by the Complainant or a third party. The College will take immediate and responsive action to any report of retaliation and may pursue disciplinary action as appropriate. The Title IX Coordinator will review all reports of retaliation and determine whether to impose immediate corrective action or whether to refer the report for investigation pursuant to the processes identified in this policy. In making this determination, the Title IX Coordinator may consult with the Title IX Team or members of the Title IX Team. An individual who in good faith reports sexual misconduct, is the subject of such a report, or otherwise participates in the College's investigation of such a report may not be subject to retaliation even if the report is later not proven.

#### VI. Interim Measures

Upon receipt of a report of sexual misconduct, Pine Manor will provide interim support and reasonable protective measures to prevent further acts of misconduct, and to provide a safe educational and work environment. Pine Manor will determine the necessity and scope of any interim measures. Even when a Complainant or Respondent does not specifically request that protective action be taken, Pine Manor may choose to impose interim measures at its discretion to ensure the safety of any individual, the broader College community, or the integrity of the review process.

Students seeking such assistance should speak with the Title IX Coordinator, who will coordinate such requests on the behalf of the student. Pine Manor will maintain contact with the parties to ensure that all concerns are being addressed.

All individuals are encouraged to report concerns about failure of another individual to abide by any restrictions imposed by an interim measure. Pine Manor will take immediate and responsive action to enforce measures previously ordered or implemented by the College.

Pine Manor may impose any remedy that can be tailored to the involved parties to achieve the goals of this policy, even if not specifically listed here. The range of interim measures may include:

No Contact Order: A Complainant or Respondent may request, or the College may impose, communication and contact restrictions to prevent further, potentially harmful interaction. These communication and contact restrictions generally preclude in-person, telephonic, electronic, or third-party communications. In some cases, an individual may also wish to consider an Abuse Prevention Order or a Harassment Prevention Order from the local courts. This is a civil proceeding independent of the College. If a court order is issued, Pine Manor will, to the extent possible, assist the protected person in benefiting from the restrictions imposed by the court and will also facilitate on-campus compliance with the order. The College may also limit an individual or organization's access to certain College facilities or activities as part of the no contact order.

Academic, Employment, and/or Residence Modifications: Any party involved in a Title IX investigation may request an academic or employment accommodation or a change in residence after a report of sexual misconduct. An individual who requests assistance in changing their academic or living situation after an incident of sexual misconduct will receive appropriate and reasonably available accommodations. These may include:

- Academic accommodations, including a change in class schedule, taking an incomplete, dropping a course without penalty, attending a class via Skype or other alternative means, providing an academic tutor, or extending deadlines for assignments;
- Change of dormitory assignment;
- Change in work assignment or schedule; and,
- Providing an escort to ensure safe movement between classes and activities.

Emotional Support: The College will provide counseling services or will assist in providing a referral to off-campus agencies as detailed in this policy. Counseling and emotional support is available to any member of the campus community.

Interim Separation: Where the report of sexual misconduct poses an ongoing risk of harm to the safety or well-being of an individual or members of the campus community, the College may place an individual or organization on interim suspension or impose leave for an employee. Pending

resolution of the complaint, the individual or organization may be denied access to campus. When interim suspension or leave is imposed, Pine Manor will make reasonable efforts to complete the investigation and resolution within an expedited timeframe.

## VII. Title IX Complaint Process

### A. Title IX Coordinator

Pine Manor has appointed William “Bo” Opava, Vice President of Administration and Director of Human Resources, as the Title IX Coordinator. In his role as Title IX Coordinator, Mr. Opava oversees the College’s centralized review, investigation, and resolution process for reports of sexual misconduct. He also coordinates Pine Manor’s compliance with Title IX. Mr. Opava is supported by several College administrators who serve as Deputy Title IX Coordinators (see above). Each is knowledgeable and trained in state and federal laws that apply to matters of sexual harassment, as well as College policy and procedure.

The duties and responsibilities of the Title IX and Deputy Title IX Coordinators include training, education, and climate checks, as well as the oversight of procedures that promptly and equitably eliminate sexual harassment, prevent its recurrence and address its effects on individuals and our community. The Title IX and Deputy Title IX Coordinators will:

- Oversee the investigation and resolution of all reports of sexual misconduct;
- Meet with any individual, whether a Complainant, a Respondent, or a third party, to discuss interim measures, resources, and procedural options on and off campus;
- Ensure prompt and equitable resolutions that comply with all requirements and timeframes specified in the complaint procedures;
- Participate in assessment of annual climate checks, tracking, and monitoring of sexual misconduct allegations on campus; and,
- Participate in campus training, education, and prevention efforts.

The Title IX Coordinator leads an interdepartmental team, the Title IX Team, which is designed to ensure consistent application of this policy to all individuals and to enable the College to respond promptly and equitably to eliminate sexual misconduct, prevent its recurrence and address its effects. The Title IX Team coordinates the review, investigation and resolution of reports of sexual misconduct and ensures that appropriate interim measures are implemented. Members of the Title IX Team include: the Title IX Coordinator, the Deputy Title IX Coordinators, the Dean of Student Affairs, the Chief of Campus Safety, the Title IX Investigator employed or retained by the College, and others as may be deemed necessary by the Title IX Coordinator.

The Title IX Coordinator has the discretion to determine the appropriate response to reports of sexual misconduct. Other matters that do not involve complaints of sexual misconduct against a

student may be referred to other departments within the College, such as the College's Conduct System or Human Resources, for further investigation and resolution.

#### B. Timeframe for Resolution

The investigation and resolution of all reports of sexual misconduct will generally be completed within 60 to 90 days. Extenuating circumstances, including, but not limited to, the complexity and severity of a report may require the process to extend beyond 60 to 90 days. In general, a Complainant and Respondent can expect to receive periodic updates from the Title IX Coordinator and/or Investigator as to the status of the investigation and resolution.

In the event that the investigation and resolution exceed this timeframe, Pine Manor will notify all parties of the need for additional time and best efforts will be made to complete the process in a timely manner.

#### C. Grievance Procedures and Title IX Review

The following are Pine Manor's procedures for responding to and resolving reports of sexual misconduct asserted against a student. Pine Manor will resolve reports of sexual misconduct asserted against a College employee in accordance with the process described in the Employee Handbook or the Faculty Handbook.

##### 1. Formal Report

Any individual may initiate a Title IX investigation by Pine Manor against a student member of the community for violation of this policy by submitting in writing to any member of the Title IX team a report that includes the following information:

- The name of the accused student (i.e. the Respondent), or if her/his/their name is unknown, information sufficient to allow the College to identify the Respondent, such as her/his/their photograph;
- A statement explaining the nature and circumstances of the report including a list of possible witnesses; and,
- The names, addresses, and telephone numbers of those making the report.

The report must be signed by the individual initiating the report (i.e. the Complainant). **Formal reports will result in a Title IX investigation to determine whether the Respondent violated any provisions of this policy.**

Timeframe for Submitting a Formal Report: Pine Manor does not limit the timeframe for submitting a report. However, Complainants are encouraged to submit the report as soon as possible in order to maximize the College's ability to investigate and come to an appropriate resolution. Pine Manor will not be able to pursue disciplinary action against a respondent who is no longer affiliated with the College.

Withdrawal of Report: If a Complainant withdraws her/his/their report, the Title IX Coordinator will assess whether sufficient evidence of sexual misconduct exists to support completing an

investigation. Among the factors the Title IX Coordinator will consider in making this determination is whether prior reports by the Complainant or others have been made against the Respondent. Pine Manor's decision to proceed in investigating a student member of the community when the Complainant has withdrawn the report shall be made by the Title IX Coordinator in his sole discretion, but will take the Complainant's wishes into consideration. If the Title IX Coordinator determines that no action will be taken against the Respondent because the Complainant has withdrawn her/his/their report, a file concerning the withdrawn report will be maintained by the Title IX Coordinator, so that the matter can be re-opened if, among other things, the Complainant later decides to reinstate the report, or if independent evidence of sexual misconduct by the Respondent comes to the College's attention, which the Title IX Coordinator determines warrants re-opening the investigation.

## 2. Incomplete and Unofficial Reports

Any individual may also report that a student member of the community engaged in behavior prohibited by this policy by bringing the report to the attention of the Title IX Coordinator, any member of the Title IX Team, or any Pine Manor employee.

When the Title IX Coordinator receives a report that a Pine Manor student has engaged in prohibited conduct, but the report does not meet the requirements of a formal report, the Title IX Coordinator or his designee, alone or in coordination with the Title IX Team, will determine what steps should be taken to gather additional information. Thereafter, the Title IX Coordinator will direct the gathering of the additional information.

Once all available additional information has been obtained, it will be evaluated by the Title IX Coordinator, who will decide whether a Title IX investigation, in accordance with this policy, is warranted. In making this decision, the Title IX Coordinator will consider the wishes of the person(s) reported to have been harmed by the Respondent (the "reported survivor"), as well as the risk that declining to investigate might jeopardize the safety of the reported survivor or any member(s) of the Pine Manor community. If the Title IX Coordinator decides that an investigation is warranted as a result of an incomplete or informal report, the Respondent will be notified that the College has elected to proceed with the investigation of the report on its own initiative and the investigation will proceed without a Complainant. If the College initiates an investigation against a Respondent as a result of an incomplete or informal report, the reported survivor(s) may choose whether to participate in the investigation, for example by serving as a witness.

## 3. Advisors

The Complainant and Respondent may each choose, and be accompanied to any meeting or interview related to these procedures by, an advisor. Each party's advisor may provide support related to any meeting or interview, but may not participate actively in such meetings or interviews. During meetings and interviews, an advisor may quietly confer or pass notes with the party in a non-disruptive manner. The advisor may not intervene in a meeting or interview, or address the Investigator.

Consistent with Pine Manor's obligation to promptly resolve sexual misconduct complaints, the College reserves the right to proceed with any meeting or interview, regardless of the availability of the party's selected advisor.

## 4. Declining to Participate

A Complainant and/or Respondent may decline to participate in the investigative or complaint resolution process. Pine Manor may continue the process without the Complainant's and/or Respondent's participation. In most cases, a refusal to participate in the investigative process will preclude a Complainant or Respondent from appealing any determination. The Title IX Coordinator will make this determination.

#### 5. Investigation and Findings Process

After receiving a report of sexual misconduct, the Title IX Coordinator will conduct a preliminary assessment to determine whether there is sufficient evidence to support the initiation of a formal investigation. If the Title IX Coordinator concludes that a report of sexual misconduct warrants a Title IX Investigation, the following steps will generally be taken:

1. The Title IX Coordinator will appoint a Title IX Investigator. The Title IX Investigator is tasked with investigating the report and making (i) findings of fact and (ii) recommended findings as to whether the Respondent violated any provision of this policy. In making these findings, the Title IX Investigator shall employ the "preponderance of the evidence" standard of proof.
2. Prior to any meetings between any party and the Title IX Investigator, The Title IX Coordinator will meet with the Complainant and Respondent individually and:
  - a. Provide each with written notification of the allegations of misconduct under investigation, which shall include, to the extent then known, a reference to any specific provisions of this policy allegedly violated;
  - b. Inform each that a Title IX Investigator has been appointed who will be investigating the report;
  - c. Identify the Title IX Investigator by name to each;
  - d. Advise each that any behavior that can be construed as retaliation against the Complainant, Respondent, and/or witnesses will be subject to immediate disciplinary action, up to, and including, suspension or dismissal from the College;
  - e. Provide each with a copy of this policy and advise each to read it carefully;
  - f. Advise each that they may have one advisor present whenever they meet with the Title IX Investigator;
  - g. Advise each that they will be permitted to submit a list of witnesses to the Title IX Investigator;
  - h. Advise each that they will be permitted to submit relevant documentary evidence to the Title IX Investigator (e.g., texts, e-mails, photographs);

- i. Advise each of Confidential Resources, including advocates, health care providers, and counseling services, both on-campus and in the local community;
  - j. Advise each of the importance of preserving evidence (e.g., texts, e-mails, notes, photographs, etc.);
  - k. Advise each of their option to request that Pine Manor take steps to prevent unnecessary or unwelcome contact or communication with another member of the Pine Manor community;
  - l. Advise the Complainant of her/his/their option to pursue a criminal report or complaint action against the Respondent working with local police in addition to pursuing remedies and/or sanctions through Pine Manor processes, or to seek a court order of protection/restraining order; and,
  - m. Advise the Complainant that Pine Manor Campus Safety is available to assist him/her/them in contacting and communicating with local police, or in seeking court orders of protection/restraining orders.
3. Thereafter, the Title IX Investigator shall interview the Complainant (if possible). The Title IX investigator shall ask the Complainant for, among other things, names, addresses, and other contact information (e.g., phone numbers and/or e-mail addresses) of witnesses.
4. The Title IX Investigator shall then interview the Respondent (if possible). The Title IX Investigator shall ask the Respondent for, among other things, names, addresses, and other contact information (e.g., phone numbers and/or e-mail addresses) of witnesses. As a part of this process, the Title IX Investigator shall also assess whether interim measures not already implemented are appropriate and, if so, work with the Title IX Coordinator to ensure that they are in place.

If at any point the Respondent admits to violating this policy, the Title IX Investigator will inform the Title IX Coordinator, who will terminate the resolution process. Where appropriate, the Title IX Coordinator will send the matter through the Sanctions Process detailed below. If the Complainant and Respondent each accept the issued sanction(s), the matter will be closed. If either party is unsatisfied with the sanction(s), he/she/they may request to proceed through the formal resolution process in full by submitting a written request to the Title IX Coordinator within five (5) business days of the receipt of the sanctions decision. The Title IX Coordinator maintains the ultimate discretion as whether or not such a request should be granted.

In some instances, a Complainant and a Respondent may choose to resolve a complaint through voluntary resolution. Voluntary resolution may include conflict mediation or a restorative conference with a Pine Manor community member. However, voluntary resolution may only be used:



- a. Prior to the issuance of the Title IX Investigator's draft report, under paragraph 11 below;
- b. When the Title IX Coordinator determines this is a suitable option for resolving the concern, and both the Complainant and Respondent agree to use the process; and
- c. When the complaint does not involve sexual assault or sexual violence as defined in this policy.

The Title IX Coordinator will appoint a neutral third-party (including a Pine Manor community member) to conduct the voluntary resolution process. The Title IX Coordinator also retains the discretion to determine the form and nature of the voluntary resolution proceedings. Because the outcomes of voluntary resolution conversations are mutually developed and agreed upon by the parties involved, an appeal of the process and its result is not permitted. If the parties are unable to agree on a voluntary resolution, the matter will be referred back to the formal grievance process outlined in this section. No statements made during the voluntary resolution process may be introduced at any stage during the formal grievance process.

5. Upon meeting with the Complainant and Respondent, the Title IX Investigator shall review Pine Manor records to assess whether any prior allegations have been made against the Respondent that relate to the subject of the complaint. The Respondent will be provided with a copy of any of his/her/their own records that relate to the subject of the complaint.
6. The Title IX Investigator shall make reasonable attempts to interview any relevant witnesses identified by the Complainant or Respondent, or identified by witnesses or any other source.
7. The Title IX Investigator shall review any documentary evidence submitted by the Complainant, Respondent, or other witnesses.
8. The Title IX Investigator shall gather and assess any other relevant evidence available to the College (e.g., additional witnesses not identified by the parties, security camera footage, etc.).
9. After reviewing any witness statements, documentary evidence, and other relevant evidence as noted above, the Title IX Investigator may, in his/her/their discretion, conduct follow-up interviews with the Complainant and the Respondent.
10. Following the foregoing investigation, the Title IX Investigator shall create a written report that summarizes his/her/their investigation, sets out the documentary evidence submitted by the parties/witnesses, and describes his/her/their determination(s) concerning the relevance of the documentary evidence. Relevant information reviewed by the Title IX Investigator shall be described in the written report and appended (and redacted, if necessary), as appropriate.

11. At the conclusion of the investigation, but before any findings are reached by the Title IX Investigator, the Title IX Investigator shall submit his/her draft written report (with a summary of evidence and attachments, but without findings) to the Title IX Coordinator for review. The Title IX Coordinator may suggest additional clarification or the gathering of additional evidence, as appropriate.
12. The Title IX Investigator shall permit both the Complainant and Respondent and their respective advisors, if applicable, the opportunity to review a copy of the draft written report (still without findings, but as revised consistent with any suggestions from the Title IX Coordinator) under the supervision of a College employee in the Title IX Coordinator's or Title IX Investigator's office. Upon reviewing the draft report, the Complainant and Respondent may provide any clarifications or comments they may wish to offer.
13. Neither the Complainant nor the Respondent will be permitted to copy or remove the draft written report from the Title IX Coordinator's or Title IX Investigator's office. Relevant and clarifying comments provided by either party will be incorporated into the draft report by the Title IX Investigator in his/her discretion in consultation with the Title IX Coordinator, and the Title IX Investigator will note any significant deviations from previous statements. If the Complainant and/or Respondent identify additional relevant evidence, that evidence shall be gathered by the Title IX Investigator and included in the written report. Depending on the nature of the new evidence, it may be shared with the Complainant or the Respondent for comment.
14. The Title IX Investigator shall revise the draft report to summarize all relevant evidence obtained during the investigation, and shall draft written recommendations, using a preponderance of the evidence standard, as to whether the Respondent should be found to have violated any provision(s) of this policy.
15. The Title IX Investigator will submit his/her revised draft investigation report, including recommended conclusions, to the Title IX Coordinator. In reaching his/her recommended conclusions, the Title IX Investigator may not consider any statements or other evidence about the Complainant's prior sexual conduct with anyone other than the Respondent. Further, the Title IX Investigator may not presume that a prior consensual dating or sexual relationship between the parties necessarily constitutes consent or precludes a finding of sexual misconduct.
16. The Title IX Investigator's recommended conclusion(s) should be explained clearly and address each element necessary to establish whether the Respondent violated this policy so that the reader understands how the Title IX Investigator reached his/her recommended conclusion in light of the available evidence and the standard of proof.
17. The Title IX Coordinator may offer feedback, which should be incorporated into the final draft, if applicable. The Title IX Investigator shall revise the draft report to reflect the Title IX Coordinator's feedback, and the Investigator shall resubmit his/her revised final draft to the

Title IX Coordinator. The revised final draft shall include, along with the information contained in the draft reports:

- a. A summary of the allegations;
- b. A determination of whether the allegations were substantiated, with an identification of all supporting evidence and credibility determinations;
- c. A determination of whether this policy was violated, along with all supporting evidence, conclusions, and references to pertinent policy provisions.

18. Upon receipt of the Title IX Investigator's final draft report, the Title IX Coordinator shall determine whether or not the Respondent violated this policy, based on the preponderance of the evidence standard, and shall update and finalize the report to reflect this decision.

19. The Title IX Coordinator shall send a letter to the Complainant and the Respondent informing them of the investigation findings concerning whether the Respondent violated any provision of this policy (the "Determination Letter"). Generally, the Determination Letter will be issued within three (3) business days of finalizing the Title IX report. The Title IX Coordinator shall send this communication to the Complainant and the Respondent via certified mail, return receipt requested, and also by electronic mail (read receipt requested).

- a. If the Respondent is found not to have violated any provision of the this policy, the Title IX Coordinator's letter to both parties will inform them of the Complainant's right to appeal that decision, in accordance with the Appeals Process below.
- b. If the Respondent is found to have violated any provision of this policy, the letter will notify both parties of those findings and provide them with information relating to the action(s) to be taken by the College described below.
- c. Regardless of the findings, the Title IX Coordinator shall present both parties with an opportunity to review the final investigative report, with their advisor present, in the presence of the Title IX Coordinator or designee.

#### 6. Sanctions Process

If a Title IX investigation concludes that there has been a violation of this policy, or if the Respondent admits to violating this policy, the Title IX Coordinator will appoint a Sanctions Administrator to determine appropriate sanctions. The name of the Sanctions Administrator, and his/her contact information, shall be communicated to the parties in the Determination Letter. The Sanctions Administrator may not be a member of the Title IX Team.

Upon review of the final report and findings, the Sanctions Administrator may impose any sanction designed to eliminate the misconduct, prevent its recurrence, and remedy its effects, while supporting Pine Manor's educational mission and Title IX obligations. Sanctions may also serve to

promote safety or deter students from similar future behavior. Any sanctions must be issued, and communicated to the parties, within five (5) business days of the issuance of the Determination Letter (the "Sanctions Letter").

The following, individually or in combination, are potential sanctions for violations of this policy. Where appropriate, the statement of the sanction includes the duration, any conditions to be observed during that period, and the conditions for termination of the sanction:

Major Sanctions:

- Expulsion from the College or a program of the College.
- Suspension from the College or a program of the College for a specific period of time.
- Deferred suspension from the College or a program of the College.
- Denial of graduation, diploma, or degree.
- Deferral of graduation, diploma, or degree for a specific period of time.
- Revocation or withdrawal of diploma or degree previously credited, awarded, or conferred.

Other Available Sanctions:

- Expulsion from a Pine Manor residence.
- Suspension from a Pine Manor residence for a specific period of time.
- Deferred residence expulsion (with or without relocation to a different residence location).
- Disciplinary probation. Disciplinary probation may involve counseling with faculty or administrative staff; restriction of student privileges; prohibitions against participation in Pine Manor activities or events; and prohibitions against holding office or participating in student organizations or residence, school, or college organizations or activities.
- Residence probation. Residence probation may involve periodic meetings with a member of the residence staff and/or restriction of specific residence privileges.
- Disciplinary reprimand or warning.
- Restitution. The student will reimburse the College and/or other appropriate party for damage to or loss of property or for costs or expenses incurred by the College or other party. Restitution will be made at full cost of replacement or repair, and other expenses.

## 7. Appeals Process

The Complainant may request an appeal within ten (10) business days of the Determination Letter. The Respondent may request an appeal within ten (10) business days of the Sanctions Letter. Appeals must be in writing and submitted to the Title IX Coordinator (the "Notice of Appeal"). The Notice of Appeal shall consist of a written statement explaining the grounds for the appeal, and the bases therefore. The appeal may be based only on one or more of the following grounds: material procedural error; new material evidence or information; and/or a sanction that is disproportionate to the offense, or otherwise unjust or unfair.

The Title IX Coordinator shall notify the non-appealing party of the appeal and shall provide him/her/them with a copy of the Notice of Appeal. The non-appealing party may submit a written response to the Title IX Coordinator within ten (10) business days of receiving the Notice of Appeal.

The Title IX Coordinator shall appoint an Appeals Officer to decide the appeal. The identity of the Appeals Officer shall be communicated to the parties as soon as practicable after his/her/their appointment. The Appeals Officer shall review the final investigative report, the Notice of Appeal, and the response of the non-appealing party. Within fourteen (14) business days after the deadline for the non-appealing party's response, the Appeals Officer shall provide his/her conclusions to the parties. These conclusions may include, but are not limited to:

- Reopening of the investigation;
- Affirming the original findings and sanctions;
- Reversing of the original findings and sanctions;
- Modifying the original findings;
- Modifying the imposed sanctions and remedies.

The appeal is based on the record and is limited to the enumerated bases for appeal. The appeal is not a de novo review. Appeal decisions are final.

#### 8. Conflicts of Interest

In the event that the Complainant or Respondent believes that the Title IX Investigator, Sanctions Administrator, and/or Appeals Officer has a conflict of interest in performing the functions required of him/her/them under this policy, the Complainant or Respondent may seek to disqualify that person from the resolution process. The Complainant or Respondent may seek to disqualify the Title IX Investigator, Sanctions Administrator, and/or Appeals Officer by submitting a written objection to the Title IX Coordinator within two (2) business days of receiving notice of the subject individual's appointment to his/her/their position. The written objection shall state the party's reasons for believing that the subject individual is incapable of fairly judging the matter.

The Title IX Coordinator will decide whether an objection is justified, and that decision is final. When necessary, the Title IX Coordinator will select a replacement for any removed individual. The parties will have an opportunity to object to any individual selected as a replacement.

#### 9. Obligation to Provide Truthful Information

All Pine Manor community members are expected to provide truthful information in any report or proceeding under this policy. Submitting or providing false or misleading information in bad faith or with a view to personal gain or intentional harm to another in connection with an incident of sexual misconduct is prohibited and may result in disciplinary sanctions. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated.

### VIII. Confidentiality, Education & Training

#### A. Confidentiality & FERPA

All documents created in connection with the above resolution process, including but not limited to any written complaint, the investigative draft reports, the final report, the Determination Letter, the Sanctions Letter, the Notice of Appeal, any response thereto, and/or the appeals decision will be kept confidential by. They will be shared only with individuals with a “need-to-know” such information. To the extent any of these documents constitute “education records” under FERPA, they will be treated accordingly. All parties to Pine Manor’s complaint resolution process are expected to maintain the confidentiality of any documents they receive in connection with the process. A party who improperly disseminates any such documents, or otherwise discloses the contents of those documents to third-parties, will be subject to disciplinary action.

#### B. Education & Prevention

Pine Manor College embraces an interdepartmental, multimodal, and situational approach to educate the Pine Manor community about this policy and to prevent sexual misconduct. To that end, the Department of Student Affairs works collaboratively to provide the community with educational opportunities as follows:

Orientation/Welcome Week:

Presentations at First Year Seminars

Student Leaders:

#### C. Training

Pine Manor, in consultation and collaboration with the Boston Area Rape Crisis Center, will train faculty, staff (including Title IX Team), Campus Safety, dining service employees, student leaders (including Resident Assistants, First-Year Success Mentors, and Peer Leaders), and Graduate Assistants on the following topics:

- Responding to reports and complaints;
- Bystander intervention;
- Record-keeping and documentation;
- Assessing and reporting complaints of sexual misconduct;
- The availability of Confidential Resources;
- The availability of other on and off campus resources for support, advocacy, and medical assistance.

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