

<b>RESPECTFUL COMMUNITY</b>	
<b>Policy Number: CW-000</b>	<b>Responsible Department: Human Resources</b>
<b>Effective Date:</b>	<b>Last Revision Date: 09/27/2016</b>

**PURPOSE:**

To provide a working and learning environment at CWI that is free of unlawful discrimination, harassment and other related improper conduct.

**SCOPE:**

Applies to all CWI employees, students, contractors, vendors or visitors and anyone participating in a CWI sponsored activity (collectively referred to as "Members of the CWI Community").

**DEFINITIONS:**

**Discrimination:** adverse conduct against an individual that is based upon race, color, religion, sex, age national origin, sexual orientation, gender identity, disability, veteran status, or any other status protected by federal, state, or local law. Such conduct could include action that excludes or denies an individual the benefits of a CWI program, activity or service, treats the individual differently or otherwise adversely affects a term or condition of his/her employment, education, or participation in a CWI program or activity. This includes failing to provide reasonable accommodations, consistent with state and federal law, to qualified individuals with a disability.

**Harassment:** any conduct based upon an individual’s race, color, religion, sex, age, national origin, sexual orientation, gender identity, disability veteran status, or any other status characteristic protected by federal, state, or local law that demeans or shows hostility or aversion toward an individual because of his or her protected class or creates an intimidating, hostile or offensive environment for academic pursuits, employment or participation in CWI sponsored activities. Harassing conduct may be in various forms, including, name-calling, graphic or written statements (including the use of cell phones or the Internet), or other conduct that may be physically threatening, harmful, or humiliating.

**Sexual Harassment:** can include unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, including sexual assault. Sexual harassment can involve persons of the same or opposite sex. Consistent with applicable law, this policy prohibits two types of sexual harassment:

1. **Tangible Employment or Educational Action.** This type of sexual harassment occurs when the terms or conditions of employment, educational benefits, academic grades or opportunities, or participation in a CWI activity is conditioned upon, either explicitly or implicitly, submission to or rejection of unwelcome sexual advances or requests for sexual favors, or such submission or rejection is a factor in decisions affecting that individual’s employment, education, or participation in a CWI program or activity.

2. Hostile Environment Harassment. This type of sexual harassment includes unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature which have the purpose or effect of interfering with an individual's work performance or participation in a CWI program or activity or creates an intimidating, hostile or offensive environment.

Examples of sexual harassment include but are not limited to:

- Demeaning and/or derogatory harassment towards one's gender;
- Demeaning behavior, staring, pinching, touching and other physical contact or blocking the movements of another person;
- Unwelcome sexual comments, innuendos, jokes, abusive personal remarks, etc.
- Sexually explicit displays or distribution of pictures, materials or objects in the work area;
- Unwelcome amorous advances or propositions, physical conduct, obscene gestures;
- Obscene letters, phone calls, emails, or unwelcome words or comments with sexual or other discriminatory meanings;
- Unwelcome requests for sexual favors or repeated social contact; or
- Sexual assault or other unwelcome sexual contact.

A hostile environment can be created by anyone involved in a CWI program or activity (e.g., administrators, faculty members, students, vendors and even campus guests). Although repeated incidents increase the likelihood that harassment has created a hostile environment, a serious incident, such as a sexual assault, even if isolated, can be sufficient.

In determining whether harassment has created a hostile environment, consideration will be made not only as to whether the conduct was unwelcome to the person who feels harassed, but also whether a reasonable person in a similar situation would have perceived the conduct as objectively offensive. Also, the following factors will be considered:

- The degree to which the conduct affected one or more students' education or individual's employment;
- The nature, scope, frequency, duration, and location of the incident or incidents;
- The identity, number, and relationships of persons involved.

**Sexual Misconduct:** includes sexual assault, inducing incapacitation for sexual purposes, sexual exploitation and relationship violence.

**Sexual Assault:** an actual or attempted sexual contact with another person without that person's consent. Sexual assault includes, but is not limited to:

- Involvement in any sexual contact when the victim is unable to consent.
- Intentional and unwelcome touching of, or coercing, forcing, or attempting to coerce or force another to touch a person's intimate parts (defined as genital area, groin, inner thigh, buttocks, or breast).

- Sexual intercourse without consent, including acts commonly referred to as “rape.”

**Consent:** informed, freely given, and mutual. If coercion, intimidation, threats, or physical force are used there is no consent. If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption, or being asleep or unconscious. There is no consent when there is force, express or implied, or use of duress or deception upon the victim. Silence does not necessarily constitute consent. Past consent to sexual activities does not imply ongoing future consent. Whether an individual has taken advantage of a position of influence over an alleged victim may be a factor in determining consent.

**Inducing incapacitation for sexual purposes:** using drugs, alcohol, or other means with the intent to affect or having an actual effect on the ability of an individual to consent or refuse to consent (as “consent” is defined in this policy) to sexual contact.

**Sexual Exploitation:** non-consensual or abusive sexual conduct for an individual’s advantage or benefit other than the person being exploited which does not otherwise constitute one of the preceding sexual misconduct offenses. Examples of behavior that could rise to the level of sexual exploitation include:

- Prostituting another person;
- Non-consensual visual (e.g., video, photograph) or audio-recording of sexual activity;
- Non-consensual distribution of photos, other images, or information of an individual’s sexual activity, intimate body parts, or nudity, with the intent to or having the effect of embarrassing an individual who is the subject of such images or information;
- Going beyond the bounds of consent (such as letting someone hide in the closet to watch consensual sex);
- Engaging in non-consensual voyeurism;
- Knowingly transmitting a sexually transmitted infection (STI), such as HIV, to another without disclosing the individual’s STI status;
- Exposing one’s genitals or inducing another to expose his or her genitals;
- Possessing, distributing, viewing or forcing others to view pornography.

**Relationship Violence:** abuse or violence between partners or former partners to a relationship involving one or more of the following elements:

- Battery that causes bodily injury;
- Purposely or knowingly causing reasonable apprehension of bodily injury;
- Emotional abuse creating apprehension of bodily injury or property damage;
- Repeated telephonic, electronic, or other forms of communication -- anonymously or directly -- made with the intent to intimidate, terrify, harass, or threaten;

**Stalking:** includes repeatedly following, harassing, threatening, or intimidating another by telephone, mail, electronic communication, social media, or any other action, device or method that purposely or knowingly causes substantial emotional distress or reasonable fear of bodily injury or death.

**Retaliation:** action taken by an accused individual or an action taken by a third party against any person because that person (i) has opposed any practices forbidden under this policy; or (ii) filed a complaint or testified, assisted, or participated in any manner in an investigation or proceeding under this policy. This includes action taken against a bystander who intervened to stop or attempt to stop discrimination, harassment, or sexual misconduct. Retaliation includes intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual's protected activity. Action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy.

**Responsible Employee:** any CWI employee who (i) supervises employees, students, volunteers or other third parties; (ii) teaches, coaches or advises students; or (iii) has management authority related to CWI's operations, programs or activities.

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## POLICY

CWI is committed to maintaining a respectful community by providing equal educational and employment opportunities, services, and benefits to any individual without regard to race, color, religion, sex, age national origin, sexual orientation, gender identity, disability veteran status, or any other status protected by federal, state or local law. Discrimination and harassment undermine human dignity and the positive connection among all individuals at CWI. It may also be illegal. Accordingly, CWI prohibits discrimination or harassment based on race, color, religion, sex, age, national origin, sexual orientation, gender identity, disability, veteran status or any other status protected by federal, state or local law, sexual misconduct, relationship violence and stalking. All Members of the CWI Community are responsible for creating a campus environment free from prohibited discrimination, harassment and other conduct addressed in this policy. CWI expects all Members of the CWI Community to avoid any behavior or conduct that is violative of this policy. CWI will take appropriate action to eliminate, prevent and address the effects of discrimination, harassment, sexual misconduct, relationship violence, stalking and retaliation.

It is important that Members of the CWI Community understand that this policy does not just prohibit discrimination and harassment of employees by employers. It also prohibits discrimination and harassment between members of the CWI community more generally: for example, between an instructor and a student, between two students, or between a student and an applicant or campus guest. Accordingly, this policy applies to all CWI programs and activities, including, but not limited to, instruction, grading and employment. In addition, CWI prohibits retaliation against an individual for opposing any conduct or practices prohibited under this policy, for bringing a complaint of discrimination or harassment, for assisting someone with such a complaint, for attempting to stop such discrimination or harassment, or for participating in any manner in an investigation or resolution of a complaint of discrimination or harassment. It is central to the values of CWI that any individual who believes he/she may have been the target of unlawful discrimination or harassment feel free to report his/her concerns for appropriate investigation and response, without fear of retaliation or retribution.

Conduct that occurs off campus may be subject to this policy, *e.g.* if off-campus harassment has continuing effects that create a hostile environment on campus. Allegations of off-campus sexual misconduct are of particular concern and should be brought to CWI's attention.

This policy shall not be construed or applied to restrict academic freedom at CWI, nor shall it be construed to restrict constitutionally protected freedom of expression.

All complaints or any concerns about conduct that may violate this policy and retaliation should be filed with the Title IX Coordinator:

Contact Information:

Title IX Coordinator

P.O. Box 3010

Nampa, Idaho 83653

[RespectfulCommunity@cwidaho.cc](mailto:RespectfulCommunity@cwidaho.cc)

## GUIDELINES

### Reporting of Discrimination, Harassment and Misconduct

In order for CWI to respond effectively to and to stop instances of discrimination, harassment, sexual misconduct or other related misconduct addressed in this policy, involving students or employees at CWI, Members of the CWI Community (as appropriate) should report information they have about discrimination, harassment sexual misconduct or other related misconduct involving students and employees to the Title IX Coordinator as quickly as possible. Employees who learn of such conduct should report the conduct to the Title IX Coordinator within 24 hours. In addition, CWI is committed to providing reporting options through multiple contact points across campus that are broadly accessible to all CWI community members, including the Title IX Coordinator, CWI's Ethics Line, instructors, supervisors, or others identified at CWI as Responsible Employees. To most effectively respond to and address instances under this policy, information provided should include all relevant details needed to determine what occurred and to resolve the situation. This includes the names of the individuals involved (if known), the reporting party, other students involved in the incident, as well as any relevant facts, including the date, time, and location of the incident.

Upon receiving a report of alleged or possible discrimination, harassment, or sexual or other related misconduct, CWI will evaluate the information received and determine what further actions should be taken. CWI will follow the procedures described in the [CWI Investigation and Resolution Procedure](#). CWI will take steps, either directly with the reporting party or through a reporting employee or student, to provide information about the [CWI Investigation and Resolution Procedure](#), as well as available health and advocacy resources and options for criminal reporting. CWI shall not wait for the conclusion of a criminal investigation or proceeding before commencing an investigation of a complaint under this policy. In cases involving a student perpetrator, withdrawal from CWI shall not be used as a method to avoid completion of the investigation. CWI may place a hold on a student-perpetrator's account or otherwise temporarily restrict his/her ability to request an official transcript until completion of the investigation.

CWI will take immediate steps to protect a complainant of violations of this policy in the educational setting. Individuals reporting being subjected to violations of this policy shall be notified of counseling and medical resources if appropriate and provided with necessary accommodations such as academic adjustments and support

services. With respect to students, in some cases, a complainant may need extra time to complete or retake a class or withdraw from a class without academic or financial penalty.

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#### SANCTIONS AND CORRECTIVE ACTION

Violations of this policy will be addressed through the [CWI Investigation and Resolution Procedure](#). Consequences for violating this policy will depend upon the facts and circumstances of each particular situation. Sanctions and corrective action could include: a requirement not to repeat or continue the discriminatory, harassing, or retaliatory conduct, disciplinary action, a no-contact order, reassignment, suspension or termination. The severity of sanctions or corrective action will depend on the frequency and severity of the offense and any history of past discriminatory, harassing or retaliatory conduct. A finding of discrimination, harassment or other conduct in violation of this policy may be cause for disciplinary action, up to and including the discharge of employees and the expulsion of students, in accordance with applicable CWI policies and procedures. CWI may also take appropriate action if it does not find discrimination or harassment but (a) CWI found that the alleged perpetrator engaged in disruptive behavior or (b) to prevent the creation of a hostile environment.

Pursuant to applicable governing policies and procedures of the Idaho State Board of Education, if a student is suspended or expelled as the result of a violation of CWI's Title IX policy, the action taken against the student shall be noted in the student's education records and communicated to a subsequent institution at which the student seeks to enroll, provided that the institution or student has requested the student's education record from CWI.

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#### EXTERNAL COMPLAINTS

If you are a student and filed a complaint with the Title IX Coordinator or a designee and believe the response was inadequate, or you otherwise believe you have been discriminated or retaliated against by CWI, you may file a complaint with the Office for Civil Rights (OCR) of the U.S. Department of Education, the Idaho Human Rights Commission, or the Educational Opportunities Section (EOS) of the Civil Rights Division of the U.S. Justice Department of Justice. If you are an employee and filed a complaint with CWI, or a designee, and believe the response was inadequate or you otherwise believe you have been discriminated or retaliated against by CWI, you may file a complaint with the Idaho Human Rights Commission or the Equal Employment Opportunity Commission.

<b>U.S. Department of Education Office of Civil Rights (OCR)</b> 810 3 <sup>rd</sup> Avenue #750 Seattle, WA 98104 (206) 607-1600 <a href="mailto:OCR.Seattle@ed.gov">OCR.Seattle@ed.gov</a>	<b>Idaho Human Rights Commission</b> 317 West Main Street Boise, ID 83735-0660 (888) 249-7025 <a href="mailto:inquiry@ihrc.idaho.gov">inquiry@ihrc.idaho.gov</a>	<b>Educational Opportunities Section</b> (202) 514-4092 1-877-292-3804 (toll-free) (202) 514-8337 (Fax) Email: <a href="mailto:education@usdoj.gov">education@usdoj.gov</a>
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