



## Five Keys Sexual Misconduct Policy

Five Keys Sexual Misconduct Policy applies to any instance in which a person is alleged to have engaged in sexual misconduct. Whether you are a student, employee, partner or visitor, **you have the right to file a complaint.** Complaints or reports of sexual misconduct should be submitted to the Title IX Coordinator and/or the Deputy Title IX Coordinator.

Five Keys does not tolerate and prohibits discrimination, harassment or retaliation of any kind against job applicants, contractors, interns, volunteers, vendors, partners, employees, students and everyone Five Keys serves. Title IX of the Education Amendments of 1972 is a federal civil rights law that prohibits sex discrimination on the basis of sex in education programs that receive federal funding. Under Title IX, discrimination on the basis of sex can include sexual harassment, stalking, rape, and sexual assault.

Five Keys prohibits any behavior that is discourteous or demeaning to others. Disrespectful behavior may include, but not be limited to, the following:

- Jokes that demean another individual or group of individuals
- Name calling or nicknames that may be offensive
- Taking credit for another individual's work or ideas
- Refusing to communicate, speak or work with another individual
- Offensive verbal, visual, or physical conduct
- Repeated negative personal comments about others either orally or in writing
- Threatening another individual
- Invading another's privacy
- Knowingly blaming other individuals for a mistake they did not make
- Purposely invading another's personal space
- Gossiping about another individual
- Any type of "bullying" behavior



- Unwarranted or invalid criticism
- Blame without factual justification
- Being treated differently than the rest of your peer group
- Being sworn at
- Exclusion or social isolation
- Being shouted at or being humiliated in front of others
- Being the target of practical jokes
- Excessive monitoring

### Five Keys Discrimination, Harassment And Retaliation Prevention Policy

Five Keys does not tolerate and prohibits discrimination, harassment or retaliation of or against job applicants, contractors, interns, volunteers vendors, partners, employees, students and everyone Five Keys serves by an employee, supervisor, vendor, customer or any third party on the basis of any protected class, which are:

- race, religious creed, color, age, sex, sexual orientation, gender, gender identity, gender expression, religion, national origin, ancestry, genetic information, ethnicity, marital status, medical condition as defined by state law (cancer or genetic characteristics), disability, AIDS/HIV, military and veteran status, complaints about workplace safety, political activities or affiliations, pregnancy, childbirth and related medical conditions, requests for medical leave, natural hair, status of as a victim of domestic violence, assault, or stalking or any other characteristic protected by applicable federal, state or local laws and ordinances.

Five Keys is committed to an environment free of discrimination, harassment and retaliation.

#### Discrimination Defined

Discrimination under this policy means treating differently or denying or granting a benefit to an individual because of the individual's protected characteristic.

#### Harassment Defined

Harassment is defined in this policy as unwelcome verbal, visual or physical conduct creating an intimidating, offensive or hostile work environment that interferes with work performance.

Harassment can be verbal (including slurs, jokes, insults, epithets, gestures or teasing), graphic (including offensive posters, symbols, cartoons, drawings, computer displays or emails) or physical conduct (including physically threatening another, blocking someone's way, etc.) that denigrates or shows hostility or aversion towards an individual because of any protected characteristic.

Such conduct violates this policy, even if it is not unlawful. Because it is difficult to define unlawful harassment, employees are expected to behave at all times in a professional and respectful manner.



### Sexual Harassment Defined

Sexual harassment can include all of the above actions, as well as other unwelcome conduct, such as unwelcome or unsolicited sexual advances, requests for sexual favors, conversations regarding sexual activities and other verbal or physical conduct of a sexual nature.

Examples of conduct that violates this policy include:

- unwelcome sexual advances, flirtations, advances, leering, whistling, touching, pinching, assault, blocking normal movement;
- requests for sexual favors or demands for sexual favors in exchange for favorable treatment;
- obscene or vulgar gestures, posters or comments;
- sexual jokes or comments about a person's body, sexual prowess or sexual deficiencies;
- propositions or suggestive or insulting comments of a sexual nature;
- derogatory cartoons, posters and drawings;
- sexually-explicit emails or voicemails; uninvited touching of a sexual nature;
- unwelcome sexually-related comments;
- conversation about one's own or someone else's sex life;
- conduct or comments consistently targeted at only one gender, even if the content is not sexual; and
- teasing or other conduct directed toward a person because of the person's gender.

### Retaliation Defined

Retaliation means adverse conduct taken because an individual reported an actual or perceived violation of this policy, opposed practices prohibited by this policy, or participated in the reporting and investigation process described below. "Adverse conduct" includes but is not limited to:

- shunning and avoiding an individual who reports harassment, discrimination or retaliation;
- express or implied threats or intimidation intended to prevent an individual from reporting harassment, discrimination or retaliation; and

- denying employment benefits because an applicant or employee reported harassment, discrimination or retaliation or participated in the reporting and investigation process described below.



## Boundaries

It is important that all employees maintain healthy boundaries both physical and emotional with all job applicants, contractors, interns, volunteers, vendors, partners, employees, students and everyone Five Keys serves. Healthy boundaries include but are not limited to:

- providing personal space
- not forming relationships that are too close
- not using terms of endearments that may be perceived as inappropriate
- avoid physical contact that could be perceived as inappropriate
- over-sharing personal information
- not giving or receiving valuable or expensive gifts or other items

## Consent

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct.

Consent to some sexual contact (such as kissing or fondling), or the existence of a previous dating or sexual relationship shall not be presumed to be consent for other sexual activity (such as intercourse). The existence of consent shall be based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced.

A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious for any reason, including the use of alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally unable to give knowing consent is in violation of Five Keys policy and regulations.

The perspective of a reasonable person shall serve as the basis for determining whether a respondent knew, or reasonably should have known, whether consent was given.

It is a violation of Five Keys policy and regulations for an employee of the school to engage in sexual contact or inappropriate conduct or behavior, of any kind, with a student enrolled with Five Keys, regardless of the age of

the student.

### Minors

Five Keys prohibits sexual contact of any kind by an adult with a person younger than 18 years old, regardless of consent.



### Accountability

Students and employees may be accountable to both civil and criminal authorities and to Five Keys for acts of sexual misconduct that constitute violations of law and/or Five Keys policy. Five Keys disciplinary action with respect to any such act or omission on the part of a student or employee shall proceed during the pendency of civil and/or criminal proceedings and shall not be subject to challenge on the ground that civil and/or criminal charges involving the same incident have been filed, dismissed, or reduced.

### Timely Reporting

An allegation or complaint of sexual misconduct should be raised as soon after the offending conduct as possible to any member of Five Keys leadership/management team, any HR employee, Title IX Coordinator or Deputy Title IX Coordinator.

Complaints that are not promptly filed may hinder Five Keys' ability to conduct a thorough investigation, contact relevant witnesses, or ensure evidence availability. In all cases, a decision will be made based on existing facts and evidence to determine whether the information, if true, would constitute a violation of Five Keys policy such that an investigation is warranted.

### Notification

Notice regarding an allegation of sexual misconduct shall be provided in writing to the person accused via email, certified mail, return receipt requested, hand delivery, or by any other verifiable method of delivery.

The notice shall notify the person accused that a complaint has been filed against them, inform them of the nature of the complaint, and include a description of the disciplinary process and copies of the relevant Five Keys policies and procedures.

### Preliminary Investigation

Upon receipt of notice of an allegation of sexual misconduct, the Title IX Coordinator or Deputy Title IX Coordinator shall conduct a preliminary investigation of the alleged violation, which may include, but is not

limited to, reviewing initial information available, reviewing student/employee records, and/or discussions with witnesses, the person making the complaint, and the person accused of sexual misconduct.



After completing the preliminary investigation, the Title IX Coordinator or Deputy Title IX Coordinator may:

1. Dismiss the allegation for failing to allege facts sufficient to indicate that a violation of this policy may have occurred or that a formal investigation is warranted; or
2. Proceed administratively, which includes a formal investigation, conference, and an appeals process if requested.

Notice of the outcome of the preliminary investigation shall be provided to the person accused of sexual misconduct and the person making the complaint in writing via email, certified mail, return receipt requested, hand delivery, or by any other verifiable method of delivery.

When a preliminary investigation fails to yield facts sufficient to support an allegation of sexual misconduct, the complaint shall be dismissed and the dismissal shall be provided, in writing, to the person accused of sexual misconduct and the person making the complaint.

A dismissal for failure to yield facts sufficient to substantiate a violation of policy is the final decision of Five Keys, unless additional facts are submitted to warrant proceeding with the disciplinary process.

### Formal Investigation

If the Title IX Coordinator or Deputy Title IX Coordinator determines a formal investigation should proceed, Five Keys will conduct a prompt, fair and impartial investigation.

A formal investigation of sexual misconduct will involve the Title IX Coordinator and/or Deputy Title IX Coordinator, interviewing both the person accused of sexual misconduct and the person making the complaint separately to hear or clarify each party's account of the incident, review the disciplinary process, and discuss other possible remedies. During the investigation, the Title IX Coordinator and/or Deputy Title IX Coordinator will interview witnesses, collect additional information as necessary, and submit a written report. The Title IX Coordinator and/or Deputy Title IX Coordinator will determine whether to interview an identified witness and the extent to which testimony of a witness is relevant and/or included in a report.

## Witness Participation

Members of the Five Keys community who serve as witnesses during an investigation of an allegation of sexual misconduct are expected to cooperate with the Title IX Coordinator and/or Deputy Title IX Coordinator, keep confidential matters discussed during the investigation in order to ensure that the fact-finding nature of the investigation is in no way hindered or compromised, and adhere to the standards of conduct prescribed by Five Keys policy and regulations. Failure to do so could result in disciplinary action. All persons involved with the investigation, including witnesses, are cautioned that retaliation against anyone participating in an investigation is strictly prohibited.



## Timeframe

It is the intention of Five Keys to resolve complaints made under this policy within 60 business days from receipt of the complaint, excluding days required to conduct the appeals process. Investigations typically take 15 to 30 business days to complete.

In some cases, extenuating circumstances may force the delay of the projected time frame. For example, investigations of certain forms of sexual misconduct may undertake a short delay when criminal charges are filed on the basis of the same conduct that is the subject of Five Keys investigation. Delays due to school breaks, holidays, inclement weather and emergency situations may also occur. In such cases, written notice, along with the reason(s) for the delay and, where possible, the anticipated completion date will be provided to the person accused of sexual misconduct and the person making the complaint.

## Interim Measures

During an investigation and up to a resolution, Five Keys reserves the right to pursue interim measures, as deemed appropriate, to protect the person accused of sexual misconduct and the person making the complaint to ensure the stability and continuance of normal Five Keys functions and/or operations. Interim measures may include, but are not limited to, suspension, administrative leave, restrictions between the person accused of sexual misconduct and the person making the complaint, providing escorts, altering work arrangements for employees and offering adjustments to academic deadlines and course schedules.

## Notice Of Conference To Review Investigation Outcome

As promptly as possible, but no more than three business days after conclusion of the investigation, the person accused of sexual misconduct and the person making the complaint shall be directed, in writing, to appear for

an administrative conference with the Title IX Coordinator or Deputy Title IX Coordinator at a specific time and place, not less than five business days after the date of notice.



### Conference To Review Investigation Outcome

At the administrative conference, the Title IX Coordinator or Deputy Title IX Coordinator shall review the findings of the formal investigation privately with each party and provide each with the opportunity to respond. Once each party has responded, the following will occur:

1. Both parties accept the findings and outcome
2. One or both parties may request that the investigation is reopened to specifically consider additional information

Both parties will be notified, in writing, of the outcome of the administrative conference and of any disciplinary action imposed.

### Appeals Process To Dispute Investigation Results

If either party is not satisfied with a sexual misconduct investigation outcome, they may file an appeal with the Board Of Directors no later than **10 Working Days** after they received the written notification of the outcome of the administrative conference and of any disciplinary action imposed.

The appeal must be in writing and shall be based only on one or more of the appeal issues listed below:

1. The investigation outcome is unsupported by the evidence, based on the Preponderance of the Evidence standard;
2. Prejudicial procedural errors impacted the investigation outcome to such a degree that the investigation did not comply with the Five Keys Sexual Misconduct Policy; or
3. New evidence not available at the time of the investigation.

Five Keys Board of Directors shall respond to the appealing party no later than **30 Working Days** after receipt of the written appeal unless the timeline has been extended.