



# **2020 Annual Security Report**

## **Safety and Security Policies Procedures for Capella University Learners and Employees**

Effective Date: December 11, 2020

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## ANNUAL SECURITY REPORT

In accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), this annual security report contains important safety and security information pertaining to Capella University, as well as crime statistics for the previous three calendar years (i.e., the 2020 report includes crime statistics for calendar years 2017, 2018, and 2019). Pursuant to federal law, this report is prepared by Capella University each year and provided to all current learners and employees and made available to all current and prospective learners and employees upon request. An electronic copy of this report can be obtained at [http://www.capella.edu/content/dam/capella/PDF/2020\\_Annual\\_Security\\_Report.pdf](http://www.capella.edu/content/dam/capella/PDF/2020_Annual_Security_Report.pdf)

Contact [safetyandsecurity@capella.edu](mailto:safetyandsecurity@capella.edu) to receive a printed copy.

### **Safety and security declaration and personal responsibility**

Capella University is committed to providing our learners and employees with a safe and secure environment to learn and work. In addition to reading and understanding the policies and information contained within this report, learners and employees of Capella University are encouraged to take personal responsibility for their safety and security and to immediately report all suspected criminal activity and emergencies to the police by dialing 911.

### **Policies related to sexual harassment/sexual assault**

In compliance with the Violence Against Women Act (VAWA), Capella University includes information on Sexual Assault Awareness and Prevention in its 2020 Annual Security Report.

- This information applies to all Capella University learners, employees, and contractors.
- It defines a range of offenses that are related to sexual assault, including domestic violence, harassment, stalking, dating violence, and all other prohibited acts, language, and behaviors that are sexual in nature, interfere with an individual's academic performance, and/or create an intimidating, hostile, or offensive academic environment.
- It includes official policies and procedures for reporting prohibited acts and allegations.
- It describes investigative procedures when such allegations are received and outlines all possible sanctions Capella University may impose on offenders.
- It outlines protective measures Capella offers to victims following allegations of sexual harassment, as well as written explanation of a victim's rights and options and written notification of counseling, health, legal assistance, and other services available for victims.

## **DEFINITION OF NONCAMPUS BUILDINGS OR PROPERTY**

As a university offering programs of study online, Capella University does not maintain on-campus buildings, campus centers, property, or student housing facilities as defined by the Clery Act, and as such, the required disclosure requirements for this category do not apply. However, learning spaces used by Capella University at required residences are considered to be noncampus buildings or property, for which the university is required to disclose the crime statistics detailed in this report.

During 2019, Capella University did not maintain on-campus buildings.

As it relates to Capella University, the Clery Act defines noncampus buildings or property as:

Any building or property owned or controlled by a student organization that is officially recognized by the institution; or any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.

## **CAMPUS SECURITY AUTHORITY**

Campus security authority is a Clery-specific term that encompasses four groups of individuals and organizations associated with an institution.

- A campus police department or a campus security department of an institution. If your institution has a campus police or security department, those individuals are campus security authorities. A security department can be as small as one person.
- Any individual or individuals who have responsibility for campus security but do not constitute a campus police department or a campus security department (i.e., an individual who is responsible for monitoring the entrance into institutional property). This includes individuals who provide security at a campus parking kiosk, monitor access into a campus facility, act as event security, or escort students around campus after dark.
- Any individual or organization specified in an institution's statement of campus security policy as an individual or organization to which students and employees should report criminal offenses.
- An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings. An official is defined as any person who has the authority and the duty to take action or respond to particular issues on behalf of the institution

The following positions at Capella University comprise the campus security authority:

- Physical safety and security administrator and HR manager—[SafetyandSecurity@Capella.edu](mailto:SafetyandSecurity@Capella.edu)
- Supervisor of learner affairs—[LearnerAffairs@Capella.edu](mailto:LearnerAffairs@Capella.edu)
- Senior director of human resources—[HumanResources@capella.edu](mailto:HumanResources@capella.edu)
- Senior manager of events—[EventsTeam@Capella.edu](mailto:EventsTeam@Capella.edu)
- Onsite police officers at residences (varies by location)— [EventsTeam@Capella.edu](mailto:EventsTeam@Capella.edu)

The campus security authority will:

- Serve as a point of contact for learners and employees regarding emergencies, crime, and safety and security issues.
- Notify the property management, hotel security, or building security whenever a crime is suspected to have occurred on noncampus property.
- File a report with the local police department whenever there is a theft of company property that has traceable identification or if there has been a pattern of thefts.
- Report homicide, rape, robbery, assault, illegal drugs, and weapon possession to the local police department and cooperate with any resulting investigations.
- Report to the safety and security department or physical safety and security administrator those allegations of Clery Act crimes that they are aware of and conclude were made in good faith.

**Note:** The only campus security authority authorized to make arrests are police officers contracted to work on site during residencies.

## CRIME PREVENTION PROGRAM

Capella University has a crime prevention program in place that includes the following:

- An electronic card access system and policy in place at the headquarters office at 225 S. 6th Street, 9th floor, Minneapolis, MN 55402, that requires all authorized Capella University employees and contractors to display and use their electronic card access badge to access Capella University leased space. The safety and security department enables and disables electronic card access rights and maintains the Capella University card access badge database to ensure only those individuals authorized to access Capella University leased space are able to do so.
- A requirement that visitors sign in at the ninth-floor security/receptionist desk when visiting the headquarters office and receive a temporary badge with no card access privileges that identifies them as visitors. In addition, visitors must be escorted by a Capella University employee or contractor at all times while on-site.
- Crime alert notices that pertain to the Minneapolis First Precinct are posted electronically by the Minneapolis Police Department from time to time. This information is reviewed and passed onto Capella University employees and learners as appropriate.
- Learners and employees may be notified in person, by email, social media, or by posting notices on the company intranet site when personal safety and/or criminal patterns are noted in close proximity to the headquarters office or location where a residency is being held.
- Security cameras are strategically located throughout the headquarters office to monitor and record activity taking place.
- Police officers, security officers, and emergency medical personnel are contracted to provide safety and security support at certain residences, learner events, and employee events.
- Employees, learners, and contractors are required to have and display their university-issued identification badge at residences and campus centers.

## TIMELY CRIME ALERTS TO THE CAMPUS COMMUNITY

The campus security authority issues timely crime alerts to warn the campus community of significant emergencies or dangerous conditions that involve an immediate threat to the health or safety of learners or employees occurring in noncampus space unless issuing a notification will, in the professional judgment of responsible authorities, compromise the efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency. These timely crime alerts include Clery Act crimes as well as other emergencies (e.g., fire or infectious disease outbreak) and are made through the use of email, communications posted on the company's internal websites (Stella and Campus), social media where applicable and appropriate, as well as physical postings where learners and employees are likely to see them. In addition, the campus security authority makes timely reports to the campus community of those crimes considered to be a threat to learners and employees with the intent to aid in the prevention of similar occurrences.

## EMERGENCY RESPONSE, NOTIFICATION, AND TESTING POLICY

Capella University maintains an emergency action plan that outlines the procedures to follow in the event of an emergency and how learners and employees will be notified. In conjunction with the emergency action plan, Capella University conducts a tabletop exercise each year in which a learner scenario and an employee scenario are tested. In addition, an unannounced fire drill is practiced once a year wherein employees of Capella University practice evacuating the headquarters building.

The following policy and procedure outlines *what to do during an emergency evacuation*.

### EMERGENCY ACTION: EVACUATION

**Evacuation** is implemented when conditions make it unsafe to remain in a building. This action provides for the orderly movement of learners, faculty, and staff along prescribed routes from inside campus/venue buildings to a designated outside area of safety.

**Evacuation** is considered appropriate for, but is not limited to, the following types of emergencies:

- Fire
- Flood
- Explosion or threat of explosion
- Bomb threat
- Chemical accident

**Emergency evacuation steps**

A location-specific evacuation plan is followed in the event that an order to evacuate is given. Individuals proceed to the nearest exit and out of the building to designated assembly areas or a safe area of refuge. Exterior assembly areas must be at least 100 feet away from the building.

- Do not go back to your work/school area for any reason (e.g., badge, personal belongings, to tell others, etc.).
- Treat all evacuations as if they are real. Remain calm. Take the stairs where applicable.
- Listen to instructions from emergency personnel.
- Do not return to the building until the all-clear signal has been given.
- Ensure that all personnel are accounted for.
- When it is safe to do so, first call 911, then report the incident to the campus security authority.

**CAPELLA UNIVERSITY CAMPUS SECURITY AUTHORITY ACTIONS**

- Instruct learners, faculty, and staff to leave the building in an orderly manner using the designated evacuation routes and reassemble in the assigned assembly area.
- Take learners, faculty, and staff roster when leaving the building or access it online in order to take attendance when everyone is reassembled in a safe location. Report attendance to the incident commander or designee.
- Remain in the assembly area until further instructions are given.
- The assembly area should be a safe location away from the building and away from emergency response personnel and equipment. If unsafe for the current emergency, designate an alternate assembly area.
- When clearance to return to the building is determined or received from the appropriate agency, an ALL-CLEAR announcement will be made to return to the building and resume normal activities.

## HOW TO ASSIST THOSE WITH DISABILITIES DURING AN EVACUATION

To alert visually impaired individuals:

- Announce the type of emergency
- Offer your arm for guidance
- Tell person where you are going, obstacles you encounter
- When you reach safety, ask if further help is needed

To alert individuals with hearing limitations:

- Turn lights on/off to gain person's attention
- Indicate directions with gestures
- Write a note with evacuation directions
- 

The needs and preferences of nonambulatory individuals will vary. Those at ground floor locations may be able to exit without help. Others may have minimal ability to move and lifting them may be dangerous. Some nonambulatory people also have respiratory complications. Remove them from smoke and vapors immediately.

To evacuate individuals using crutches, canes, or walkers:

- Evacuate these individuals as injured persons
- Assist and accompany to evacuation site, if possible
- Use a sturdy chair (or one with wheels) to move person
- Help carry individual to safety

To evacuate individuals using wheelchairs:

- Give priority assistance to wheelchair users with electrical respirators
- Most wheelchairs are too heavy to carry down the stairs; consult with the person to determine the best evacuation options
- Reunite person with the wheelchair as soon as it is safe to do so

## MAINTENANCE OF CAPELLA UNIVERSITY LEASED SPACE

Capella University facilities management personnel are responsible for overseeing repairs of the Minneapolis headquarters office and campus centers. The event planning staff is responsible for notifying host sites of needed repairs. This includes, but is not limited to, defective doors and locking mechanisms. All members of the campus community at the Minneapolis headquarters office are encouraged to report any known problems or hazards to facilities management right away at [Facilities@Capella.edu](mailto:Facilities@Capella.edu). All members of the campus community at learner events and residences are encouraged to report any known problems or hazards right away to [EventsTeam@Capella.edu](mailto:EventsTeam@Capella.edu). Prompt reporting enhances campus safety for all concerned.

## REPORTING CRIMINAL ACTIVITIES

Learners and employees of Capella University are strongly encouraged to report any criminal activity that occurs within the university community to the police and/or campus security authority.

Learners and employees can report criminal activity anonymously by contacting the SEI Ethics Hotline at 1.800.792.4380.

### Emergencies

In an emergency, first dial 9-1-1. Thereafter, when safe to do so, report the criminal offense to the campus security authority by calling 612.977.5877, calling the emergency information line 612.977.5911 and/or by email at [safetyandsecurity@capella.edu](mailto:safetyandsecurity@capella.edu).

### Nonemergencies

For nonemergencies, report criminal offenses to the campus security authority by calling 612-977-5877 or by email at [safetyandsecurity@capella.edu](mailto:safetyandsecurity@capella.edu).

## REPORTABLE OFFENSES

In accordance with the Clery Act, Capella University discloses the following general categories of crime statistics that occurred on noncampus property, classified based on the FBI's Uniform Crime Reporting Handbook:

- **Criminal offenses:** Criminal homicide, including murder, non-negligent manslaughter, and manslaughter by negligence; sexual assault, including rape, fondling, incest, and statutory rape; robbery; aggravated assault; burglary; motor vehicle theft; arson.
- **Hate crimes:** Any of the above-mentioned offenses and any incidents of larceny, theft, simple assault, intimidation, or destruction/damage/vandalism of property that were motivated by bias.

- **VAWA offenses:** Any incidents of domestic violence, dating violence, and stalking.
- **Arrests and referrals for disciplinary action:** Weapons-related violations (carrying, possessing, etc.), drug abuse violations, and liquor law violations.
- **Unfounded crimes:** As described above for criminal offenses, VAWA offenses, hate crimes, and arrests and referrals for disciplinary action.

## MONITORING STUDENT CRIMINAL ACTIVITY OFF-CAMPUS

Because Capella University is an online institution, off-campus learner criminal activity is not monitored. However, should Capella University become aware that a learner has been alleged to have committed a crime or has been convicted of a crime, Capella University will follow all applicable laws pertaining to the investigation and/or reporting of such allegations or court findings.

## PERTINENT UNIVERSITY POLICIES

University Policy 4.02.05

Drugs and Alcohol Policy Revision Approval Date: March 13, 2007

Policy Revision Effective Date: April 1, 2007 Procedure Approval Date: May 13, 2014

Procedure Effective Date: June 1, 2014

### Policy Statement

Capella University is committed to providing an environment free of alcohol and other drugs, including prescription medication and substances causing impaired performance. The unlawful possession, use, or distribution of drugs or alcohol on property owned, leased, or rented by Capella University, or as part of any of the activities of the university, is strictly prohibited. Use of alcohol at Capella events other than those where alcohol is offered is discouraged. Any impairment caused by drugs or alcohol that prevents the completion of event activities or interferes with the enjoyment of others will result in dismissal from the event. Prohibited conduct is subject to the sanctions and rights contained in this policy and other related policies and procedures.

### Rationale

Capella University is committed to providing all learners, faculty, and staff an environment free of disruptive and dangerous behavior. This policy establishes the prohibited conduct and sanctions associated with alcohol or drug use necessary for maintaining the desired environment.

### Definitions

None

## Procedures

### I. Standards of conduct

- A. The unlawful possession, consumption, manufacture, sale, and/or distribution of drugs or alcohol by learners, faculty, or staff are prohibited by Capella University whether on Capella University property or at a university activity.
- B. In addition to Capella University sanctions, learners, faculty, and staff who violate this policy may be subject to criminal prosecution under local, state, and federal law. Criminal penalties may include but are not limited to:
  - A federal fine of \$1,000 and one-year imprisonment for simple possession to a \$2,000,000 fine and life imprisonment for continuing criminal enterprise, forfeiture of real and personal property, denial of federal benefits, and denial of federally provided or supported professional and commercial licensure, as described in the Federal Controlled Substances Act, 21 U.S.C 801, and the DEA Federal Trafficking Penalties charts.
  - Controlled substance and misuse of alcohol laws vary by state and will apply based on where the violation occurs.

### II. Reporting a violation

To report a violation, contact a university administrator or events staff member.

### III. Sanctions

#### A. Staff and faculty

- Prohibited conduct by Capella University staff and faculty members may result in disciplinary action up to and including immediate termination of employment as described in the Capella University Employee Handbook. Such violations may also have legal consequences.
- Staff and faculty members may be required to participate in a substance abuse rehabilitation or treatment program.

## B. Learners

- Prohibited conduct by Capella University learners will result in sanctions pursuant to university policy 4.02.02 Learner Code of Conduct, up to and including dismissal from the university. Such violations may also have legal consequences.
- Learners may be required to complete an evaluation as a condition of continued enrollment. The cost of this evaluation, as well as any treatment costs, will be the responsibility of the learner.

## IV. Reporting

Learners who violate the law will be reported to the appropriate law enforcement officials.

## V. Prevention, education, and support resources

### A. Health risks

- The excessive use of alcohol, improper use of controlled substances, and use of illicit drugs pose significant health risks to individuals including addiction, permanent injury, and death. To make informed choices about drug and alcohol use, learners, faculty, and staff should educate themselves about the serious health consequences of the use, misuse, and abuse of alcohol and other drugs.

### B. Resources

- Employee resources: Capella University faculty and staff should consult the Capella University Employee Handbook for Capella's employee drug and alcohol policy and for related resources.

## VI. Learner resources:

- Capella learners may be eligible for LifeWorks. LifeWorks is a program providing free, confidential help and resources for personal and work-related issues including but not limited to addiction and recovery. Learners should contact academic advising for more information.
- There are a variety of community organizations available to help individuals with substance abuse problems. Programs are listed in local telephone directories and on the internet as well as in the resource table in this policy.

## **National resources for drug and alcohol abuse prevention, education, and support**

### *Alcoholics Anonymous*

Support for people who want to achieve sobriety [www.aa.org](http://www.aa.org)

### *Al-Anon Family Group*

Support and help for families and friends of problem drinkers <https://al-anon.org>

### *Narcotics Anonymous*

Support in a recovery environment for people who abuse substances [www.na.org](http://www.na.org)

### *Substance Abuse and Mental Health Services Administration*

U.S. Department of Health and Human Services agency, “that leads public health efforts to advance the behavioral health of the nation . . . and whose mission is to reduce the impact of substance abuse and mental illness on America’s communities.”

[www.samhsa.gov/](http://www.samhsa.gov/)

### *LifeWorks*

Free and confidential support service for Capella learners [www.lifeworks.com](http://www.lifeworks.com)

## **POLICY OWNERS**

Academic owner:

President Operations owner: Learner appeals and resolutions

## **RELATED DOCUMENTS**

University policy 4.02.02 Learner Code of Conduct Employee Handbook

## **REVISION HISTORY**

Original policy approval date: July 27, 2002 Revision dates: 3-13-07

Administrative edits as result of ongoing review: 12-20-07; 12-8-09; 2-22-10; 4-17-

12; 10-23-13; 8-11-16; 11-1-16

## **DISCRIMINATION, HARASSMENT, AND ASSAULT POLICY**

University Policy 4.02.04

Discrimination, Harassment, and Assault Policy Revision Approval Date: August 13, 2020

Policy Revision Effective Date: August 14, 2020

Procedure Approval Date: August 13, 2020

Procedure Effective Date: August 14, 2020

### **Policy Statement**

Capella University does not discriminate on the basis of race, creed, national origin, religion, age, gender, gender identity or expression, disability, sexual orientation, marital status, veteran status, status with regard to public assistance; or in its admission, enrollment, or employment policies or practices. Capella University prohibits the discrimination, harassment, or assault of any members of the university community and any retaliatory behavior related to reports of such conduct. This policy applies to alleged discrimination, harassment, consensual relationships, assault, or related retaliation against learners. This policy does not apply to allegations of sexual harassment or any retaliatory behavior related to reports of such conduct; such allegations are subject to Capella University Policy 4.02.09

### **Rationale**

Capella University is committed to providing an environment free of discrimination, harassment, and assault. This policy establishes the definitions, procedures, prohibited conduct, and sanctions necessary for maintaining the desired environment.

## **DEFINITIONS**

### **Assault**

Assault is the commission of an act with the intent to cause fear in another of immediate bodily harm or death, or the intentional infliction or attempt to inflict bodily harm upon another.

### **Community**

Community includes all Capella learners, faculty, administrators, staff, contracted workers, and others who participate in any Capella-related activities, including but not limited to fieldwork, practicum, and internship.

### **Consensual relationship**

A consensual relationship is a voluntary romantic or sexual relationship between a learner and a Capella employee or agent who is in a position of authority with respect to the learner.

**Discrimination**

Discrimination is the segregation, separation, or disparate treatment of individuals based on race, creed, national origin, age, gender, gender identity or expression, religion, disability, sexual orientation, marital status, veteran status, or status with regard to public assistance. Discriminatory practices include any instances of treatment or behavior that interfere with an individual's full participation in the university community, such as discouraging course participation or other activities designed to inhibit progress in a program of study.

**Harassment**

Harassment encompasses any unwanted behavior that results in a hostile environment.

**Hostile environment**

A hostile environment is an objectively hostile or abusive university setting caused by severe and pervasive harassment.

**Prohibited conduct**

Prohibited conduct includes consensual relationships, discrimination, harassment, and retaliation, as defined in this policy, provided that conduct either a) occurs at a Capella University facility, office, internet courseroom, or vehicle; b) occurs at or in connection with a course or other university-sponsored event; or c) is alleged to have created a hostile environment in a courseroom or other university-sponsored event. Prohibited conduct does not include sexual harassment, which is covered by separate university policy.

**Respondent**

The respondent is the person alleged to have engaged in prohibited conduct.

**Retaliation**

Retaliation is an adverse action taken in retribution for one's reporting, supporting, or participating in an investigation related to an allegation of prohibited conduct, where the allegation is made in good faith.

**Sanction**

A sanction is a disciplinary action that may result from prohibited conduct. Disciplinary action against learners may include one or more of the following: a) formal written warning; b) mandated remedial activity; c) suspension from the university; d) dismissal from a program; e) dismissal from the university; f) cancellation of a previously awarded academic credit or degree; or g) in cases where the prohibited conduct relates to the offending learner's academic submission: i) nonacceptance of work submitted; ii) failing an assignment; iii) lowering a grade for a course; or iv) failing a course. This list of possible sanctions is neither progressive nor exhaustive, and Capella University reserves the right to assess sanctions on a case-by-case basis. Disciplinary action against Capella employees related to alleged prohibited conduct committed against learners will be determined according to Capella's human resources policies, located on Stella and in the Employee Handbook.

**Summary suspension**

Summary suspension is the immediate suspension of a learner. Summary suspension is a temporary status during which a learner is prohibited from engaging in identified university activities while an evaluation of the prohibited conduct is being completed.

**Suspension**

Suspension is a university-initiated temporary status during which a learner is denied access to the courseroom and prohibited from engaging in university activities until stated conditions have been met.

**University administrator**

A university administrator is a university employee who holds a position of responsibility at a supervisory or managerial level or higher. For purposes of faculty, university administrator refers to a faculty member holding the position of faculty chair or higher.

**University statutory designee**

The university statutory designee is the person or persons designated under Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act, and the Age Discrimination Act as the employee(s) primarily responsible for coordinating Capella University's efforts to comply with said statutes. Unless otherwise indicated by Capella University, the university statutory designee will be the university's compliance analyst.

**PROCEDURES**

- I. Reporting suspected prohibited conduct
  - A. Anyone may report an instance of alleged prohibited conduct to:
    - The faculty member or official directly associated with the activity or event;
    - A university administrator;
    - The university statutory designee; or
    - Learner appeals and resolutions.
  - B. Upon receipt of an allegation, a faculty member, official, administrator, or statutory designee will notify learner appeals and resolutions.
  - C. Learner affairs may be contacted at:
    - Email: [LearnerAffairs@Capella.edu](mailto:LearnerAffairs@Capella.edu);
    - U.S. Postal Service: 225 S. 6th Street, Minneapolis, MN 55402; or
    - Phone: 1.888.CAPELLA (227.3552), request that an advisor connect the call to learner affairs.

- D. Upon receipt of an allegation, learner appeals and resolutions will document reports of prohibited conduct under this policy and will maintain such documentation as dictated by the applicable document retention policy.
  - E. An allegation of prohibited conduct under this policy must include:
    - 1. The individual(s) against whom the alleged prohibited conduct is directed.
    - 2. A brief description of the alleged prohibited conduct, including the date(s), time(s), and place(s).
    - 3. The corrective action the learner is seeking.
  - F. In the event of a factual dispute at any stage of these procedures, and which follows the report of alleged prohibited conduct, the burden is on the alleged victim to establish that their version of the events in question is more likely true than not true.
  - G. If at any stage of these procedures the alleged victim requests that the complaint not be pursued, that request will be honored.
  - H. If at any stage of these procedures the alleged victim requests anonymity, good faith efforts will be undertaken to act consistently with that request. However, the learner is advised that the ability to maintain anonymity while pursuing a claim under this policy is limited.
  - I. The alleged victim maintains the right to notify law enforcement, including local police, at any time or to refrain from contacting such authorities. The alleged victim also maintains the right to seek an order of protection, no-contact order, restraining order, or similar lawful order from any court with jurisdiction. Upon the alleged victim's request, Capella will assist the alleged victim(s) in notifying law enforcement authorities. Capella at all times retains the right to notify law enforcement, at its discretion, to protect its learners and/or employees.
- II. Initial resolution process
- A. The initial resolution process will be administered by learner appeals and resolutions. Learner affairs will consult with human resources when a faculty member or employee is involved.
  - B. Upon receipt of an allegation, learner appeals and resolutions will determine whether the allegation as stated constitutes an allegation of prohibited conduct under this policy. In the event learner appeals and resolutions determines that the allegation does not contain alleged prohibited conduct under this policy, there will be no further proceedings under this policy.

- C. Learner appeals and resolutions may attempt to informally bring the matter to resolution. However, the alleged victim at all times retains the right to refuse informal resolution.
- D. If an informal resolution is not reached, the allegation will be sent to an independent review panel or human resources for investigation and review.

### III. Investigation and review

- A. Allegations of prohibited conduct under this policy will be investigated by an independent review panel if the respondent is a learner. Allegations will receive a prompt, fair, and impartial investigation and resolution. This process will be conducted by school officials who receive annual training under this policy.
- B. Allegations of prohibited conduct under this policy will be investigated by Capella University's human resources department if the respondent is a Capella University employee or contractor. Allegations will receive a prompt, fair, and impartial investigation and resolution.
- C. Investigations of alleged prohibited conduct will include:
  - 1. Notification to the respondent of the allegation of prohibited conduct.
  - 2. An opportunity for both the alleged victim and the respondent to submit any writing, information, evidence, and/or witnesses supporting or refuting the allegation.
  - 3. An opportunity for both the alleged victim and the respondent to be heard by teleconference.
- D. Both the alleged victim and the respondent will be entitled to have the same opportunities to have others present on the teleconference, including the opportunity to be accompanied on the call by an advisor of their choice.
- E. Following the investigation, the independent review panel and/or human resources will consider the alleged victim's and respondent's submissions, any teleconference statements, and any other evidence found during the course of the investigation.
- F. The independent review panel and/or human resources will determine whether prohibited conduct has occurred and will issue a decision, including sanctions, if any, no later than 60 days after receipt of the matter from learner appeals and resolutions, unless the alleged victim requests extension, or circumstances beyond Capella University's control require extension.

- G. In the event prohibited conduct is found, the independent review panel and/or human resources will determine steps to take to remedy the effects of any harassment, discrimination, assault, or retaliation and to prevent recurrence.
- H. Such remedy may include, at the sole discretion of the independent review panel and/or human resources, an offer of counseling or other appropriate services to any person found to have been subjected to harassment, discrimination, assault, or retaliation.
- I. Learner appeals and resolutions facilitates communication between the independent review panel and/or human resources and the parties. Once a determination is reached, learner appeals and resolutions will report the decision and any appeal opportunities to the alleged victim and the respondent in writing, simultaneously.
- J. The alleged victim and the respondent have the right to appeal the decision as described in section V.

#### IV. Summary suspension

- A. Where the respondent is a learner and the alleged prohibited conduct is deemed to be egregious or to give rise to a perceived threat of danger or hostile environment for any Capella faculty, staff, employee, contractor, or learner, a respondent may be immediately suspended by use of this summary suspension process if it initially appears that the allegation of prohibited conduct is substantiated. The university administrator directly associated with the course, activity, or event in which the prohibited conduct occurs will have the discretion to determine, consistent with this section, when summary suspension is appropriate.
- B. If summary suspension is issued, the university administrator directly associated with the activity or event during which the alleged prohibited conduct occurred will promptly notify the respondent of their summary suspension and the right and opportunity to be heard by submitting a written response and/or appearing by telephone within seven calendar days from the date said notification is issued.
- C. The university administrator directly associated with the activity or event during which the prohibited conduct occurred will complete the procedures set forth in section III within 10 calendar days of the date of issuance of the notification of summary suspension.

D. The respondent may submit a written request for extension of time for their written response or appearance by telephone beyond the seven-calendar-day deadline set forth in section IV.B. Such extensions will be automatically granted up to a maximum of 30 calendar days. However, in the event the respondent should exercise this right to an extension, the deadline for the university official's decision under section III will be extended by the length of the learner's extension, with the summary suspension remaining in effect the entire time.

E. Outcome

1. 1. In the event that the university administrator finds that the summary suspension was justified, the process continues as described in section III, with the suspension remaining in place unless and until reversed on appeal.
2. In the event that the university administrator finds that the evidence reviewed does not justify the summary suspension, or in the event that no decision is issued by the university administrator within the time constraints described in sections IV.C and IV.D, the summary suspension will expire. The process will continue as described in section III, but the respondent will return to the status previous to the summary suspension:
  - a. In this instance, the respondent will have an opportunity to complete the missed coursework within 10 calendar days of returning to the classroom without penalty.
  - b. If the respondent was in the last two weeks of the course, they have the option of receiving an incomplete (I) grade; in that case, the coursework must be completed and submitted no later than two weeks after the course ends; or
  - c. The respondent may choose to withdraw from the course and retake the course without financial penalty or any penalty for reusing work previously submitted to fulfill assignments for that specific course.

V. Appeal process

If either party chooses to appeal the initial decision, they must submit a formal, written appeal request to learner appeals and resolutions. The appeal request must be submitted by mail or email and within 10 calendar days of being sent notification of the panel's decision.

- A. The president or president's designee will receive and review the record developed at the investigation and review stage. In addition, at their sole discretion, the president or president's designee may accept or reject any evidence not presented at the investigation and review stage of the appeal process.
  - B. Following the review, the president or president's designee will issue a decision and report it to the alleged victim and the respondent as soon as practicable. Decisions will be issued no later than 60 calendar days after receipt of appeal, unless the alleged victim requests an extension or circumstances beyond the university's control require extension. The president or president's designee may affirm or reverse the panel's decision, in whole or in part, or may issue a new decision.
  - C. The decision of the president or president's designee is final and will be communicated in writing to the alleged victim and respondent simultaneously.
  - D. A record of the final decision and all related materials will become part of the respondent's official academic record and, upon request, will be made available to all Capella University boards and any appropriate regulatory bodies.
  - E. Capella University employees and contractors are ineligible to appeal final decisions rendered by the university human resources staff pursuant to this policy.
- VI. Additional procedures for reporting a consensual relationship
- A. Any reported cases of a consensual relationship involving an employee will be reported to human resources.
  - B. If Capella determines a prohibited consensual relationship exists, the university employee's position of authority with respect to the specific learner at issue will be adjusted to eliminate the existence of the prohibited consensual relationship. Resolution of any discrimination, harassment, or assault resulting from the consensual relationship will be handled according to University Policy 4.02.09.
- VII. All procedures in this policy apply to learners in GuidedPath and FlexPath programs.

**POLICY OWNERS**

Academic owner: President

Operations owner: Learner appeals and resolutions

**RELATED DOCUMENTS**

University policy 4.02.02 Learner Code of Conduct

University policy 4.02.03 Learner Grievance

University policy 4.02.09 Sexual Harassment

## REVISION HISTORY

Original policy approval date: July 27, 2002

Revision dates: 7-1-05; 9-1-07; 2-3-12; 3-23-12 7-28-14; 11-7-14; 3-18-15; 12-11-15; 8-11-16; 6-30-17, 8-13-20

Administrative edits as result of ongoing review: 12-8-09; 2-22-10; 4-24-13; 10-23-13; 11-1-16; 12-14-16; 1-10-18; 4-1-18; 4-1-20

For additional information pertaining to employees regarding this topic, please refer to the harassment policy located in the Capella University Employee Handbook and/or contact [humanresources@strategiced.com](mailto:humanresources@strategiced.com).

## SEXUAL HARASSMENT

University Policy 4.02.09 Sexual Harassment

Policy Revision Approval Date: August 13, 2020

Policy Revision Effective Date: August 14, 2020

Procedure Approval Date: August 13, 2020

Procedure Effective Date: August 14, 2020

### Policy statement

Capella University is committed to maintaining education programs and activities that are free of sex-based discrimination, as defined in Title IX of the Education Amendments of 1972 (Title IX). Capella University prohibits sexual harassment of any members of the university community and any retaliatory behavior related to reports of such conduct. To ensure the safety of students and personnel, a healthy and thriving workplace and learning environment, and compliance with Title IX in Capella University education programs and activities, Capella University has adopted this policy.

### Rationale

Capella University is committed to providing an environment free of sexual harassment. This policy establishes the definitions, procedures, prohibited conduct, and sanctions necessary for maintaining the desired environment.

## DEFINITIONS

### Community

Community includes all Capella learners, faculty, administrators, staff, contracted workers, and others who participate in any Capella-related activities, including but not limited to fieldwork, practicum, and internship.

**Complainant**

A complainant is an individual who is participating in or attempting to participate in a Capella University education program or activity and is alleged to be the victim of conduct that could constitute a violation of this policy if proved.

**Consensual relationship**

A consensual relationship is a voluntary romantic or sexual relationship between a learner and a Capella employee or agent who is in a position of authority with respect to the learner.

**Education program or activity**

Education program or activity includes locations, events, or circumstances over which Capella exercises substantial control over both the respondent and the context in which the sexual harassment occurs.

**Formal complaint**

A formal complaint is a document filed by a complainant or signed by the Title IX coordinator alleging sexual harassment against a respondent and requesting that the institution investigate the allegation.

**Hostile environment**

A hostile environment is an objectively hostile or abusive Capella University setting caused by sexual harassment that is so severe, persistent, and pervasive that it effectively denies a person equal access to an education program or activity.

**Prohibited conduct**

Prohibited conduct includes sexual harassment and retaliation, as defined in this policy, provided that the conduct either a) occurs in the context of a Capella University education program or activity; or b) creates a hostile environment in a Capella University education program or activity.

**Respondent**

The respondent is the person alleged to have engaged in prohibited conduct.

**Retaliation**

Retaliation is an adverse action taken in retribution for one's reporting, supporting, or participating in an investigation related to an allegation of prohibited conduct.

**Sanction**

A sanction is a disciplinary action that may result from prohibited conduct. Disciplinary action may include one or more of the following: a) formal written warning, b) mandated remedial activity, c) suspension from Capella University, d) dismissal from a program, e) dismissal from Capella University, or f) cancellation of a previously awarded academic credit or degree. This list of possible sanctions is neither progressive nor exhaustive, and Capella University reserves the right to assess sanctions on a case-by-case basis.

### **Sexual harassment**

Sexual harassment is conduct that occurs within an education program or activity, on the basis of sex, and satisfies one or more of the following:

1. A Capella University employee, or contracted worker, conditioning the provision of a Capella University aid, benefit, or service on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct that results in what a reasonable person would deem to be a hostile environment; or
3. Sexual assault as defined in the Clery Act at 20 U.S.C. 1092(f)(6)(A)(v); and dating violence as defined in 34 U.S.C. 12291(a)(10), domestic violence as defined in 34 U.S.C. 12291(a)(8), or stalking as defined in 34 U.S.C. 12291(a)(30). (34 C.F.R. 106.30(a) (2020); commonly known as the Violence Against Women Act or VAWA).

### **Summary suspension**

Summary suspension is the immediate suspension of a learner. Summary suspension is a temporary status during which a learner is prohibited from engaging in identified Capella University activities while an evaluation of alleged prohibited conduct is being completed.

### **Supportive measures**

Supportive measures are nondisciplinary, nonpunitive individualized services offered as appropriate and reasonably available, without fee or charge. Supportive measures may include counseling, extensions of deadlines, course-related adjustments, modifications of class schedules, restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas, and other similar measures. Capella University will maintain as confidential any supportive measures provided to a complainant or respondent, to the extent that maintaining such confidentiality does not impair the ability of Capella University to provide the supportive measures.

### **Suspension**

Suspension is a Capella University-initiated temporary status during which a learner is denied access to the courseroom and prohibited from engaging in Capella University activities until stated conditions have been met.

**University administrator**

A university administrator is a Capella University employee who holds a position of responsibility at a supervisory or managerial level, or higher. For purposes of faculty, university administrator refers to a faculty member holding the position of faculty chair or higher.

**PROCEDURES**

- I. Reporting Suspected Prohibited Conduct
  - A. Capella University strongly encourages the prompt reporting of sexual misconduct to allow the university to respond promptly and effectively. If the reported respondent is not a member of the Capella community or is no longer associated with the university at the time of the report or at the time a resolution process is initiated, Capella may be unable to conduct an investigation or take disciplinary action.
  - B. Anyone may report an instance of alleged prohibited conduct to:
    1. The faculty member or official directly associated with the activity or event;
    2. A university administrator;
    3. The Title IX coordinator; or
    4. Learner appeals and resolutions.
  - C. Upon receipt of an allegation, a faculty member, official, or administrator will notify the Title IX coordinator and/or learner appeals and resolutions.
  - D. Learner appeals and resolutions may be contacted at:
    1. Email: [LearnerAffairs@Capella.edu](mailto:LearnerAffairs@Capella.edu);
    2. U.S. Postal Service: 225 S. 6th Street, Minneapolis, MN 55402;
    3. Phone: 1.888.CAPELLA (.227.3552), request that an advisor connect the call to learner appeals and resolutions; or
    4. Submit a report (including anonymous reports) through [capella.edu](https://capella.edu).
  - E. Upon receipt of an allegation, learner appeals and resolutions will document reports of prohibited conduct under this policy and will maintain such documentation as dictated by the applicable document retention policy.
  - F. Upon receipt of an allegation, learner appeals and resolutions will promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain the Title IX complaint resolution process, including which members of the university may have access to, and for what purpose, information obtained during this process.

- G. An allegation of prohibited conduct under this policy must include:
1. The individual(s) against whom the alleged prohibited conduct is directed.
  2. A brief description of the alleged prohibited conduct, including the date(s), time(s), and place(s) if known.
  3. The corrective action the learner or member of the Capella community is seeking.
- H. In the event of a factual dispute at any stage of these procedures, and which follows the report of alleged prohibited conduct, the burden is on the alleged victim to establish that their version of the events in question is more likely true than not true.
- I. If at any state of these procedures the complainant requests in writing (may be written or electronic writing) that the complaint not be pursued, that request will be honored unless the Title IX coordinator determines that signing a formal complaint to initiate an investigation over the wishes of the complainant is not clearly unreasonable in light of the known circumstances.
- J. If at any stage of these procedures the complainant requests anonymity, good faith efforts will be undertaken to act consistently with that request. However, the learner is advised that the ability to maintain anonymity while pursuing a claim under this policy may be limited by law or regulation in certain circumstances.
- K. The complainant maintains the right to notify law enforcement at any time or to refrain from contacting such authorities. The complainant also maintains the right to seek an order of protection, no-contact order, restraining order, or similar lawful order from any court with jurisdiction. Upon the complainant's request, Capella will assist the alleged victim(s) in notifying law enforcement. Capella at all times retains the right to notify law enforcement, at its discretion, to protect its learners and/or employees or when required by law or regulation.
- L. In the event an allegation of sexual harassment arises out of a consensual relationship as defined by University Policy 4.02.04, then the additional procedures for reporting a consensual relationship set forth at University Policy 4.02.04 (IV) shall also be applied.

## II. Initial resolution process

- A. The initial resolution process will be administered by learner appeals and resolutions. Learner appeals and resolutions will consult with human resources when a faculty member or employee is involved.
- B. Upon receipt of an allegation, learner affairs will determine whether the allegation as stated constitutes an allegation of prohibited conduct under this policy. A complaint will be dismissed in the event that, at any time during the investigation or hearing any of the following occur: a) the alleged conduct does not meet the definition of sexual harassment under this policy even if proved, b) the conduct did not occur in an educational program or activity, or c) specific circumstances prevent the institution from gathering evidence sufficient to reach a determination.
- C. Only after a formal complaint has been filed, learner appeals and resolutions may offer both parties the opportunity to attempt an informal resolution of the matter. In order for any kind of informal resolution process to occur that forecloses the procedures contained in this policy, the following must occur:
  - 1. Both parties must give voluntary, informed, written consent to attempt informal resolution.
  - 2. Both parties must be informed of any consequences of participating in an informal resolution process.
  - 3. Parties must be notified that they can withdraw from any informal resolution process at any time and resume the formal grievance process.
  - 4. Informal resolution is not available where allegations involve employee sexual harassment of a learner.
  - 5. If informal resolution is not reached, the allegation will be sent back to the formal grievance process as defined in this policy (or to human resources as appropriate) for investigation and review.
- D. At any time during any portion of the procedures contained in this policy, either party may request a temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action.

Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. Capella University reserves the right, in its sole discretion, to deny such requests if they are made merely to delay or impede the prompt resolution of such matters.

### III. Investigation and review

- A. Allegations of prohibited conduct under this policy will be investigated by an independent review panel if the respondent is a learner. Allegations will receive a prompt, fair, and impartial investigation and resolution. The process will be conducted by school officials who receive annual training under this policy, which includes but is not limited to training on issues related to domestic violence, dating violence, sexual harassment, and stalking, and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.
- B. Allegations of prohibited conduct under this policy will be investigated by Capella University human resources department if the respondent is a Capella University employee or contractor. Allegations will receive a prompt, fair, and impartial investigation and resolution.
- C. Throughout the investigation and review process, there will be a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
- D. Investigations of alleged prohibited conduct will include:
  - 1. Notification to the respondent of the allegation of prohibited conduct, that respondent is presumed not responsible, and that a determination regarding responsibility will be made at the conclusion of the process.
  - 2. An opportunity for both parties to submit any writing, information, evidence, and/or witnesses supporting or refuting the allegation. As a part of this opportunity, both parties have the ability to review any such information provided by another party to any interviews, meetings, or hearings, as long as the information is directly related to the allegations. Note that prior to a live hearing, both parties must have at least 10 calendar days to make corrections, provide context, and prepare responses to such information or evidence.
  - 3. Written notice of all hearings, investigative interviews, or other meeting where participation is invited or expected will include the date, time, location, and participants. This will be provided in sufficient time for the party to prepare to participate.

4. Prior to completion of the investigative report, Capella University will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy. The parties will have at least 10 calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report. The institution will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
  5. Capella University will create an investigative report that fairly summarizes relevant evidence. The investigative report will be sent to each party and the party's advisor, if any, for their review and written response at least 10 calendar days prior to a hearing (if a hearing is required) or other time of determination regarding responsibility.
- E. Capella University will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the institution obtains that party's voluntary, written consent to do so for a grievance process under this section (if a party is not an eligible student, as defined in 34 C.F.R. 99.3, then the institution must obtain the voluntary, written consent of a parent, as defined in 34 C.F.R. 99.3).
- F. Role and appointment of advisors
1. During the course of any grievance proceeding, parties' advisors may be, but are not required to be, attorneys. Capella University will not limit the choice or presence of an advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the institution may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties. During the investigative phase, advisors will only be allowed to interact with Capella University personnel and will not have direct contact with adverse parties or witnesses. During a live hearing, advisors will conduct cross-examination.

2. If a party does not have an advisor present at the live hearing, Capella University will provide, without fee or charge to that party, an advisor of the institution's choice solely for the purpose of conducting cross-examination on behalf of that party. The institutionally provided advisor may be, but is not required to be, an attorney. Only advisors may cross-examine another party or adverse witness. To be clear, under no circumstances will one party be allowed to directly cross-examine another party or an adverse witness.
3. A party must notify Capella University at least seven days prior to any hearing or proceeding at which an advisor may participate with the contact information for that advisor. If a party does not have its own advisor but will need to have one provided by Capella University, that party must also notify Capella University at least seven days prior to any hearing or proceeding at which an advisor may participate so that the university can arrange for an advisor to be present and to have time to prepare for such hearing or proceeding.

G. Live hearings, examination, cross-examination, relevance, sexual history

1. Both parties will have an opportunity to participate in a live hearing. At the University's discretion, the hearing may be conducted virtually with technology enabling participants to simultaneously see and hear each other or with all parties physically present in the same geographic location. The university may also conduct the live hearing with some participants in the same geographic location, and others virtually, so long as both parties are provided the same opportunity (if any) to be present in the same geographic location.
2. During the live hearing, the decision-maker(s) will make an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and ensure that credibility determinations may not be based on a person's status as a complainant, respondent, or witness.
3. The decision-makers will not draw an inference solely based upon a party's or witness's failure or refusal to appear at live hearing or submit to cross-examination.
4. Where a party or a witness does appear at live hearing, the decision-maker will only rely on statements of that party or witness if that party or witness submits to cross-examination.

5. At the live hearing, the decision-maker(s) must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.
6. Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker(s) may issue a determination as to relevance and explain any decision to exclude a question as not relevant.
7. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions or evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.
8. Capella University will create an audio or audiovisual recording or transcript of any live hearing and make it available to the parties for inspection and review, without charge or fee, within a reasonably prompt timeframe.
9. During the course of the hearing, the decision-maker(s) may consult with Capella University legal counsel by telephone or in person.

#### H. Determination of responsibility

1. The decision-maker(s), who will not be the same person(s) as the Title IX coordinator or the investigator(s), will issue a written determination regarding responsibility.
2. The decision-maker(s)' written determination will include:
  - a. The identification of the allegations potentially constituting Title IX sexual harassment as noticed.
  - b. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held.
  - c. Findings of fact supporting the determination.

- d. Conclusions regarding the application of the institution's code of conduct to the facts.
- e. A statement of, and rationale for, the result as to each material allegation, including a determination regarding responsibility, any disciplinary sanctions the institution imposes on the respondent, and whether remedies will be provided by the institution to the complainant.
- f. The institution's procedures and permissible bases for the complainant and respondent to appeal the determination of responsibility.
- g. The institution will provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the institution provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely. This constitutes the conclusion of the Title IX complaint resolution process.

#### IV. Appeal process

- A. Both parties will have the opportunity to appeal by written request to learner appeals and resolutions within 10 calendar days of being sent notice of the outcome, on the following basis:
  1. Procedural irregularity that affected the outcome of the matter.
  2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter.
  3. The Title IX coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.
- B. If either party chooses to appeal the initial decision on any other basis, they must submit a formal, written appeal request to learner appeals and resolutions. The appeal request must be submitted by mail or email within 10 calendar days of being sent notification of the panel's decision.
  1. The president or president's designee will receive and review the record developed at the investigation and review stage.

2. Following the review, the president or president's designee will issue a decision and report. The president or president's designee may affirm or reverse the decision, in whole or in part, or may issue a new decision.
3. The decision of the president or president's designee is final and will be communicated in writing to the alleged victim and respondent simultaneously.
4. A record of the final decision and all related materials will become part of the respondent's official academic record and, upon request, will be made available to all Capella University boards and any appropriate regulatory bodies.
5. Capella University employees and contractors are ineligible to appeal final decisions rendered by the university's human resources staff pursuant to this policy, except to the extent their appeal is made in their capacity as a Capella University learner.

#### V. Summary suspension procedures

- A. Where the respondent is a learner and the alleged prohibited conduct is deemed to be egregious or to give rise to a perceived threat of danger or hostile environment for any Capella faculty, staff, employee, contractor, or learner, a respondent may be immediately suspended by use of this summary suspension process if it initially appears that the allegation of prohibited conduct is substantiated. The university administrator directly associated with the course, activity, or event in which the prohibited conduct occurs will have the discretion to determine, consistent with this section, when summary suspension is appropriate.
- B. If summary suspension is issued, the university administrator directly associated with the activity or event during which the alleged prohibited conduct occurred will promptly notify the respondent of their summary suspension and the right and opportunity to be heard by submitting a written response and/or appearing by telephone within seven calendar days from the date said notification is issued.
- C. The university administrator directly associated with the activity or event during which the prohibited conduct occurred will complete the procedures set forth in section III within 10 calendar days of the date of issuance of the notification of summary suspension.
- D. The respondent may submit a written request for extension of time for their written response or appearance by telephone beyond the seven-calendar-day deadline set forth in section IV.B. Such extensions will be automatically granted up to a maximum of 30 calendar days. However, in the event the respondent should exercise this right to an extension, the deadline for the university official's decision under section III will be extended by the length of the learner's extension, with the summary suspension remaining in effect the entire time.

#### E. Outcome

1. In the event that the university administrator finds that the summary suspension was justified, the process continues as described in section III, with the suspension remaining in place unless and until reversed on appeal.
2. In the event that the university administrator finds that the evidence reviewed does not justify the summary suspension, or in the event that no decision is issued by the university administrator within the time constraints described in sections IV.C and IV.D, the summary suspension will expire. The process will continue as described in section III, but the respondent will return to the status previous to the summary suspension:
  - a. In this instance, the respondent will have an opportunity to complete the missed coursework within 10 calendar days of returning to the classroom without penalty.
  - b. If the respondent was in the last two weeks of the course, they have the option of receiving an incomplete (I) grade. In that case, the coursework must be completed and submitted no later than two weeks after the course ends; or
  - c. The respondent may choose to withdraw from the course and retake the course without financial penalty or any penalty for reusing work previously submitted to fulfill assignments for that specific course.

#### VI. Alcohol and drug use amnesty

The health and safety of every learner at Capella is of utmost importance. Capella recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time sexual misconduct occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Capella strongly encourages students to report incidents of sexual misconduct. A witness to or individual who experiences sexual misconduct, acting in good faith, who discloses any incident of sexual misconduct to university officials or law enforcement will not be sanctioned under Capella's code of conduct for violations of alcohol and/or drug use policies occurring at or near the time of the incident(s) of sexual harassment or sexual violence. Capella may request that the individual attend an approved alcohol or drug education program, without assessing any charges for such program. This amnesty provision also applies to student groups making a report of sexual misconduct. Amnesty does not preclude or prevent action by police or other legal authorities pursuant to relevant state or federal criminal statutes.

VII. Summary suspension procedures

Additional procedures for reporting a consensual relationship

In the event an allegation of sexual harassment arises out of a consensual relationship as defined by University Policy 4.02.04, then the additional procedures for reporting a consensual relationship set forth at University Policy 4.02.04 (IV) shall also be applied.

VIII. All procedures in this policy apply to learners in GuidedPath and FlexPath programs.

**POLICY OWNERS**

Academic owner: President

Operations owner: learner appeals and resolutions

**RELATED DOCUMENTS**

University policy 4.02.02 Learner Code of Conduct

University policy 4.02.03 Learner Grievance

University policy 4.02.04 Discrimination, Harassment and Assault

**REVISION HISTORY**

Original Policy Approval Date: 8-13-20

## **SEXUAL ASSAULT PREVENTION AND AWARENESS**

Sexual assault and violence are serious issues facing our society. Colleges and universities across the country are developing programs and materials to educate students and staff on sexual assault prevention and awareness efforts. Capella University is committed to educating learners, faculty, and staff on these issues. Although Capella University is an online institution without a physical campus, all of us at Capella realize the seriousness of these issues.

### **Awareness and prevention**

Rape and sexual assault are never the victim's fault, no matter where or how they happen. Information on these offenses and steps to minimize the potential for rape and sexual assault are provided in this section.

Capella University expressly prohibits the offenses of domestic violence, dating violence, sexual assault, and stalking as defined below:

- Domestic violence is any felony or misdemeanor crime(s) of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under domestic or family violence laws, or by any other person against an adult or youth victim who is protected from that person's acts under domestic or family violence laws.
- Dating violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship is determined based on the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- Sexual assault is forced sexual activity without the expressed consent of both parties, or against a person incapable of giving consent (which is defined as voluntary, positive agreement between the participants to engage in specific sexual activity). It includes, but is not limited to, threat of sexual assault, sexual battery, forced oral copulation, forced sodomy, rape, acquaintance rape, and rape by a foreign object. Domestic violence, dating violence, and stalking also constitute sexual assault.
- Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.

The following includes tips from the [National Crime Prevention Council](#) on how to try to avoid dangerous situations:

- Stay aware of your surroundings. Be aware of where you are and who is around you. Don't use headphones in both of your ears. Stay focused on those around you and remain alert if someone approaches you.
- Avoid isolated areas. When no one is around you, it's difficult to get help. Stay close to groups of people when you are walking and steer clear of streets that aren't well lighted.
- Walk with confidence. Walk like you know where you are going even if you are lost.
- Trust your instincts. If you feel uncomfortable in your surroundings, leave.
- Lock your doors and your windows. Watch your keys and don't put your name and address on the key ring.
- If you think someone is following you, switch directions or cross the street. If the person continues to follow you, move toward a public area/store. Yell for help if you are afraid.
- If a dating partner has abused you, report it to the police. Do not meet him or her alone. Do not let him or her into your home or car when you are alone.
- If you are a battered spouse/partner, call the police immediately. If you believe that you and/or your children are in danger, call a crisis hotline or a health center (the police can also make a referral), and leave immediately.
- If you are robbed or assaulted, report the crime to the police. Try to describe the attacker accurately. Your actions could help prevent someone else from becoming a victim.

### **Bystander intervention**

Everyone has a responsibility to preserve and maintain a safe learning environment within the Capella community of learners, faculty, and staff.

The term bystander intervention refers to noninvolved parties to an incident becoming involved. Bystander intervention requires a willingness to do what is right and the courage to intervene safely and appropriately.

If you witness a situation that concerns you, assess the situation thoroughly. You may be able to intervene before things escalate further:

- Determine if there is an immediate threat to the safety of yourself or others. If so, call 911 for assistance.
- DO NOT put yourself or others in harm's way.
- If the situation hasn't escalated to the point where law enforcement is required, determine if you can diffuse the situation.
- Subtlety, tact, and humor can be effective tools in diffusing a situation.

### **A hypothetical scenario**

You are among a group of people in a bar after a colloquium session. One member of your group is intoxicated to the point of not being able to make appropriate decisions. Another person appears to take advantage of the situation by suggesting going up to the person's room for a nightcap.

It's obvious to you that the intoxicated person is not able to appropriately consent. What can you do?

### **Possible Intervention Strategies**

- **Be subtle:** "I don't know if that is such a good idea. I think we all have had enough, and we have an early day tomorrow." Often, other bystanders will pick up on the situation, understand your concerns and join in the diffusion.
- **Be direct:** "This person is not in any condition to go anywhere. This person's friends will make sure the person is OK and we are watching out for this person." This approach is a bit confrontational, but it can mitigate a situation quickly. You, however, need to determine if a direct approach will actually make the situation worse.
- **Create a distraction:** "Hey, I need your help down at the end of the bar. I am going to get a round for everyone, and I need your help to carry them. Can you give me hand?"

There are many other ways to intervene in situations. Each situation requires a different strategy. But in every scenario:

- Be Safe
- Be Proactive
- Be Courageous
- Do the Right Thing

To understand the importance of bystander intervention, watch this video: [1 is 2 Many PSA](#) (60 seconds).

**Steps to take if a sexual assault has occurred**

These are important steps to take right away after an assault:

- Get away from the attacker to a safe place as fast as you can. Then call 911 or the police.
- Call a friend or family member you trust. You also can call a crisis center or a hotline to talk with a counselor. One hotline is the National Sexual Assault Hotline at 800.656.HOPE (4673). Feelings of shame, guilt, fear, and shock are normal. It is important to get counseling from a trusted professional.
- Do not wash, comb, or clean any part of your body. Do not change clothes, if possible, so the hospital staff can collect evidence. Do not touch or change anything at the scene of the assault.
- Go to your nearest hospital emergency room as soon as possible. You need to be examined, treated for any injuries, and screened for possible sexually transmitted infections or pregnancy. The doctor will collect evidence using a rape kit for fibers, hairs, saliva, semen, or clothing that the attacker may have left behind.

While at the hospital:

- If you decide you want to file a police report, you or the hospital staff can call the police from the emergency room.
- Ask the hospital staff to connect you with the local rape crisis center. The center staff can help you make choices about reporting the attack and getting help through counseling and support groups.

**Additional resources**

There are many local, regional, and national organizations available to assist those needing additional support or information.

If you are sexually assaulted, it's not your fault. Don't be afraid to ask for help or support. Help is available.

- National Domestic Violence Hotline: 800.799-7233 or 800.787.3224 (TTY)
- National Sexual Assault Hotline: 800.656.HOPE (4673)

There are many organizations and hotlines in every state and territory. These crisis centers and agencies work hard to stop assaults and help victims. Find contact information for these organizations. You also can obtain the numbers of shelters, counseling services, and legal assistance in your phone book or online.

**More information on sexual assault**

For more information about sexual assault, call or click on <https://www.womenshealth.gov> at 800.994.9662 and/or contact the following organizations:

- [Loveisrespect.org](http://Loveisrespect.org)
- Phone: 866.331.9474 (TDD: 866.331.8453)
  
- National Center for Victims of Crime
- Phone: 800.394.2255 or 202.467.8700 (TDD: 800.211.7996)
  
- National Crime Prevention Council Phone: 443.292.4565
  
- National Sexual Violence Resource Center
- Phone: 877.739.3895 or 717.909.0710 (TDD: 717.909.0715)
  
- Office on Violence Against Women, OJP, DOJ Phone: 202.514.2000 (TDD: 800.877.8339)
  
- Rape, Abuse, and Incest National Network Phone: 800.656.HOPE (4673)

**REGISTERED SEX OFFENDER INFORMATION**

The Dru Sjodin National Sex Offender Public Website (NSOPW) is a public safety resource that provides the public access to sex offender data nationwide. NSOPW is a partnership between the U.S. Department of Justice and state, territorial, and tribal governments, working together for the safety of adults and children. To look up sex offender data nationwide on the NSOPW database, visit: <http://www.nsopw.gov/en>.

**FIRE DATA AND ANNUAL FIRE REPORT**

Capella University does not maintain on-campus buildings, campus centers, property, or student housing as defined by the Clery Act, and as such, does not report fires that occur in on-campus housing, generate an annual fire report, or maintain a fire log that is accessible to the public.

## APPENDIX: ANNUAL CRIME REPORT

Capella University periodically leases noncampus property for events, colloquia, residencies, and workshops. Crime statistics for these noncampus properties are reported in this section for the timeframes these properties were leased. Capella University makes good-faith attempts to obtain all relevant crime statistics from local police authorities at all noncampus locations.

Noncampus Property			
	2017	2018	2019
<b>Criminal or Sex Offenses</b>			
Murder/negligent manslaughter	0	0	0
Murder/non-negligent manslaughter	0	0	0
Rape	0	0	0
Fondling	0	0	0
Incest	0	0	0
Statutory rape	0	0	0
Robbery	0	0	0
Aggravated assault	0	0	0
Burglary	0	0	0
Motor vehicle theft	0	0	0
Arson	0	0	0
<b>VAWA Offenses</b>			
Domestic Violence	0	0	0
Dating Violence	0	0	0
Stalking	0	0	0
<b>Arrests</b>			
Weapons: carrying, possessing, etc.	0	0	0
Drug abuse violations	0	0	0
Liquor law violations	0	0	0
<b>Disciplinary actions</b>			
Weapons: carrying, possessing, etc.	0	0	0
Drug abuse violations	0	0	0
Liquor law violations	0	0	0
<b>Unfound crimes</b>	<b>No unfounded crimes for 2017, 2018, 2019</b>		

There were no reported hate crimes for 2017, 2018, or 2019.

**Campus property/student housing facilities**

Capella University maintains campus learning centers in Atlanta, GA., and Orlando, Fla. There were no reportable crimes at these locations for the period represented in this report.

Capella University does not maintain student housing facilities. As such, Clery Act reporting requirements related to those areas are not applicable.