

Preventing Sexual Misconduct Policy (100.31)

Date Adopted: July 19, 2016

Revised: October 18, 2016

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Revised: December 12, 2017

Revised: August 18, 2020

Revised: February 16, 2021

I. Policy Statement

Illinois Eastern Community Colleges District #529 is committed to maintaining a safe and healthy educational and employment environment that is free from discrimination, harassment, and other misconduct on the basis of sex, which includes sexual orientation and gender-related identity. The College prohibits all forms of sex-based misconduct, including but not limited to sex discrimination, sexual harassment, sexual violence, domestic violence, dating violence, and stalking. The College also prohibits discrimination and harassment on the basis of sex, sexual orientation, gender-related identity and expression, pregnancy, and parental status under its Nondiscrimination Policy (100.8).

It is the policy of Illinois Eastern Community Colleges to comply with Title IX of the *Education Amendments of 1972* ("Title IX"), the *Violence Against Women Reauthorization Act* ("VAWA"), Title VII of the *Civil Rights Act of 1964* ("Title VII"), the *Illinois Human Rights Act*, the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act* ("Clery Act"), the *Preventing Sexual Violence in Higher Education Act*, and all other applicable laws and local ordinances regarding unlawful sex-based discrimination, harassment or other misconduct.

Individuals found to have engaged in prohibited sex-based misconduct will be subject to disciplinary action, up to and including termination and/or expulsion from the College.

II. Title IX Compliance

As required under Title IX, the College does not discriminate on the basis of sex in the education program or activity that it operates. This requirement not to discriminate extends to admission and employment.

The College has designated the Program Director of Grants and Compliance as the Title IX Coordinator, who is responsible for coordinating the College's efforts to comply with its responsibilities under Title IX. Inquiries about the application of Title IX and 34 C.F.R. Part 106 may be directed to the College's Title IX Coordinator, the Assistant Secretary for Civil Rights at the United States Department of Education, or both.

III. Retaliation Prohibited

Any form of retaliation, including intimidation, threats, harassment, and other adverse action taken or threatened against any complainant or person reporting sex discrimination, sexual harassment or other sex-based misconduct, or against any person cooperating in the investigation of allegations of sex-based misconduct (including testifying, assisting, or participating in any manner in an investigation), is strictly prohibited.

IV. Implementing Procedures

The College will establish, maintain, and publish procedures implementing this Policy, which set forth:

- The scope and jurisdiction of the College's prohibition on sex-based misconduct;
- Definitions of prohibited conduct;
- Responsibilities of and contact information for the College's Title IX Coordinator(s) and the Department of Human Resources;

- Options for assistance following an incident of sex-based discrimination, harassment or other misconduct;
- Procedures for reporting and confidentially disclosing alleged sex-based misconduct, including a mechanism for reporting and independent review of allegations against one elected official by another elected official;
- The College's response to reports of alleged sex-based misconduct;
- The College's grievance process for complaints alleging Title IX sexual harassment and/or alleging sexual violence, domestic violence, dating violence, or stalking;
- Prevention and education programming provided to College students; and
- Training and education provided to the Title IX Coordinator, Title IX investigators, and anyone else involved in the receipt of reports of, responding to, investigating, or adjudicating alleged incidents of sexual discrimination, harassment or other misconduct, or involved in the referral or provision of services to survivors.

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Revised Date: 09-15-20

Revised Date: 2-16-2021

IECC PREVENTING SEXUAL MISCONDUCT PROCEDURE**I. Purpose**

Illinois Eastern Community Colleges District #529 is committed to maintaining a safe and healthy educational and employment environment that is free from discrimination, harassment, and misconduct on the basis of sex, which includes sexual orientation or gender-related identity. The purpose of this procedure is to implement IECC's Preventing Sexual Misconduct Policy 100.31 and Nondiscrimination Policy 100.8, ensure a safe and healthy educational and employment environment, and meet legal requirements in accordance with: Title IX of the *Education Amendments of 1972* ("Title IX"), which prohibits discrimination on the basis of sex in IECC's education programs or activities; relevant sections of the *Violence Against Women Reauthorization Act* ("VAWA"); Title VII of the *Civil Rights Act of 1964* ("Title VII"), which prohibits discrimination on the basis of sex in employment; relevant sections of the *Illinois Human Rights Act*, which prohibits discrimination on the basis of sex or sexual orientation, including gender-related identity; the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act* ("Clery Act"), which requires timely warning to the community of certain immediate threats; the *Preventing Sexual Violence in Higher Education Act*; and other applicable law and local ordinances.

IECC has an affirmative duty to take immediate and appropriate action once it knows or its administration should know of an act of sex-based discrimination, sexual harassment or other sex-based misconduct in any of its educational or employment programs or activities. IECC will promptly and thoroughly investigate any complaints of sexual discrimination, harassment and/or misconduct as set forth below.

II. Jurisdiction

IECC's Preventing Sexual Misconduct Policy and this procedure applies to students, faculty, staff, appointees, or third parties, regardless of sexual orientation or gender-identity, whenever the misconduct occurs:

- A. On IECC property; or
- B. Off IECC property if:
 1. The conduct was in connection with an IECC College or an IECC College-recognized program or activity; or
 2. The conduct may have the effect of creating a hostile environment for a member of an IECC College community.

III. Scope

This Procedure governs sex-based misconduct in various forms, many of which may trigger legal obligations under one or more state and federal laws. In no case does the inapplicability of a particular legal framework require IECC not to address an act of misconduct falling within the scope of this procedure.

Sections I-VII and IX-X include provisions relevant to sex-based misconduct in all its forms.

Sections VI.A and VI.B address reporting for students and employees, respectively. Section VIII, which describes a grievance process with a required live hearing, applies only to formal Title IX complaints and complaints alleging sexual violence, domestic violence, dating violence or stalking.

IV. Administration**A. Title IX Coordinator**

Illinois Eastern Community Colleges has designated the Program Director of Grants and Compliance as the Title IX Coordinator. Contact information for the Title IX Coordinator is as follows:

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Libby McVicker
 Illinois Eastern Community Colleges
 320 East North Avenue
 Noble, IL 62868
 Telephone: (618) 393-3491
 Email: mcvickero@iecc.edu

Responsibilities of the Title IX Coordinator(s) include, but are not limited to:

- Overseeing IECC’s response to all Title IX reports and complaints and identifying and addressing any patterns or systemic problems revealed by such reports or complaints.
- Being informed of all reports and complaints raising Title IX issues, including those initially filed with another individual or office or if the investigation will be conducted by another individual or office.
- Conducting and/or assigning Title IX investigations, including the investigation of facts relative to a complaint.
 - With respect to Title IX complaints that relate to an IECC employee as the complainant or as the respondent, the Title IX Coordinator(s) will partner with the Department of Human Resources to manage the investigation into the allegations and recommend any appropriate sanctions against an employee.
 - The Title IX Coordinator must not be the decision-maker for a determination of responsibility in response to a formal Title IX complaint of sexual harassment.
- Coordinating any appropriate supportive measures and ensuring the effective implementation of any remedies.
- Ensuring that appropriate policies and procedures are in place for working with law enforcement and coordinating services with local victim advocacy organizations and services providers, including rape crisis centers.
- Ensuring that adequate training is provided to students, faculty, and staff on Title IX issues.
- Monitoring students’ participation in athletics and across academic fields to ensure that sex discrimination is not causing any disproportionate enrollment based on sex or otherwise negatively affecting a student’s access to equal educational opportunities.
- Developing a method to survey the school climate and coordinating the collection and analysis of information from that survey.
- Promoting an educational and employment environment which is free of sex discrimination and gender bias.

Inquiries concerning the application of Title IX may be referred to the Title IX Coordinator(s) or to the Assistant Secretary for Civil Rights at the United States Department of Education:

Office for Civil Rights, Chicago Office
 U.S. Department of Education
 Citigroup Center
 500 W. Madison Street, Suite 1475
 Chicago, IL 60661-4544
 Telephone: (312) 730-1560
 Email: OCR.Chicago@ed.gov

B. IECC Department of Human Resources

The IECC Department of Human Resources will partner with the Title IX Coordinator with respect to any complaints of sex-based misconduct that involve an IECC employee as the complainant or as the respondent. For any such complaints that involve an IECC employee as the respondent and fall outside the scope of Title IX, the IECC Department of Human Resources will manage the investigation into the allegations and issue a decision and any appropriate sanction(s).

For complaints of sex-based misconduct that involve an IECC employee as the respondent, investigatory and disciplinary procedures required by any applicable collective bargaining agreement will apply in addition to this procedure.

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V. Options for Assistance Following an Incident of Sex-Based Discrimination, Harassment or Misconduct

A. Emergency Response

1. Anyone who experiences or observes an emergency situation should immediately contact local law enforcement by calling 911.
2. Although the Board of Trustees strongly encourages all individuals to report violations of this policy to law enforcement, it is the victim’s choice whether or not to make such a report, and victims have the right to decline involvement with the local police. Filing a police report can include, but is not limited to, giving an oral and/or written statement to the appropriate law enforcement agency. Local law enforcement agencies are outlined in the table below:

B. Off-Campus Health Care Options

The following local health, mental health, counseling, and advocacy services are available for victims. At a victim’s request, IECC Title IX Coordinator (identified in Appendix B) can assist victims in accessing these services.

- a. IECC Employee Assistance Program 1-855-775-4357 or <https://rsli.acieap.com/>
- b. Illinois Coalition Against Sexual Assault: 217-753-4117 or www.icasa.org
- c. National Sexual Assault Hotline: 800-656-HOPE (4673); <https://www.rainn.org/get-help/national-sexual-assault-hotline>
- d. National Domestic Violence Help Line: 877-TO END DV (877-863-6338); http://www.cityofchicago.org/dam/city/depts/fss/supp_info/DV/MODVsafteycardEnglish.pdf
- e. AARVARC – An Abuse, Rape and Domestic Violence Aid and Resource Collection at www.aardvarc.org
- f. The Illinois Coalition Against Domestic Violence: 217-789-2830; http://www.ilcadv.org/about_icadv/contact.asp
- g. Illinois Attorney General’s Office: 1-800-228-3368; www.ag.state.il.us/victims/
- h. Illinois Crime Victims Bill of Rights 725 ILCS 120-1: <http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1970&ChapterID=54>
- i. Illinois Crime Victims Compensation Program: 800-228-3368; <http://www.ag.state.il.us/victims/cvc.html>
- j. Illinois Department of Children and Family Services: 800-25-ABUSE (800-252-2873); <http://www.state.il.us/dcf/index.shtml>

Frontier Community	Lincoln Trail	Olney Central	Wabash Valley
Fairfield Police 911	Robinson Police 911	Olney Police 911	Mt. Carmel Police 911
Wayne Co. Sheriff 618-842-6631	Crawford Co. Sheriff 618-546-1515	Richland Co. Sheriff 618-395-7481	Wabash Co. Sheriff 618-262-4186
*Fairfield Memorial Hospital 303 NW 11 th Street Fairfield, IL 62837-2601 618-842-2611	*Crawford Memorial Hospital 1000 N Allen Street Robinson, IL 62454 618-544-3131	*Carle Richland Memorial Hosp. 800 E. Locust Street Olney, IL 62450 618-395-2131	*Wabash General Hospital 1418 College Drive Mt. Carmel, IL 62863 618-262-8621
SAFE 618-316-7017	CAISA Olney 618-879-2130 Robinson 618-544-9379	CAISA Olney 618-879-2130 Robinson 618-544-9379	CAISA Olney 618-879-2130 Robinson 618-544-9379
Egyptian Behavior Health (Fairfield Office) 618-516-5326	Lawrence County Health Dept. 618-943-3302	Jasper County Behavioral Health (Olney Office) 618-783-4154	Depot Counseling 618-263-4970

**Indicates health care options which provide medical forensic services (rape kits) and/or Sexual Assault Nurse Examiners at no cost, pursuant to the Sexual Assault Survivors Emergency Treatment Act (410 ILCS 70).*

Seeking medical treatment also serves to preserve physical evidence of sexual violence.

Off-campus health care providers will generally maintain confidentiality and not share information with IECC unless the reporting person requests the disclosure and signs a consent or waiver form. Note, however, that while these health care providers may maintain a reporting person’s confidentiality vis-à-vis IECC, they may have other reporting obligations under State law.

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The Illinois Department of Human Rights has established a helpline for individuals to obtain information about their reporting options and referrals to other resources. The helpline is available Monday through Friday, from 8:30 a.m. to 5:00 p.m., at (877) 236-7703.

VI. Making a Report of Alleged Sex-Based Misconduct

Any student, employee, or community member who wishes to avail himself or herself of this procedure may do so by making a report to any Responsible Employee, as defined below. Detailed information concerning student and employee reporting is as follows.

A. Student Reporting

Illinois Eastern Community Colleges encourages students who have experienced sex-based misconduct to talk with someone about what happened so that they can get the support they need and so that IECC can respond appropriately. Different employees on campus have different reporting obligations with regard to alleged sex-based misconduct. Some IECC employees (referred to as “Responsible Employees”) are required to report all incidents of sex-based misconduct to the Title IX Coordinator, including the identities of the persons involved in the incident. While only designated Responsible Employees are required to report all incidents of sex-based misconduct to the Title IX Coordinator, all members of the IECC community (including students) are encouraged to report such incidents to the Title IX Coordinator.

The various reporting options available are set forth in further detail below. Regardless of to whom a report is made, IECC will provide the person alleged to be the victim, if identified, with concise information, written in plain language, of the person’s rights and options pursuant to this procedure.

Immunity for Good-Faith Reporting: Students who in good faith report an alleged violation of IECC’s Policy Preventing Sexual Misconduct will be granted immunity and will not receive a disciplinary sanction for a student conduct violation (such as underage drinking) revealed during the course of reporting. Immunity will not be provided for student conduct violations which IECC determines are egregious, including without limitation misconduct which places the health or safety of another person at risk.

1. Student Reporting to the Title IX Coordinator

Students are encouraged to report alleged incidents of sex-based misconduct to the Title IX Coordinator directly. IECC’s Title IX Coordinator is:

Libby McVicker, Program Director of Grants and Compliance
Address: 320 East North Avenue, Noble, IL 62868
Telephone: 618-393-3491
Email: mcvickero@iecc.edu

2. Student Reporting to Responsible Employees

A Responsible Employee, as defined in Appendix A, must report to the Title IX Coordinator all relevant details about an alleged incident of sex-based misconduct shared by a student, including the date, time and specific location of the alleged incident, and the names of all involved individuals. To the extent possible, information shared with a Responsible Employee will be disclosed only to the Title IX Coordinator and/or those individuals responsible for handling IECC’s response to the report.

The following categories of employees are IECC’s Responsible Employees:

- Title IX Coordinator
- College and District Administration
- Supervisors and Managerial Staff
- Faculty
- Coaches and Athletic Directors
- Student Advisors and Student Group Advisors

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Before a student reveals any information to a Responsible Employee, the employee should ensure that the student understands the employee's reporting obligations. If the student wants to make a confidential report, the Responsible Employee should direct the student to the confidential resources listed in Section VI.A.3 below.

If the student wants to tell the Responsible Employee what happened, but also maintain confidentiality, the employee should tell the student that IECC will consider the request, but that IECC cannot guarantee it will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the Responsible Employee will also inform the Title IX Coordinator of the student's request for confidentiality.

3. Confidential Reporting

Students who wish to confidentially report an incident of sex-based misconduct may make a confidential report to:

*CAISA (serving Lincoln Trail, Olney Central, and Wabash Valley)

Olney Office 618-879-2130

Robinson Office 618- 544-9379

After-Hours Crisis Hotline: 888-345-2846

*SAFE (serving Frontier Community)

Mt. Vernon, IL Office 618-316-7017

After-Hours Crisis Hotline: 800-625-1414

The individuals in this list are Confidential Advisors, as defined in Appendix A. Professional, licensed counselors who provide mental health counseling to students (including counselors who act in that role under the supervision of a licensed counselor) are not required to report any information about an alleged incident to the Title IX Coordinator without a student's permission.

Note: While the individuals listed above may maintain a student's confidentiality vis-à-vis IECC, they may have reporting or other obligations under State law. Any IECC employee who suspects or receives knowledge that a minor student may be an abused or neglected child or, for a student aged 18 through 21, an abused or neglected individual with a disability, is required to: 1) immediately report or cause a report to be made to the Illinois Department of Children and Family Services (DCFS) on its Child Abuse Hotline; and 2) follow directions given by DCFS concerning filing a written report within 48 hours with the nearest DCFS field office.

Also Note: If IECC determines that a person alleged to be the perpetrator of sexual misconduct poses a serious and immediate threat to the IECC community, Administration may be called upon to issue a timely warning to IECC community. Any such warning will not include any information that identifies the person alleged to be the victim.

4. Electronic and/or Anonymous Reporting

IECC maintains an online system for electronic reporting. The reporter may choose to provide his/her identity or may choose to report anonymously. The system will notify the user, before he/she enters information, that entering personally identifying information may serve as notice to IECC for the purpose of triggering an investigation. Anonymous reports can be filed at www.iecc.edu/titleix. Where a reporter chooses to provide his/her identity and contact information, IECC will respond to the reporter within 12 hours.

5. Note Regarding Student Participation in Public Awareness Events

Public awareness events such as "Take Back the Night," the Clothesline Project, candlelight vigils, protests, "survivor speak outs" or other forums in which students disclose incidents are not considered notice to IECC of sex-based discrimination, harassment, or misconduct for purposes of triggering an obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts, and the district will provide information about students' rights at these events.

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1. Alleged Sex-Based Misconduct of a Student

In addition to the reporting requirements for Responsible Employees (see Section VI.A), all IECC employees who have information regarding sex-based misconduct of a student should report it to the Title IX Coordinator or any Responsible Employee.

2. Alleged Sex-Based Misconduct of an Employee

An employee should notify the Title IX Coordinator or the Executive Director of Human Resources if he or she believes that IECC or a member of the IECC community has engaged in sex discrimination, sexual harassment, or other sex-based misconduct in violation of IECC's Preventing Sexual Misconduct Policy or Nondiscrimination Policy.

C. Board Member Reporting

Members of IECC's Board of Trustees and other elected officials should promptly report claims of sex-based misconduct against a Board member. Board members and elected officials should report claims of sex-based misconduct against a Board member to the Board Chair or Chancellor. If the report is made to the Chancellor, the Chancellor shall promptly notify the Board Chair, or if the Board Chair is the subject of the complaint, the Board Vice Chair. When a complaint of sex-based misconduct is made against a member of the Board of Trustees, the Board Chair shall consult with legal counsel for IECC to arrange for an independent review of the allegations. If the allegations concern the Board Chair, or the Board Chair is a witness or otherwise conflicted, the Board Vice Chair shall so consult with legal counsel. If the allegations concern both the Board Chair and the Board Vice Chair, and/or they are witnesses or otherwise conflicted, the Board Secretary shall so consult with legal counsel. The investigator shall prepare a written report and submit it to the Board.

VII. IECC Response to Reports of Alleged Sex Discrimination, Harassment or Other Misconduct**A. Processing of Report**

Upon receipt of a report, the Title IX Coordinator will analyze the report to determine the appropriate method for processing and reviewing it.

For any report alleging sexual harassment, as defined under Title IX, and/or alleging sexual violence, domestic violence, dating violence or stalking pursuant to the *Preventing Sexual Violence in Higher Education Act*, the Title IX Coordinator will promptly contact the person alleged to be the victim (hereinafter "complainant") to:

1. Discuss the availability of supportive measures (see Section VII.B below);
2. Consider the complainant's wishes with respect to supportive measures;
3. Inform the complainant of the availability of supportive measures with or without the filing of a formal complaint; and
4. Explain to the complainant the process for filing a formal complaint.

B. Supportive Measures

Supportive measures (also referred to as "interim protective measures") are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to a complainant or respondent, irrespective of whether a formal complaint has been filed.

Examples of supportive measures that IECC may offer include, but are not limited to:

- Counseling and mental health support;
- Extensions of deadlines or other course-related adjustments;
- Leaves of absence;
- Changes to academic, living, dining, transportation and/or working schedules or situations;
- Increased security and monitoring of certain areas of campus;

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- Issuance and enforcement of mutual campus no contact orders; and
- Enforcement of an order of protection or no contact order entered by a State civil or criminal court.

A report of alleged sex-based misconduct may also prompt IECC to consider broader remedial action, such as increased monitoring, supervision, or security at locations where the alleged incident occurred; increased education and prevention efforts, including to targeted population groups; the use of climate assessments and/or victimization surveys; and/or revisions to IECC's policies and practices.

IECC will maintain as confidential any supportive measures provided to a complainant or respondent, to the extent that maintaining such confidentiality would not impair IECC's ability to provide the supportive measures.

The Title IX Coordinator is responsible for coordinating IECC's implementation of supportive measures.

C. Emergency Removals and/or Administrative Leave

Prior to initiating or completing the Grievance Process in response to a formal complaint, described further in Section VIII below, or in the absence of a formal complaint, IECC may remove a respondent from IECC's education program or activity on an emergency basis. Where the alleged conduct, if proven, would constitute sexual harassment as defined under Title IX, IECC will effectuate an emergency removal only where IECC has determined, based on an individualized safety and risk analysis, that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal. In such cases, IECC will provide the respondent with notice and an opportunity to challenge the decision immediately following the removal.

In addition, IECC may place an employee on administrative leave during the pendency of the Grievance Process in response to a formal complaint.

D. Clery Act Reporting Obligations

Pursuant to the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act* ("Clery Act"), 20 U.S.C. § 1092(f), IECC will issue timely warnings to the campus community about crimes that have already occurred but may continue to pose a serious or ongoing threat to students and employees. The *Clery Act* also requires IECC to maintain a public crime log and publish an Annual Security Report ("ASR") available to all current students and employees. The ASR documents three calendar years of select campus crime statistics (including statistics regarding incidents of dating violence, domestic violence, and stalking), security policies and procedures, and information on the basic

VIII. Grievance Process for Complaints Alleging Title IX Sexual Harassment and/or Alleging Sexual Violence, Domestic Violence, Dating Violence or Stalking

For purposes of this Grievance Process, a formal complaint is a document filed by a complainant or signed by the Title IX Coordinator, alleging (a) sexual harassment in violation of Title IX and/or (b) sexual violence, domestic violence, dating violence or stalking in violation of the *Preventing Sexual Violence in Higher Education Act*; and requesting that IECC investigate the allegation. At the time of filing a formal complaint pursuant to this Grievance Process, the complainant must be participating in or attempting to participate in IECC's education programs or activities, either as a student or an employee. Should a formal complaint be filed, the Title IX Coordinator will investigate the formal complaint or appoint a qualified person to undertake the investigation on his or her behalf. IECC, as it deems appropriate, may extend the time provided in this Grievance Process to comply with a requirement and may postpone the scheduled date for any proceeding, meeting, or hearing, provided that the extended deadline or postponed date would not exceed a time limit required by law. If one of the parties requested the extension or postponement, it will be available on an equal basis to both parties.

A. Notice of Allegations

Within 10 business days after signing a formal complaint or receiving a formal complaint filed by a complainant, the Title IX Coordinator will provide written notice to the known parties of the following:

1. This Grievance Process, including the informal resolution process, where applicable.

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2. The allegations potentially constituting sexual harassment under Title IX and/or sexual violence, domestic violence, dating violence or stalking under the *Preventing Sexual Violence in Higher Education Act*, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview.
3. That the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
4. That the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
5. That the parties may inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including evidence upon which IECC does not intend to rely on in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence, whether obtained from a party or other source.
6. The IECC Student Code of Conduct provision(s) that prohibit knowingly making false statements or knowingly submitting false information during the grievance process.

If, during the course of an investigation, IECC decides to investigate allegations that are not included in the initial written notice of allegations, the Title IX Coordinator will provide subsequent written notice of the additional allegations to all known parties.

B. Informal Resolution

At any time after receiving the initial notice of allegations (See Section VIII.A above), and prior to a determination regarding responsibility being reached, the complainant and respondent may request to participate in an informal resolution process. Informal resolution will only occur with both parties' voluntary, written consent. At any time prior to agreeing to a resolution, any party will have the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

Note: IECC does not permit informal resolution in cases involving acts by an IECC employee toward a student.

C. Consolidation of Formal Complaints

The Title IX Coordinator may consolidate formal complaints as to allegations against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual misconduct arise out of the same facts or circumstances.

D. Dismissal of Formal Complaints

If, during the course of an investigation or following an investigation into a formal complaint, the Title IX Coordinator or designated Investigator determines that the conduct alleged in the formal complaint would not constitute sexual harassment as defined in 34 C.F.R. § 106.30 (Title IX) even if proved, did not occur in IECC's education program or activity, or did not occur against a person in the United States, then the Title IX Coordinator will dismiss the formal complaint with regard to that conduct for purposes of Title IX. In cases where IECC determines that Title IX is not applicable, but IECC still intends to apply this Grievance Process to resolve the alleged misconduct, IECC will inform the parties that Title IX is inapplicable but that such Process will nevertheless be applied. In addition, dismissal of a formal complaint for purposes of Title IX does not preclude action under other IECC policies and procedures. The Title IX Coordinator may dismiss a formal complaint, or any allegations therein, at any time during an investigation if: (1) the complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; (2) the respondent is no longer enrolled or employed by IECC; or (3) specific circumstances prevent IECC from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

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Upon dismissal—either of a complaint altogether, or of a complaint for purposes of Title IX—the Title IX Coordinator or Investigator will promptly send written notice of the dismissal and reason(s) for the dismissal simultaneously to the parties. Dismissal of a formal complaint under this process does not preclude action under other IECC policies and procedures.

E. Investigation of Formal Complaint

The Title IX Coordinator will appoint one or more trained investigators to undertake an investigation into a formal complaint. Throughout the investigation, the parties will be afforded an equal opportunity to present witnesses including fact and expert witnesses and other inculpatory and exculpatory evidence. The Investigator will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence. Any proceeding, meeting, or hearing held to resolve formal complaints pursuant to this Grievance Process will protect the privacy of the participating parties and witnesses.

Both parties will be afforded an opportunity to be accompanied to any meeting or proceeding by an advisor of their choice, who may be, but is not required to be, an attorney. The advisor's role is limited to providing support, guidance and/or advice, and to conducting cross-examination during the live hearing (see Section VIII.F below). A party's advisor may not speak on behalf of the party during any meeting, interview, or hearing and must comply with all behavioral rules and expectations set forth in this procedure. If a party's advisor violates this procedure or engages in behavior that harasses, abuses, or intimidates a party, witness or individual resolving a complaint, that advisor may be prohibited from further participation.

When a party's participation is invited or expected at an investigative interview or other meeting, the Investigator will provide that party with written notice of the date, time, location, participants, and purpose of said interview or meeting at least three (3) business days prior to the interview or meeting.

At the conclusion of the investigation and prior to the Investigator's completion of his/her investigative report, the Investigator will send to each party (and the party's advisor, if any) the evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, [in electronic format / in hard copy]. The parties will have 10 business days to submit a written response to the evidence, which the Investigator will consider prior to completion of his/her investigative report.

After receiving and reviewing the parties' written responses, if any, the Investigator will create an investigative report that fairly summarizes the relevant evidence, and will forward a copy of his/her report to the Title IX Coordinator. Upon receipt of the Investigator's Report, the Title IX Coordinator will schedule a hearing. At least 10 business days prior to the hearing, the Title IX Coordinator will:

1. Provide both parties with written notice of the hearing date, time, location, participants (including the name of the appointed Hearing Officer) and purpose of the hearing; and
2. Send to each party (and the party's advisor, if any) the investigative report [in electronic format or hard copy] for their review and written response.

F. Hearings

A hearing will be conducted by a Hearing Officer appointed by IECC. Both parties will have the opportunity to request a substitution if the participation of the appointed Hearing Officer poses a conflict of interest. A party wishing to request a substitution must contact the Title IX Coordinator within three (3) business days after the party's receipt of the notice of hearing to make such a request.

At the request of either party, IECC will arrange for the live hearing to occur with the parties located in separate rooms, with technology enabling the Hearing Officer and parties to simultaneously see and hear the party or witness answering questions. A party wishing to request that the live hearing occur with the parties located in separate rooms must contact the Title IX Coordinator to request such an arrangement at least three (3) business days in advance of the hearing. IECC may conduct any live hearing virtually, with the participants in one or more separate geographical locations, and with technology enabling participants simultaneously to see and hear each other.

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At the live hearing, each party's advisor will be permitted to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination will be conducted directly, orally, and in real time by the party's advisor of choice and may never be conducted by a party personally.

If a party does not have an advisor who is available to conduct cross-examination on behalf of that party at the live hearing, then IECC will provide the party with an advisor of IECC's choice, free of charge, to conduct cross-examination on behalf of that party. To invoke this right, the party must notify the Title IX Coordinator at least three (3) business days in advance of the hearing that the party does not have an advisor to conduct cross-examination. A party who fails to notify IECC that he/she does not have an advisor within the required three (3) business day timeframe will waive the right to request that an advisor be appointed.

Only relevant questions, as determined by the Hearing Officer, may be asked of a party or witness. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant and will not be permitted, except where:

1. The 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
2. The questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

If a party or witness does not submit to cross-examination at the live hearing, either due to absence from the hearing or due to the party's or witness's refusal to answer cross-examination or other questions, the Hearing Officer will not rely on any statement of that party or witness in reaching a determination regarding responsibility; however, the Hearing Officer will not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

IECC will make all evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint available for the parties' inspection and review during the hearing. In addition, IECC will create an audio or audiovisual recording, or transcript, of the live hearing, which the Title IX Coordinator will make available to the parties for inspection and review upon request.

G. Determination Regarding Responsibility

Within ten (10) business days after the conclusion of the hearing, the Hearing Officer will make a decision regarding responsibility. The Hearing Officer will apply a preponderance of the evidence standard when determining responsibility. Within seven (7) business days of reaching his/her decision, the Hearing

Officer will issue a written determination to both parties simultaneously. The written determination will include:

1. Identification of the allegations potentially constituting sexual harassment as defined in 34 C.F.R. § 106.30 (Title IX) and/or constituting sexual violence, domestic violence, dating violence or stalking pursuant to the *Preventing Sexual Violence in Higher Education Act*;
2. 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;
3. Findings of fact supporting the determination;
4. Conclusions regarding the application of IECC Student Code of Conduct or other conduct standards to the facts;

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5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions IECC imposes on the respondent, and whether remedies designed to restore or preserve equal access to IECC's education program or activity will be provided by IECC to the complainant; and
6. The procedures and permissible bases for the complainant and respondent to appeal.

H. Appeals

Both parties will have the right to appeal any determination regarding responsibility, and any dismissal of a formal complaint or allegations therein, to the Chancellor or designee. An appeal must be based on one or more of the following grounds:

1. A procedural irregularity occurred;
2. New evidence or information exists that could affect the outcome of the matter;
3. The Title IX Coordinator, Investigator or Hearing Officer 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; and/or
4. The sanction is disproportionate with the violation.

A party who wishes to appeal a determination regarding responsibility or a dismissal of a formal complaint or allegations therein must submit a written appeal request to the Title IX Coordinator within seven (7) business days of the party's receipt of the written determination or written dismissal notice. The written appeal request must identify the ground(s) on which the party seeks to appeal the determination or dismissal.

Within seven (7) business days of the Title IX Coordinator's receipt of an appeal request, the Title IX Coordinator will forward the appeal request to the Chancellor or designee and will notify the other party in writing that an appeal has been filed. Before reaching a determination regarding the appeal, the Chancellor will afford both parties an equal opportunity to submit a statement in support of, or challenging, the determination or responsibility or dismissal that is the subject of the appeal. Within seven (7) business days after the Chancellor or designee has concluded his/her review of the appeal, the Chancellor or designee will issue a written decision simultaneously to both parties, describing the outcome of the appeal and the rationale for the outcome. The Chancellor's or designee's decision is final.

IX. Prevention and Education for Students

IECC will review on an ongoing basis, its sexual discrimination, harassment and misconduct prevention and education programming to ensure students and employees are provided substantive opportunities to learn about sexual discrimination, harassment and misconduct, including primary prevention, bystander intervention, risk reduction, consent, reporting methods, relevant IECC policies and procedures, retaliation, survivor-centered and trauma-informed response, relevant definitions, and other pertinent topics.

IECC, in conjunction with its task force established pursuant to the Campus Security Enhancement Act of 2008 (110 ILCS 12/10), will annually review its prevention and education offerings to identify ways in which to enhance its effectiveness.

X. Training

The Title IX Coordinator, Sexual Misconduct Investigators, Hearing Officers, Appeal Authorities, Campus Security Authorities, and anyone else involved in the receipt of reports of, responding to, investigating or adjudicating alleged incidents of sexual discrimination, harassment or other misconduct, or involved in the referral or provision of services to survivors receive annual education and training on primary prevention, bystander intervention, risk reduction, consent, reporting obligations, investigation procedures, confidentiality requirements, relevant IECC policies and procedures, retaliation, survivor-centered and trauma-informed response, relevant definitions, and other pertinent topics.

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In addition to the above training, individuals who investigate or resolve complaints, including through informal resolutions, receive at least 8-10 hours of annual training on issues related to *Preventing Sexual Violence in Higher Education Act* offenses including sexual violence, domestic violence, dating violence, and stalking; the scope of IECC's education program or activity; the Title IX and IECC definitions of sexual harassment; how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and how to conduct IECC's Grievance Process outlined in Section VIII, above. Decision-makers, in particular, receive training on any technology to be used at live hearings and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. Investigators in particular receive training on issues of relevance so as to enable them to create an investigative report that fairly summarizes relevant evidence.

All Confidential Advisors receive 40 hours of training on sexual violence before being designated a Confidential Advisor. Annually thereafter, Confidential Advisors attend a minimum of six (6) hours of ongoing educational training on issues related to sexual violence. Confidential Advisors also receive periodic training on IECC administrative process, interim protective measures, and accommodations, and IECC's Grievance Process pursuant to Section VIII above.

IECC, in conjunction with its task force established pursuant to the *Campus Security Enhancement Act of 2008* (110 ILCS 12/10), will annually review its training offerings to identify ways in which to enhance its effectiveness. Any materials used to train the Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process, will not rely on sex stereotypes, and will promote impartial investigations and adjudications of formal complaints of sexual harassment.

100.31 Preventing Sexual MisconductAPPENDIX A**Definitions for IECC’s Preventing Sexual Misconduct Procedure**

- A. Bystander Intervention:** see Section 5 of the *Preventing Sexual Violence in Higher Education Act*, 110 ILCS 155/5.
- B. Complainant:** an individual who is alleged to be the victim of conduct that could constitute sex-based misconduct.
- C. Confidential Advisor:** a person who has received up to 40 hours of training previously and 6 hours of ongoing training annually and is contracted by IECC to provide emergency and ongoing support to student survivors of sexual violence. Confidential Advisors include persons employed by a community-based sexual assault crisis center (CAISA or SAFE) with whom IECC partners. Confidential Advisors are not required to report any information about an incident to the Title IX Coordinator without a victim's permission. Individuals designated as “Responsible Employees” in Section VI of this procedure are not Confidential Advisors.
- D. Consent:** knowing and voluntary agreement to engage in sexual activity. Coercion, force, or the threat of either invalidates consent. Consent may not be inferred from silence, passivity, or a lack of verbal or physical resistance. A person’s manner of dress does not constitute consent. Past consent to sexual activities does not imply ongoing or future consent. Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another person. Consent may be withdrawn at any time. A person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to circumstances, including without limitation the following: 1) the person is incapacitated due to the use or influence of alcohol or drugs; 2) the person is asleep or unconscious; 3) the person is under age; or 4) the person is incapacitated due to a mental disability.
- E. Dating Violence:** violence committed by a person: 1) who is or has been in a social relationship of a romantic or intimate nature with the victim; and 2) where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- F. Domestic Violence:** includes felony or misdemeanor crimes 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 the domestic or family violence laws of the State of Illinois, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the State of Illinois.
- G. Education Program or Activity:** a location, event, or circumstance over which IECC exercised substantial control over both the respondent and the context in which the sex-based misconduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by IECC.
- H. Hate Crime:** an act or an attempted act that violates a criminal statute by any person that in any way constitutes an expression of hostility toward the victim because of his or her sex, race, ethnicity, religion, age, disability, national origin, sexual orientation, or gender-related identity, color, marital status, military status, or unfavorable military discharge.
- I. Hostile Environment Caused by Sexual Harassment:** a sexually harassing hostile environment is created when conduct by an individual is so severe, pervasive, or persistent that it denies or limits an individual’s ability to participate in or receive the benefits, services, or opportunities of IECC’s educational programs or activities or the individual’s employment access, benefits, or opportunities. In determining whether a hostile environment has been created, the conduct in question will be considered from both a subjective and an objective perspective of a reasonable person in the alleged victim’s position, considering all the circumstances.

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- J. Incapacitation:** when a person is incapable of giving consent due to the person's age, use of drugs or alcohol, or because an intellectual or other disability which prevents the person from having the capacity to give consent.
- K. Intimidation:** to intentionally make another timid or fearful, to compel or deter by or as if by threats. Intimidation is a form of retaliation prohibited by IECC's Policy Preventing Sexual Misconduct and this procedure.
- L. Preponderance of the Evidence:** when considering all the evidence in the case, the decision-maker is persuaded that the allegations are more probably true than not true.
- M. Respondent:** an individual who has been reported to be the perpetrator of conduct that could constitute sex-based misconduct.
- N. Responsible Employee:** an IECC employee who has the authority to redress sex-based misconduct, who has the duty to report incidents of such misconduct or other student misconduct, or whom a student could reasonably believe has this authority or duty. Section VI of this procedure lists categories of employees who are Responsible Employees for IECC.
- O. Retaliation:** any form of retaliation, including intimidation, threats, harassment and other adverse action taken or threatened against any complainant or person reporting or filing a complaint alleging sexual discrimination, harassment or misconduct or any person cooperating in the investigation of such allegations (including testifying, assisting or participating in any manner in an investigation) is strictly prohibited and may violate the protections of the *State Employees and Officials Ethics Act*, the *Whistleblower Act*, and the *Illinois Human Rights Act*. Action is generally deemed adverse if it would deter a reasonable person in the same circumstances from opposing practices prohibited by IECC's Preventing Sexual Misconduct Policy and this procedure. Retaliation may result in disciplinary or other action independent of the sanctions or supportive measures imposed in response to the allegations of sexual discrimination, harassment, or misconduct.
- P. Sexual Assault:** any type of sexual contact or behavior that occurs by force or coercion, without consent of the recipient of the unwanted sexual activity, or in a familial relationship of a degree that would prohibit marriage. It includes sexual acts against a person who is unable to consent either due to age or lack of capacity or impairment. Examples include forcible sexual intercourse, forcible sodomy, forcible fondling, child molestation, incest, attempted rape, statutory rape, and rape. Sexual assault can occur between members of the same or opposite sex. Sexual assault includes any forced act against one's will where sex is the weapon.
- Q. Sex-Based Misconduct:** misconduct on the basis of sex, sexual orientation, or gender-related identity. Such misconduct includes sex discrimination, sexual harassment, sexual assault, sexual exploitation, dating violence, domestic violence, sexual violence, and stalking.
- R. Sexual Exploitation:** when a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited, and that behavior does not meet the definition of sexual assault. Sexual exploitation includes prostituting another person, non-consensual visual or audio recording of sexual activity, non-consensual distribution of photos or other images of an individual's sexual activity or intimate body parts with an intent to embarrass such individual, non-consensual voyeurism, knowingly transmitting HIV or a sexually transmitted disease to another, or exposing one's genitals to another in non-consensual circumstances.
- S. Sexual Harassment:** unwelcome sexual advances, requests for sexual acts or favors, and other verbal, non-verbal or physical conduct of a sexual nature when:
- Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment, academic advancement, evaluation, or grades;
 - Submission to or rejection of such conduct by an individual is used as a basis for employment, academic advancement, evaluation, or grading decisions affecting that individual;

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- Such conduct has the purpose or effect of substantially interfering with an individual’s employment or educational performance or creating an intimidating, hostile, or offensive employment or educational environment; or
- Such conduct denies or limits an individual’s ability to participate in or receive the benefits, services, or opportunities of IECC’s educational programs or activities or the individual’s employment access, benefits, or opportunities.

Examples of conduct of a sexual nature may include:

- Verbal: Specific demands for sexual favors, sexual innuendoes, sexually suggestive comments, jokes of a sexual nature, sexual propositions, or sexual threats, whether spoken or in emails, articles, documents, or other writings.
 - Non-Verbal: Sexually suggestive objects or pictures, graphic commentaries, suggestive or insulting sounds or gestures, leering, whistling, or obscene gestures.
 - Physical: Touching, pinching, brushing the body, or any unwelcome or coerced sexual activity, including sexual assault.
- T. Sexual Violence:** physical sexual acts attempted or perpetuated against a person’s will or where a person is incapable of giving consent (*e.g.*, due to the person’s age, use of drugs or alcohol, or because an intellectual or other disability prevents the person from having the capacity to give consent). Sexual violence includes, but is not limited to, rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. All such acts of sexual violence are forms of sex discrimination prohibited by Title IX.
- U. Survivor:** an individual who has experienced sexual violence, domestic violence, dating violence, or stalking while enrolled, employed, or attending an event at a higher education institution.
- V. Survivor-Centered:** see Section 5 of the *Preventing Sexual Violence in Higher Education Act, 110 ILCS 155/5*.
- W. Stalking:** engaging in a course of conduct directed at a specific person that would cause a reasonable person to: 1) fear for his or her safety or the safety of others; or 2) suffer substantial emotional distress.
- X. Threat:** any oral or written expression or gesture that could be interpreted by a reasonable person as conveying an intent to cause harm to persons or property.
- Y. Trauma-Informed Response:** see Section 5 of the *Preventing Sexual Violence in Higher Education Act, 110 ILCS 155/5*.

100.31 Preventing Sexual Misconduct**Appendix B****Applicable roles for IECC’s Preventing Sexual Misconduct Procedure described and named.****IECC Title IX Roles and Responsibilities**

The IECC Title IX Coordinator will ensure that the Grievance Process for all Title IX complaints adhere to the IECC Title IX Policy and Procedures (100.31). The roles of Hearing Officer, Advisor, and Investigator will be provided district-wide, with the Title IX Coordinator assigning roles to the following IECC staff on a rotating basis.

Title IX Coordinator: is responsible for ensuring IECC compliance with Title IX laws and campus policies.

Libby McVicker, Program Director of Grants & Compliance, Illinois Eastern Community Colleges

Informal Resolution Facilitator: works with both parties to reach a written resolution to the Title IX Formal Complaint.

Libby McVicker, Program Director of Grants & Compliance, Illinois Eastern Community Colleges

Hearing Officer: also known as the Decision Maker in a Title IX hearing and decides whether or not a Title IX policy violation has occurred. The Decision Maker cannot be the same person as the Title IX Coordinator or Investigator.

*Matt Fowler, President, Wabash Valley College
Jay Edgren, President, Frontier Community College*

Appellate Hearing Officer: is the Decision Maker for an appeal to a determination in a Title IX Formal Complaint. The appeal decision-maker cannot be the same person who served as the Title IX Coordinator, investigator, or initial decision-maker.

Ryan Gower, Chancellor, Illinois Eastern Community Colleges

Advisors: support the student and provide advice about the investigation and disciplinary process. Students can use their own advisor (which can be an attorney), or one can be provided for them.

Amber Malone, Associate Dean of Admissions and Records, Illinois Eastern Community Colleges

Investigators: Investigate and conduct interviews concerning allegations of sexual misconduct, sexual assault, domestic violence, dating violence, or stalking.

*Megan Black, Director of Instructional Services, Frontier Community College
Eric Resor, Recruiter/Advisor, Frontier Community College*

*Tyler Browning, Faculty, Lincoln Trail College
Rena Gower, Director of Learning Commons, Lincoln Trail College*

*Linda Horn, Program Advisor, Allied Health, Olney Central College
Doug Shipman, Director of Business, Olney Central College*

*Karissa Anderson, Director of Learning Commons, Wabash Valley College
Steve Patberg, Registrar, Illinois Eastern Community Colleges*

*Laurel Taylor, Associate Dean of Business & Industry, Mining & Industrial Training
Kim Underwood, Associate Dean of Workforce Education, Mining & Industrial Training
Bonnie Chaplin, Director of Financial Operations, Illinois Eastern Community Colleges
Alex Cline, Chief Information Officer, Illinois Eastern Community Colleges*

100.31 Preventing Sexual Misconduct

Contact Information by Location:

Frontier Community College
2 Frontier Drive
Fairfield, IL 62837
Phone: (618) 842-3711

Lincoln Trail College
11220 State Highway 1
Robinson, IL 62454
Phone: (618) 544-8657

Olney Central College
305 North West Street
Olney, IL 62450
Phone: (618) 395-7777

Wabash Valley College
2200 College Drive
Mt. Carmel, IL 62863
Phone: (618) 262-8641

MSHA-Mining & Industrial Training
JALC West Frankfort Extension Center
19 West Frankfort Plaza
West Frankfort, IL 62896
Ph: (618) 879-9461

Illinois Eastern Community Colleges
233 East Chestnut Street
Olney, IL 62450
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