Policy Title: Title IX Policy

Purpose:
This policy informs all prospective students, current students, and all CMN employees of College policies and procedures regarding sex discrimination and sexual harassment, including gender-based harassment, to which all students, members of the faculty, and non-faculty personnel are expected to adhere during their time at CMN. In addition, comprehensive information is provided regarding the reporting of sex discrimination and sexual harassment and avenues to seek immediate assistance in compliance with Violence Against Women Reauthorization Act of 2013, Title IX of the Education Amendments of 1972, Campus SaVE Act, The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act and other applicable education and labors laws.

Scope:
This policy is applicable to students, employees, visitors and contractors. CMN must respond when sexual discrimination and harassment occur in the school’s education program or activity against a person in the United States. Education program or activity includes locations, events, or circumstances over which the school exercised substantial control over both the respondent and the context in which the discrimination or harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by a post-secondary institution. Title IX applies to all of a school’s education programs or activities, whether such programs or activities occur on-campus or off-campus, including online instruction.

Any person may report sex discrimination, including sexual harassment (whether the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by e-mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report. Such a report may be made at any time, including during non-business hours, by using the telephone number or e-mail address, or by mailing to the office address listed for the Title IX Coordinator.

Individuals are responsible for immediately reporting any knowledge or information concerning sexual harassment to the CMN Title IX Coordinator identified in this policy which covers unwelcome conduct of a sexual or gender-based nature, whether committed on-campus, or off-campus where CMN has control over the respondent or the context of the harassment.

CMN encourages victims of sexual harassment to talk with a counselor. Different employees within the scope of CMN’s resources have different abilities to maintain a victim’s confidentiality.

CMN employees are required to report all the details of an incident (including the identities of both the complainant and respondent) to the Title IX Coordinator. A report to CMN employees (called “responsible employees”) constitutes a report to CMN and places CMN on notice to take appropriate steps to address the situation.
Compliance with this policy does not constitute a violation of the Family Educational Rights and Privacy Act (FERPA). For the purpose of this policy, the outcome of a disciplinary proceeding means only the institution’s final determination with respect to the alleged sex discrimination or sexual harassment offense and any sanction that is imposed against the respondent. This policy also applies to retaliation by CMN or any person against any other person when for the purpose of interfering with Title IX rights, or because the person has participated or refused to participate in any manner in a proceeding under Title IX that is prohibited.

Policy Statement:
The College Menominee Nation (CMN) prohibits discrimination based on sex in employment and education programs and activities both on and off campus. This policy applies to all students, employees, visitors and contractors; to conduct on campus, off-campus, and at college-sponsored activities; and, through technology resources provided by or used at CMN.

Title IX of the Education Amendments of 1972 and other laws, prohibit discrimination on the basis of sex in employment and education programs and activities. Title IX protects all persons from sex discrimination, which includes sexual harassment and sexual violence. CMN will process all sex discrimination complaints it receives, including complaints of sexual harassment and sexual violence, regardless of where the conduct occurred, to determine whether the conduct occurred in the context of an employment or education program or activity, or had continuing effects on campus. If alleged off-campus sexual harassment or sexual violence occurred in the context of an education program or activity or had continuing effects on campus, the complaint will be treated the same as a complaint involving on-campus conduct. This includes complaints of sexual assault or harassment by students, employees, visitors, and contractors.

Procedures Title: Title IX Procedures


Legal Review:

Posted:

Approval Body:

Date Effective: TBD Next Review Date: TBD

Author: Tessa James, Advancement and Enrollment Director, Melinda Cook, Chief of Staff and Director of Campus Support, and Sarah Lyons, HR Generalist.

Contact: Tessa James, Advancement and Enrollment Director, Melinda Cook, Chief
of Staff and Director of Campus Support, and Sarah Lyons, HR Generalist.

**Title of Parent Policy: Title IX Policy**

**Title of Supporting Procedures: Title IX Procedures**

**Definitions**
CMN defines sex discrimination and sexual harassment broadly to include any of three types of misconduct on the basis of sex (or gender), all of which jeopardize the equal access to education that Title IX is designed to protect: Any instance of quid pro quo harassment by a school's employee; any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access; any instance of sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).

Offenses prohibited under CMN’s policy include, but are not limited to sex discrimination (including sexual orientation discrimination and gender identity or gender expression discrimination), sexual harassment, sexual violence to include non-consensual sexual contact, non-consensual sexual intercourse, sexual coercion, domestic/dating violence, stalking, and sexual exploitation.

**Sex Discrimination:**
Includes sexual harassment and is defined as conduct directed at a specific individual or a group of identifiable individuals that subjects the individual or group to treatment that adversely affects their employment or education, or institutional benefits, on account of sex or gender (including sexual orientation, gender identity, and gender expression discrimination). It may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature.

**Sexual Harassment:**
Is unwelcome and discriminatory speech or conduct undertaken because of an individual’s gender or is sexual in nature and is so severe, pervasive, or persistent, objectively and subjectively offensive that it has the systematic effect of unreasonably interfering with or depriving someone of educational, institutional, or employment access, benefits, activities, or opportunities. Students and visitors who are subject to or who witness unwelcome conduct of a sexual nature are encouraged to report the incident(s) to the Title IX Coordinator or any CMN employee. Employees who are subject to unwelcome conduct of a sexual nature are encouraged to report the incident(s) to the Title IX Coordinator or any CMN employee. Employees who witness or receive reports of unwelcome conduct of a sexual nature are required to report the incident(s) or reports received to the Title IX Coordinator.

**Hostile Environment:**
Sexual harassment includes conduct that is sufficiently severe, pervasive, or persistent, objectively and subjectively offensive that it alters the conditions of education or employment or institutional benefits of a reasonable person with the same characteristics of the victim of the
harassing conduct. Whether conduct is harassing is based upon examining a totality of circumstances, including but not limited to:

- The frequency of the conduct.
- The nature and severity of the conduct.
- Whether the conduct was physically threatening.
- Whether the conduct was deliberate, repeated humiliation.
- The effect of the conduct on the alleged victim’s mental or emotional state from the perspective of a reasonable person.
- Whether the conduct was directed at more than one person.
- Whether the conduct arose in the context of other discriminatory conduct.
- Continued or repeated verbal abuse of a sexual nature, such as gratuitous suggestive comments and sexually explicit jokes; and
- Whether the speech or conduct deserves constitutional protections.

**Quid Pro Quo Sexual Harassment:**
Exists when individuals in positions of authority over the complainant:

- Make unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature; and
- Indicate, explicitly or implicitly, that failure to submit to or the rejection of such conduct will result in adverse educational or employment action or where participation in an educational program or institutional activity or benefit is conditioned upon the complainant’s submission to such activity.

**Examples of Harassment:**

- An instructor insists that a student have sex with him/her in exchange for a good grade. This is harassment regardless of whether the student agrees to the request.
- A student repeatedly sends sexually oriented jokes around in an email list he or she created, even when asked to stop, causing one recipient to avoid the sender on campus.
- The instructor probes for explicit details, and demands that students respond to him or her, though they are clearly uncomfortable and hesitant.
- An ex-girlfriend widely spreads false stories about her sex life with her former boyfriend to his clear discomfort.

**Sexual Violence:**
Refers to physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent (e.g., due to the student’s age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). Several acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual violence can be carried out by school employees, other students, or third parties.

**Non-Consensual Sexual Contact:**
Is any intentional touching, however slight, whether clothed or unclothed, of the victim’s intimate body parts (primarily genital area, groin, inner thigh, buttock or breast) with any object or body part, without consent and/or by force. It also includes the touching of any part of a victim’s body using the perpetrator’s genitalia and/or forcing the victim to touch the intimate areas of the perpetrator or any contact in a sexual manner even if not involving contact of or by
breasts, buttocks, groin, genitals, mouth or other orifice. This definition includes sexual battery and sexual misconduct.

**Non-Consensual Sexual Intercourse:**
Is defined as any sexual intercourse or penetration of the anal, oral, vaginal, genital opening of the victim, including sexual intercourse or penetration by any part of a person’s body or by the use of an object, however slight, by one person to another without consent or against the victim’s will. This definition includes rape and sexual assault, sexual misconduct, and sexual violence.

**Rape:**
Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This definition includes any gender of victim or perpetrator. Sexual penetration means the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person. This definition also includes instances in which the victim is incapable of giving consent because of temporary or permanent mental or physical incapacity (including due to the influence of drugs or alcohol) or because of age. Physical resistance is not required on the part of the victim to demonstrate lack of consent.

**Sexual Coercion:**
Is the act of using pressure (including physical pressure, verbal pressure or emotional pressure), alcohol, medications, drugs, or force to have sexual contact against someone’s will or with someone who has already refused. This includes rape, sexual assault, sexual exploitation, and sexual misconduct.

**Dating violence:**
Is violence between individuals in the following circumstances:
- The party is or has been in a social relationship of a romantic or intimate nature with the victim; and
- The existence of such a relationship shall be determined based on a consideration of the following factors:
  - Length of the relationship.
  - Type of relationship.
  - Frequency of interaction between the persons involved in the relationship.

**Domestic Violence:**
Means violence committed by a current or former spouse of the victim. Is a form of sexual violence and means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member. “Family or household member” means spouse, former spouse, person related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. Except for persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.
- A person with whom the victim shares a child in common.
- A person who is cohabitating with or has cohabitated with the victim as a spouse.
- A person similarly situated to a spouse of the victim under Wisconsin domestic or family violence laws.

**Advisor:**
A person who has agreed to assist a complainant or respondent during the Title IX process. The advisor may be a person of the student’s choosing, including but not limited to a CMN faculty or staff member, a friend, or an attorney.

**Complainant:**
An individual who is alleged to be the victim of conduct that could constitute sexual harassment.

**Respondent:**
An individual who has been reported to be the perpetrator of conduct that could constitute sex discrimination or sexual harassment.

**Formal Complaint:**
A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school investigate the allegation of sexual harassment and stating the date, time, place, name(s) of person(s) involved (e.g. the accused, witnesses) and sufficient detail to make a determination regarding basic elements of the formal complaint process.

At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the school with which the formal complaint is filed.

**Supportive Measures:**
Individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment.

**Consent:**
Consent is the act of willingly agreeing to engage in sexual contact or conduct. Individuals who consent to sex must be able to understand what they are doing. Under this policy, “No” always means “No,” and the absence of “No” may not mean “Yes”.

- Consent is informed, knowing and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions if those words or actions create mutually understandable permission regarding the conditions of sexual activity.
- Consent to one form of sexual activity cannot imply consent to other forms of sexual activity.
- Previous relationships or consent does not imply consent to future sexual acts.
• Consent cannot be procured by use of physical force, compelling threats, intimidating behavior, or coercion. Coercion is unreasonable pressure for sexual activity.

To give effective consent, one must be of legal age and have the capacity to consent. Incapacity may result from mental disability, intellectual disability, unconsciousness/sleep, age, or use of alcohol, drugs, medication, and/or other substances. Consent given by someone who one should know to be, or based on the circumstances, reasonably should have known to be, mentally or physically incapacitated, is a policy violation. Incapacitation is a state where someone cannot make rational, reasonable decisions because he or she lacks capacity to give knowing consent. Note: indications of consent are irrelevant if the initiator knows or should reasonably have known of the incapacity of the other person.

Examples of when a person should know the other is incapacitated include, but are not limited to:
• The amount of alcohol, medication or drugs consumed, imbalance or stumbling, slurred speech,
• Lack of consciousness or inability to control bodily functions or movements, or vomiting.
• Mental disability or incapacity.
• Use of alcohol, medications, or other drugs will not excuse behavior that violates this policy.

Acquaintance Rape:
Is a form of sexual violence committed by an individual known to the victim. This includes a person the victim may have just met, such as at a party, been introduced to through a friend, or met on a social networking website.

Cyberstalking:
Means engaging in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.

Harassment:
Is the act of systematic and/or continued unwanted and annoying actions of one party or a group, including threats and demands. The purposes may vary, including racial prejudice, personal malice, and an attempt to force someone to quit a job or school, or merely gain sadistic pleasure from making someone fearful or anxious.

Hostile Educational / Work Environment:
Harassment creates a hostile environment when the conduct is sufficiently severe, pervasive, or persistent to interfere with or limit a student’s ability to participate in or benefit from the services, activities, or opportunities offered by a school.

Incapacitated:
Means the victim is temporarily incapable of appraising or controlling his/her conduct due
to the influence of a narcotic, anesthetic or other substance administered without consent or due to any other act committed upon the victim without consent.

**Sexual Assault:**
Is a form of sexual violence and means (1) forcing or coercing an individual to engage in any non-consensual sexual contact or sexual penetration; or (2) an attempt to commit an unlawful act that places another person in reasonable apprehension of immediate, non-consensual physical contact for sexual purposes.

**Sexual Battery:**
Is a form of sexual violence and means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object.

**Stalking:**
Means a course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others or suffer substantial emotional distress. For purposes of this definition,

- “Course of conduct” means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose.
- “Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- “Reasonable person” means a reasonable person under similar circumstances and with similar identities to the victim.

**Statutory Rape:**
Is unlawful sexual intercourse with a minor under 18 years old, even if the intercourse is consensual.

**Assistance Following an Incident of Sexual Harassment**

**Immediate Assistance:**
Persons who have complaints of sexual harassment may file their complaints with the Title IX Coordinator (Tessa James) located at CMN’s Main Campus in Glen Miller Hall - Welcome Center, P.O. Box 1179, Keshena, WI 54135, GMH-101H, phone: 715-799-6226, ext. 3039, or email: cmntitleix@cmn.edu.

Victims of sexual violence should get to a place of safety and call the Menominee Indian Tribal Police Department at 715-799-3321, Menominee Country Sheriff’s Department at 715-799-3357, or Green Bay Police Department at 920-448-3200. Immediately obtain medical treatment; time is a critical factor for evidence collection and preservation. An assault should be reported directly to a law enforcement officer, and College officials will aid in facilitating this process. Filing a police report will not obligate the complainant to prosecute, nor will it subject the reporting party to scrutiny or judgmental opinions from officers.
COMPLAINANT OR WITNESS: Contact the Menominee Indian Tribal Police Department at 715-799-3321, Menominee County Sheriff’s Department at 715-799-3357, or Green Bay Police Department at 920-448-3200.

Ongoing Assistance:
In order to ensure the safety and wellbeing of the complainant, CMN may take interim measures such as changing work schedules, academic schedules, addressing transportation issues, withdrawing from/retaking a class without penalty, and accessing academic support (e.g., tutoring), providing leaves of absence or campus escort services, or similar measures. In addition, while an investigation is pending CMN may initiate a “no contact order” between the parties that carries a sanction of expulsion if violated.

CMN does not offer internal counseling options, but law enforcement officials and College representatives are available to facilitate access to support services, which may be obtained through Menominee Tribal Police – Crime Victims Program 715-799-6168, Maehnowesekiyah Wellness Center (Domestic Violence) at 715-799-3835, Menominee County Sheriff’s Department at 715-799-3357, or the Green Bay Police Department at 920-448-3200.

Several service organizations in Wisconsin have provided telephone numbers and made available other services for students, faculty, staff and campus community members. CMN Campus Support will assist any interested person in contacting these agencies.

Additional Support Services:
211 Wisconsin: 24-hour helpline
National Domestic Violence Hotline: 1-800-799-7233 (SAFE)
Rape, Abuse & Incest National Network Hotline: 1-800-656-4673 (HOPE)
Communication Services for the Deaf (TTY): 1-800-252-1017 (TTY)
Communication Services for the Deaf (Voice): 1-866-845-7445 (Voice)
Wisconsin Coalition Against Sexual Assault: 608-257-1516

Title IX Coordinator and Staff

The Title IX Coordinator has primary responsibility for overseeing the process of coordinating CMN’s compliance efforts, receiving complaints, investigations, hearings, sanctions, appeals, and education and training associated with this policy.

To file a complaint or submit questions concerning actions governed by this policy contact the Title IX Coordinator (Tessa James) located at CMN’s Main Campus in Glen Miller Hall - Welcome Center, P.O. Box 1179, Keshena, WI 54135, GMH-101H, phone: 715-799-6226, ext. 3039, or email: cmntitleix@cmn.edu.

Co-Coordinators of Title IX have secondary responsibility and assist in the duties of the Title IX Coordinator. Co-Coordinators include the Chief of Staff and Director of Campus Support (Melinda Cook) located at CMN’s Main Campus in Glen Miller Hall – President's Office, P.O. Box 1179, Keshena, WI 54135, GMH-207, phone: 715-799-6226, ext. 3040, or email: cmntitleix@cmn.edu.
The HR Generalist (Sarah Lyons) located at CMN’s Main Campus in Glen Miller Hall – Human Resources, P.O. Box 1179, Keshena, WI 54135, GMH-212, phone: 715-799-6226, ext. 3173, or email: cmntitleix@cmn.edu.

- Title IX Investigators may include but not be limited to CMN staff. The primary responsibility of the investigator is to collect statements and any evidence related to any allegations of a Title IX policy violation as directed by the Title IX Coordinator. Investigators will receive appropriate Title IX and trauma informed training.

- Title IX Hearing Officers may include a CMN administrator or external legal counsel. The primary responsibility of the hearing officer will be to ensure both parties receive due process in the event allegations of a Title IX policy violation are directed to a hearing by the Title IX Coordinator. Hearing Officers will receive appropriate Title IX and trauma informed training.

- Title IX Hearing Members may include CMN faculty or staff members. The primary responsibility of the hearing member is to listen to both sides of the complaint. Each hearing member will evaluate the information being provided by both parties to decide whether a Title IX policy violation took place. Hearing members will receive appropriate Title IX training.