Fort Lewis College Sexual Misconduct Policy

I. Statement of Policy

A. Notice of Non-Discrimination: Fort Lewis College does not discriminate on the basis of sex in its education programs and activities, as required by Title IX of the Civil Rights Act. Inquiries concerning the application of Title IX may be referred to Fort Lewis College’s Title IX Coordinator, or to the U.S. Department of Education’s Office of Civil Rights.

The Title IX Coordinator’s contact information is:

Molly Wieser
240 Miller Student Services
Fort Lewis College
Phone: (970) 247-7503
Wieser_m@fortlewis.edu

The Office of Civil Rights contact information is:

Denver Office, Office for Civil Rights
U.S. Department of Education
Cesar E. Chavez Memorial Building
1244 Speer Boulevard, Suite 310
Denver, CO 80204-3582
Telephone: 303-844-5695
Fax: 303-844-4303; TDD: 800-877-8339
Email: OCR.Denver@ed.gov

B. The College’s Sexual Misconduct Policy applies to all students and to all employees regardless of their employment classification. All Fort Lewis College community members should expect that they will be free from sexual misconduct. Upon becoming aware of sexual misconduct which creates a hostile environment in the Fort Lewis College community, the College will take immediate action to eliminate the misconduct, prevent its recurrence, and address its effects.

C. Supervisors are required, as a condition of their employment, to enforce this policy by seeking to eliminate sexual misconduct in the workplace they supervise by reporting
incidents of sexual misconduct and informing supervised employees about this policy and their obligations thereunder.

D. All students are required, as a condition of their enrollment and participation in activities of Fort Lewis College, to abide by this Sexual Misconduct Policy. Student Organizations at the College and their members are required to abide by this policy in the conduct of their programs and activities. Student Organizations include Registered Student Organizations, club sports, intramurals, and any other Fort Lewis College student groups or programs.

E. It is critical that any member of the Fort Lewis College community, except those exempted by law, who believes that he or she has observed an incident of sexual misconduct in the college’s learning and work environment involving a member of the College community or who receives a report of alleged sexual misconduct from a member of the College community immediately refer this information to the Title IX Coordinator (hereinafter the “Coordinator”).

F. If the College is to achieve its goals of preventing sexual harassment and taking prompt corrective action with sexual misconduct is suspected or occurs, members of the College community must feel free to report sexual misconduct and to participate in investigations and disciplinary proceedings.

G. Retaliation against any person who reports sexual misconduct, files a complaint, or participates in the Grievance process, is prohibited. Any such action shall be grounds for a separate complaint and disciplinary action under this policy.

II. Definitions

A. Sexual Misconduct. Sexual misconduct is prohibited and may include, but is not limited to these behaviors:

1. Sexual Harassment. Sexual Harassment is unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, physical conduct of a sexual nature, when (1) submission by an individual is made either an explicit or implicit term or condition of academic standing or employment; (2) submission to or rejection of such conduct is used as the basis for academic or employment decisions affecting the individual; or (3) such conduct has the purpose or effect of creating an intimidating, hostile, or offensive academic or work environment or unreasonably interfering with another’s academic performance or work.

2. Gender-based Harassment. Gender based sexual harassment includes acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping.

3. Hostile environment sexual harassment. A hostile environment exists where the unwelcomed sexual conduct is sufficiently severe or pervasive that it alters the conditions of employment or it interferes with or limits one’s ability to participate in or benefit from Fort Lewis College’s programs. The more severe
the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the harassment is physical. A single instance of rape is sufficiently severe to create a hostile environment.

4. **Sexual violence.** Sexual violence is a form of sexual harassment and refers to physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent due to the victim’s use of drugs or alcohol, or due to intellectual or other disability. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual coercion, statutory rape, or other similar acts in violation of state or federal law.

5. **Attempt.** Attempts to engage in sexual misconduct are also violations of this policy.

B. **Fort Lewis College Community.** The Fort Lewis College community includes all academic, educational, extracurricular, athletic, and other programs of the school, whether those programs are in Fort Lewis College Facilities or at a program sponsored by the school elsewhere. Members of the Fort Lewis College community include any employee, faculty member, student, or authorized volunteer.

C. **Complaint.** Complaint means a written allegation of sexual misconduct or retaliation that is made on the College’s complaint form in accordance with this policy and the Discrimination Grievance Procedures.

D. **Complainant.** Complainant is an individual or organization filing a complaint regarding sexual misconduct. The victim may or may not be the complainant. The appropriate Vice President may, on behalf of Fort Lewis College initiate a complaint, serve as complainant, and initiate sexual misconduct proceedings without a formal complaint by the victim of misconduct.

E. **Respondent.** Respondent is the individual against whom a Complaint has been filed.

F. **Parties.** Parties are the complainant and the respondent. The victim may be treated as a party for notice purposes, if the victim is not the complainant.

III. **Title IX Coordinator.** The Title IX Coordinator is the individual responsible for overseeing all sexual misconduct complaints and identifying and addressing any patterns or systemic problems that arise during the review of such complaints. In addition, the Title IX Coordinator shall:

A. Act as a liaison between the parties and the Fort Lewis College community.

B. Review all evidence in a sexual misconduct case brought before Fort Lewis College’s Hearing Committee to determine whether the complainant is entitled to a remedy under Title IX that was not available through the Hearing Committee.

C. Organize the Activities of the Hearing Committee.
D. Communicate regularly with law enforcement and other campus officials investigating cases and provide information to law enforcement unit personnel regarding Title IX requirements.

E. Determine if law enforcement must be notified of reports of sexual harassment or violence.

IV. Consensual Relationships

A. General: There are inherent risks in any consensual romantic or sexual relationship between individuals in a faculty student or supervisor and supervisee relationship that cause special concerns with respect to the existence or appearance of exploitation, abuse of power, or favoritism. In such cases, the apparent mutual consent does not preclude initiation of a sexual misconduct complaint or a finding of sexual misconduct. These relationships may be less consensual than perceived by the individual whose position confers power; the relationship may be viewed in different ways by each of the parties. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual relationship, this past consent does not remove grounds for a charge of sexual misconduct.

B. Supervisor-Supervisee Relationships

a. When supervisors exercise power over their supervisees (e.g., evaluating their work, making recommendations for promotion, or assigning work), a consensual romantic or sexual relationship between supervisor and supervisee put professional integrity and ethics at risk.

b. A consensual romantic or sexual relationship, both past and current, between an employee and a student or between two employees constitutes a conflict of interest when a direct evaluative relationship exists between them while the romantic or sexual relationship is occurring. Therefore, the conflict must be resolved by terminating the direct evaluative relationship. If the romantic or sexual relationship and direct evaluative relationship coexist between a supervisor and supervisee, the relationship must be disclosed to the next level supervisor. It is the responsibility of the person in the evaluative position to disclose the romantic or sexual relationship in order to terminate the conflict.

C. Faculty-Student Relationships

a. Faculty members are mentors to students (“mentees”) who are under their direct tutelage (e.g., in a class, in an independent study, in an honors project), who will be under their direct tutelage in the future (e.g., to complete a degree program), who are their academic advisees, or who are under their academic authority in some other way (e.g., the faculty member chairs the student’s major department).

b. A faculty member who enters into a consensual sexual relationship with a student may be interviewed by the appropriate Dean or the College’s Equal Employment Opportunity Officer, or the College’s Title IX Coordinator, to assure compliance with
relevant provisions of the Fort Lewis College Sexual Misconduct Policy and other applicable policies, and may be subject to disciplinary action.

c. The College prohibits any sexual relationship between a faculty mentor and his or her student mentee. A mentor who is known to have a sexual relationship with a student mentee in violation of this policy is subject to disciplinary action or dismissal for cause. Information regarding substantiated violations of this policy will be included in the review dossier file for the faculty member’s next scheduled faculty review and, in the case of a probationary faculty member, in the dossier file for the tenure review (whenever it occurs).

V. Reporting Sexual Misconduct

A. Any member of the College community who has observed or been a victim of sexual misconduct is encouraged to discuss the matter with the appropriate supervisor(s) or the Coordinator.

B. Inquiries relating to procedure can be made at any time to the Coordinator; however, an inquiry alone does not constitute notification to the College of possible sexual misconduct. The initial discussion regarding a complaint will be kept confidential to the full extent permitted by law. Complainants are advised that there are some instances in which the College has a responsibility to act even if the complainant requests that no action be taken, such as, when other members of the College community may be at risk or when it has reason to believe a crime has been committed. In those cases, the College may be required to report information to law enforcement, and/or investigate and take action on the basis of the facts it discovers.

C. Individuals who wish to anonymously report incidents may use the College’s Silent Witness Report form, available at http://www.fortlewis.edu/police-parking/SilentWitnessReportForm.aspx. Those who want confidential support after an incident may use the College’s Counseling Center and/or Health Center, as well as Sexual Assault Services Organization in Durango. See: http://www.fortlewis.edu/sexualmisconductpolicy for the College’s Sexual Assault Resource Guide and related information.

D. If an individual wishes to notify the College of possible sexual misconduct and requires resolution, he or she must complete the College’s complaint form. All complaints alleging sexual misconduct will be resolved under the Fort Lewis College Discrimination Grievance Procedures.

E. The College’s primary concern is safety. Other conduct violations will be addressed separately from any sexual misconduct complaint. The use of drugs or alcohol never makes the victim at fault for sexual misconduct. In addition, the use of drugs or alcohol will never function as a defense to a violation of this policy.

Approved: December 6, 2013