

Violence Against Women Act (VAWA)

Pima Medical Institute (PMI) does not tolerate sexual violence in any form, including but not limited to sexual assault, harassment, exploitation, intimidation, dating violence, domestic violence and/or stalking. It is the practice at PMI to ensure that employees and students enjoy a learning environment that is based upon mutual respect, trust, and dignity.

The administration of PMI fully supports all local, state, and federal laws governing sexual violence and harassment and will cooperate to the fullest extent possible. PMI, in a good faith effort to comply with amendments to the *Clery Act*, as mandated by Section 304 of the "*Violence Against Women Reauthorization Act of 2013*", is committed to ongoing development of prevention and awareness programs, policies and procedures.

Sexual Violence Prevention and Awareness Program

PMI offers all employees and students an educational program promoting the awareness and prevention of dating violence, domestic violence, sexual assault and stalking. The program is intended to promote healthy behaviors that foster mutually respectful relationships and encourage safe bystander intervention. Additionally, the program informs students and employees of their rights and the process when reporting a crime.

To support students and employees by providing and promoting the awareness of sexual misconduct; and to identify reporting rights and responsibilities by complying with the Clery Act (20 U.S.C. §1092(f)) and the Violence Against Women Act (42 U.S.C. §13925 et seq.) Pima Medical Institute has implemented the following processes:

Terminology

- "*Accused Person*" is any individual who may have committed Sexual Misconduct.
- "*Code of Conduct*" is the PMI Code of Conduct, as amended from time to time.
- "*Hearing Officer*" is the Campus Director at the relevant campus, the PMI Chief Executive Officer, or a member of the PMI senior management team.
- "*PMI Community*" includes all students, faculty, and other employees.
- "*Reporting Party*" includes any member of the PMI Community who claims s/he has been the subject of Sexual Misconduct by another person, as well as anyone who reports Sexual Misconduct.
- "*Sexual Misconduct*" includes, but is not limited to, sexual assault, harassment, exploitation, intimidation, dating violence, domestic violence, or stalking. PMI intends its definition to be broadly construed. Further, the definition applies at all times to all campus and school-related activities, including the PMI online environment.

CLERY ACT REPORTABLE CRIMES/DEFINITIONS

The following information comes from the Department of Education's Handbook for Campus Safety and Security Reporting (2016); Uniform Crime Reporting Handbook; Sex Offenses definitions from the National Incident-Based Reporting System Edition of the Uniform Crime Reporting Program; and definitions of domestic violence, dating violence and stalking adapted from the amendments made to the Violence Against Women Re-Authorization Act of 2013.

Hierarchy Rule

When counting multiple offenses, PMI uses the FBI's Uniform Crime Reporting (UCR) Hierarchy Rule. This rule requires counting only the most serious offense when more than one offense was committed during a single incident.

Unfounded Crimes

Crimes that were "unfounded" are excluded from these statistics. Only sworn law enforcement can unfound a crime and unfounded crimes only include those that were investigated by law enforcement authorities and found to be false or baseless.

Criminal Offenses

Murder/Non-negligent Manslaughter: the willful (non-negligent) killing of one human being by another.

Manslaughter by Negligence: the killing of another person through gross negligence.

Sexual Assault (Sex Offenses): Actual or attempted sexual contact with another person without that person's consent.

Rape: 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, without the consent of the victim. This offense includes the rape of both males and females.

Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his or her age or because of his or her temporary or permanent mental incapacity.

Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.

Robbery: the taking or attempting to take anything from value of the care, custody or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

Aggravated Assault: an unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm.

Burglary: The unlawful entry of a structure to commit a felony or a theft.

Motor Vehicle Theft: The theft or attempted theft of a motor vehicle.

Arson: The willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

Violence Against Women Act (VAWA) Offenses

The aforementioned offenses as defined by Clery are:

- **Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence. Any incident meeting this definition is considered a crime for purposes of *Clery Act* reporting.
- **Domestic Violence:** A felony or misdemeanor crime 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 jurisdiction in which the crime of violence occurred; 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 jurisdiction in which the crime of violence occurred.
- **Stalking:** Engaging in 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 the purposes of this definition, *course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. *Reasonable person* means a person under similar circumstances and with similar identities to the victim. *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling. Any incident meeting this definition is considered a crime for purposes of Clery Act reporting.
- **Sexual assault:** Sexual assault is actual or attempted sexual contact with another person without that person's consent. Sexual assault includes, but is not limited to: Intentional touching of another person's intimate parts without that person's consent; Other intentional sexual contact with another person without that person's consent; Coercing, forcing, or attempting to coerce or force a person to touch another person's intimate parts without that person's consent; Rape, which is penetration, no matter how slight, without that person's consent.
- **Hate Crime:** A hate crime is not a separate, distinct crime, but is the commission of a criminal offense which was motivated by the offender's bias. If the facts of the case indicate that the offender was motivated to commit the offense because of his/her bias against the victim's race, religion, ethnicity, national origin, gender, gender identity, sexual orientation, or disability, the crime is classified as a hate crime.

Victim's Rights

PMI strongly encourages all individuals to report incidents of sexual misconduct directly to law enforcement.

Preservation of evidence may assist in proving an alleged offense occurred or may be helpful in obtaining an order of protection and therefore time is of the essence. PMI will assist with notification if requested. Victims have the option to decline assistance from law enforcement and campus authorities. PMI will support the rights of victims and adhere to protective orders resulting from legal action. PMI will make accommodations or provide protective measures upon victim request and if reasonably available whether or not the victim chooses to report the crime.

Reporting

A Reporting Party may submit a report to PMI alleging sexual misconduct. If the Accused Person is a member of the PMI Community, the report goes to the Campus Director or, in the alternative, to PMI's Chief Executive Officer. Reporting may occur in person, by phone, by email, or by letter.

When a report is received, PMI will provide the Reporting Party with written notification which explains the process, student and employee rights and options, accommodations, and options under this Policy, together with information regarding the availability of support services within both the institution and community.

At the request of the Reporting Party, PMI will notify local law enforcement officials. If the alleged Sexual Misconduct is reported to law enforcement PMI will defer to law enforcement and take no further action until law enforcement has completed its process.

PMI will make available to a Reporting Party a PMI employee with training in victim rights issues, preservation of evidence, and campus and community-based resources. PMI will take measures to protect the identity of the Reporting Party and other necessary parties, including omitting personally identifying information about the Reporting Party, and maintaining the confidentiality of any accommodations or protective measures provided to the Reporting Party, as long as maintaining such confidentiality will not interfere with PMI's ability to provide the accommodations or protective measures.

Students seeking information about counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims, both within PMI and in the community should contact campus student services. Reporting Parties who seek assistance to request changes to academic, living, and working situations or protective measures should contact campus student services. PMI will provide such assistance without regard for whether the Reporting Party chooses to report the event to PMI or local law enforcement.

Standard of Evidence

The burden of proof in all cases is the preponderance of the evidence, whether it is more likely than not that the sex misconduct in any form, including but not limited to sexual assault, harassment, exploitation, intimidation, dating violence, domestic violence and/or stalking occurred. If the evidence presented meets this standard, then the respondent must be found responsible.

Discipline

PMI will employ a process that is prompt, fair, and impartial from the initial investigation to the result.

Any hearing will be conducted by officials who, at a minimum, receive annual training on sexual violence issues and how to conduct an investigation and hearing process that protects victims and promotes accountability. The Reporting Party and the Accused Person will have the same opportunities to have others present during any institutional disciplinary proceeding.

Pre-Hearing Process

Preliminary Review; Resolution. The Hearing Officer will conduct a preliminary review of the allegations. If the Hearing Officer can resolve the matter with the consent of the Reporting Party and the Accused Person, in a manner which is also satisfactory to PMI, the Hearing Officer shall dismiss the matter. Such disposition shall be final and there shall be no subsequent proceedings. The resolution shall be documented in a writing signed by the Reporting Party, the Accused Person, and the Hearing Officer.

Charging Letter. If the matter cannot be resolved by agreement, and if the Hearing Officer believes the allegations, if proven true, justify disciplinary action, the Hearing Officer shall prepare a Charging Letter. The Charging Letter must provide notice to the Accused Person of Party. The Charging Letter must also:

- Identify Code of Conduct violations, if any;
- Provide the Accused Person with a date certain by which s/he must provide the Hearing Officer with a request for a hearing;

- Provide the Accused Person with a date certain by which s/he must provide the Hearing Officer with a written response to the Charging Letter;
- Notify the Accused Person that s/he may be subject to discipline, which may include termination;
- Notify the Accused Person that, if a hearing is requested:
 - s/he will be required to provide the Hearing Officer with a copy of all documents, other evidence, and the name and addresses of the witnesses s/he she wishes to present at the hearing not less than five (5) business days before the hearing;
 - s/he will be entitled to receive copy of all documents, other evidence, and the name and addresses of the witnesses PMI will present at the hearing not less than five (5) calendar days before the hearing;
 - failure to provide such information may result in evidence or witness testimony not being considered;
 - information to be used at the hearing will be provided to the Reporting Party;
- Notify the Accused Person that the deadlines may be extended for good cause with written notice to the Reporting Party and the Accused Person.
- Notify the Accused Person that s/he and the Reporting Party will have the same opportunity to have others present during any disciplinary hearing, including the opportunity to be accompanied to any related meeting or hearing by advisor(s).

Investigation. The Hearing Officer or his/her designee may conduct any appropriate investigation prior to the hearing.

Interim Suspension. An Accused Person may be suspended from PMI on an interim basis if s/he is a student. An Accused Person who is a PMI employee may be subject to interim discipline. Any interim action shall be described in a writing, which shall also include all terms and conditions associated with the interim action.

Hearing Notice. The Hearing Officer will send the Accused Person and the Reporting Party a Notice of Hearing, which includes the date, time, and location of the hearing.

Process. Decisions about process shall be vested in the Hearing Officer. Information about the process shall be included with the Notice of Hearing.

Decision. The Hearing Officer will issue his/her decision promptly after the hearing, in writing.

The decision will state the judgment of the Hearing Officer, list any sanctions to be imposed, and state that the decision is final and binding on the Accused Person and the Reporting Party. The Hearing Officer may:

- dismiss the case for insufficient evidence;
- find that no violation of the Code of Conduct occurred; or
- find that a violation did occur.

Sanctions. PMI will support the rights of victims for orders of protection. Aside from any criminal penalties that may be imposed for sex offenses, the campus may take action; and, based upon its own investigation of the alleged offense, PMI may take the following actions.

More than one sanction may be imposed, and sanctions may be modified by the Hearing Officer.

- **Warning.** A notice in writing to the student that the student is violating or has violated institutional regulations;
- **Probation.** A written reprimand for violation of specified regulations which places the student in a probationary status for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found to violate any institutional regulation(s) during the probationary period;
- **Loss of Privileges.** Denial of specified privileges for a designated period of time;
- **Discretionary Sanctions.** Work assignments, essays, or other related discretionary assignments;
- **School Suspension.** Separation of the Accused Person from PMI for a definite period of time, after which the Accused Person is eligible to return;
- **Expulsion/Employment Termination.** Permanent separation of the Accused Person from PMI;
- **Revocation of Admission and/or Degree.** Admission to or a degree awarded from PMI may be revoked for fraud, misrepresentation, or other violation of PMI standards in obtaining the degree, or for other serious violations committed by an Accused Person prior to graduation;
- **Withholding Degree.** PMI may withhold awarding a degree otherwise earned until the completion of the process set forth in PMI's Student Code of Conduct, including the completion of all sanctions imposed, if any.

Confidentiality

The Hearing Officer shall obtain the written consent of the Reporting Party to identify him/her to the Accused Person. If the Reporting Party requests confidentiality, the Hearing Officer will take all reasonable steps to investigate and respond to the allegation in a manner consistent with the request for confidentiality. If the Reporting Party will not permit the disclosure of his/her identity under any circumstances, PMI's ability to respond may be limited. However, the Hearing Officer must evaluate the Reporting Party's position within the context of PMI's need to provide a safe and nondiscriminatory environment for the PMI Community. Thus, the Hearing Officer may weigh the request for

confidentiality against the following factors: the seriousness of the alleged offense; whether the Accused Person has been the subject of other accusations; and the Accused Person's right to receive information about the allegations if the information is maintained by PMI as an "education record" under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g; 34 C.F.R. Part 99.

The Hearing Officer shall inform the Reporting Party if s/he cannot ensure confidentiality. Even if the Hearing Officer cannot take action against the Accused Person because the Reporting Party insists on confidentiality, the School should pursue other steps to limit the effects of the alleged offense and prevent its recurrence.

Personally Identifying Information

PMI will ensure that the Reporting Party's personally identifying information will not be included in any publicly available recordkeeping, including Clery Act reporting and disclosures such as the annual Campus Safety and Security Report and the daily crime log. Personally identifying information is defined in Section 40002(a) of the Violence Against Women Acts of 1994 as individually identifying information for or about an individual, including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault or stalking, regardless of whether the information is encoded, encrypted, hashed or otherwise protected.

Victim's Services

PMI does not offer on-campus victim's services; however, all students are encouraged to visit the student services department to receive information on services available in the community. Some of those services include:

- Domestic Violence Resource Center - <http://www.dvrc-or.org/>
- National Center for Victims of Crime - <https://victimsofcrime.org/>
- Break the Cycle - <https://www.breakthecycle.org/>
- Community Legal Services - <http://www.clsaz.org/>

Sex Offender Registration

In accordance to the "Campus Sex Crimes Prevention Act of 2000" which amends the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, the Jeanne Clery Act and the Family Educational Rights and Privacy Act of 1974, PMI provides the following link to state Sex Offender Registries.

<http://www.nsopw.gov/Core/PublicRegistrySites.aspx>

Sanctions for Sex Offenses

PMI will support the rights of victims for orders of protection.

Aside from to any criminal penalties that may be imposed for sex offenses, the campus may take action; and, based upon its own investigation of the alleged offense, PMI may take the following actions:

- **Conduct probation:**
 - Suspension for a specified period of time.
 - In the event the alleged offender is an employee, the suspension may be with or without pay.
- **Termination**