

Sample Language for Interim and Supportive Measures to Protect Students Following an Allegation of Sexual Misconduct

I. Introduction

The Task Force to Protect Students from Sexual Assault is committed to supporting institutions of higher education (“colleges”) in preventing sexual misconduct,¹ encouraging reports of such misconduct, improving responses to reports of such misconduct, and complying with applicable federal laws. This document provides assistance on how “interim measures” required by Title IX can be incorporated into a college’s sexual misconduct policy and offers sample policy language. Interim measures are the services, accommodations, or other assistance that colleges must provide to victims² after notice of alleged sexual misconduct but before any final school outcomes – investigatory, disciplinary, or remedial – have been determined. These measures include but are not limited to: changes to housing, dining, or work circumstances; academic accommodations; counseling; health and mental health services; and disability services.³

As further explained below, apart from interim measures, some colleges offer “supportive measures” to victims of sexual misconduct who do not report the misconduct to the college, but seek assistance from the college through their counselors or victim advocates. For example, counselors at a college’s mental health center may request changes to classes or housing on behalf of victims of trauma, including but not limited to sexual assault, without disclosing the nature of the underlying trauma.⁴ These supportive measures are discretionary and distinct from the interim measures required under Title IX when a college receives a report or other notice of sexual misconduct. The Task Force encourages colleges to provide supportive measures as long as they do so in a manner consistent with their Title IX and Clery Act obligations. Thus, the sample policy language below offers victims the option of having counselors or victim advocates request supportive measures from the college without disclosing the sexual misconduct to the college. Under the sample language, the college will consider these requests as part of its general policy of providing supportive measures to students who experience various forms of trauma but whose counselors or advocates do not disclose the nature of the trauma. The sample language clarifies the differences between these supportive measures and the interim measures required by Title IX so that victims can make informed choices.

The sample language below does not constitute legal advice or create new legal obligations.

¹ The Task Force uses the term “sexual misconduct” as a widely recognized umbrella term that encompasses a range of conduct, including but not limited to all types of sexual harassment, sexual assault, rape, and other sexual violence – all of which should be covered in a school’s sexual misconduct policy. By using the term “misconduct,” the Task Force does not intend to diminish the serious nature of any type of sexual misconduct.

² Although some prefer to use the term “survivor” to describe an individual who has been sexually assaulted, the term “victim” is also widely used. This document uses the term “victim” and does so with respect for those who have been subjected to sexual assault.

³ For more information on interim measures required by Title IX, see the Department of Education’s Office for Civil Rights’ [Questions and Answers on Title IX and Sexual Violence \(2014\)](#).

⁴ Students who have a disability, including those who develop a disability as a result of experiencing sexual misconduct, may be entitled to additional services and supports as accommodations (e.g., the reasonable modification of policies, practices, or procedures or the provision of academic adjustments) under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and the Section 504 Regulation, 34 C.F.R. Part 104, or in cases of public schools under Title II of the American with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12131 et seq., and the Title II Regulation, 28 C.F.R. Part 35, or in cases of private schools under Title III of the ADA, 42 U.S.C. §§ 12181 et seq., and the Title III Regulation, 28 C.F.R. Part 36. Students may seek assistance from a college’s disability resource office.

Colleges that use this language in their sexual misconduct policies, in part or in whole, may still be found to be in violation of federal law(s). When drafting such policies, colleges should consult legal counsel to ensure compliance with federal and state laws.

II. Important Considerations for Drafting a Policy on Interim and Supportive Measures

The sample language highlights important elements for institutions to consider when drafting an effective policy regarding interim and supportive measures. The sample language is neither exhaustive nor exclusive. The language is not meant to be copied and pasted into a policy; each college's policy must reflect its own character and circumstances. Policies will vary in detail, specificity, and components, reflecting differences in state or local legal requirements and each college's size, students, administrative structure, and what it has learned from past experiences.

Because each institution is unique, the Task Force suggests engaging in the comprehensive drafting process recommended in the [Checklist for Campus Sexual Misconduct Policies](#). During that process, colleges should determine what victim resources are currently available on campus, whether additional resources should be developed, how to protect a victim's confidentiality, and how information about interim measures will be communicated to the campus community. Colleges should regularly assess the effectiveness of their interim measures to ensure that they are meeting the continuing needs of victims and have a process for improving such measures when they are not effective. Colleges also should be aware of the importance of continued measures beyond the interim investigation period and final resolution, as many victims of sexual misconduct experience sustained emotional and/or physical trauma after an assault.

Under the Clery Act, a college must include in its Annual Security Report a policy statement notifying students that, in the case of a reported sex offense, the college will notify the victim about options for and available interim measures, such as changing academic, living, transportation, and working situations, if requested by the victim and if such accommodations are reasonably available, regardless of whether the victim reports the crime to campus or local law enforcement. A college that drafts a policy statement in light of the sample language below may use that statement in its Annual Security Report as long as that statement meets the requirements of the Clery Act.

III. Options to Consider When Drafting a Policy on Interim and Supportive Measures

The sample language below describes how a college can communicate to its students the resources available to support victims of sexual misconduct, how to access those resources, and which resources are available when a victim wishes to keep information about the sexual misconduct confidential. The Task Force strongly encourages colleges to have counselors, advocates, and medical providers available to victims to provide assistance, such as medical and mental health services, in a confidential manner. The Task Force further encourages colleges to offer victims of sexual misconduct various options for requesting assistance and to provide the information victims need to make informed choices. The sample policy language provides three options for victims to request interim or supportive measures that colleges may consider when drafting their policies regarding available victim resources. These options take into account the different circumstances that may lead victims to seek help.

The first option is for victims who report sexual misconduct to a responsible employee of the college,⁵ such as the Title IX coordinator. Colleges must offer this option under Title IX. Their policies should encourage victims of sexual misconduct to report the misconduct to the College's responsible employees and make clear that such reports will be met with an immediate and appropriate response. Generally, the college will respond by investigating the report to determine what occurred. A critical part of that response is also providing interim measures while the college determines final outcomes, including throughout any investigative and disciplinary process. The sample language below explains how the college's responsible employees will work with the victim to secure appropriate interim measures. The specific interim measures that a college implements will vary depending on the facts of each case, and in general should minimize the burden on the victim. The college also should periodically update the victim on the status of the investigation and evaluate what additional responses are appropriate to keep the victim and school community safe and ensure equal access to educational programs and activities. To the extent victims need continued measures after these final outcomes, the college should continue to provide them as appropriate.

The first option for victims also recognizes that in some circumstances, a victim reports an incident of sexual misconduct to the college, but requests that his or her name not be disclosed to the alleged perpetrator and/or that no investigation or disciplinary action be pursued. Upon receipt of a report, the college must take immediate action to protect the victim as necessary and ensure equal access to educational programs and activities, including taking interim measures as appropriate. Such action and measures should respect victims' requests to keep their identities and the alleged conduct confidential while the college determines whether it can honor the student's confidentiality request in a manner consistent with its Title IX obligations. The college should also determine what other responses to the allegation are appropriate in light of the known circumstances – e.g., targeted training and outreach or increased security in certain areas of campus. If the victim later asks that the college pursue an investigation, the college should continue to maintain the victim's information in a secure manner and only share that information with individuals who are responsible for handling the college's response to incidents of sexual misconduct.⁶ For more information on confidentiality, please see the Task Force's [Sample Language for Reporting and Confidentially Disclosing Sexual Violence](#).

The second and third options for victims in the sample language below recognize that victims may seek assistance from confidential service providers such as professional counselors, non-professional counselors, or advocates (e.g., counseling centers, campus advocacy centers, or victim support centers). These service providers may request supports, services, and accommodations from the college on a victim's behalf.

⁵ The Task Force uses the term "responsible employee" consistent with the definition in the Department of Education's Office for Civil Rights' [Questions and Answers on Title IX and Sexual Violence \(2014\)](#).

⁶ The school should be aware of the alleged student perpetrator's right under the Family Educational Rights and Privacy Act ("FERPA") to request to inspect and review information about the allegations if the information directly relates to the alleged student perpetrator and the information is maintained by the school as an education record. In such a case, the school must either redact the complainant's name and all identifying information before allowing the alleged perpetrator to inspect and review the sections of the complaint that relate to him or her, or must inform the alleged perpetrator of the specific information in the complaint that are about the alleged perpetrator. *See* 34 C.F.R. § 99.12(a). The school should also make complainants aware of this right and explain how it might affect the school's ability to maintain complete confidentiality.

The second option for victims explains how service providers may seek interim measures required by Title IX from the college. When service providers inform responsible employees of the college that sexual misconduct is the reason for requesting interim measures, such requests often trigger other Title IX obligations of the college, such as taking appropriate steps to determine what occurred. Thus, service providers should discuss with victims what information may be shared and take account of a student's request for confidentiality before requesting supports, services, and accommodations from the college. These service providers may ask the victim to sign a release regarding the information that may be shared by the service provider.

The third option for victims in the sample language acknowledges that some do not want to report the sexual misconduct to the college because the report could initiate a Title IX and/or law enforcement investigation. If a victim discloses sexual misconduct to a confidential service provider and does not want the service provider to reveal the nature of an incident when requesting supports, services, and accommodations from the college, the service provider may still request supportive measures from the college without triggering its Title IX obligations. Under the third option, the college considers the service provider's request for supportive measures under the college's general policy of providing such measures for students who have experienced various forms of trauma without requiring the counselor or advocate to disclose the nature of the underlying trauma to the college.

The Task Force encourages colleges to clarify in their sexual misconduct policies, the resources available to victims who want to disclose sexual misconduct only to a confidential service provider, as well as any limitations on the resources available to victims who choose not to report the misconduct to the college. It is important that service providers and employees providing supports, services, and accommodations – whether classified as interim measures or supportive measures – receive training regarding trauma-informed responses and the impact of trauma so that they understand why such measures can be critical to ensuring a victim's safety and continued access to educational opportunities.

While resources vary across institutions, all colleges can provide some assistance to victims of sexual misconduct. The following sample language is designed to help colleges achieve this.

SAMPLE LANGUAGE

Available Interim Measures

Interim measures are those services, accommodations, or other assistance that the College puts in place for victims after receiving notice of alleged sexual misconduct but before any final outcomes – investigatory, disciplinary, or remedial – have been determined. We want students to be safe, to receive appropriate medical attention, and to get the help they need to heal and to continue to access their educational opportunities. We also want students to understand their reporting options and how to access available interim measures. The College encourages victims of sexual misconduct to report those incidents to the College’s Title IX coordinator or any responsible employee with whom the victim feels comfortable. The College recognizes that sexual violence is traumatic and may leave victims feeling overwhelmed and confused. This policy seeks to provide clear guidance regarding available resources and who can help in securing them.

Upon receiving a report of sexual misconduct, the College will provide the victim, or the victim’s counselor or advocate, with a written explanation of the interim measures available on campus and through local community resources **[insert name of local resources]** and shall ask victims, or their counselors or advocates, what measures are sought. Some possible interim measures are listed below, and the College determines which measures are appropriate for a particular victim on a case-by-case basis. Not all of the measures listed below will be necessary in every case to keep victims safe and ensure their equal access to educational programs and activities. If the victim or advocate identifies an interim measure that is not already provided by the College, the College will consider whether the request can be granted. In those instances where interim measures affect both a victim and the alleged perpetrator, the College will minimize the burden on the victim wherever appropriate.

A victim of sexual misconduct, or the victim’s counselor or advocate, may request the interim measures listed below. The College – after consulting with the victim or the victim’s counselor or advocate – will determine which measures are appropriate to ensure the victim’s safety and equal access to educational programs and activities:

- Academic accommodations (for additional information, see below)
- Medical and mental health services, including counseling
- Change in campus housing and/or dining locations
- Assistance in finding alternative housing
- Assistance in arranging for alternative College employment arrangements and/or changing work schedules
- A “No contact” directive pending the outcome of an investigation. Such a directive serves as notice to both parties that they must not have verbal, electronic, written, or third party communication with one another
- Providing an escort to ensure that the student can move safely between school programs and activities
- Transportation accommodations, such as shuttle service, cab voucher, or parking arrangements to ensure safety and access to other services
- Assistance identifying an advocate to help secure additional resources or assistance including off-campus and community advocacy, support, and services
- **[insert additional and community-specific measures where available]**

The College will work with victims or their counselors or advocates to identify what interim measures are appropriate in the short term (e.g., during the pendency of an investigation or other school response), and will continue to work collaboratively throughout the College's process and as needed thereafter to assess whether the instituted measures are effective, and if not, what additional or different measures are necessary to keep the victim safe.

As explained below, when a victim's counselor or advocate requests any of the above measures on the victim's behalf without disclosing that sexual misconduct is the basis for the request, the College will consider these requests for supportive measures consistent with its general policy of allowing counselors and advocates to seek such measures for victims of trauma without requiring that the nature of the trauma be disclosed.

Academic Accommodations

Academic accommodations are one type of interim measure that the College may provide to a victim after receiving notice of alleged sexual misconduct to ensure that the victim is safe and can continue to access educational opportunities following alleged sexual misconduct. To address the possible adverse effects of sexual misconduct on a victim's academics, it may be possible to secure time-limited academic accommodations, such as rescheduling an exam. If the victim experiences persistent academic difficulties as a result of the sexual misconduct (e.g., including difficulties stemming from anxiety, depression, post traumatic stress disorder or any other mental or physical illnesses or injuries), the victim may request more long-term academic accommodations, such as a temporary leave of absence. If the victim does not have a treating provider but is suffering from health-related issues such as those identified above, the student should contact **[insert name and position of individual who can secure mental health services]** to be connected with a campus health provider or appropriate off-campus resource. Students may also be entitled to additional services and supports if they have a disability, including those who developed a disability as a result of experiencing sexual misconduct.⁷ **[Insert contact for the College's disability office.]**

Victims of sexual misconduct, or the victim's counselor or advocate, may request the following academic accommodations as interim measures. The College – after consulting with the victim or the victim's counselor or advocate – will determine which accommodations are appropriate to ensure the student's safety and equal access to educational programs and activities. Requests for academic accommodations may include assistance in:

- Transferring to another section of a lecture or laboratory
- Rescheduling an academic assignment or test
- Accessing academic support (e.g., tutoring)
- Arranging for incompletes, a leave of absence, or withdrawal from campus
- Preserving eligibility for academic, athletic, or other scholarships, financial aid, internships, study abroad, or foreign student visas

Options for Requesting Interim Measures or Supportive Measures

The College offers victims of sexual misconduct two options for reporting the misconduct and requesting interim measures required by Title IX. The first option allows the victim to report the

⁷ See footnote 4 above.

misconduct to a College employee whom the College has designated as responsible for receiving and/or responding to reports of sexual misconduct and to request interim measures from these “responsible employees.”

The second option allows a victim who has not reported the misconduct to a responsible employee to disclose the misconduct to a professional counselor, non-professional counselor, or victim advocate who in turn can request interim measures on the victim’s behalf from the College. Under the second option, victims should be aware that when a counselor or advocate requests interim measures on their behalf from a responsible employee of the College and discloses that the reason for the request is sexual misconduct, the request may trigger the College’s Title IX obligation to investigate. To the extent the counselor or advocate makes such a disclosure, but, consistent with the victim’s wishes, asks that the College not investigate or otherwise notify the alleged perpetrator of the report, the Title IX coordinator will consider whether it can honor the request while still providing a safe and nondiscriminatory environment for all students, as set forth in the College’s Confidentiality Policy,⁸ and take interim measures to protect the victim as necessary.

The College also offers victims an option for the victim’s counselor or advocate to request supportive measures from the College without reporting the sexual misconduct to the College. While we strongly encourage all victims of sexual misconduct to report the incident to the College directly, we want victims to have access to supportive measures regardless of when or whether they decide to report the conduct to the College.

Option 1: Victims Who Report Sexual Misconduct to a Responsible Employee

Reports of sexual misconduct to responsible employees⁹ will be forwarded to the Title IX coordinator who will determine what steps need to be taken. Generally, the College will investigate the report to determine what occurred and the College will provide interim measures during the investigative process and any disciplinary process. However, for victims who report sexual misconduct to responsible employees but request that the College not pursue an investigation or otherwise keep their report confidential (e.g., from the perpetrator), the Title IX coordinator will consider whether it can honor the victim’s request while still providing a safe and nondiscriminatory environment for all students. For more information on confidentiality, please see the College’s Confidentiality Policy. Whether the Title IX coordinator decides that the College can honor the confidentiality request or must pursue an investigation, the Title IX coordinator (or designee) will inform the victim of available interim measures and coordinate appropriate interim measures for the victim.

Options 2 and 3: Victims Who Disclose Sexual Misconduct to Professional Counselors, Non-Professional Counselors, and Victim Advocates

The College recognizes that counselors and victim advocates are often in a unique position to know when and what interim measures or supportive measures would be most appropriate to address a victim’s health and safety needs. For this reason, victims who disclose incidents of sexual misconduct to their counselors or victim advocates should discuss whether to have the

⁸ For assistance drafting a confidentiality policy, see the [Sample Language for Reporting and Confidentially Disclosing Sexual Violence](#) of the Task Force to Protect Students from Sexual Assault.

⁹ The college’s sexual misconduct policy should clearly identify which staff members are responsible employees so that students can make informed decisions about whom to notify.

counselor or advocate report the misconduct to the College and request interim measures required by Title IX *or* request discretionary supportive measures from the College without reporting the nature of the conduct. The counselor or advocate will work with the victim to determine what information the victim is willing to have shared with College employees involved in securing interim measures or supportive measures. The counselor or advocate will explain how sharing certain information with responsible employees may trigger the College's Title IX obligation to investigate.

Option 2. Interim Measures

A counselor or advocate may request that the College provide interim measures to a victim of sexual misconduct to protect the victim and ensure the victim's equal access to the College's educational programs and activities before the final outcome of any investigation. The counselor or advocate may ask a victim who is seeking interim measures to sign a release specifying the information that may be shared with the College. After the counselor or advocate informs the College that sexual misconduct is the basis for the request for interim measures, the College will work with these individuals to investigate the alleged sexual misconduct and determine what interim measures are appropriate. For example, the counselor or advocate may ask the Title IX coordinator to arrange academic or living accommodations for the victim, or may ask faculty or housing personnel directly for such interim measures.

Option 3. Supportive Measures

A counselor or advocate may request that the College provide supportive measures for a student who has experienced trauma, including, but not limited to, trauma related to sexual misconduct. If a victim does not want the College to investigate the alleged sexual misconduct, the victim should discuss this with the counselor or advocate. Counselors and advocates should explain what type of requests will trigger the College's Title IX obligations and discuss other avenues for securing supportive measures consistent with the victim's wishes. For example, counselors and advocates may request supportive measures (e.g., changes to housing, dining, classes, or employment **[insert any limitations on such services in the absence of a report to the College]**) from the College on behalf of a victim who does not want the College to pursue an investigation of the alleged sexual misconduct, and the College will consider these requests for supportive measures consistent with its general policy of providing supports to students who have experienced various forms of trauma without requiring their counselor or advocate to reveal the nature of the underlying trauma to the College.

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The College encourages victims of sexual misconduct to report the incident(s) and to seek help under the option above with which they feel most comfortable. If you have any questions about available interim measures or supportive measures, please contact **[insert name and contact information.]**