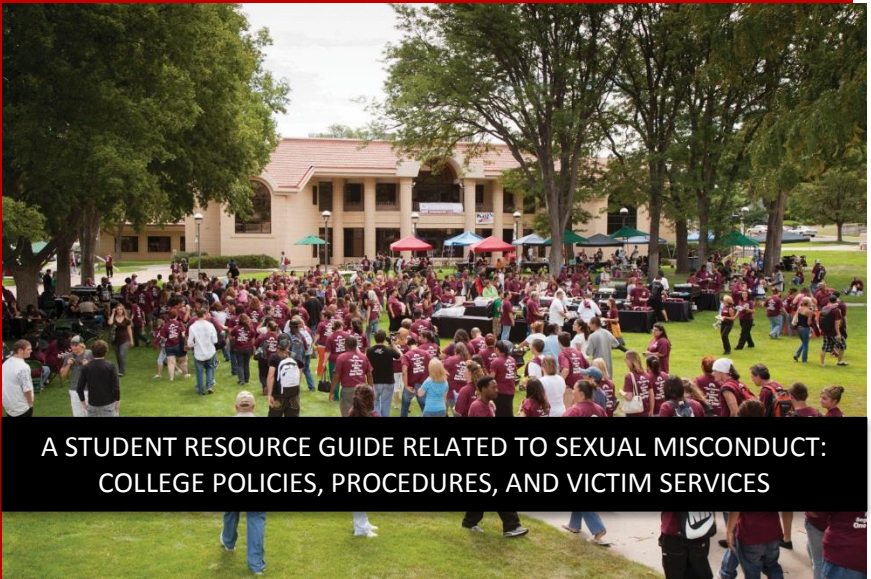


# Pueblo



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## Community College



**A STUDENT RESOURCE GUIDE RELATED TO SEXUAL MISCONDUCT:  
COLLEGE POLICIES, PROCEDURES, AND VICTIM SERVICES**

Pueblo Community College acknowledged  
the contribution of ATIXA in the development of this guide.

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## Why this Resource Guide?

Colleges are required by law and by a sense of fairness to protect students from gender-based discrimination and from acts of sexual misconduct. Both Title IX of the Education Amendments of 1972 and the Violence Against Women Act (VAWA) legally require colleges to provide these protections.

Some actions by college students and staff are both criminal acts and violations of the College's Student Code of Conduct, while others are only violations of the College's code of conduct. Alleged criminal acts are investigated by PCC's Department of Public Safety or by local law enforcement, while alleged violations of the code of conduct are conducted by College judicial affairs officers.

Pueblo Community College will investigate all allegations of gender-based discrimination and acts of sexual misconduct. (Specifics on how the College investigates cases are found in the PCC Student Handbook.) PCC will act fairly to both the alleged victim and the alleged responsible person, with the College's objective being to discover the facts of a case and to determine, using the standard of a preponderance of evidence (more likely than not, or 50.1%) where or not a violation took place. When the College determines that a violation has taken place, the College will impose reasonable sanctions that educate the responsible person of the severity of the person's actions as well as protect both the victim and the community from future similar actions.

In order to assist students in increasing their awareness and in helping them prevent gender-based discrimination and sexual misconduct, PCC has prepared this document.

### What is Title IX?

Title IX of the Education Amendments of 1972 protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states  
No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

Whenever a College receives a Title IX complaint, the College must investigate the complaint. The College must

- Stop the behavior
- Remediate the impact, and
- Prevent any re-occurrence

### What is VAWA?

VAWA is the Violence Against Women Act, which now requires colleges to provide ongoing training and activities to all students and staff to increase awareness prevention of any type of sexual misconduct, including

- |                   |                   |
|-------------------|-------------------|
| Sexual harassment | Sexual assault    |
| Dating violence   | Domestic violence |
| Stalking          |                   |

### What is the Clery Act?

The Clery Act is a federal law that requires colleges to publish an annual Safety and Security Report. This report lists specific campus crimes as well as providing comprehensive information on crime prevention. The Clery Act requirements were recently expanded by the reauthorization of VAWA.

# POLICY

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Sexual misconduct, including sexual harassment, sexual assault, dating violence, domestic violence, and stalking are violations of Pueblo Community College's Student Code of Conduct (Student Handbook, [http://www.pueblocc.edu/Student\\_Handbook/](http://www.pueblocc.edu/Student_Handbook/)) and the College's sexual misconduct policy. A number of federal laws and regulations, including Title IX, the Violence Against Women Act (VAWA), AND THE Clery Act mandate how institutions respond to such allegations. Many types of sexual misconduct also constitute violations of Colorado law.

Members of the campus community, guests, and visitors have a right to be free from sexual misconduct. All members of the community must conduct themselves in a way that does not infringe upon the rights of others. PCC's sexual misconduct policy is intended to define expectations for appropriate conduct and outline resolution processes to address conduct that does not meet these expectations. When individuals accused of sexual misconduct are found to be in violation as the policy, PCC will impose serious sanctions, as noted on the following pages.

All members of the campus community, guests, and visitors are protected by this policy regardless of their gender, sexual orientation, or gender identity. PCC has jurisdiction over all acts of sexual misconduct involving members of the campus community, no matter where they occur, whether on- or off-campus.

# SEXUAL MISCONDUCT VIOLATIONS

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The following are the definitions of conduct prohibited by the sexual misconduct policy.

## **SEXUAL HARASSMENT**

Sexual harassment is unwelcome, sexual, sex-based, and/or gender-based verbal, online, and/or physical conduct.

otherwise constitute one of the other sexual misconduct offenses.

Sanctions range from warning through expulsion.

## **HOSTILE ENVIRONMENT**

A sexual harassment – hostile environment is created when sexual harassment is sufficiently severe, or persistent or pervasive, and objectively offensive that it unreasonably interferes with, denies, or limits someone’s ability to participate in or benefit from the institution’s educational (and/or employment) and social programs.

Sanctions range from WARNING through EXPULSION.

## **NON-CONSENSUAL SEXUAL CONTACT**

Non-consensual sexual contact is any intentional sexual touching, however slight, with any object, by a person upon another person that is without consent and/or by force.

Sanctions range from WARNING through EXPULSION.

## **NON-CONSENSUAL SEXUAL INTERCOURSE**

Non-consensual sexual intercourse is any sexual intercourse, however slight, with any object, by a person upon another person that is without consent and/or by force.

Sanctions typically result in SUSPENSION or EXPULSION.

## **SEXUAL EXPLOITATION**

Sexual exploitation occurs when one person take non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage of anyone other than the one being exploited, and that behavior does not

## **DOMESTIC VIOLENCE**

Domestic violence in physical violence, sexual violence, and/or emotional or psychological abuse between those in an intimate relationship.

Sanctions range from WARNING through EXPULSION.

## **STALKING**

There are two levels of stalking:

**Level 1 stalking** is a course of conduct directed at a specific person on the basis of actual or perceived membership in a protected class, which is unwelcome and would cause a reasonable person to feel fear.

Sanctions range from WARNING through EXPULSION.

**Level 2 stalking** is repetitive and menacing pursuit, following, harassing, and/or interfering with the peace and/or safety of another.

Sanctions typically result in SUSPENSION or EXPULSION.

## **RETRALIATION**

Retaliation is any adverse action taken against a person participating in a protected activity, because of that person’s participation in that activity, subject to limitations imposed by the First Amendment and/or academic freedom

Sanctions range from WARNING through EXPULSION.

# CONSENT

**Knowing, voluntary, and clear permission, through word or action, to engage in mutually agreed upon sexual activity or contact.**

Since different people may experience the same interactions differently, each party is responsible for making sure that partners have provided ongoing, clear consent to engaging in any sexual activity or contact.

A person may withdraw consent at any time during sexual activity or contact through words or actions. If that happens, the other party must immediately cease the activity or contact. Pressuring another person into sexual activity can constitute coercion, which is also considered to be sexual misconduct.

Silence or absence or resistance alone does not constitute consent. A victim is not required to resist or say “no” for an offense to be proven.

Consent to some forms of sexual activity (e.g., kissing, fondling, etc.) should not be construed as consent for other kinds of sexual activity (e.g., intercourse).

Being or having been in a dating relationship with the other party does not mean that consent for sexual activity exists.

Previous consent to sexual activity does not imply consent to sexual activity in the future.

To legally give consent in Colorado in most cases, individuals must be at least 17 years old.

## **FORCE**

Force is defined as direct or indirect use of physical violence and/or imposing physically on someone to gain sexual access. Force, unless part of a mutually-permissible kink, is a clear demonstration of a lack of consent.

## **INCAPACITATION**

Incapacitation is defined as a state in which individuals are unable to make rational, reasonable decisions because they lack the capacity to understand the “who, what, when, where, why, or how” of a situation or interaction. Individuals cannot give sexual consent if they cannot understand what is happening, or if they are disoriented, helpless, asleep, or unconscious for any reason. That applies even if it is because they voluntarily consumed alcohol or drugs. Unless consent is “knowing,” it is not valid. Those engaging in sexual activity who know or should have known that the other party is incapacitated are engaging in sexual misconduct. The possession, use, distribution, and/or administration of any incapacitating substance is prohibited.

The fact that the responding party was intoxicated, and thus did not realize the reporting party was incapacitated, does not excuse sexual misconduct.

# YOUR RIGHTS

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PCC strives to provide all of our members with fair and equitable resolution processes that include both formal and informal options.

## REPORTING

- Reporting parties have the right to notify law enforcement of incidents and to receive assistance from campus personnel in doing so.
- Reporting parties may decline to report to law enforcement if they so wish.
- Reporting parties have the right to have their allegations investigated and resolved internally by the College.

## FAIRNESS

- All members of the College community have the right to have reported incidents addressed according to the published PCC procedures.
- All parties have equal opportunities to have a support person of their choosing or offering by PCC present throughout all resolution proceedings (including intake, interviews, hearings, etc.). This person can be an advisor, advocate, attorney, family member, friend, faculty member, etc.
- All parties have the right to written notice of the outcome of sexual misconduct resolution proceedings.
- Reporting parties and witnesses will receive amnesty for minor infractions (e.g., alcohol or drug violations) that are secondary to incidents of sexual misconduct.
- Reporting parties, their supporters, and witnesses have a right to be free from retaliation.

## SUPPORT

- Students have a right to be notified of their ability to access campus counseling and health services.
- Students and employees have a right to be notified of on- and off-campus supportive resources.
- All parties involved in sexual misconduct allegations will receive the information and assistance needed to effectively participate in all proceedings.
- Reporting parties have the right to seek orders of protection, no-contact orders, restraining orders, or similar lawful orders issued by criminal or civil courts, and may seek the help of PCC Public Safety in requesting and/or enforcing these orders.

# REMEDIES

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PCC may take whatever steps are deemed necessary to appropriately respond to allegations of sexual misconduct, protect students' rights, and keep members of the campus community safe from further harm. Measures include, but are not limited to:

- Issuing interim actions (usually suspension) pending a hearing
- Reporting incidents to local police and/or prosecutors
- Referring to counseling and health services
- Referring to (CSEAP) Colorado State Employee Assistance Program
- Providing education to the community
- Altering work arrangements for employees
- Providing campus escorts
- Providing transportation assistance
- Implementing contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.

These measures are available regardless of whether a reporting party seeks formal resolution or makes a crime report.

# PROCEDURES

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The PCC procedures are detailed fully in the PCC Student Handbook ([http://www.pueblocc.edu/Student\\_Handbook/](http://www.pueblocc.edu/Student_Handbook/))

## INTAKE

A PCC official will assist the reporting party with making choices and accessing resources. Assuming the reporting party chooses to move forward with a campus resolution, the next step is a preliminary inquiry.

All resolutions will be conducted by campus officials who receive annual training on issues related to domestic violence, dating violence, sexual assault, and stalking, and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

The resolution process is confidential. PCC will protect the confidentiality of victims, consistent with federal law. Title IX-related resolutions are not subject to publicly available record-keeping provisions. Any release of information about a resolution will be accomplished without the inclusion of identifying information about the victim, to the extent permissible by law.

## PRELIMINARY INQUIRY

An initial determination is made about the allegations and whether to move forward to a formal investigation. This decision is made by the Title IX coordinator taking into account the nature of the allegations and the reporting party's wishes. If the decision is made to move forward, the coordinator refers the allegations to investigators.

## INVESTIGATIONS

An investigative model is used to resolve allegations. Trained investigators will provide an investigation that is prompt, thorough, reliable, equitable, fair, and impartial. They will interview reporting and responding parties and witnesses, and prepare reports with their findings and, when the determination is that the responding parties are responsible, sanctioning recommendations. Information about all the steps in the investigative process is available in the PCC Student Handbook

## HEARINGS

The hearing panel will have the opportunity to question the investigators during hearings. The panel may accept or reject investigators' recommendations. If the panel rejects the recommendations or decides t

to issue alternative sanctions, it must do so within the framework of the policy, citing clear evidence to support its decisions. The panel may additionally return the report to the investigators for modification.

The parties may make opening and closing statements to address the issues raised in the investigators' report. If a party is found responsible of a policy violation, the panel may review a written impact statement, which can include desired sanctioning outcomes.

## STANDARD OF EVIDENCE

PCC uses a preponderance of evidence standard. Decision-makers consider whether, given available credible evidence, it is more likely than not that a violation did or did not occur.

## PAST HISTORY

The past sexual history or character of an individual is not considered unless it is determined to be highly relevant. All such information sought to be entered for consideration by a party or the College will be presumed irrelevant until evidence of its relevance is offered. The existence of a pattern of behavior by the responding party may be relevant to the finding and sanction imposed. Both parties will be notified in advance if such information has been deemed relevant and will be considered during the process.

## FINAL DETERMINATION

The parties will be informed in writing of the outcome of the resolution, without significant delay between the notifications to each party. This notice will include the procedures for appealing the decision, any change to the results that occurs prior to the time that such results become final, and when results are considered to be final.

## APPEALS

Any party involved in sexual misconduct proceedings may appeal decisions within seven days on the basis of grounds permitted by PCC. All parties are included in any appeal reconsideration and have equal rights of participation. There is only one level of appeal. That decision is final. See the PCC Student Handbook for further details.

# RISK REDUCTION

## Risk reduction for Sexual Harassment, Dating Violence, Domestic Violence, Sexual Assault, and Stalking

While victim blaming is never appropriate and PCC fully recognizes that only those who commit sexual misconduct are responsible for their actions, PCC provides these suggestions to help individuals reduce their risk of being victimized and their risk of committing acts of sexual misconduct.

### REDUCING THE RISK OF VICTIMIZATION

- ✓ **Make known as early as possible any limits and boundaries you have.**
- ✓ **Clearly and firmly articulate consent or lack of consent.**
- ✓ Remove yourself, if possible, from an aggressor's physical presence.
- ✓ Reach out for help, either from someone who is physically nearby or by calling someone. People around you may be waiting for a signal that you need help.
- ✓ Take affirmative responsibility for your alcohol and/or drug consumption. Alcohol and drugs can increase your vulnerability to sexual victimization.
- ✓ Look out for your friends, and ask them to look out for you. Respect them, and ask them to respect you, but be willing to challenge each other about high-risk choices.

### REDUCING THE RISK OF BEING ACCUSED OF SEXUAL MISCONDUCT

- + Show your potential partner respect if you are in a position of initiating sexual behavior.
- + If a potential partner says, "no," accept it and don't push. If you want a "yes," ask for it; do not proceed without clear permission.
- + Clearly communicate your intentions to your potential sexual partner, and give them a chance to share their intentions and/or boundaries with you.
- + Respect personal boundaries. If you are unsure what is OK is any interaction, ASK!
- + Avoid ambiguity. Do not make assumptions about consent, about whether someone is attracted to you, how far you can go with that person, or if the individual is physically and mentally able to consent. If you have questions or are unclear, you DO NOT have consent.
- + Do not take advantage of someone who may be under the influence of alcohol or drugs, even if that person chose to become that way. Others loss of control DOES NOT put you in control.
- + Be on the lookout for mixed messages. That should be a clear indication to stop and talk about what your potential partner wants or does not want to happen. That person may be undecided about how far to go with you, or you may have misread a previous signal.
- + Respect the timeline for sexual behaviors with which others are comfortable, and understand that they are entitled to change their minds.
- + Recognize that even if you do not think you are intimidating in any way, your potential partner may be intimidated by or fearful of you, perhaps because of your gender, physical size, or a position of power or authority you may hold.
- + Do not assume that someone's silence or passivity is an indication of consent. Pay attention to verbal and non-verbal signals to avoid misreading intentions
- + Understand that consent to one type of sexual behavior DOES NOT automatically grant consent to other types of sexual behaviors. If you are unsure, stop and ask!
- + Understand that exerting power and control over another through sex is unacceptable conduct.



# ABOUT CONFIDENTIALITY

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To make informed choices, all parties should be aware of confidentiality and privacy issues, as well as institutional mandatory reporting requirements

## CONFIDENTIAL REPORTING

If reporting students wish that details of an incident be kept confidential, they should speak with campus health services providers. Members of the clergy, chaplains, and off-campus rape crisis center staff can maintain confidentiality. Local resources such as crisis centers are confidential and have no duty to report your information to representatives of the College.

## MANDATORY REPORTING

All College employees who are not designated above as confidential are mandatory reporters for all the details of which they are aware about an incident. They share this information with the Title IX coordinator. Giving a mandated reporter notice of an incident constitutes official notice to the College. Incidents of sexual misconduct will be taken seriously when official notice is given to the institution. Incidents of sexual misconduct will be taken seriously when official notice is given to the institution. Such incidents of sexual misconduct will be investigated and resolved in a prompt and equitable manner under the College's resolution

procedures, which is discussed in the PROCEDURES section of this publication.

You may request confidentiality and/or that the Title IX coordinator provides you with remedies and resources without initiating a formal resolution process. The coordinator will weigh requests for confidentiality against the institutional need to address and remedy discrimination under Title IX. Generally, the College will be able to respect your wishes, unless it believes there is a threat to the community based upon the use of weapons, violence, pattern, predation, or threatening conduct by the person being accused.

In cases where your request for confidentiality is granted, the College will offer you available resources, supports, and remedies. You are not obligated to pursue formal resolution in order to access the resources that are available. If the College decides that it is obligated to pursue a formal resolution based on the notice you have given, you are not obligated to participate in the resolution process; however, the ability of the College to enforce its policies or provide some remedies may be limited as a result of your decision not to participate.

## INCIDENTS INVOLVING MINORS



Please be aware that institutional duties with respect to minors, those under the age of 17, may require reporting sexual misconduct incidents to state agencies and/or local law enforcement. As a result, confidentiality cannot be guaranteed in sexual misconduct incidents involving minors.

# OPTIONS FOR SURVIVORS

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## **Option 1:** Medical treatment and optional evidence collection at hospital emergency room

- Local police and local sexual assault advocacy agency respond to hospital. Provided options to speak to one or both and receive services

## **Option 2:** Non-confidential report

- Referred to College Title IX coordinator for investigation
- Provided option to receive on-campus support services
- Provided options to seek medical treatment and optional evidence collection at hospital emergency room
- Provided options to receive sexual assault advocacy locally

## **Option 3:** Confidential report at College health center

- Provided options of seeking counseling for off-campus support
- Provided option of reporting to local police
- Provided options to seek medical treatment and optional evidence collection at hospital emergency room
- Local police and sexual assault agency respond to hospital. Provided options to speak to one or both and receive services

## **Option 4:** Report at local police department

- Provided option of reporting the incident to local sexual assault advocacy agency and/or the College

## **Option 5:** Confidential report through community sexual assault advocacy agency

- Provided option of working with College to receive on-campus accommodations
- Provided option of reporting to local police department

NOTE: Some services may vary by location.

# PROGRAMS

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## BYSTANDER INTERVENTION

PCC offers bystander intervention programming to all students in an effort to ensure that each member of the College community is invested in creating a safe campus environment for themselves and others. Program participants are instructed on safe options for preventing harm and intervening when a risk of sexual misconduct exists.

## VAWA/CLERY TRAINING

PCC provides incoming students with education and training on awareness and risk reduction of sexual harassment, sexual assault, dating violence, domestic violence, and stalking, as well as on consent in compliance with the Violence Against Women Act (VAWA) and the Clery Act.

## ONGOING CAMPAIGNS

PCC offers ongoing awareness and prevention campaigns throughout the academic year to students, faculty, and staff.

## Statement of Non-Discrimination

### Notice of Non-Discrimination

Pueblo Community College prohibits all forms of discrimination and harassment including those that violate federal and state law or the State Board for Community Colleges and Occupational Education Board Policies 3-120 and 4-120. The College does not discriminate on the basis of sex/gender, race, color, age, creed, national or ethnic origin, physical or mental disability, veteran status, pregnancy status, religion, genetic information, gender identity, or sexual orientation in its employment practices or educational programs and activities. Pueblo Community College will take appropriate steps to ensure that the lack of English language skills will not be a barrier to admission and participation in vocational education programs.

The College has designated the Director of Human Resources as its AA/EEO and Title IX Coordinator, and the Senior HR Specialist as Deputy Title IX Coordinator, with the responsibility to coordinate the college's civil rights compliance activities and grievance procedures. If you have any questions, please contact the Director of Human Resources or Deputy Title IX Coordinator, 900 W. Orman Avenue, Central Administration Building, Room 111, telephone (719) 549-3220, email [HR.PCC@Pueblocc.edu](mailto:HR.PCC@Pueblocc.edu). You may also contact the Office for Civil Rights, U.S. Department of Education, Region VIII, Federal Office Building, 1244 North Speer Boulevard, Suite 310, Denver, CO 80204, telephone (303) 844-3417.

### Aviso de no discriminación

Pueblo Community College prohíbe todas las formas de discriminación y acoso, incluyendo aquellos que violan leyes federales y estatales o el Consejo de estado para colegios comunitarios y laborales junta las políticas educativas 3-120 y 120 4. La Universidad no discrimina por sexos, raza, color, edad, credo, origen nacional o étnico, incapacidad física o mental, condición de veterano, estado de embarazo, religión, información genética, identidad de género u orientación sexual en sus prácticas de empleo o programas educativos y actividades. Universidad de comunidad del pueblo tomará medidas apropiadas para asegurar que la falta de conocimientos del idioma inglés no será una barrera para la admisión y participación en programas de educación vocacional.

El Colegio ha designado al Director de recursos humanos como su AA/EEO y Coordinador del Título IX y el especialista de RRHH como diputado Coordinador del Título IX, con la responsabilidad de coordinar las actividades de cumplimiento de los derechos civiles de la Universidad y los procedimientos de queja. Si usted tiene alguna pregunta, póngase en contacto con el Director de recursos humanos o vice Coordinador del Título IX, 900 W. Orman Avenue, edificio de Administración Central, sala 111, teléfono (719) 549-3220, correo electrónico [HR.PCC@Pueblocc.edu](mailto:HR.PCC@Pueblocc.edu). También puede comunicarse con la oficina para derechos civiles, Departamento de educación, región VIII, edificio de oficinas federales, 1244 North Speer Boulevard, Suite 310, Denver, CO 80204, teléfono (303) 844-3417.

# IF YOU HAVE EXPERIENCED SEXUAL MISCONDUCT

1. Go to a safe location as soon as possible.
2. Seek immediate medical attention if you are injured or believe that you may have been exposed to an STI/STD or potential pregnancy.
3. Contact any of the KEY CONTACTS listed below.
4. It is important to preserve physical evidence that may include tissue and fluid samples, evidence of violence, sheets, towels, clothing, etc. You may choose to avoid washing, bathing, urinating, etc., until after being examined at a local medical center. Because evidence of a sexual assault can deteriorate quickly, you may choose to seek a medical exam as soon as possible with a Sexual Assault Nurse Examiner (SANE) at PARKVIEW MEDICAL CENTER (Pueblo), ST. THOMAS MORE HOSPITAL (Cañon City), or MERCY REGIONAL MEDICAL CENTER (Durango). It is best to complete an examination within 120 hours of the assault, yet evidence (such as fluids, hair samples, and DNA) can be collected for a long time thereafter.
5. Choose how to proceed. You have options, and PCC encourages you to contact the local crisis center to discuss your options:
  - a. Do nothing until you are ready,
  - b. Pursue resolution by the College, and/or
  - c. Initiate criminal proceeding, and/or
  - d. Initiate civil process against the perpetrator

You may pursue whatever combination of options is best for you. If you wish to have an incident investigated and resolved by the College, you should contact Your campus's Student Judicial affairs office. Employees should contact the Human Resources office. College procedures will be explained. If you wish to have an incident handled criminally, you should contact the PCC Public Safety office or local law enforcement where the assault occurred. A campus official is available to accompany you in making such reports, if desired. Contact your campus Student Judicial Affairs office for more information

## KEY CONTACTS

Title IX Coordinator – Ken Nufer, Director of Human Resources  
719-549-3220  
Ken.nufer@pueblocc.edu

Fremont Campus contact: Eric Ingmire 719-296-6105  
SCCC Contact: Laura Latimer 970-247-2929 x7213

Public Safety – Pueblo Campus 719-549-3355 24 hours/7 days a week  
Public Safety – Fremont Campus 719-296-6130 While campus is open

### CRISIS CENTERS:

Pueblo Rape Crisis Services 719-544-1191  
Fremont – Family Crisis Services 719-275-2429  
SCCC - SASO 970-247-5400  
National Hotline 800-656-HOPE (4673)

### Medical Centers – SANE Programs

Parkview Medical Center 719-584-4445 (available 24/7)  
St. Thomas More Hospital 719-285-2000  
Mercy Regional Medical Center 970-247-4311