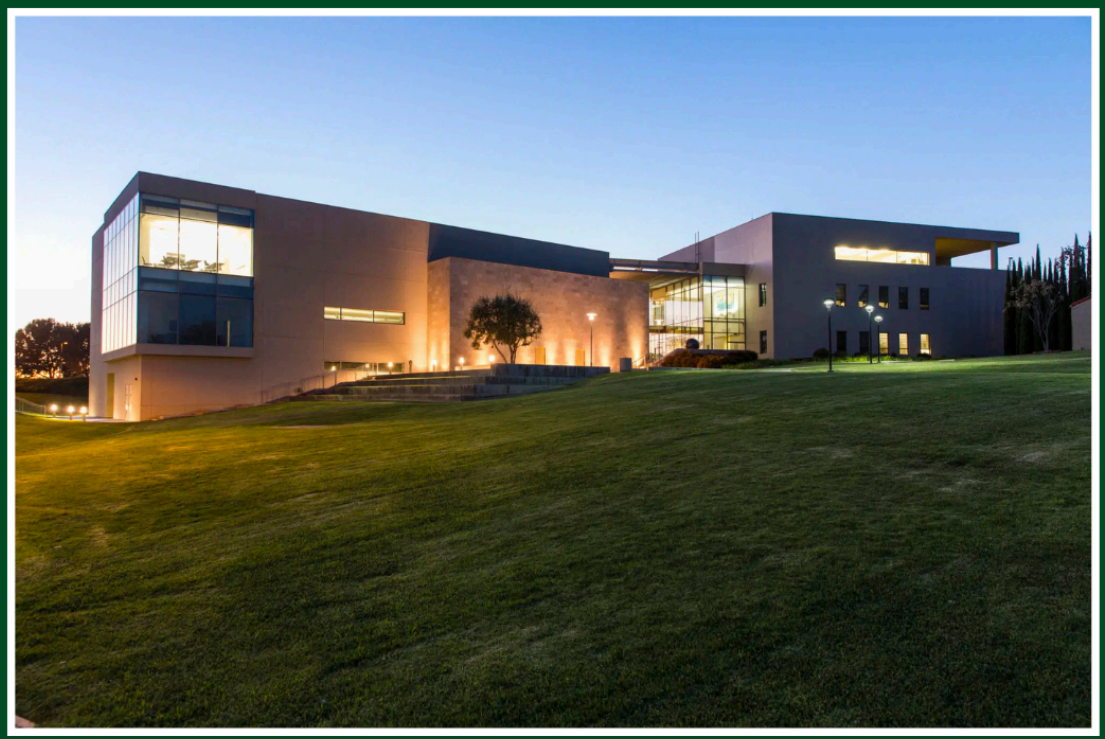
CONCORDIA UNIVERSITY
IRVINE

Policy Against Sex Discrimination



Institutional

Policy Against Sex Discrimination

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Policy Against Sex Discrimination

1. Policy Overview

Concordia University Irvine ("University") is committed to creating and maintaining a community where all persons who participate in University programs and activities can learn and work together free from sexual misconduct, Sex Discrimination and Sex-based Harassment. The University encourages members of its community to report Sex Discrimination, including Sex-based Harassment.

2. Title IX Policy Coordinator

Questions concerning Title IX may be referred to the University's designated Title IX Coordinator.

The Title IX Coordinator's contact information is below.

Megan Bouslaugh, Vice President of Student Affairs, Dean of Students
Chief Title IX Coordinator
CSLD 101
megan.bouslaugh@cui.edu
(949) 214-3057

The University has two designated Deputy Title IX Coordinators.

Brittany Pereda, Senior Woman Administrator
Assistant Athletics Director for Development and Operations
Deputy Title IX Coordinator
Gym 200H
brittany.pereda@cui.edu
(949) 214-3216

Stephanie Staley, Director of Disability Access Services
Deputy Title IX Coordinator
SLLC 102
stephanie.staley@cui.edu
(949) 214-3039

The Title IX Coordinator is required to respond to reports of Sex Discrimination including Sex-based Harassment. The Title IX Coordinator will handle information received with the utmost discretion and will share information with others on a need-to-know basis. For example, the Title IX Coordinator may need to address public safety concerns on campus,

comply with state and federal legal requirements, or share information to implement supportive measures.

A report to the Title IX Coordinator of Sex Discrimination including Sex-based Harassment does not always lead to a full investigation. However, the Title IX Coordinator will evaluate a Complaint to determine whether to investigate a Complaint pursuant to the Grievance Procedures under this policy.

3. Definitions

A. Advisor

1. An individual who provides guidance to the Parties during the grievance process. Throughout the grievance process, both the Complainant and Respondent have a right to an advisor of their choice. The University may establish restrictions regarding the extent to which the Advisor may participate in the proceedings as long as the restrictions apply equally to both Parties. For the purposes of this policy, the role of the advisor is limited to the following: the advisor may attend any interview or meeting connected with the Grievance Process, but may not actively participate in interviews or the hearing, if any, and may not provide testimony or argument on behalf of the party. Each party may be accompanied by a support person; thus each party may be accompanied by a total of two individuals during the grievance process.
2. The parties have the right to select an attorney as an advisor or support person at their own expense. However, the attorney's role will be the same as that of an advisor or support person. The attorney may not actively participate in the investigation or hearing.

B. Affirmative Consent

Affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that they have the affirmative consent of the other or others to engage in the sexual activity.

1. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time.
    a. Lack of protest or resistance does not mean consent.
    b. Silence does not mean consent.
    c. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.
2. It shall not be a valid excuse that the Respondent believed that the Complainant affirmatively consented to the sexual activity if the Respondent knew or reasonably should have known that the Complainant was unable to consent to the sexual activity under any of the following circumstances:
    a. The Complainant was asleep or unconscious.

b. The Complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the Complainant could not understand the fact, nature, or extent of the sexual activity.
c. The Complainant was unable to communicate due to a mental or physical condition.

3. In addition, it shall not be a valid excuse to alleged lack of affirmative consent that the Respondent believed that the Complainant consented to the sexual activity under either of the following circumstances:
    a. The Respondent's belief in affirmative consent arose from the intoxication or recklessness of the Respondent.
    b. The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented.

C. Business Day

University business days do not include Saturdays, Sundays, or days on which the campus is closed. If the word business is not included next to the word day, it refers to a calendar day as defined below.

D. Complainant

A student or employee who is alleged to have been subjected to conduct that could constitute Sex Discrimination or Sex-based Harassment.

E. Complaint

An oral or written request to the University that objectively can be understood as a request for it to investigate and make a determination about alleged Sex Discrimination or Sex-based Harassment.

F. Confidential Resources

Individuals or organizations that have a legal duty of confidentiality to keep communications private. They cannot disclose to third parties information they received from someone who seeks their services without that person's consent. Exemptions to confidentiality may apply such as in situations that involve child abuse, imminent risk of harm, or a court order. University-designated confidential resources have limited reporting responsibilities under the Clery Act, a federal law that requires that they report information or allegations of criminal behavior to the University's Clery Coordinator without disclosing identifying information about the individuals involved in an incident. Confidential Resources are not required to report information to the Title IX Coordinator.

G. Day

Calendar day.

H. Decision-Maker

The person or group of people who will make a determination of whether Sex Discrimination or Sex-based Harassment occurred. The University may have one Decision-Maker determine whether the Respondent is responsible for violation of this policy and another Decision-Maker determine the appropriate level of disciplinary sanctions for the conduct.

I. Disciplinary Sanctions

Consequences imposed on a Respondent following a determination that the Respondent violated the University's prohibition on Sex Discrimination.

J. Grievance Procedure

The fact-finding process from the time of the filing of the Complaint through the final determination, including of an appeal (if any).

K. Hearing Officer

The person appointed by the University to oversee and preside over any live hearings held during a Grievance Procedure. The primary responsibility of the Hearing Officer is to ensure that the proceedings are conducted in a fair and just manner.

L. Informal Resolution

A Complaint resolution agreed to by the Parties and approved by the Title IX Coordinator, or designee, that is reached before a final determination.

M. Party

Complainant or Respondent.

N. Relevant

Related to the allegations of sex discrimination under investigation as part of the Grievance Procedures described in this policy. Questions are relevant when they seek evidence that may aid in showing whether the alleged Sex Discrimination occurred, and evidence is relevant when it may aid a Decision Maker in determining whether the alleged Sex Discrimination occurred.

O. Remedies

Measures provided, as appropriate, to a Complainant identified as having had their equal access to the University's education program or activity limited or denied by Sex Discrimination. These measures are provided to restore or preserve that person's access to the University's education program or activity after a recipient determines that Sex Discrimination occurred.

P. Respondent

A person who is alleged to have violated the University's prohibition on Sex Discrimination.

Q. Retaliation

Means intimidation, threats, coercion, or discrimination against any person by the recipient, a student, or an employee or other person authorized by the University to provide aid, benefit, or service under its education program or activity, for the purpose of interfering with any right or privilege under this policy, state or federal law, or because the person has reported information, made a Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing.

R. Sex-based Harassment

Sex-based Harassment is a form of Sex Discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of pregnancy or related conditions. Federal and state law regard sexual harassment to be a form of unlawful discrimination. Federal and state law both apply and provide overlapping definitions with slightly different language.

1. **Quid Pro Quo Harassment**

   An employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

2. **Hostile Environment Harassment**

   Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

   a. The degree to which the conduct affected the Complainant's ability to access the University's education program or activity;
   b. The type, frequency, and duration of the conduct;
   c. The parties' ages, roles within the University's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
   d. The location of the conduct and the context in which the conduct occurred; and
   e. Other sex-based harassment in the recipient's education program or activity.

3. **Sexual Assault**

Includes the following:

a. **Sex Offenses**

Any sexual act directed against another person, without the affirmative consent of the Complainant, including instances where the Complainant is incapable of giving affirmative consent. Sexual Act is defined as conduct between persons consisting of:

i. Contact between the penis and the vulva.

ii. Contact between the penis and the anus.

iii. Contact between the mouth and the penis.

iv. Contact between the mouth and the vulva.

b. **Non-Consensual Penetration**

Actual or attempted 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 affirmative consent of the Complainant. This includes penetration forcibly and/or against that person's will or not forcibly or against the person's will in instances where the Complainant is incapable of giving affirmative consent because of their temporary or permanent mental or physical incapacity.

c. **Fondling**

The non-consensual touching of the private body parts of another person for the purpose of sexual gratification, without affirmative consent, whether forcibly and/or against that person's will or not forcibly or against the person's will in instances where the Complainant is incapable of giving affirmative consent because of their youth or because of their temporary or permanent mental or physical incapacity.

d. **Other Lawfully Prohibited Sexual Intercourse**

This category includes conduct constituting sexual assault that does not meet the definition of Non-Consensual Penetration or Fondling:

1) Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law, regardless of affirmative consent.
2) Nonforcible sexual intercourse with a person who is under the statutory age of consent, regardless of affirmative consent.

4. **Dating Violence**

   Violence committed by a person:

   a. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
   b. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
      1. The length of the relationship;
      2. The type of relationship; and
      3. The frequency of interaction between the persons involved in the relationship.

5. **Domestic Violence**

   Felony or misdemeanor crimes committed by a person who:

   a. Is a current or former spouse or intimate partner of the victim under California's family or domestic violence laws, or a person similarly situated to a spouse of the victim;
   b. Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
   c. Shares a child in common with the victim; or
   d. Commits acts against a youth or adult victim who is protected from those acts under California's family or domestic violence laws.

6. **Sexual Exploitation**

   Occurs when a person takes sexual advantage of another person for the benefit of anyone other than that person, without that person's consent. Examples of behavior that could rise to the level of sexual exploitation include but are not limited to: prostituting another person; recording images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nudity without that person's consent; distributing images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nudity if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to such disclosure and objects to such disclosure; and, viewing another person's sexual activity, intimate body parts, or nudity in a place where that person would have a reasonable expectation of privacy, without that person's consent, and for the purpose of arousing or gratifying sexual desire. Sexual exploitation may occur regardless of whether sexual activity takes place.

7. **Stalking**

   Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

   a. Fear for the person's safety or the safety of others; or
   b. Suffer substantial emotional distress.

S. Supportive Measures

Individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to:

a. Restore or preserve that party's access to the University's education program or activity, including measures that are designed to protect the safety of the parties or the recipient's educational environment; or
b. Provide support during the Grievance Procedures or during an informal resolution process.

Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, restrictions on contact, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. Supportive measures may also include written notification about available services both within the institution and the community and options for available assistance as required by the Clery Act.

T. Sex Discrimination

Treating someone unfairly or unfavorably because of that person's sex, including the person's pregnancy. Sex Discrimination includes Sex-based Harassment. Concordia University Irvine does not discriminate on the basis of sex and prohibits Sex Discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment, except to the extent that religious freedom exemptions may apply.

4. Sources of Information and Reporting

Employees may direct their questions about protections against sex discrimination, including sex-based harassment, to the Title IX Coordinator or to the University's Department of Human Resources at hr@cui.edu and to the following government agencies:

California Civil Rights Department
(800) 884-1684
(800) 700-2320 (TTY)
Email: contact.center@calcivilrights.ca.gov
Website: https://calcivilrights.ca.gov

United States Equal Employment Opportunity Commission
(800) 669-4000
(800) 669-6820 (TTY)
(844) 234-5122 (ASL Video Phone)
Email: info@eeoc.gov

Students may also direct their questions about protections against sex discrimination, including sex-based harassment, to the Title IX Coordinator or to the following:

San Francisco Office
Office for Civil Rights
U.S. Department of Education
50 United Nations Plaza
Mail Box 1200, Room 1545
San Francisco, CA 94102

Telephone: 415-486-5555
FAX: 415-486-5570; TDD: 800-877-8339
Email: ocr.sanfrancisco.ed.gov

Any person may report conduct prohibited by this policy to the Title IX Coordinator or to the Department of Campus Safety at (949) 214-3000. A Complaint about the Title IX Coordinator may be made to the University's General Counsel, Ronald Van Blarcom, who may be reached at (949) 214-3235 or via email at Ronald.VanBlarcom@cui.edu.

5. Statement of Non-Discrimination for Sex-Based Discrimination

Concordia University Irvine is an educational institution of the Lutheran Church – Missouri Synod that takes seriously anti-discrimination provisions under federal and state law, and is committed to providing a learning and living environment that promotes employee and student safety, transparency, personal integrity, civility and mutual respect.

Concordia University Irvine does not discriminate on the basis of sex and prohibits Sex Discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment, except to the extent that religious freedom exemptions may apply. The University's applicable procedures depend on the status of the individual in our community.

Concordia University Irvine has not applied for the regulatory exemption under Title IX, 34 C.F.R. section 106.12, but the Title IX statutory exemption provided by Congress, see 20 U.S.C. section 1681(a)(3), is self-executing. Concordia University Irvine is entitled to that statutory exemption to the extent the application of Title IX is not consistent with the institution's religious tenets.

Concordia University Irvine is exempted by the State from California Education Code 66270, to the extent the application of California Education Code 66270 is not consistent with the institution's religious tenets. The exemption may apply to, but is not limited to, requirements as expressed in University policies, including policies found in the Student Code of Conduct, the Housing Handbook, the Student-Athlete Handbook, the Employee Handbook and the Employee Student Handbook. Concordia University Irvine retains all rights afforded to it under federal law and the laws of the State of California.

6. Scope

This policy applies to all students and employees who experience prohibited sex discrimination, including sex-based harassment. This policy applies to sex discrimination occurring under the University's education programs or activities in the United States. The University has other policies and procedures that may be applicable if the conduct does not meet the definition of prohibited Sex Discrimination including Sex-based Harassment, or fall under the jurisdiction of this policy, including, without limitation, policies found in the Student Code of Conduct, the Housing Handbook, the Student-Athlete Handbook, the Employee Handbook and the Employee Student Handbook.

7. Employee Reporting Responsibilities

All employees of the University who are not confidential employees are required to promptly notify the Title IX Coordinator when they have information about conduct that may reasonably constitute Sex Discrimination, including Sex-based Harassment.

8. Confidential Resource Options at the University

A. Students, faculty, and staff may wish to seek confidential assistance in dealing with an incident of sexual misconduct. The University has identified specific employees who will maintain confidentiality under the professional license or professional ethics necessary for their employed role at the University. Please see the University's Title IX webpage for a list of those Concordia employees who may keep information regarding an incident of sexual misconduct confidential. The list includes the following individuals:

   a. **Rev. Quinton Anderson, Campus Pastor**

      Campus Ministry Center

      quinton.anderson@cui.edu

      (949)214-3024

   b. **All Nurses and Counselors in the Wellness Center**

      Campus Safety and Wellness Center

      michelle.laabs@cui.edu

      (949)214-3024

   c. **Employee Assistance Program.** Eligible employees have access to the Employee Assistance Program (EAP) as part of their benefits with the University. The EAP covers up to six free face-to-face sessions with a counselor, per issue, per year, plus unlimited telephonic assistance. The University is not notified when an

employee uses the service. Eligible employees can contact EAP 24 hours a day/ 7 days a week at 866.726.5267 or via their website at http://www.cignabehavioral.com.

B. In most cases, Confidential Resources at the University will not share the substance of any such communications or that such communications occurred without consent. Individuals who wish to talk about issues related to sexual harassment or sexual misconduct confidentially, with the understanding that the University will not take any action based on such confidential communications, are encouraged to contact one of these Confidential Resources.

C. Confidential Resources may, however, have an obligation to disclose otherwise-privileged information where they perceive an immediate and/or serious threat to a person and/or property. This is a limited exception to the privileged nature of communications with Confidential Resources. Reports or records maintained by the University (including Counseling Service records), and other confidential, non-privileged records may, however, be subject to a subpoena if civil or criminal charges are filed in court.

D. In accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, Confidential Resources will not report Clery crimes they learn about through confidential communications for purposes of the University's compilation of campus crime statistics. In addition, when appropriate and legally permissible, the University shall conduct record-keeping on reports of dating violence, domestic violence, stalking and sexual assault, such as that collected for legally required disclosures, that excludes personally-identifiable information of any complainants.

E. Under California law, any health practitioner employed in a health facility, clinic, physician's office, or local or state public health department or clinic is required to make a report to local law enforcement if he or she provides medical services for a physical condition to a person who he or she knows or reasonably suspects is suffering from: (1) a wound or physical injury inflicted by a firearm; or (2) any wound or other physical injury where the injury is the result of assaultive or abusive conduct (including Sexual Assault, and Dating and Domestic Violence). This requirement does not apply to sexual assault and domestic violence counselors and advocates.

9. Response to Reports of Sex Discrimination, Including Sex-Based Harassment

Upon receiving a report of Sex Discrimination, including Sex-based Harassment, the Title IX Coordinator, or a Deputy Title IX Coordinator, will promptly contact the Complainant to discuss the availability of Supportive Measures, consider the Complainant's wishes with respect to Supportive Measures, inform the Complainant of the availability of Supportive Measures, and explain to the Complainant the Grievance Procedure.

This policy includes the Grievance Procedures, attached to this policy and incorporated herein: **Appendix** (the Grievance Procedure for Complaints of Sex Discrimination and Sex-Based Harassment).

A. Information Packet for Sex Assault, Dating or Domestic Violence or Stalking

Upon a receipt of a report of sexual assault, dating violence, domestic violence or stalking, the University shall provide an information packet that contains procedures to follow if a sex offense, domestic violence, dating violence, sexual assault, or stalking has occurred, including information in writing about:

1. The importance of preserving evidence as may be necessary to the proof of criminal domestic violence, dating violence, sexual assault, or stalking, or in obtaining a protection order and the identification and location of witnesses;
2. How and to whom the alleged offense should be reported;
3. Options regarding law enforcement and campus authorities, including notification of the option to:
    a. notify proper law enforcement authorities, including campus safety officers and local police;
    b. be assisted by campus authorities in voluntarily notifying law enforcement authorities; and
    c. decline to notify such authorities;
4. Where applicable, their rights and the institution's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court;
5. Information about appropriate and available services both at the institution and in the community, including information about the availability of, and contact information for, on- and off-campus resources and services, and coordination with law enforcement, as appropriate; and
6. Options for, reasonably available assistance and accommodations and how to request them; and
7. Information about the participation of victim advocates and other supporting people.

The University's information packet for victims of sexual assault, dating violence, domestic violence and stalking is available at the University's website (https://www.cui.edu/studentlife/title-ix) or available from the Title IX Coordinator.

B. Implementation of Supportive Measures

The University will offer and coordinate supportive measures as appropriate for the Complainant and Respondent to restore or preserve that person's access to the University's education program or activity or provide support during the University's Grievance Procedures or during the informal resolution process.

1. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures. The Title IX Coordinator should record and retain records regarding requests and provision of Supportive Measure in accordance with the requirements set out in Section 11, Record Keeping, below.
2. Supportive measures may include but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied

to one or more Parties; leaves of absence; changes in class, work, University-provided housing, or extracurricular or any other activity, regardless of whether there is a comparable alternative; and training and education programs related to sex-based harassment.

3. The University shall not disclose information about any supportive measures to persons other than the person to whom they apply, including informing one Party of supportive measures provided to another Party, unless necessary to provide the supportive measure or restore or preserve a Party's access to the education program or activity, or as required by law.

C. Emergency Removal

Nothing in this part precludes the University from removing a Respondent from the University's education program or activity on an emergency basis, provided that the University undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the Respondent with notice and an opportunity to appeal the decision immediately following the removal.

D. No Contact Order

When requested by a Complainant or otherwise determined to be appropriate, the University shall issue an interim no-contact directive prohibiting the Respondent from contacting the Complainant during the pendency of the investigation. The University shall not issue an interim mutual no-contact directive automatically, but instead shall consider the specific circumstances of each case to determine whether a mutual no-contact directive is necessary or justifiable to protect a Party's safety or well-being, or to respond to interference with an investigation. If the University issues any no-contact directive, the University shall provide the Parties with an explanation of the terms of the directive, including the circumstances, if any, under which a violation could be subject to disciplinary action. If the University issues a mutual no-contact directive, the University shall also provide the Parties with a written justification for the directive.

E. Administrative Leave

The University reserves the right to place a non-student employee Respondent on paid administrative leave during the pendency of a grievance process.

F. Consolidation of Complaints

The University may consolidate Complaints as to allegations of sex discrimination, including sex-based harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, where the allegations of sexual harassment arise out of the same facts or circumstances (except where such consolidation would violate FERPA). Where a grievance process involves more than one Complainant or more than one Respondent, references in this section to the singular "Party," "Complainant," or "Respondent" include the plural, as applicable.

G. Informal Resolution

At its discretion, the University may offer the Parties Informal Resolution in lieu of resolving a Complaint through the University's Grievance Procedures. Informal Resolution may include mediation that does not involve a full investigation and adjudication.

1. The University shall not require the Parties to participate in an informal resolution process. The University does not require waiver of the right to an investigation and determination of a Complaint as a condition of enrollment or continuing enrollment, or employment or continuing employment, or exercise of any other right. The University must obtain the Parties' voluntary, written consent to the informal resolution process.
2. The University must provide the Parties a written notice disclosing:
    a. The allegations;
    b. The requirements of the informal resolution process;
    c. That, prior to agreeing to a resolution, any Party has the right to withdraw from the informal resolution process and to initiate or resume the Grievance Procedures;
    d. That the Parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the Parties from initiating or resuming the Grievance Procedures arising from the same allegations;
    e. The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the Parties; and
    f. What information the University will maintain and whether and how it could disclose such information if Grievance Procedures are initiated or resumed.
3. The University will not offer or facilitate an informal resolution process to resolve allegations that an employee engaged in sex-based harassment of a minor (including an elementary school or secondary school student), to resolve allegations of sexual violence involving a student Party, or when such a process would conflict with Federal, State, or local law.
4. The University must complete the informal resolution process within 60 days of receiving the Complaint, unless an extension of those timelines are justified due to unusual or complex circumstances.

10. Retaliation Prohibited

No one, including a peer, may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right established by this policy or because the individual has made a report or Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.

The University has the right to require an employee or other person authorized by the University to provide aid, benefit, or service under its education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing under this policy.

11. Recordkeeping

The University shall maintain the following records for a period of seven years.

A. For each Complaint of Sex Discrimination or Sex-based Harassment, records documenting the informal resolution process, the Grievance Procedures, and the resulting outcome.
B. For each notification the Title IX Coordinator receives of information about conduct that reasonably may constitute Sex Discrimination or Sex-based Harassment under this policy, records documenting the actions the University took to meet its obligations under this policy.
C. All materials used to train the Title IX Coordinator, Deputy Title IX Coordinators, investigators, Decision-Makers, and any person who facilitates an informal resolution process.

Appendix to the Policy Against Sex Discrimination

Grievance Procedures for Complaints of Sex Discrimination or Sex-Based Harassment

A. General Requirements

1. The Grievance Procedures in this Appendix to the Policy Against Sex Discrimination apply to allegations of conduct that would constitute unlawful Sex Discrimination or Sex-based Harassment under applicable federal and state law, including Title IX, and their regulations.
2. These procedures ensure trauma-informed and impartial investigation of Sex Discrimination or Sex-based Harassment Complaints.
3. Any individual may report Sex Discrimination or Sex-based Harassment to the University's Title IX Coordinator.
4. The University strongly encourages prompt reporting of Sex Discrimination or Sex-based Harassment. Prompt reporting allows for the collection and preservation of evidence, including physical evidence, digital media, and witness statements. A delay may limit the University's ability to effectively investigate and respond.
5. The University will treat Complainants and Respondents equitably.
6. The University requires that any Title IX Coordinator, Deputy Title IX Coordinator, investigator, or Decision-Maker not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. As long as there is no conflict of interest or bias, a Decision-Maker may be the same person as the Title IX Coordinator, Deputy Title IX Coordinator, or investigator.
7. The University presumes that the Respondent is not responsible for the alleged Sex Discrimination or Sex-based Harassment until a determination is made at the conclusion of its Grievance Procedures.
8. The investigation and adjudication of alleged Sex Discrimination or Sex-based Harassment under these Grievance Procedures is not an adversarial process between the Complainant, the Respondent, and the Witnesses, but rather a process for the University to comply with its obligations under existing law. The Complainant does not have the burden to prove, nor does the Respondent have the burden to disprove, the underlying allegation or allegations of misconduct.
9. Because individuals may be deterred from reporting incidents of Sex Discrimination or Sex-based Harassment if alcohol, drugs, or other violations of University or campus rules were involved, the University will inform individuals that the primary concern is for student safety and that use of alcohol or drugs never makes a Complainant at fault for Sex Discrimination or Sex-based Harassment. An individual who participates as a Complainant or Witness in an investigation under this procedure is provided amnesty from, and will not be subject to disciplinary sanctions for, violations of the University's student conduct policy at or near the time of the incident, unless the University determines that a violation was egregious, including, but not limited to, an action that

places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

B. Who May File a Complaint

The following people have a right to make a Complaint of Sex Discrimination or Sex-based Harassment, requesting that the University investigate and make a determination about alleged Sex Discrimination or Sex-based Harassment:

1. A student or employee of the University who is alleged to have been subjected to conduct that could constitute Sex Discrimination or Sex–based Harassment; or
2. A parent or guardian of a minor, or an authorized representative with the legal right to act on behalf of a Complainant; or
3. The University's Title IX Coordinator.

C. Student Complainant Requests for Confidentiality

1. If a student Complainant requests confidentiality when reporting Sex Discrimination or Sex-based Harassment, which could preclude a meaningful investigation or potential discipline of the Respondent, if found responsible, or that no investigation or disciplinary action be pursued to address alleged Sex Discrimination or Sex-based Harassment, the University shall take the request seriously, while at the same time considering its responsibility to provide a safe and nondiscriminatory environment for all students, including for the Complainant. The University shall normally grant the request when possible. In determining whether to disclose a Complainant's identity or proceed to an investigation over the objection of the Complainant, the University may consider whether any of the following apply:
    a. There are multiple or prior reports of sexual misconduct against the Respondent;

    b. The Respondent reportedly used a weapon, physical restraints, or engaged in battery;

    c. The Respondent is a faculty or staff member with oversight of students;

    d. There is a power imbalance between the Complainant and Respondent;

    e. The Complainant believes that the Complainant will be less safe if the Complainant's name is disclosed or an investigation is conducted; and
    f. The University is able to conduct a thorough investigation and obtain relevant evidence in the absence of the Complainant's cooperation.

2. If the University determines that it can honor the student Complainant's request for confidentiality, it shall still take reasonable steps to respond to the Complaint, consistent with the request, to limit the effects of the alleged Sex Discrimination or Sex-based Harassment and prevent its recurrence without initiating an investigation or revealing the identity of the Complainant. The University shall also take immediate

steps to provide for the safety of the Complainant while keeping the Complainant's identity confidential as appropriate. The University shall notify the Complainant that the request for confidentiality will limit the steps the University will take to respond to the report of Sex Discrimination or Sex-based Harassment.

3. If the University determines that it must disclose the student-Complainant's identity to the Respondent to proceed with a Complaint, it shall inform the Complainant prior to making this disclosure or initiating the investigation. The University shall also take immediate steps to provide for the safety of the Complainant where appropriate. In the event the Complainant requests that the University inform the Respondent that the Complainant asked the University not to investigate or seek discipline, the University shall honor this request.

D. Timeframes and Extensions

The University has established the following timeframes for the major stages of the Grievance Procedures:

1. **Complaint evaluation**. The University will determine whether to dismiss or investigate a Complaint within 14 days of the Title IX Coordinator receiving the Complaint.
2. **Complaint investigation**. The University will complete an adequate, reliable, and impartial investigation of a Complaint within 120 days.
3. **Decision-Maker Questioning of the Parties and Witnesses:** The University will complete the process that enables the Decision-Maker to question the Parties and Witnesses no later than 30 days after the date that the investigation concludes.
4. **Live Hearing**. The University, in its discretion, may hold a live hearing. If the University holds a live hearing, it will occur no later than 30 days after the date that the investigation is completed. In determining whether to hold a live hearing, the University will consider the requests of the Parties or the severity of the potential sanctions.
5. **Determination Whether Sex Discrimination or Sex-Based Harassment Occurred.** The University will issue a written determination whether Sex Discrimination or Sex-based Harassment occurred no later than 20 business days after the date that the Decision-Maker completes the process that enables the Decision-Maker to question the Parties and Witnesses or the date that the live hearing (if any) concludes, whichever occurs later.
6. **Appeal**. For timeframes and information on the right to appeal, see Subsection N, Appeals below.
7. **Extensions**
    a. When appropriate, the University may determine that good cause exists to extend the timeline(s) identified in the preceding paragraph to conduct a fair and complete investigation, to accommodate an investigation by law enforcement, to accommodate the unavailability of witnesses or delays by the Parties, to account for University breaks or vacations, or due to the complexity of the investigation. The University will provide notice of an extension to the Parties in writing and include the reason for the delay and anticipated timing of completion.

b. A Party may request an extension from the University in writing by explaining the reason for the delay and the length of the continuance requested. The University shall grant a student Party's reasonable request for an extension of a deadline related to a Complaint during periods of examinations or school closures. The University will notify the Parties and document the grant or denial of a request for extension.
c. All notices pertaining to extensions will be maintained as part of the case records.

E. Privacy

The University will take reasonable steps to protect the privacy of the Parties and Witnesses during these Grievance Procedures. These steps will not restrict the ability of the Parties to obtain and present evidence, including by speaking to witnesses; consulting with their family members, confidential resources, or advisors; or otherwise preparing for or participating in the Grievance Procedures. The Parties cannot engage in retaliation, including against witnesses.

1. Consistent with the requirements of this policy, the University shall keep confidential the identity of any individual who has made a report or Complaint of Sex Discrimination, including any individual who has made a report or filed a Complaint of Sex-based Harassment, any Complainant, any individual who has been reported to be the perpetrator of Sex Discrimination, any Respondent, and any witness, except as may be permitted or required by law, or to carry out the purposes of this policy. This means that the University will protect the Party's privacy consistent with this policy but may disclose information to those who have a legitimate need to know and in order to process Complaints under this policy.
2. Confidentiality is not absolute, however. Where criminal conduct has allegedly occurred, or where the health and/or safety of others in the community may be in danger, it may be necessary for the University, or the University may be required by law, to take appropriate steps to protect the safety of its students and employees, including the person who has reported the misconduct.

F. Evidence

The University will objectively evaluate all evidence that is relevant and otherwise permissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or Witness.

1. During a hearing, the Decision-Maker has discretion not to consider evidence if that evidence was available but not disclosed at the time of the investigation.
2. The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by the University to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether the evidence or question is relevant:
    a. Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the

privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality in writing.

b. A Party's or Witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or Witness, unless the University obtains that Party's or Witness's voluntary, written consent for use in these Grievance Procedures.
c. Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to the alleged Sex-based Harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged Sex-based Harassment or preclude determination that Sex-based Harassment occurred.
d. Evidence that relates to the existence of a dating relationship or prior or subsequent consensual sexual relations between the Complainant and the Respondent unless the evidence is relevant to how the Parties communicated consent in prior or subsequent consensual sexual relations. Before allowing the consideration of any evidence that relates to the Complainant's sexual interests or prior sexual conduct, the investigator or Decision-Maker shall provide a written explanation to the Parties as to why consideration of the evidence is consistent with this procedure.

G. Written Notice of Allegations

Upon initiation of these Grievance Procedures, the University will notify the Parties of the following with sufficient time for the Parties to prepare a response before any initial interview:

1. The University's Grievance Procedures for Complaints in this Appendix, and the informal resolution process in Section 9-G;
2. Sufficient information available at the time to allow the Parties to respond to the allegations, including the identities of the Parties involved in the incident(s), the conduct alleged to constitute Sex Discrimination or Sex-based Harassment, and the date(s) and location(s) of the alleged incident(s);
3. Retaliation is prohibited, and that the Party should report any retaliation to the Title IX Coordinator;
4. The Respondent is presumed not responsible for the alleged Sex Discrimination or Sex-based Harassment until a determination is made at the conclusion of these Grievance Procedures. Prior to such a determination, the Parties will have an opportunity to present relevant and otherwise permissible evidence to a trained, impartial Decision-Maker;
5. The Parties may have an Advisor of their choice who may be, but is not required to be, an attorney;
6. For a student Party, the right to consult with an attorney, at the Party's own expense, at any stage of these Grievance Procedures, if they wish to do so;

7. That any evidence available but not disclosed during the investigation might not be considered by the Decision-Maker at a subsequent hearing;
8. The Parties are entitled to an equal opportunity to access the relevant and otherwise permissible evidence and the investigative report that accurately summarizes this evidence; and
9. The University will cite to the code of conduct or other rule that prohibits knowingly making false statements or knowingly submitting false information during these Grievance Procedures.
10. For a student Party, notice regarding appropriate counseling resources the University developed and maintains.
11. For an eligible employee Party, notice regarding Employee Assistance Program.

If, in the course of an investigation, the University decides to investigate additional allegations of Sex Discrimination or sex-based Harassment by the Respondent toward the Complainant that are not included in the written notice or that are included in a consolidated Complaint, the University will provide written notice of the additional allegations to the Parties.

H. Dismissal of a Complaint

1. Situations Where a Complaint Must be Dismissed

The University shall dismiss a Complaint if:

a. The conduct alleged in the Complaint would not constitute Sex Discrimination or Sex-Based Harassment as defined by this policy, even if proved;
b. The conduct alleged in the Complaint did not occur in the University's education program or activity;
c. The conduct alleged in the Complaint did not occur against a person in the United States.

The University may commence proceedings under other relevant policies and procedures after dismissing a Complaint.

2. Situations Where a Complaint May be Dismissed

The University may dismiss a complaint if:

a. The University is unable to identify the Respondent after taking reasonable steps to do so; or
b. The Respondent is not participating in the University's education program or activity and is not employed by the University; or
c. The Complainant voluntarily withdraws in writing any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a Complaint, and the University determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute Sex Discrimination or Sex-based Harassment under federal or state law even if proven.

The University may commence proceedings under other relevant policies and procedures after dismissing a Complaint.

3. **Notification of Dismissal of Complaint And Right Of Appeal**

   Upon dismissal, the University will promptly notify the Complainant in writing of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then the University will notify the Parties of the dismissal and the basis for the dismissal simultaneously in writing.

   The University will notify the Complainant that a dismissal may be appealed and will provide the Complainant with an opportunity to appeal the dismissal of a Complaint. If the dismissal occurs after the Respondent has been notified of the allegations, then the University will also notify the Respondent that the dismissal may be appealed. For more information on the right to appeal, see Subsection N, Appeals below.

4. **The University Actions After Dismissal of A Complaint**

   When a Complaint is dismissed, the University will, at a minimum:

   a. Offer supportive measures to the Complainant as appropriate; and
   b. If the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and
   c. Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that Sex Discrimination or Sex-based Harassment does not continue or recur within the University's education program or activity.
   d. The University may also refer the matter to the appropriate department for resolution under the appropriate University policy, including, without limitation, policies found in the Student Code of Conduct, the Housing Handbook, the Student-Athlete Handbook, the Employee Handbook and the Employee Student Handbook.

I. Investigation

The University will provide for adequate, reliable, and impartial investigation of Complaints.

1. **Burden of Gathering Evidence**

   The burden is on the University—not on the Parties—to conduct an investigation that gathers sufficient evidence to determine whether Sex Discrimination or Sex-based Harassment occurred.

2. **Notice**

   The University will provide to a Party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the Party to prepare to participate. The University will provide the Parties with the same opportunities to be accompanied to any meeting

or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney.

3. Advisor

The University will not limit the choice or presence of the Advisor for the Complainant or Respondent in any meeting or proceeding.

a. The University may establish restrictions regarding the extent to which the Advisor may participate in these Grievance Procedures, as long as the restrictions apply equally to the Parties.
b. The University will provide the Parties with the same opportunities, if any, to have people other than the Advisor of the Party's choice present during any meeting or proceeding involving the Party. For the purposes of this policy, the role of the Advisor is limited to the following: the Advisor may attend any interview or meeting connected with these Grievance Procedures, but may not actively participate in interviews nor provide testimony or argument on behalf of the Party.

4. Opportunity to Present Witnesses and Evidence

The University will provide an equal opportunity for the Parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and otherwise permissible. The University has discretion to determine whether the Parties may present expert witnesses as long as the determination applies equally to the Parties.

5. Evidence Review by University and Parties

The University will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is permissible regardless of relevance.

The University will provide each Party and the Party's Advisor, if any, with an equal opportunity to access the evidence that is relevant to the allegations of Sex Discrimination or Sex-based Harassment and otherwise permissible, in the following manner.

a. The University will provide an equal opportunity to access the investigative report and relevant and otherwise permissible evidence.
b. Prior to completion of the report, the University will provide the Parties a hard copy or an electronic copy of the draft report along with the relevant and permissible evidence, and the Parties will have ten (10) days to submit a written response. The investigator will consider the Parties' written response, if any, prior to completing the investigative report. If the University conducts a live hearing as part of these Grievance Procedures, it will provide this opportunity to review the report and evidence in advance of the live hearing.

c. The University will take reasonable steps to prevent and address the Parties' and their Advisors' unauthorized disclosure of information and evidence obtained solely through these Grievance Procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the Complaint of Sex Discrimination or Sex-based Harassment are authorized.

J. Investigative Report

Investigators will finalize the report after considering the Parties' response to the report and relevant evidence, and after conducting any follow up the investigators determine should be taken, at their discretion. The results of the investigation of a Complaint will be set forth in a written report that will include at least all of the following information:

1. A description of the circumstances giving rise to the Complaint;
2. A description of the procedural steps taken during the investigation, including all individuals contacted and interviewed;
3. An exhibit list that includes a description of documents and other evidence relevant to the allegations gathered through the investigation;
4. An accurate summary of the relevant and not impermissible evidence; and
5. Any other information deemed appropriate by the University.

K. Decision-Maker Questioning of the Parties and Witnesses

The University will provide a process that enables the Decision-Maker to question Parties and Witnesses to adequately assess a Party's or Witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of Sex Discrimination or Sex-based Harassment.

1. Process Without a Live Hearing

The University's process for proposing and asking relevant and otherwise permissible questions and follow-up questions of the Parties and Witnesses, including questions challenging credibility, will:

a. Allow the Investigators or Decision-Maker to ask such questions during individual meetings with a Party or Witness; and
b. Allow each Party to propose such questions that the Party wants asked of any Party or Witness and have those questions asked by the Investigators or Decision-Maker during one or more individual meetings, including follow-up meetings, with a Party or Witness, subject to the procedures for evaluating and limiting questions discussed below.

2. Process With a Live Hearing

The following is the University's process for proposing and asking relevant and otherwise permissible questions and follow-up questions of Parties and Witnesses, including questions challenging credibility. The Decision-Maker may ask questions directly of any Party or Witness. In addition, each Party may propose questions that the

Party wants asked of any Party or Witness and have those questions asked by the Hearing Officer, subject to the procedures for evaluating and limiting questions discussed below.

a. The Hearing Officer will determine whether a proposed question is relevant and otherwise permissible before the question is posed and will explain any decision to exclude a question as not relevant or otherwise impermissible.
b. Questions that are repetitive, unclear, or harassing of a Party or Witness being questioned will not be permitted. The Hearing Officer will give a Party an opportunity to clarify or revise a question that the Hearing Officer determines is unclear or harassing. If the Party sufficiently clarifies or revises the question, the question will be asked.

3. Refusal to Respond to Questions and Inferences Based on Refusal to Respond to Questions

The Decision-Maker may choose to place less or no weight upon statements by a Party or Witness who refuses to respond to questions deemed relevant and permissible. The Decision-Maker will not draw an inference about whether Sex Discrimination or Sex-based Harassment occurred based solely on a Party's or Witness's refusal to respond to such questions.

L. Procedures for a Live Hearing, if Offered

The University has discretion to decide whether a live hearing is necessary to determine whether Sex Discrimination or Sex-based Harassment occurred. The University will conduct a live hearing with the Parties physically present in the same geographic location or, at the University's discretion or upon the request of either Party, will conduct the live hearing with the Parties physically present in separate locations with technology enabling the Decision-Maker and Parties to simultaneously see and hear the Party or Witness while that person is speaking. A Witness may also request to appear remotely.

1. Any cross-examination of a Party or a Witness shall not be conducted directly by a Party or a Party's Advisor.
2. The Parties shall have the opportunity to submit written questions in advance of the hearing. At the hearing, the other Party shall have an opportunity to note an objection to the questions posed. The Hearing Officer may limit such objections to written form, and neither the Decision-Maker nor the Hearing Officer are obligated to respond, other than to include any objection in the record. The Hearing Officer shall have the authority and obligation to discard or rephrase any question that the Hearing Officer deems to be repetitive, irrelevant, or harassing. In making these determinations, the Hearing Officer is not bound by, but may take guidance from, the formal rules of evidence.
3. Generally, the Parties may not introduce evidence, including Witness testimony, at the hearing that the Party did not identify during the investigation if that evidence was available at the time of the investigation. However, the Hearing Officer has discretion to accept for good cause, or exclude, such new evidence offered at the hearing.

4. The Hearing Officer shall provide an explanation of the meaning of the preponderance of the evidence standard and affirm that it shall apply to determinations under this procedure. The preponderance of the evidence standard is met if the Decision-Maker determines that it is more likely than not that the alleged Sex Discrimination or Sex-based Harassment occurred, based on the facts available at the time of the decision.

M. Determination Whether Sex Discrimination or Sex-Based Harassment Occurred

Following an investigation and evaluation of all relevant and otherwise permissible evidence, the University will:

1. Use the preponderance of the evidence standard of proof to determine whether Sex Discrimination or Sex–based Harassment as defined by the University's policy, occurred. The standard of proof requires the Decision-Maker to evaluate relevant and otherwise permissible evidence for its persuasiveness. If the Decision-Maker is not persuaded by a preponderance of the evidence that Sex Discrimination or Sex-based Harassment occurred, whatever the quantity of the evidence is, the Decision-Maker will not determine that Sex Discrimination or Sex–based Harassment occurred.
2. Notify the Parties simultaneously in writing of the determination whether Sex Discrimination or Sex-based Harassment occurred as defined by the University's policy and these Grievance Procedures including:
    a. A description of the alleged Sex Discrimination or Sex-based Harassment;
    b. Information about the policies and procedures that the University used to evaluate the allegations;
    c. The Decision-Maker's evaluation of the relevant and otherwise permissible evidence and determination whether Sex Discrimination or Sex-based Harassment occurred;
    d. When the Decision-Maker finds that Sex Discrimination or Sex-based Harassment occurred, any disciplinary sanctions the University will impose on the Respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by the University to the Complainant, and, to the extent appropriate, other employees or students identified by the University to be experiencing the effects of the Sex Discrimination or Sex-based Harassment; and
    e. The University's procedures and permissible bases for the Complainant and Respondent to appeal.
3. The University will not impose discipline on the Respondent for Sex Discrimination or Sex-based Harassment prohibited by this policy unless there is a determination at the conclusion of these Grievance Procedures that the Respondent engaged in prohibited Sex Discrimination or Sex-based Harassment under this policy.
4. If there is a determination that Sex Discrimination or Sex-based Harassment occurred, as appropriate, the Title IX Coordinator will:
    a. Coordinate the provision and implementation of remedies to the Complainant and other people the University identifies as having had equal access to the University's education program or activity limited or denied by Sex Discrimination or Sex-based Harassment; and

   b. Coordinate the imposition of any disciplinary sanctions on the Respondent, including notification to the Complainant of any such disciplinary sanctions; and
   c. Take other appropriate prompt and effective steps to ensure that Sex Discrimination or Sex-based Harassment does not continue or recur within the University's education program or activity.
5. Comply with these Grievance Procedures before the imposition of any disciplinary sanctions against the Respondent; and
6. Not discipline a Party, Witness, or others participating in these Grievance Procedures set forth in this policy for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether Sex Discrimination or Sex-based Harassment occurred.

The determination regarding responsibility becomes final either on the date that the University provides the Parties with the written determination of the result of any appeal, or, if no Party appeals, the date on which an appeal would no longer be considered timely.

N. Appeals

1. Time for Appeal

A Complainant or Respondent may submit a written appeal no later than five business days from the date of the notice of determination, whether Sex Discrimination or Sex-based Harassment occurred or from the date of the University's notice of dismissal of a Complaint. If a Complainant or Respondent submits an appeal to the University, the University will notify the other Party in writing within five business days of receiving a Party's appeal and allow the non-appealing Parties at least five business days from the date of receipt of the appeal to submit a written statement in support of, or challenging, the outcome. The appeal Decision-Maker will issue a written decision on whether to grant or deny the appeal, and the rationale for the decision, within 30 days after the appeal Decision-Maker receives the response to the appeal or the last day to provide a response.

2. Basis for Appeal

A Party may appeal the dismissal of a Complaint or the determination whether Sex Discrimination or Sex-based Harassment occurred on the following bases:

a. Procedural irregularity that would change the outcome; or
b. New evidence becomes available that would change the outcome and that was not reasonably available when the determination or dismissal was made; or
c. The Title IX Coordinator, Deputy Title IX Coordinator, Investigator, or Decision-Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

3. Appeal Process

If a Party appeals a dismissal or determination whether Sex Discrimination or Sex-based Harassment occurred, the University will:

a. Notify the Parties in writing of any appeal, including notice of the allegations, if notice was not previously provided to the Respondent;
b. Implement appeal procedures equally for the Parties;
c. Confirm that the appeal Decision-Maker did not take part in an investigation of the allegations or dismissal of the Complaint;
d. Confirm that the appeal Decision-Maker has been trained consistent with the Title IX regulations and California law;
e. Communicate to the Parties in writing that the University will provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
f. Notify the Parties in writing of the result of the appeal and the rationale for the result.

Any additional procedures or bases for appeal the University offers will be equally available to all Parties.

O. Disciplinary Sanctions and Remedies

1. Disciplinary Sanctions

Following a determination that Sex Discrimination or Sex-based Harassment occurred, the University may impose disciplinary sanctions against the Respondent. The action will be prompt, effective, and commensurate with the severity of the offense.

a. Possible disciplinary sanctions for student Respondents include:
    i. Educational training;
    ii. Prohibition on shared classes or extra-curricular activities;
    iii. Suspension or revocation of rights and privileges, including but not limited to participation in athletic or extracurricular activities and ability to reside in University-owned or operated housing;
    iv. Withholding of grades, official transcript, and/or degree;
    v. Bar against readmission, bar against enrollment, drop from one or more classes, and/or withdrawal from the University;
    vi. Denial of degree;
    vii. Fines/restitution;
    viii. Revocation of degree and withdrawal of diploma;
    ix. Disciplinary probation;
    x. Denial of admission to and/or removal from a University educational program or activity;
    xi. Suspension from the University. Suspension is for a set period of time and is noted on the academic transcript. At the request of the student, the notation can be removed from the transcript when the period of

suspension has concluded and all conditions of the suspension and any other sanctions have been met;

xii. Expulsion (permanent removal from the University). Expulsion creates a permanent notation on the student's academic transcript; and/or

xiii. Other sanction(s) or remedies as deemed appropriate by the Decision-Maker.

b. Possible disciplinary sanctions for employee Respondents include:

i. Educational training;

ii. Employment probation;

iii. Job demotion or reassignment;

iv. Suspension (with or without pay) for a specific period of time;

v. Dismissal or termination;

vi. Ineligibility for rehire; and/or

vii. Other sanction(s) or remedies as deemed appropriate by the Decision-Maker.

2. Remedies

The University may also provide remedies, which may include, but are not limited to:

a. Providing an escort to ensure that the Complainant can move safely between classes and activities;
b. Ensuring that the Complainant and Respondent do not attend the same classes or work in the same work area;
c. For eligible employees, notice regarding Employee Assistance Program;
d. Providing counseling services or a referral to counseling services;
e. Providing medical services or a referral to medical services;
f. Providing academic support services, such as tutoring;
g. Arranging for a Complainant, if a student, to retake a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the Complainant's academic record; and
h. Reviewing any disciplinary actions taken against the Complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the Complainant's discipline.

P. Status

This appendix may be amended or revised by the Title IX Coordinator with the approval of the Office of General Counsel.

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