

An abstract graphic composed of numerous overlapping hexagons in various shades of gray. Some hexagons are solid, while others are outlined. Some hexagons are connected by thin lines, creating a network-like structure. The pattern is dense and covers the upper two-thirds of the page.

# 2024 Annual Security and Fire Safety Report

January 1, 2023-December 31, 2023

PUBLISHED OCTOBER 1, 2024

## Table of Contents

<b>Table of Contents .....</b>	<b>2</b>
<b>Message from the President .....</b>	<b>8</b>
<b>Annual Security Report Introduction .....</b>	<b>9</b>
<b>Policies for Preparing the Annual Security Report .....</b>	<b>9</b>
Location and Dissemination of the Report .....	9
Preparation of the Report.....	9
<b>Reporting of Criminal Offenses .....</b>	<b>10</b>
Accurate and Prompt Reporting.....	10
Crimes and Emergencies .....	10
Emergency Phones.....	11
Campus Security Authorities (CSAs) .....	12
<b>Pastoral and Professional Counselors .....</b>	<b>13</b>
Voluntary, Confidential Reporting.....	13
<b>Campus-Based Student Resources with The Legal Privilege of Confidentiality.....</b>	<b>14</b>
<b>Campus-Based Resources for Students that are Designed by the Institute as Confidential .....</b>	<b>14</b>
<b>Campus-Based Employee Resource with the Legal Privilege of Confidentiality .....</b>	<b>15</b>
<b>Community-Based Resources for Students and Employees with the Legal Privilege of Confidentiality</b>	<b>15</b>
Confidentiality Limitations .....	16
Anonymous Reports .....	16
Daily Crime Log .....	17
Disclosure to Victims of Crimes of Violence.....	17
<b>Campus Security Policies, Crime Prevention and Safety Awareness Programs.....</b>	<b>18</b>
Crime Prevention and Safety Awareness Programs.....	18
<b>Administrators on Call .....</b>	<b>19</b>
Administrator on-Call .....	19

Parental Notification Policy .....	19
Explosives, Firearms, and Other Weapons Policy .....	19
<b>Missing Student Notification Policy .....</b>	<b>20</b>
Confidential Contact.....	21
<b>Security and Access to Campus Facilities .....</b>	<b>22</b>
Security Considerations for the Maintenance of Campus Facilities .....	22
About KGI Campus Safety.....	23
<b>Role, Authority, Training and Jurisdiction.....</b>	<b>24</b>
Working Relationships with Local, State, and Federal Law Enforcement Agencies .....	24
Crimes Involving Student Organizations at Off-Campus Locations.....	24
<b>The Claremont Colleges (TCC) Timely Warning Policy .....</b>	<b>25</b>
Timely Warning Notices .....	25
<b>Emergency Response and Evacuation Procedures .....</b>	<b>31</b>
Emergency Management at Keck Graduate Institute.....	31
<b>Emergency Response and Evacuation Procedures and Drills, Exercise, and Training .....</b>	<b>31</b>
Drills, Exercises, and Training .....	31
Emergency Notification.....	32
Everbridge Emergency Notification System .....	32
Procedures Used to Notify the Campus Community and Surrounding Community.....	33
Confirming the Existence of a Significant Emergency or Dangerous Situation and Initiating the Emergency Notification System .....	33
Determining the Appropriate Segment or Segments of The Campus Community to Receive an Emergency Notification.....	34
Contents of the Emergency Notification.....	34
<b>Crimes of Sexual Assault, Dating or Domestic Violence and Stalking .....</b>	<b>35</b>
KGI's statement on Prohibiting Crimes of Sexual Assault, Dating/Domestic Violence, and Stalking .	35
<b>California State Definitions for Sexual Assault, Dating/Domestic Violence, Stalking, and Consent .....</b>	<b>37</b>

Penal Code 243.4:Sexual Battery .....	37
Penal Code 273.5: Corporal Injury on a Spouse or Cohabitant.....	38
Penal Code 243: Domestic Battery .....	39
Penal Code 64.9: Stalking .....	39
Senate Bill No. 967: Affirmative Consent .....	39
<b>Programs To Prevent Sexual Assault, Dating or Domestic Violence and Stalking.....</b>	<b>40</b>
Bystander Intervention .....	40
Prevention, Awareness, and Risk Reduction .....	40
Prevention and awareness Campaigns for Students and Employees.....	41
<b>Procedures to Follow If a Crime of Sexual Assault, Dating/Domestic Violence, and/or Stalking Has Occurred .....</b>	<b>42</b>
The Importance of Preserving Evident (Provided in Writing).....	43
Who To Report to (Provided in Writing).....	44
Reporting to Law Enforcement.....	45
<b>Interim Measures (Supportive and Protective)(Provided in Writing) .....</b>	<b>47</b>
<b>Range of Measures .....</b>	<b>47</b>
<b>Protecting Confidentiality (Provided in Writing) .....</b>	<b>49</b>
Statistical Reporting .....	49
Timely Warning .....	49
Location of Records .....	49
<b>Sex Offender Registration – Campus Sex CrimesPrevention Act .....</b>	<b>50</b>
<b>Disciplinary Procedures for Students and Employees for Cases Involving Alleged Sexual Assault, Dating/Domestic Violence and Stalking .....</b>	<b>50</b>
Home Institution Title IX Coordinator and the TCC Title IX Process Administrator .....	53
Scope and Jurisdiction.....	55
Prohibited Conduct – Sex-Based Harassment and Retaliation .....	59
Conflict of Interest or Bias .....	65

Supportive Measures .....	66
Resources .....	68
Reporting Prohibited Conduct .....	71
Response to a Report or Complaint of Prohibited Conduct .....	74
Closure or Dismissal of a Complaint .....	80
Referrals for Other Misconduct Not Subject to this Policy .....	82
Consolidation of Complaints and Allegations .....	82
Resolution Options (Support-Based, Agreement-Based, and Investigation and Hearing) .....	83
Respondent's Acceptance of Responsibility .....	93
Investigation and Hearing Resolution Process .....	95
Hearing .....	108
Remedies and Sanctioning .....	117
Appeal Rights and Process .....	121
Recordkeeping .....	125
Crime and Incident Disclosure Obligations .....	126
Policy Review and Revision .....	127
Non-Discrimination Application and Additional Enforcement Information .....	127
Important Definitions .....	128
<b>Policy and Annual Notification .....</b>	<b>132</b>
<b>Drug, Alcohol, and Substance Abuse Policy Statements .....</b>	<b>133</b>
KGI Student Drug-Free Campus Policy .....	133
California and Local Alcohol & Drug Laws .....	134
Simple possession of marijuana .....	134
Possession by a Person(s) Under 21 Years of Age .....	134
Sales, Furnishing Alcohol to a Minor .....	135
Financial Aid .....	135

Licensure .....	135
Available Resources, Education, and Assistance concerning Substance Abuse.....	136
<b>Student Use of Alcoholic Beverages On and Off-Campus Policy .....</b>	<b>136</b>
Purpose and Scope of Policy .....	136
Policy .....	136
<b>Oasis KGI Commons Alcohol/Drug Policy .....</b>	<b>138</b>
Alcohol.....	138
Drugs and Drug Paraphernalia.....	139
<b>Drug-Free Workplace Policy – Faculty &amp; Staff .....</b>	<b>139</b>
Purpose and scope of the policy .....	139
Prohibitions .....	140
Alcohol and event planning guidelines .....	140
Violations of the Drug-Free Workplace Policy and Employment .....	141
Reporting obligations .....	141
Health risks associated with the abuse of alcohol and other drugs .....	141
Local, state, and federal legal sanctions .....	142
Available resources, education, and assistance .....	143
Accountability .....	143
<b>No-Smoking Policy – Faculty &amp; Staff .....</b>	<b>144</b>
<b>Safety and Security .....</b>	<b>144</b>
Security Awareness Programs .....	144
Crime Prevention Programs.....	144
Laboratory Safety .....	145
<b>Annual Disclosure of Crime Statistics .....</b>	<b>148</b>
Definitions for Clery Reportable Crimes .....	149
Categories of Prejudice.....	151

<b>KGI Crime Statistics Chart .....</b>	<b>153</b>
<b>Judicial Referral.....</b>	<b>155</b>
<b>VAWA Amendment Offenses.....</b>	<b>156</b>
<b>Hate Crimes .....</b>	<b>157</b>
<b>KGI Fire Statistics for Student Housing Facilities .....</b>	<b>157</b>
<b>Annual Fire Safety Report .....</b>	<b>157</b>
Residence Hall Fire Safety .....	157
Training .....	158
Fire Reporting, Drills, and Evacuation Response.....	159
General Statement of College-Owned Student HousingFire-Safety Systems .....	159
<b>Important Phone Numbers and Other Contact Information .....</b>	<b>161</b>
<b>Appendix.....</b>	<b>162</b>
TCC Title IX Sexual Harassment Policy .....	162



## Message from the President

Dear Campus Community

Your safety and security are our top priorities. As we continue to foster a safe and welcoming campus environment, I am pleased to share with you the release of our Annual Security and Fire Safety Report. This year's report provides detailed information on crime statistics, safety protocols, emergency preparedness, and the various resources available.

While we have made significant progress in recent years, safety on our campus is a shared responsibility, and we are committed to continually improving the systems and programs that protect our community. This report is essential in promoting transparency and informing everyone about the steps we are taking to ensure the well-being of our students, faculty, staff, and visitors. We encourage everyone to take advantage of the resources provided in this report and to remain engaged in fostering a safe environment.

I invite you to review the report, available on our website at <https://www.kgi.edu/campus-safety/clery-reporting/>, to stay informed and learn how you can contribute to a safer campus.

I appreciate your commitment to making our campus a safe and inclusive space for all.

Thank you,

Dr. Mohamed Abousalem  
President



## Annual Security Report Introduction

KGI places a high priority on keeping its campus safe for its students, employees, and visitors. We are committed to providing a secure environment for all. The following information on campus security policies and campus crime statistics is provided in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act [20 U.S.C. 1092 (f)] for

- A. informing the campus community about campus security policies and procedures;
- B. encouraging students and employees to take responsible actions to lessen the chances of crime occurring on campus and keeping KGI a safe and secure place to learn and work.

This report provides statistics for the previous three years concerning reported crimes on campus, in certain off-campus buildings or property owned, leased, or controlled by KGI, and select public property adjacent to the campus. This report also includes institutional policies concerning campus security, such as policies regarding sexual assault, alcohol, drugs, and weapons.

## Policies for Preparing the Annual Security Report

### Location and Dissemination of the Report

KGI's Vice President of Finance & Administration, is responsible for distributing the notice of the availability of the Annual Security and Annual Fire Safety Report by October 1 of each year to every member of the KGI Community. This notice is sent in writing via email to our student, staff, and faculty email listserv. Anyone, including prospective students and employees, or community members, may obtain a paper copy of this report by contacting Cheryl Merritt at 909.607.7853 or may download a copy by visiting KGI's website at <https://www.kgi.edu/campus-safety/clery-reporting/>.

### Preparation of the Report

This report is prepared by KGI's Assistant Vice President & Chief Human Resources Officer and AVP Financial Planning & Analysis in cooperation with Campus Safety, KGI Student Affairs, Oasis Residential Life, KGI Human Resources, and KGI Facilities. Crime statistics are gathered from TCCS Campus Safety, KGI Campus Safety, KGI's Title IX Office, Claremont Police Department, Student Affairs, Human Resources, and Police Departments whose jurisdiction falls within non-campus property controlled by the Institute. KGI's AVP Financial Planning & Analysis is responsible for gathering these statistics from the above entities through requests in writing. Campus crime statistics

are reported by location and include: On campus (owned, contiguous, educational, or student-used), Student Residencies (within the on-campus area), Non-Campus Buildings or Property (non-contiguous owned and student-used), and Public Property (streets, sidewalks, lots adjacent to campus).

## Reporting of Criminal Offenses

### Accurate and Prompt Reporting

Accurate and prompt reporting of crimes to campus safety and appropriate police agencies is encouraged at KGI when the victim elects or cannot make such a report. Regardless of how and where you decide to report these incidents, it is critical for the safety of the entire KGI community that you immediately report any crimes to the individuals outlined below.

### Crimes and Emergencies

We encourage all KGI community members to promptly report all crimes and other emergencies to KGI Campus Safety. KGI Campus Safety can be contacted by phone at 909.607.8736 or at the KGI Campus Safety Office in Building 517 Watson Drive, room 122 in Claremont, CA 91711. Though there are many resources available, KGI Campus Safety should be notified of any crime, whether or not an investigation continues, to ensure the Institute can assess all security concerns and inform the community if there is a significant threat to the Institute community.

Callers who wish to remain confidential should share with the Dispatcher who answered the call that they want to keep their name private. KGI Campus Safety will honor that request and not press the caller for their information. However, please note that Cisco IP Phones often still record a phone number that Dispatch may call back if additional information is necessary. Should a KGI Campus Safety Incident Report result from the phone call, the caller information will be written as “Jane Doe” or “John Doe.”

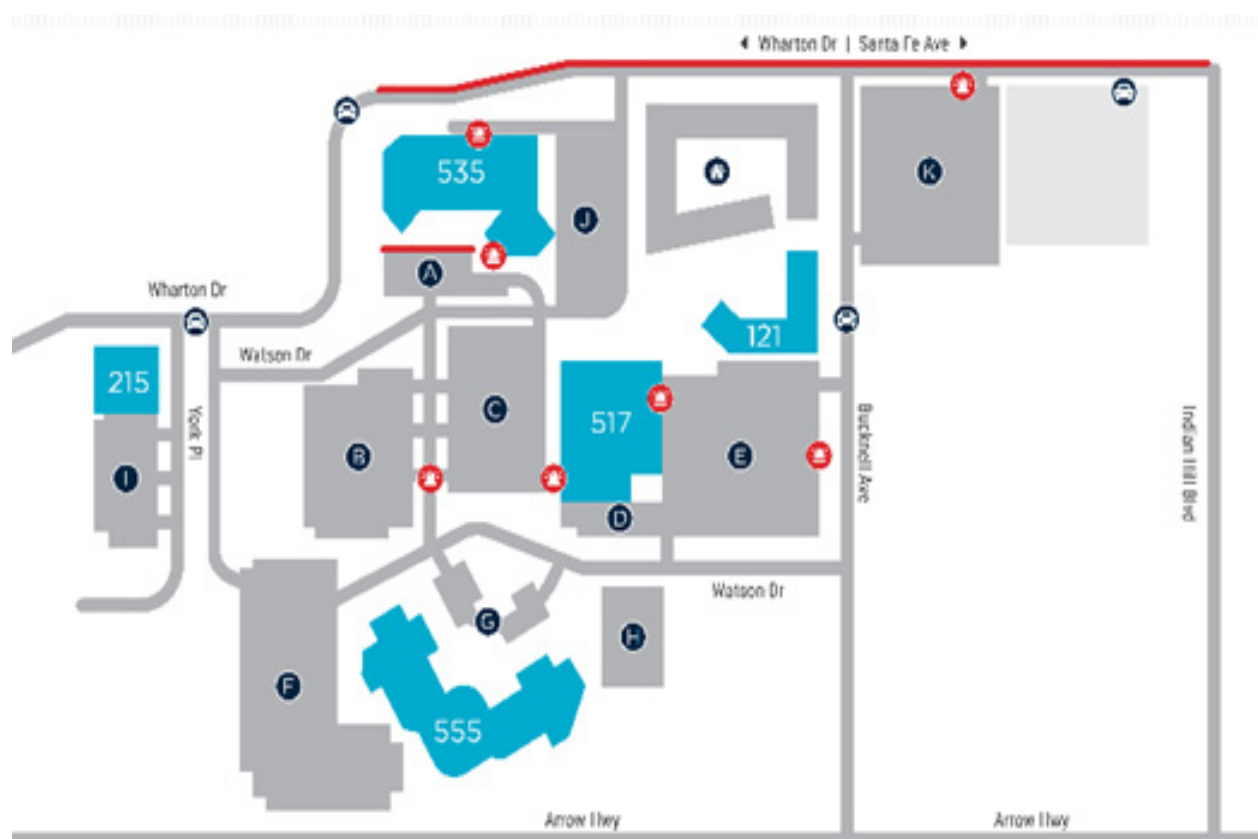
KGI Campus Safety has the primary responsibility for the security of KGI’s campus. It works closely with the City of Claremont as well as the Claremont Police and Los Angeles County Fire Departments to provide a proactive approach to safety, in which they, the Claremont Police, and Los Angeles County Fire Departments to provide a proactive approach to safety. They emphasize information, preparation, and collaboration to design effective crime prevention strategies.

## Emergency Phones

KGI has installed emergency phones on campus, which are located below.

- Parking Lot B
- 517 Southwest Entrance
- 517 East Entrance
- Parking Lot E
- 535 Watson Entrance
- Parking Lot K
- 535 Watson North

The map below outlines these locations on KGI's campus.



## Campus Security Authorities (CSAs)

KGI is concerned about the safety and welfare of all students, employees and visitors and is committed to providing a safe and secure environment.

While KGI prefers that community members promptly report all crimes and other emergencies directly to KGI Campus Safety at 909.607.8736 or 911, we also recognize that some may report to other KGI Officials.

The Clery Act recognizes certain KGI officials and offices as “Campus Security Authorities (CSA).” The Clery Act defines these individuals as an “official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student discipline and campus judicial proceedings. An official is defined as any person with the authority and the duty to take action or respond to particular issues on behalf of the institution.”

KGI officially designates the following offices as places where campus community members should report crimes:

Official	Campus Address	Phone Number
<b>KGI Campus Safety</b>	Building 517, Room 122	909.607.8736
<b>Cheryl Merritt</b> AVP & Chief Human Resources Officer	Building 535 West, Room 150D	909.607.7853
<b>Trevor Garrett</b> AVP, Financial Planning & Analysis	Building 555, Room 1-W-9	909.607.0002
<b>Shino Simons</b> Dean of Students and Title IX Coordinator	Building 517, Room 117	909.607.0584
<b>Anna Hickerson</b> Associate Professor	Building 535 East, Room 111	909.607.9541
<b>Megan Prosser</b> Provost and VP of Academic Affairs	Building 535 East, Room 10	909.607.2394

## Pastoral and Professional Counselors

Under the Clery Act, pastoral and professional counselors who are appropriately credentialed and hired by the Institute or The Claremont Colleges Services to serve in a counseling role are not considered Campus Security Authorities when acting in the counseling role. Pastoral counselors who learn about crimes in the performance of their official duties are not required to report these crimes to KGI Campus Safety for inclusion in the annual security report or for a Timely Warning Notice (discussed below). As a matter of policy, the Institute encourages pastoral counselors, if and when they deem it appropriate, to inform those they are counseling about the voluntary, confidential reporting options available to them.

### Voluntary, Confidential Reporting

If you are the victim of a crime or want to report a crime you are aware of but do not want to pursue action within the Institute or criminal justice system, we ask that you consider filing a voluntary, confidential report. A confidential report protects the reporting party's wish to keep personally identifying information confidential while taking steps to ensure your safety and the safety of others.

The confidential report also allows the Institute and KGI Campus Safety to compile accurate records on the number and types of incidents on campus. Reports filed in this manner are counted and disclosed in this annual report. Members of the KGI community who wish to report crime voluntarily and confidentially may speak with licensed counselors, clergy, medical providers in the context of seeking medical treatment and rape crisis counselors/victim advocates, who, except in very narrow circumstances specified by law, will not disclose confidential communications or identifiable information.

An individual who wishes for the details of the incident to remain completely confidential may speak with certain designated College employees who, by law, shall maintain confidentiality and may not disclose the details of an incident, subject to certain exceptions in the law (e.g., child abuse). Community members can also report confidentially online at <https://www.kgi.edu/campus-safety/> and NOT filling out the reporter's name, position/title, phone number, email, and local address.

If crimes are never reported, little can be done to prevent other community members from becoming victims. We encourage KGI community members to report crimes promptly to KGI Campus Safety and to participate in and support crime prevention efforts.

The KGI community will be much safer when all community members participate in safety and security initiatives.

## Campus-Based Student Resources with The Legal Privilege of Confidentiality

### **McAlister Center for Religious Activities Pastoral Counselors**

<https://www.services.claremont.edu/chaplains/>

919 North Columbia Avenue, Claremont CA 91711

909.621.8685

## Campus-Based Resources for Students that are Designed by the Institute as Confidential

### **EmPOWER Center**

<https://www.7csupportandprevention.com/empower-center>

**Rima Shah** – Director

1030 Dartmouth Avenue, Claremont, CA 91711

606.607.0690

*Please note that only the Director of the EmPOWER Center has been designated as a confidential resource. As noted above, there are license professional counselors from Project Sister Family Services at the EMPOWER and these counselors have the legal privilege of confidentiality.*

### **Queer Resource Center (QRC)**

<https://www.colleges.claremont.edu/qrc/>

**Bri Carmen Sérrano** –Director

35 East 6th Street, Claremont CA 91711

909.607.1817

*Please note that only the Director of the QRC has been designated as a confidential resource.*

## Campus-Based Employee Resource with the Legal Privilege of Confidentiality

### **Employee Assistance Plan (EAP)**

1.800.234.5465 (Pacific Care Behavioral Health)

Through their benefits program, eligible employees may contact Pacific Care Behavioral Health to speak with a clinical coordinator. A KGI Human Resources Representative can also assist with this option.

## Community-Based Resources for Students and Employees with the Legal Privilege of Confidentiality

### **House of Ruth**

877.988.5559 (toll-free hotline)

<https://www.houseofruthinc.org/>

House of Ruth provides advocacy and assistance to women and children affected by domestic violence by providing culturally competent shelter, programs, opportunities, and education.

### **Project Sister**

909.626.HELP (4357) (24/7 Crisis Hotline)

<https://www.projectsister.org>

Project sister provides crisis services to women and men who have been sexually assaulted or abused. Volunteer Advocates can also provide support and follow-up services to sexual assault or abuse survivors.

### **RAINN**

800.656.HOPE (4673) (24/7 hotline)

<https://www.rainn.org>

RAINN (Rape, Abuse & Incest National Network) is the nation's largest anti-sexual violence organization focusing on prevention programs and helping survivors.

## **WINGS**

626.960.2995

<https://www.ywcasgv.org>

WINGS provides safe emergency shelter, support groups, and assistance to victims (and their families) affected by domestic violence.

## **Confidentiality Limitations**

Confidential resources with the legal privilege of confidentiality (such as professional and pastoral counselors, domestic violence and rape crisis counselors, community-based victim advocates, physicians, etc.) are protected by and obligated to adhere to established professional codes of ethics, relevant California state laws and the Family Educational Rights and Privacy Act (FERPA). Whenever there is any discrepancy between these guidelines, they follow the most stringent ethical standard, as advised by their respective professional code of ethics.

This means no information will be revealed to anyone outside of the confidential provider's respective practice without written permission from the client, except where disclosure is required by law (i.e. where the client is likely to harm themselves; where the client presents a serious danger of violence to another; where there is reasonable suspicion of abuse of children, dependent or elderly persons; or when records are subpoenaed through a legal and valid court order).

Resources that have been designated by the Institute as a confidential resource do not have Title IX reporting requirements. As such, they do not have to report disclosures of sexual assault, dating/domestic violence, stalking or harassment that they receive to the College's Title IX Coordinator. These resources do have reporting requirements under the Clery Act. As such, these resources do have to report disclosures through the CSA Incident Form. This form can be found on the KGI Campus Safety website and is only accessible to members of the Claremont Colleges. Notably, this report does not have to include any personally identifying information, it is required for statistical purposes only. These resources do not have the legal privilege of confidentiality.

## **Anonymous Reports**

Any individual may make an anonymous criminal report without disclosing the respondent's name or requesting any action. However, KGI's ability to respond to such a report is limited by a lack of information about the incident(s) or the individuals involved. The Dean of Students and Title IX Coordinator and AVP and Chief Human Resource Officer will determine any appropriate steps to take in response to an anonymous report, including community-wide remedies as appropriate. We highly recommend this method for the accurate and prompt reporting of crimes to campus police and appropriate police agencies when the victim of a crime elects to or cannot make such a report.



By policy, KGI Campus Safety will not attempt to trace the origin of the person who submits this form, unless such is deemed necessary for public safety. Anyone may share information anonymously through KGI Campus Safety's Silent Witness form. It is NOT intended for reporting emergencies or crimes-in-progress. The form provides a user the opportunity to communicate directly with AVP, Financial Planning & Analysis. The user will submit a description of the event, date, time and location of the event. Contact information is optional. Once all pertinent information has been disclosed, the user will click the 'submit' button which in turn sends it directly to the AVP, Financial Planning & Analysis.

## Daily Crime Log

KGI Campus Safety maintains a Daily Crime Log of all crimes reported to the Department. The log includes criminal incidents reported to KGI Campus Safety during the last 60 days and is available on the KGI Campus Safety website at <https://www.kgi.edu/campus-safety/clery-reporting/>. Any member of the Claremont Colleges and the public may also view the Clery Daily Crime Log at KGI Campus Safety during regular business hours at 535 Watson Drive, Claremont, CA 91711. This log identifies the type, location, date, time, and disposition of each criminal incident reported to KGI Campus Safety. Any portion of the record older than 60 days will be made available within two business days from the date requested for public inspection.

## Disclosure to Victims of Crimes of Violence

The Institute will, upon written request, disclose to the alleged victim of a crime of violence (as that term is defined in Section 16 of Title 18, United States Code), or a non-forcible sex offense the report on the results of any disciplinary proceeding conducted by such institution against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased due to such crime or offense, the next of kin of such victim shall be treated as the alleged victim. Proceeding means all activities related to a non-criminal resolution of an institutional disciplinary complaint, including, but not limited to, fact-finding investigations, formal or informal meetings, and hearings.

The proceeding does not include communications and meetings between officials and victims concerning accommodations or protective measures for a victim. Result means any initial, interim, and final decision by any official or entity authorized to resolve disciplinary matters within the institution. The result must include any sanctions imposed by the institute.

## Campus Security Policies, Crime Prevention and Safety Awareness Programs

### Crime Prevention and Safety Awareness Programs

Prevention and awareness campaigns for students and employees that prevent dating violence, domestic violence, sexual assault, and stalking are carried out by Title IX Coordinator, who works closely with the other seven Claremont Colleges, including our shared advocacy resource, The EmPOWER Center, to provide opportunities for cross-campus programming.

#### EmPOWER Center: Ongoing Programs

- **Teal Dot:** This 90-minute bystander intervention training session equips students to recognize potentially dangerous situations and safely intervene to prevent violence. This program occurs approximately once a month during the fall and spring semesters.
- **Biweekly healthy relationships workshop series:**  
In its commitment to prevent sexual assault, dating/domestic violence, and stalking, KGI conducts several training sessions for students and employees. These trainings provide information on support resources, list the types of prohibited conduct at KGI, provide information on how to report and who to report to, describe KGI's process for handling such disclosures, and teach students and employees how to be active bystanders. Below are the ongoing trainings.

#### Vector Solution Online Trainings:

- Every new incoming KGI student must complete three training courses: Sexual Assault Prevention for Graduate Students, Alcohol Education, and Healthy Engagement (Diversity, Equity, and Inclusion).
- Every employee is required to complete the course "Preventing Harassment and Discrimination with Title IX and Clery" within 30 days of hire and the program is repeated every two years for all employees.
- All Staff and Faculty Meeting Presentations: KGI's Title IX Coordinator presents during select staff and faculty meetings annually.

**Responsible Employee Training:** All employees are trained annually on the following topics: Mandatory reporting requirements related to Title IX, reporting process, how to support people, and who/where to file the report.

## Administrators on Call

### Administrator on-Call

KGI has established an after-hours administrator on-call team. The AVP Financial Planning & Analysis is often the first responder to call from KGI Campus Safety about student situations, disruptive behaviors, or crises. The AVP Financial Planning & Analysis will determine the appropriate steps given the situation and will keep a detailed record of the interaction and intervention. If the problem involves threatening or highly disruptive behavior, it is referred to the Assistant Vice President & Chief Human Resources Officer the Dean of Students, or the Provost and VP for Academic Affairs. This team as the primary resource for managing student concerns, follow-up services, and support.

### Parental Notification Policy

The Institute reserves the right to report student discipline information to the parents or legal guardians of students. Federal legislation authorizes the College to disclose disciplinary records concerning violations of the Institute's rules and regulations governing the use or possession of alcohol or controlled substances that involve students who are under the age of 21, regardless of whether the student is a dependent. The Institute may also notify parents when there is a grave concern for a student's health, welfare, or well-being or when the status of the student at the Institute changes or is in danger of changing (e.g., suspension, academic suspension, or required academic withdrawal).

### Explosives, Firearms, and Other Weapons Policy

This policy and its procedures apply to all KGI faculty, staff, students, and visitors to KGI.

The term weapons should be understood to include fireworks, combustibles, and explosive devices, dirks, daggers, knives (whether fixed or folding, having a blade length longer than 2 1/2 inches unless the knife is being used lawfully in or around a laboratory, or residential, dining or kitchen facility in connection with food preparation or consumption), firearms of any type (including antique and military "trophy" firearms), air rifles, air pistols, pellet/BB guns, paintball guns, or other devices capable of expelling a projectile with the force of air pressure or spring action, any non-functional replica weapon, blow guns, spear guns, slingshots, bows and arrows, swords, any other form of weapon, sporting instrument, self-defense instrument, ammunition for any purpose (live or inert), and or any weapon possessed or used in violation of the California Penal Code.

Possessing weapons on the premises of KGI or in any building under KGI's control or at any KGI-sponsored event is prohibited and a violation of California law. Violating this policy will result in confiscation of the weapon and disciplinary action, up to and including termination or expulsion. According to the California State Penal Code, Section

626.9(b), any person who brings or possesses a firearm upon the grounds of, or within, a private institution is guilty of a felony, which is punishable by imprisonment in the state prison for one, two, or three years. In addition, the use of firearms in Claremont, Los Angeles County, or in the western portion of San Bernardino County is prohibited by law. The state law, as well as KGI, prohibits bringing firecrackers or explosive materials of any kind onto any part of the campus or into the buildings. This includes combustibles in containers such as gasoline cans. Illegal knives, switchblades, and other blades which violate California state law are prohibited. BB guns, pellet rifles, and other weapons that propel projectiles are also prohibited and are not allowed on campus. If necessary, recreational items may be stored at KGI Campus Safety. Violation of this policy by any member of the community will result in confiscation of the weapon and may result in disciplinary action up to and including termination or expulsion.

## Missing Student Notification Policy

The following policies and procedures should be followed if a student resident is reported missing from residential facility (Oasis). All official missing student reports are immediately referred to KGI Campus Safety or, in their absence, the Claremont Police Department. Upon reporting a missing person/resident to KGI Campus Safety, the following will occur:

- The Claremont Police Department will be contacted once a student has been determined to be missing for 24 hours so that the reporting party may complete an entirely lawful report of the missing person:
- Any report of a missing person without delay, regardless of jurisdiction.
- Any report of a runaway juvenile without delay.
- Reports of missing persons made by telephone.
- Priority will be given to reports of missing persons on non-emergency property crimes.
- As soon as practical, the AVP Financial Planning & Analysis or KGI Campus Safety shall be notified.
- The AVP Financial Planning & Analysis and KGI Campus Safety are to make an immediate assessment of reasonable steps to be taken to locate, based on the type of missing person and determine if that person might be at risk.
- Broadcast a BOLO, without delay, when a child is under 12 or the person missing is considered at risk.
- Immediately inform Claremont Police of the additional risk factor(s).

- A missing person will be prioritized over non-emergency property crime calls in determining the dispatch order.
- The incident will be memorialized within a KGI Campus Safety incident report.
- In no case will a KGI Campus Safety Incident report serve as a formal “Missing Person’s Report” as defined in Penal Code Sections 14205-14210.
- Any incident report prepared by KGI Campus Safety shall include the Claremont Police Case Number.

A resident will be considered missing if a housemate, classmate, faculty member, family member, or other campus personnel has determined that the resident has been missing for more than 24 hours. A reasonable amount of time may vary with the time of day and information available regarding the missing resident’s daily schedule, habits, punctuality, and reliability. Residents will also be considered missing immediately if their absence has occurred under suspicious circumstances or cause concerns for their safety.

**KGI Campus Safety Department**

909.607.8736

**Miguel Magana, Community Manager**

Oasis Housing

213.444.8235

[mmagana@tmo.com](mailto:mmagana@tmo.com)

**Shino Simons, KGI Dean of Students**

909.607.0584

[Shino\\_Simons@kgi.edu](mailto:Shino_Simons@kgi.edu)

**Quamina Carter, CGU VP for Student Affairs**

909.621.1895

**Confidential Contact**

In addition to registering a general emergency contact, students residing in on-campus housing can identify confidentially an individual to be contacted if the resident is determined to be missing more than 24 hours. If a student has identified such an individual, housing will provide KGI Campus Safety with the contact information of the identified contact upon reporting the missing person. The contact will be notified within 24 hours if the student is determined to be missing. A student wishing to identify a

confidential contact can visit the Oasis KGI Commons Office. A resident's confidential contact information will be accessible only by authorized campus officials and law enforcement.

If a resident is under 18 years of age and not an emancipated individual, Oasis KGI Commons is required to notify a custodial parent or guardian (in addition to any other contact person designated by the student) immediately after the student is determined to be missing, but no later than 24 hours being determined missing.

## Security and Access to Campus Facilities

All exterior doors for KGI buildings are locked 24/7. Key card access is available on the following schedule:

- 215 York: 24/7 access for faculty and staff, 8:00 a.m. – 5:00 p.m. for students.
- 517 Watson: 24/7 access for faculty, staff, and students.
- 535 Watson: 24/7 access for faculty, staff, and students.
- 555 Arrow Hwy: 24/7 access for faculty, staff, and students.
- Oasis Commons (academic space): 24/7 access for faculty, staff, and students
- Oasis Commons (residential space): 24/7 access to residents only (please note, the residential space at Oasis Commons does not use key cards; they have traditional keys)

Access to individual classrooms and laboratories is limited to those enrolled in the courses meeting there. Laboratory access for research purposes is restricted to authorized personnel (faculty, staff, and students) only, as determined by laboratory PI's.

Many events held in KGI facilities are open to the public, and other TCCS facilities, such as the bookstore, library, and performance centers, are likewise available to the public. However, during the pandemic, events are not permitted on KGI's campus.

## Security Considerations for the Maintenance of Campus Facilities

- Security considerations for KGI facilities include the following:
- Fire and critical mechanical alarms are monitored by Johnson Controls and are installed in buildings 517, 535, and 555.
- The fire alarm at Oasis KGI Commons is monitored by a third-party alarm monitoring company contracted by Michaels Management, the management company at Oasis.
- Regular preventative maintenance and testing are done on all alarm systems by Johnson Controls.

- Academic and administrative buildings are checked and locked nightly by KGI Campus Safety and are re-opened by KGI Facilities.
- Street lights are inspected nightly by KGI Campus Safety and KGI Facilities.
- The City of Claremont carries out repairs and/or replacements for lights on the public property upon notice by KGI Facilities. KGI Facilities is responsible for lights on KGI property.
- Trees and shrubbery are maintained through Southern California Landscaping Company who are onsite daily for maintenance.
- Exterior lighting around the campus has been enhanced. Based on feedback from the community, KGI Facilities has added several new lights. This includes new LED lighting in our parking lots and new lights mounted on the exterior of every KGI building.
- KGI Facilities maintains bike racks on the south side at the east and west entrances to the 535 Building and the north side of the 517 Building.
- Security cameras are located throughout the property and are monitored and maintained by KGI Campus Safety.

## About KGI Campus Safety

Dedicated KGI Campus Safety Officers are assigned to patrol and KGI campus 24/7 to respond to calls for service.

KGI Campus Safety officers are unarmed and have no police powers. Their arrest powers are identical to those of a private person, as provided in the California Penal Code, Section 837. Current certification requirements for the officers include Guard Registration and Basic Life Support for Health Care Providers, which includes CPR, First-Aid, and AED. Employees undergo continuous education and training to upgrade their skills. KGI Campus Safety is not a police department but is responsible for law enforcement, security, and emergency response protocols at KGI.



## Role, Authority, Training and Jurisdiction

### **Working Relationships with Local, State, and Federal Law Enforcement Agencies**

KGI Campus Safety closely works with the City of Claremont Police Department. Set by our formal Memorandum of Understanding (MOU's), our local law enforcement partners ensure effective operational roles and responsibilities that directly support the safety and security at KGI. The police are notified immediately and respond to crimes against person, including violent crimes, significant felonies, crimes involving a known or identified suspect, and all private persons arrests on campus. They are called when police presence and/or assistance is deemed appropriate for the situation. As proper and under Uniform Crime Reporting (UCR) standards, crime reports initiated by KGI Campus Safety may be forwarded to the police agencies for investigation and mandated reporting. An MOU with Claremont PD is always available, according to the Kristen Smart Act of 1988 (State of California). More expansively, KGI Campus Safety and the Claremont Police Department, with colleagues across The Claremont Colleges as is appropriate, regularly convene through in-person meetings, phone, and electronic communication to discuss safety issues and work collaboratively and proactively.

In addition, KGI Campus Safety staff assists local fire/paramedic personnel and other local, county, state, and federal law enforcement agencies when they respond to campus. The KGI Campus Safety Department typically plays a supportive role in these instances.

### **Crimes Involving Student Organizations at Off-Campus Locations**

KGI relies on its close working relationships with local law enforcement agencies to receive information about incidents involving KGI students and recognized student organizations on and off campus. Suppose KGI Campus Safety learns of criminal activity involving students or student organizations. In that case, it will coordinate with the appropriate external law enforcement agency to forward information about the situation to the KGI Dean of Students office. KGI requires all recognized student organizations to abide by federal, state, and local laws and institution regulations. According to the KGI Student Handbook, the institute may become involved in the off-campus conduct of recognized student organizations when such conduct violates KGI's policy. Currently, KGI does not have non-campus property locations of student organizations officially recognized by the institution.



## The Claremont Colleges (TCC) Timely Warning Policy

### Timely Warning Notices

#### Purpose

This policy outlines the procedures KGI will use to issue Timely Warning Notices in compliance with the Clery Act. KGI has its own Timely Warning Notification system through Everbridge. The Claremont Colleges (TCC) also has a Timely Warning and emergency notification system, separate from KGI. TCC comprises Claremont Graduate University, Claremont McKenna College, Harvey Mudd College, Keck Graduate Institute, Pitzer College, Pomona College, and Scripps College, in concert with The Claremont Colleges Services (TCCS).

#### Procedures

A Timely Warning Notice will be issued if KGI receives notice of an alleged Clery Act reportable crime (identified below) occurring on campus, on public property within or immediately adjacent to KGI. For purposes of this policy, “timely” means as soon as reasonably practicable after an incident has been reported to KGI Campus Safety, one of the Campus Security Authorities (CSAs) identified by each College, or a local police agency.

Determining which designated official from the KGI Campus Safety team or KGI administration decides is based on availability during a 24-hour cycle. KGI Campus Safety maintains designated individuals throughout each 24-hour cycle trained to determine the need for issuing a Timely Warning Notification. These designated officials are the Vice President of Finance & Administration, AVP Financial Planning & Analysis, AVP and Chief Human Resources Officer, Provost and Vice President of Academic Affairs, Dean of Students and Title IX Coordinator, and the campus security supervisor.

Whether to issue a Timely Warning Notice is determined on a case-by-case basis for Clery Act reportable crimes: arson, criminal homicide, burglary, robbery, sex offenses, aggravated assault, motor vehicle theft, domestic violence, dating violence, stalking and hate crimes, arrests and referrals for drug, liquor, and weapons laws violations as defined by the Clery Act. Timely Warning Notices also may be issued for other crimes as determined necessary by the individuals mentioned above. KGI Campus Safety will issue a Timely Warning Notice even if insufficient information is available or if it is likely that there is an ongoing threat to the community. The goal of a Timely Warning Notice is to aid in the prevention of similar occurrences.

The above individuals determine if an alert should be sent and are the senders of the notices. In deciding whether to issue a Timely Warning Notice, the responsible individuals described above will consider any factors reflecting on whether the reported

crime represents a serious or continuing threat to the KGI and TCC community, including, but not limited to, (a) the nature of the incident; (b) when and where the incident occurred; (c) when it was reported (as incidents reported more than 10 days after the fact will generally not result in a Timely Warning Notice unless the other factors weigh in favor of sending a Notice); (d) the continuing danger to TCC community; and (e) the amount of information known by TCC and TCCS Campus Safety. KGI will, without delay and taking into account the safety of the community, determine the content of the notification and initiate the notification system, and follow its Timely Warning Notification procedures upon the confirmation of a significant emergency or dangerous situation (including a Clery- reportable crime), involving an immediate threat to the health or safety of students or employees occurring on KGI Campus and TCC.

In the event of an ongoing threat, KGI Campus Safety, KGI's AVP of Financial Planning & Analysis, Dean of Students and Title IX Coordinator, and KGI's AVP and Chief Human Resources Officer will communicate the extent of the threat via phone or email or the Everbridge emergency notification system.

They will use the Timely Warning Notice Decision Matrix/Timely Warning Notice Determination Form below in the decision-making process to determine whether or not to alert the community. The form acts as a guideline for selecting a Timely Warning Notice. It will be completed immediately and without delay to determine if the criteria are present to send a notice. If it is determined that a Timely Warning Notice is necessary, KGI Campus Safety will send the notice to KGI and the TCC Safety Office. Once completed, the form and all information related to the decision will be maintained by KGI for seven years.

They will use the Timely Warning Notice Decision Matrix/Timely Warning Notice Determination Form below in the decision-making process to determine whether or not to alert the community. The form acts as a guideline for selecting a Timely Warning Notice. It will be completed immediately and without delay to determine if the criteria are present to send a notice. If it is determined that a Timely Warning Notice is necessary, KGI Campus Safety will send the notice to KGI and the TCC Safety Office. Once completed, the form and all information related to the decision will be maintained by KGI for seven years.

Timely Warning Notices will be distributed in various ways. A multi-modal integrated communications system for mass notifications is used to notify students and employees through KGI's website at [kgi.edu/emergency](http://kgi.edu/emergency). Notification will occur through the Everbridge emergency notification system, via e-mail and text to all KGI Students and Employees and via the KGI website ([kgi.edu/emergency](http://kgi.edu/emergency)), which is available to students, employees, and the public. KGI will initiate the notice by sending the notification email. The responsible individuals of official or equal authority will contact our Marketing Office to update the emergency website immediately. Attempts will be made to inform the

larger community outside of campus through KGI Campus Safety. KGI Campus Safety will coordinate measures with local law enforcement and inform them of the ongoing emergency.

KGI's Communication Office will respond to any media inquiries after consulting with KGI Campus Safety, AVP and Chief Human Resources Officer, VP of Finance & Operations, AVP of Financial Planning & Analysis, Provost and Vice President of Academic Affairs, and the Dean of Students and Title IX Coordinator.

The Timely Warning Notice will typically include, to the extent known, the date, time, and nature of the offense, a brief overview of its particular circumstances, a physical description of the actor(s), law enforcement's immediate actions, a request and method for witnesses to contact local law enforcement, and where applicable and appropriate, cautionary advice that would promote safety. In no instance will a Timely Warning Notice include the victim's name or other identifying information about the victim. In developing the content of the Timely Warning Notice, KGI Campus Safety will make all reasonable efforts not to compromise ongoing law enforcement efforts. KGI Campus Safety will document and retain the justification for determining whether to issue a Timely Warning Notice for seven years.

Anyone with information about a serious crime or incident is encouraged to report the circumstances to KGI Campus Safety by phone at 909.607.8736, from campus phones at ext. 78736, or in person at Building 517 Watson Drive, Room 122. If a report is made to other TCC officials, those officials will immediately notify KGI Campus Safety.

### **The Claremont Colleges Timely Warning Notice Decision Matrix**

To be completed by KGI Campus Safety Representative & the On Call Dean/Senior Administrator from the institution where the incident occurred.

Date/Time of Incident:

Date/Time KGI Campus Safety notified:

KGI Campus Safety Report # (if applicable):

1. Does the incident involve a Clery reportable crime? (If one of the crimes below, check and move on to #2.).

- |  |  |
|--|--|
| <input type="checkbox"/> Criminal homicide                     | <input type="checkbox"/> Robbery             |
| <input type="checkbox"/> Manslaughter by Negligence            | <input type="checkbox"/> Aggravated Assault  |
| <input type="checkbox"/> Murder and Non-negligent Manslaughter | <input type="checkbox"/> Burglary            |
| <input type="checkbox"/> Sex Offense                           | <input type="checkbox"/> Motor vehicle theft |
| <input type="checkbox"/> Rape                                  | <input type="checkbox"/> Arson               |
| <input type="checkbox"/> Fondling                              |  |
| <input type="checkbox"/> Incest                                |  |
| <input type="checkbox"/> Statutory Rape                        |  |

☐ Other: Explain the perceived continuing threat to the TCC community:

2. Did the incident occur in a Clery-defined geographic area? (If one of the locations listed below, check and move on to #3.) If no, then a Timely Warning Notice is not required.

- ☐ On-Campus
- ☐ Non-Campus: Any building or property owned or controlled by a student organization that is officially recognized by the institution; or any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.
- ☐ Public Property: All public property including thoroughfares, streets, sidewalks, and parking facilities that are within the campus, or immediately adjacent to and accessible from the campus. Include the sidewalk across the street from the campus, but do not include public property beyond the sidewalk).

3. Should an Emergency Notification be issued or was one already issued regarding this incident/crime? If yes, the Emergency Notification (EN) may fulfill the Timely Warning Notice requirement. Consider whether a follow-up to the EN should be issued as a Timely Warning Notice?

4. Is this incident considered by the institution to represent a serious or continuing threat to students and/or employees? Consider the following:

- Whether students and employees are at risk of becoming victims of a similar crime?
- Has the alleged perpetrator been arrested?
- Does a criminal incident appear to be a one-time occurrence, or does it fall into a pattern of reported crimes?

Examples of crimes that could constitute a continuing threat:

- A serial crime that targets certain campus populations such as sex crimes or race-based crimes in which the perpetrator has not been apprehended.
- A crime in which there is no apparent connection between perpetrator and victim and the perpetrator has not been apprehended.

Examples of crimes that may NOT constitute a continuing threat:

- Crimes in which the perpetrator has been apprehended, thereby neutralizing the threat.
- Crimes in which an identified perpetrator targets specific individuals to the exclusion of others, such as domestic violence.

5. If you answered “yes” to question 4, would issuing a Timely Warning Notice impede the campus or a law enforcement investigation?

☐ Yes: If so, explain what steps were taken to minimize the impact of the TW.

☐ No



6. Based upon the above considerations, will a Timely Warning Notice be issued?

☐ Yes: Date and Time Issued:

☐ No

Elements of a Timely Warning Notice:

- A brief statement of the incident. Do not provide the identity of or identifying information about the victim.
- Identify any possible connections to previous incidents, if applicable.
- Physical description of the suspect.
- Composite drawing of the suspect, if available.
- Date and time the notice was released.
- Other relevant and important information including prevention tips to help recipients understand the potential risk and steps they can take to ensure their safety.

7. If the answer to question 6 is "yes," check all of the resources used to disseminate:

☐ Posters/Fliers/Bulletins

☐ Media (radio, television, newspaper)

☐ Mass Email

☐ Public Address/Intercoms/  
Loudspeakers, etc.

☐ College/CUC KGI Campus Safety  
Website

☐ Text

☐ Other:

## Emergency Response and Evacuation Procedures

### Emergency Management at Keck Graduate Institute

Different types of emergencies may present themselves to Keck Graduate Institute in various ways. The KGI Emergency Operations & Business Continuity Plan (EOBCP) is the framework in which the College reduces vulnerability to hazards and responds to emergencies or threats to community safety on campus, in Claremont, or to its students, faculty, or staff. This framework protects the Institute community by ensuring coordination and cooperation among multiple departments, organizations, and cooperation among multiple departments, organizations, and jurisdictions for small- and large-scale event.

### Emergency Response and Evacuation Procedures and Drills, Exercise, and Training

A summary of KGI's emergency response procedures is located at <https://www.kgi.edu/campus-safety/>. This website also includes Emergency Preparedness Information, including fire, earthquakes, floods, active assailants/shooters, shelter-in-place, and evacuation procedures.

KGI students, faculty, and staff are automatically registered in our emergency notification system, Everbridge. Information on Title IX and a copy of our Annual Security Report are located at <https://www.kgi.edu/campus-safety/clery-reporting>.

### Drills, Exercises, and Training

At least annually, KGI conducts an emergency management exercise to test emergency procedures. The scenarios for these exercises change yearly and include several departments from across the campus.

To ensure KGI's emergency management plans remain current and actionable, KGI will conduct an emergency management exercise at least once yearly. These exercises may include tabletop drills, emergency operations centers, or full-scale emergency response exercises. KGI conducts after-action reviews of all emergency management exercises. Before each training exercise or drill, the KGI community is notified via email by the Human Resources Department to outline the date, time, and location. It includes a description and the purpose of the drill. Upon completion of the exercise, KGI's Safety Committee meets to debrief and discuss the efficacy of the drill. KGI publicizes the emergency response and evacuation procedures via email ahead of time in a drill announcement initiated by Human Resources.

## **Emergency Notification**

This policy statement summarizes KGI's emergency response and evacuation procedures, including protocols for sending Emergency Notifications. An Emergency Notification will be issued if KGI receives notice of a situation that presents a significant emergency or dangerous situation at KGI or in the local area affecting the health and/or safety of KGI's community, in whole or in part.

KGI will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system after an incident has been reported to KGI Campus Safety, one of the Campus Security Authorities (CSAs) identified, or a local police agency unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to or otherwise mitigate the emergency.

Determining which designated official from KGI Campus Safety and KGI Administration makes the decision is based on availability during a 24-hour cycle. KGI Campus Safety maintains designated individuals throughout each 24-hour cycle trained to determine the need for an Emergency Notification.

## **Everbridge Emergency Notification System**

KGI is committed to ensuring the campus community receives timely, accurate, and useful information in the event of a significant emergency or dangerous situation on campus or in the local area that poses an immediate threat to the health and safety of the campus community members.

KGI uses the emergency notification system Everbridge. Everbridge is an emergency notification service available to students, staff, faculty, and anyone in the KGI community who wants to subscribe. Everbridge can be used to send emergency messages within minutes of an incident. Alerts sent by Everbridge are simulcast to the KGI community via our newswire, KGI's Facebook page, Twitter, or at the subscriber's choice, e-mail account and/or phone number.

KGI Campus Safety conducts annual tests of the Everbridge system. The TCC Campus Safety Office also uses its own instance of Everbridge to notify the Claremont Colleges community.



## **Procedures Used to Notify the Campus Community and Surrounding Community**

In the event of a situation that poses an immediate threat to members of the campus community, KGI will, without delay and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.

To do this, KGI has multiple systems to communicate information quickly and without delay. Some or all of these methods of communication, including the mass notification system, may be activated in the event of emergency notification to the entire campus community. Everbridge, KGI's e-mail system, and verbal announcements within a building and public address system on police cars. KGI will post updates on the homepage during a critical incident.

KGI is also committed to providing a safe environment for everyone in the larger campus community. In the event of an emergency or significant safety concern that would impact members of the larger community outside the college campuses, updated and ongoing emergency information is provided to the TCCS Campus Safety and the Claremont Police Department for dissemination as they feel appropriate. The Claremont Police Department is included on the Everbridge distribution list and receives all emergency notifications and alerts issued by KGI Campus Safety. The TCCS Communication Office would liaise with local media to further distribute the details of an incident as appropriate.

## **Confirming the Existence of a Significant Emergency or Dangerous Situation and Initiating the Emergency Notification System**

In determining whether to issue an Emergency Notification, individuals may use various notification methods to alert KGI Campus Safety to an emergency, such as personal/office phones, emergency ring-down phones, email, or in person.

KGI Campus Safety will consider all known factors reflecting on whether the situation represents an immediate threat to the health or safety of the Institute community, including, but not limited to, (a) the nature of the significant emergency or dangerous situation; (b) when and where the incident occurred; (c) when it was reported; (d) the continuing danger to the campus community; and (e) the amount of information known by KGI Campus Safety.

The process to initiate the Emergency Notification system is as follows. Once an incident is reported, either on its own or with input from these external agencies (Claremont Police Department, Los Angeles County Fire Department, Los Angeles County Emergency Management), the Department of KGI Campus Safety, VP of Finance

& Administration, AVP and Human Resources Officer, AVP of Financial Planning & Analysis, Provost and VP of Academic Affairs, Dean of Students and Title IX Coordinator, and the on-site KGI Campus Safety officer (or designee) will determine if the situation does pose a threat to the community. Should that be the case, federal law requires that the College immediately notify the campus community that may be affected by the situation without delay and taking into account the community's safety.

Determining which designated official from KGI Campus Safety decides is based on availability during a 24-hour cycle. KGI Campus Safety maintains designated individuals throughout each 24-hour cycle trained to determine the need for issuing alerts. These designated officials are listed above.

Once the Emergency Notification has been issued, KGI Campus Safety, in collaboration with the official on call from the affected community (if applicable), takes the initial lead in implementing the appropriate response plan, assessing the severity of the crisis, reviewing all available information, delegating responsibility where appropriate, and ensuring that the information needs of various constituencies are met.

## **Determining the Appropriate Segment or Segments of The Campus Community to Receive an Emergency Notification**

The Claremont Colleges are a consortium of seven separate and distinct colleges that share many social, residential, dining, and academic programs, to name a few. Due to the nature of our configuration, once a significant emergency or dangerous situation occurring on one of the campuses has been established, and an emergency notification is deemed necessary, it is disseminated via email or text message to all seven college students and employees enrolled in the Everbridge emergency management system. Depending on the nature of the emergency, KGI KGI Campus Safety may work with TCCS Communications and the Claremont Police Department to issue subsequent notifications to a broader group of local community members. KGI will also post applicable messages about the dangerous conditions on the College website to ensure the campus knows the situation and the steps they should take to maintain personal and KGI Campus Safety.

## **Contents of the Emergency Notification**

The Department of KGI Campus Safety will choose the appropriate template in Everbridge, populate it with the pertinent information necessary for the current emergency situation, and send it to students, faculty, and staff at KGI and the TCC Campus Safety Office.

Additional Emergency Notification messages will follow as information regarding the unfolding situation becomes available. KGI Campus Safety is also tasked with promptly summoning the appropriate resources to mitigate and investigate such incidents, which may include the input of the Claremont Police Department and/or Los Angeles County Fire Department.

KGI Campus Safety will use the following guidelines when determining the contents of the emergency message.

- **Alert:** The first message is intended to alert the KGI community of the Emergency and the actions they should take to safeguard their and their neighbor's safety.
- **Inform:** The second message provides additional situation details for the KGI community. It is generally distributed once first responders and the Emergency Operations Center have more information about the dangerous situation.
- **Reassure:** Finally, the third message is the reassuring notice, generally distributed once the situation is nearly or entirely resolved. This message aims to reassure the TCC community KGI is working diligently to fix or resolve the dangerous situation. It can also provide additional information about the problem and where resources will be available.

## Crimes of Sexual Assault, Dating or Domestic Violence and Stalking

### KGI's statement on Prohibiting Crimes of Sexual Assault, Dating/ Domestic Violence, and Stalking

Keck Graduate Institute is committed to maintaining an environment for students, faculty, administrators, staff, and visitors that is free of all forms of sex- and gender-based discrimination and harassment, including sexual misconduct.

Consistent with this commitment and with obligations under Title IX of the Education Amendments of 1972 and other state and federal laws, the Institute has enacted a Sexual Discrimination, Harassment, and Misconduct Policy ("Policy") to reflect and maintain KGI's institutional values and community expectations, to provide fair procedures for determining when the Policy has been violated, and to provide recourse for individuals and the community in response to violations of the Policy. A copy of the full policy can be located on our website at [kgi.edu/policies](http://kgi.edu/policies).

KGI's Policy prohibits all forms of sexual or gender-based discrimination, harassment, and misconduct, including sexual assault, intimate partner violence (dating and domestic violence), sexual exploitation, and stalking. KGI's Policy also prohibits retaliation against a person who reports, complains about, or who otherwise participates in good faith in, any matter related to the Policy.

The Institute strongly encourages all members of our community to take action to maintain and facilitate a safe, welcoming, and respectful environment on campus. In particular, the Institute expects all KGI community members to take reasonable and prudent actions to prevent or stop Prohibited Conduct. The Institute strongly supports individuals who choose to take such action and will protect such individuals from retaliation.

Furthermore, in response to new Title IX regulations issued by the U.S. Department of Education ("DOE") in April, 2024 requiring higher education institutions to amend their current policies related to sexual misconduct and following the work of The Claremont College ("TCC") Title IX Policy Committee to provide for a standard adjudication process among TCC institutions, the TCC implemented a joint 2024 TCC Sexual Misconduct & Sex-Based Harassment Interim Policy, effective August 1, 2024. Among other things, the new TCC Title IX Policy follows the new Title IX regulations and integrated California State Law SB493.

The 2024 TCC Sexual Misconduct & Sex-Based Harassment Interim Policy addresses conduct that is alleged to have occurred on August 1, 2024, or later.

Keck Graduate Institute has two policies that are included in KGI's response to discrimination, harassment, and Title IX.

- Since August 1, 2024, the 2024 TCC Sexual Misconduct & Sex-Based Harassment Interim Policy has also been instituted to address any Title IX-related incidents that occurred after that date.
- For incident that occurred between August 14, 2020 and July 30, 2024, the TCC Title IX Sexual Harassment Policy (effective on August 14, 2020 and was revised on February 15, 2021) will apply. Conduct that takes place off-campus, may be addressed by the second policy, the KGI Policy Against Discrimination and Harassment.

The KGI Policy Against Discrimination and Harassment will address all non-sex-based harassments and discrimination incidents.



## California State Definitions for Sexual Assault, Dating/ Domestic Violence, Stalking, and Consent

### Penal Code 243.4: Sexual Battery

A. Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery.

B. Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery.

C. Any person who touches an intimate part of another person for sexual arousal, sexual gratification, or sexual abuse, and the victim is at the time unconscious of the nature of the act because the perpetrator fraudulently represented that the touching served a professional purpose, is guilty of sexual battery.

D. Any person who, for sexual arousal, sexual gratification, or sexual abuse, causes another against that person's will while that person is unlawfully restrained either by the accused or an accomplice or is institutionalized for medical treatment and is seriously disabled or medically incapacitated, to masturbate or touch an intimate part of either of those persons or a third person, is guilty of sexual battery.

### A. Penal Code 261: Rape

A. Rape is an act of sexual intercourse accomplished with a person not the spouse of the perpetrator, under any of the following circumstances:

1. Where a person is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, which is known or reasonably should be known to the person committing the act. Notwithstanding the existence of a conservatorship according to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.
2. Where it is accomplished against a person's will using force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another.
3. Where a person is prevented from resisting by any intoxicating or anesthetic substance or any controlled substance, and this condition was known or reasonably should have been known by the accused.



4. Where a person is at the time unconscious of the nature of the act, and this is known to the accused. As used in this paragraph, “unconscious of the nature of the act” means incapable of resisting because the victim meets any one of the following conditions:

- a. Was unconscious or asleep.
- b. Was not aware, knowing, perceiving, or cognizant that the act occurred.
- c. Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraud in fact.
- d. Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

5. Where a person submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief.

6. Where the act is accomplished against the victim’s will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this paragraph, “threatening to retaliate” means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

7. Where the act is accomplished against the victim’s will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. As used in this paragraph, “public official” means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

## **Penal Code 273.5: Corporal Injury on a Spouse or Cohabitant**

A. Any person who willfully inflicts corporal injury resulting in a traumatic condition upon a victim described in subdivision (b) is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not more than one year, or by a fine of up to six thousand dollars (\$6,000), or by both that fine and imprisonment

B. Subdivision (a) shall apply if the victim is or was one or more of the following:

1. The offender’s spouse or former spouse.
2. The offender’s cohabitant or former cohabitant.



3. The offender's fiancé or fiancée, or someone with whom the offender has, or previously had, an engagement or dating relationship, as defined in paragraph (10) of subdivision (f) of Section 243.

4. The mother or father of the offender's child.

C. Holding oneself out to be the spouse of the person with whom one is cohabiting is not necessary to constitute cohabitation as the term is used in this section.

D. As used in this section, "traumatic condition" means a condition of the body, such as a wound or external or internal injury, including, but not limited to, injury as a result of strangulation or suffocation, whether of a minor or serious nature, caused by a physical force. For purposes of this section, "strangulation" and "suffocation" include impeding the normal breathing or circulation of the blood of a person by applying pressure on the throat or neck. For this section, a person shall be considered the father or mother of another person's child if the alleged male parent is presumed the natural father under Sections 7611 and 7612 of the Family Code.

### **Penal Code 243: Domestic Battery**

E. (1) When a battery is committed against a spouse, a person with whom the defendant is cohabiting, a person who is the parent of the defendant's child, former spouse, fiancé, or fiancée, or a person with whom the defendant currently has, or has previously had, a dating or engagement relationship.

### **Penal Code 64.9: Stalking**

A. Any person who willfully, maliciously, and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety or the safety of his or her immediate family is guilty of the crime of stalking.

### **Senate Bill No. 967: Affirmative Consent**

1. An affirmative consent standard in the determination of whether consent was given by both parties to sexual activity. "Affirmative consent" means 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 he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. 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. It shall not be a valid excuse that the accused believed that the complainant affirmatively consented





to the sexual activity if the accused 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.

## **Programs To Prevent Sexual Assault, Dating or Domestic Violence and Stalking**

### **Bystander Intervention**

The Institute expects all of its community members to take reasonable and prudent actions to prevent or stop an act of gender-based or sexual misconduct. Taking action may include direct intervention, calling law enforcement, or seeking assistance from someone in authority.

### **Prevention, Awareness, and Risk Reduction**

Below is the information provided to students on prevention and risk reduction as outlined in our Sexual Discrimination, Harassment, and Misconduct Policy. KGI members can access the policy via the student handbook and the KGI website.

Prevention: If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner and yourself. These suggestions may help you avoid committing a non-consensual sexual act and reduce your risk of being accused of sexual misconduct:

1. Clearly communicate your intentions to your sexual partner and give your partner a chance to communicate their intentions to you clearly.
2. Understand and respect personal boundaries. Do not pressure a potential partner.
3. **DON'T MAKE ASSUMPTIONS** about consent, about someone's sexual availability, whether the individual is attracted to you, about how far you can go, or about whether the individual is physically and/or mentally able to consent. If there are any questions or ambiguity, then you **DO NOT** have consent, and you should stop.





4. If you think you are receiving unclear or conflicting messages from your partner, this is a clear indication that you should stop, defuse any sexual tension, and communicate better.
5. Don't take advantage of someone's drunkenness, drugged, or otherwise incapacitated state.
6. Realize that your potential partner could be intimidated by you or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.
7. Understand that consent to some form of sexual behavior does not automatically equal consent to any other form of sexual behavior.
8. Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language. If you are not sure, stop.

Risk Reduction: Risk reduction tips can unintentionally take a victim-blaming tone. With no intention to victim blame and with the recognition that only those who commit sexual violence are responsible for such conduct, these suggestions may nevertheless help you to reduce your risk of experiencing a non-consensual sexual act.

1. If you have sexual limits, make them known as early as possible.
2. If you do not want to engage in a particular activity, tell the other person "NO" clearly and firmly. Try to remove yourself from the physical presence of a sexual aggressor if you can do so safely.
3. If someone is nearby, ask for help, or if it is safe to do so, text or call someone.
4. Acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views someone under the influence as a sexual opportunity.
5. Take care of your friends and ask that they take care of you. Friends can help acknowledge when you are in potential danger or harm. Respect their concerns.

## **Prevention and Awareness Campaigns for Students and Employees**

The Dean of Students and Title IX Coordinator carry out prevention and awareness campaigns for students and employees to prevent dating violence, domestic violence, sexual assault, and stalking. The Dean works closely with the other seven Claremont Colleges, including our shared advocacy resource, The EmPOWER Center, to provide opportunities for cross-campus programming.

- **EmPOWER Center Ongoing Programs:** The EmPOWER center hosts ongoing programs throughout the year to support survivors of dating/domestic violence, stalking, and sexual assault. Below is a list of programs/events.

- Teal Dot: This 90-minute bystander intervention training session equips students to recognize potentially dangerous situations and safely intervene to prevent violence. This program occurs approximately once a month during the fall and spring semesters.
- Confidential Counseling
- Educational programming related to healthy relationships
- International Student Programming: A presentation is provided to international students by the director of the EmPOWER center.

In its commitment to prevent sexual assault, dating/domestic violence, and stalking, KGI conducts several training sessions for students and employees. These trainings provide information on support resources, list the types of prohibited conduct at KGI, how and who to report to, describe KGI's process for handling such disclosures, and how to be an active bystander. Below are the ongoing trainings.

- Vector Solutions Online Training for New Students: Every new incoming student at KGI must complete three training courses: Sexual Assault Prevention, alcohol education, and diversity, equity, and inclusion training for Graduate Students.
- Vector Solutions Online Training for New Employees: Every employee is required to complete the course "Preventing Harassment and Discrimination with Title IX and Clery" within 30 days of hire, and the program is repeated every two years for all employees.
- All Staff and Faculty Meeting Presentations: KGI's Title IX Coordinator annually presents during select staff and faculty meetings.
- Onboarding training for new employees, including new student employees, in coordination with Human Resources, KGI's Title IX Coordinator may meet with new employees to review Title IX, mandatory reporting requirements, and resources.
- Title IX Training: those who serve as the Title IX Coordinator and Deputy Coordinator are trained annually.

## Procedures to Follow If a Crime of Sexual Assault, Dating/ Domestic Violence, and/or Stalking Has Occurred

In compliance with the Title IX regulations issued by the US Department of Education (DOE) that went into effect on August 1, 2024, the Institute

adopted the 2024 TCC Sexual Misconduct & Sex-Based Harassment Interim Policy to address certain types of sexual harassment, including sexual assault, dating violence, domestic violence, and stalking.

Additionally, the KGI policy outlines the procedures, resources, and steps an individual can take following an instance non-sex-based harassment and discrimination not governed by the TCC Title IX Policy.

Through these policies, KGI notifies students and employees via email, print materials, and the Institute's website about existing counseling and health services, victim advocacy, and other campus and community-based victim services and programs. Details of what is included in the written material can be found below (full copies of the TCC Title IX Policy and KGI Policy are available online).

### **The Importance of Preserving Evident (Provided in Writing)**

Victims/survivors of a sexual assault (particularly forcible oral copulation or penetration) are urged to seek medical treatment as soon as possible by going to the nearest hospital emergency room, specialized sexual assault treatment and trauma center, Student Health Service, or private physician.

The emergency room nearest KGI, which is also a County designated SART Center, is located at:

#### **Pomona Valley Hospital Medical Center**

1798 N. Garey Avenue Pomona, CA 91767

909.865.9500

SART is a victim-sensitive program designed to provide a team approach to responding to sexual assaults. Victims/survivors may take a support person with them to the hospital. Students who need assistance arranging transportation or would like a member of the KGI staff to accompany them to the hospital should contact KGI KGI Campus Safety at 909.607.8736 and ask that a Dean of Students and Title IX Coordinator be contacted. Know that hospitals that treat any physical injury sustained during a sexual assault are required to report it to law enforcement. The victim/survivor may choose whether or not to speak to police at the hospital and do not need to make an immediate decision to press criminal charges. That decision can be made at a later time.

Victims/survivors who promptly seek medical attention benefit from being examined for physical injury, receiving preventative treatment for sexually transmitted diseases, a toxicology examination for date rape drugs, and emergency contraception. In addition, prompt reporting allows for the preservation of evidence. Preserving evidence is essential as it may assist in proving that the alleged criminal offense occurred and/or help obtain a protective order, which will only be used if the victim/survivor decides (then or later) to press criminal charges or file a civil suit.

To preserve evidence, victims/survivors should not bathe, douche, smoke, brush their teeth, or change clothes (a change of clothes should be brought along). If clothes have been changed, the original clothes should be put in a paper bag (plastic bags damage evidence) and brought to the hospital. Do not disturb the scene of the assault. If it is impossible to leave the scene undisturbed, evidence (e.g., bedding, towels, loose fabrics, prophylactics, and clothing) should be placed in separate paper bags to preserve.

Time is a critical factor in collecting and preserving evidence. The physical evidence of an assault is most effectively collected within the first 24-48 hours of the assault, but some evidence may be collected for up to 72 hours. If, however, a sexual assault victim/survivor chooses to report the incident days, weeks, or even months after the assault, critical support systems are still available and can be arranged.

Victims/survivors who do not wish to go to the hospital may choose to contact:

### **Planned Parenthood**

1550 N Garey Avenue Pomona, CA 91767

800.576.5544

Planned Parenthood has healthcare providers who can test and provide preservative treatment for sexually transmitted diseases or see a personal healthcare provider for tests and treatment.

While preserving evidence is important, lack of physical evidence should never deter a victim/survivor from reporting or seeking resources. Because the Institute's process uses a preponderance of the evidence standard, physical evidence (while helpful) is never required to proceed with a formal or informal process.

### **Who To Report to (Provided in Writing)**

Anyone who witnesses, experiences, or is otherwise aware of conduct that the individual believes violates this Policy, including retaliation, is urged to contact KGI immediately. Reports may be made to any of the following individuals:

#### **For staff and faculty reports:**

##### **Cheryl Merritt**

Assistant Vice President & Chief Human Resources Officer  
(and Deputy Title IX Coordinator)

909.607.7853

[Cheryl\\_Merritt@kgi.edu](mailto:Cheryl_Merritt@kgi.edu)

535 Watson Dr., Claremont, CA 91711  
Building 535 West, Office #150D

**For student reports:****Shino Simons**

Dean of Students and Title IX Coordinator

[Shino\\_Simons@kgi.edu](mailto:Shino_Simons@kgi.edu)

535 Watson Dr.

Claremont, CA 91711

Building 517, Office #117

**For student, staff, faculty, or third-party reports:****KGI Campus Safety**

909.607.8736 or

911 (emergency)

Building 517, Room 122

[KGI\\_CampusSafety@kgi.edu](mailto:KGI_CampusSafety@kgi.edu)

Complainants are encouraged to make a report in a timely manner to maximize KGI's ability to respond promptly and effectively. The complainant (or third party if making a report on behalf of another person) does not have to request a particular course of action, nor does the complainant or third party need to know the appropriate definition or label for what happened. The decision to make a report is a process that is likely to unfold over time.

**Reporting to Law Enforcement**

Information about the option to report to and/or seek assistance from law enforcement is also provided to individuals who are victims of sexual violence, dating/domestic violence and stalking. In Claremont, those resources include:

**Claremont Police Department**

909.399.5411

Emergency Dial 911

570 W. Bonita Ave. Claremont, CA 91711

In the event of an incident of sexual misconduct, especially sexual violence, KGI strongly encourages individuals to seek assistance immediately from a medical provider. In Claremont, those resources include:

**Pomona Valley Hospital Medical Center**

800.576.5544

1550 N Garey Avenue Pomona, CA 91767

Some incidents of sexual misconduct may also constitute criminal conduct. In such instances, the complainant is encouraged to file a report with an appropriate law enforcement agency, and if requested, the Institute will assist the complainant in doing so. This is the best option to ensure evidence preservation and begin a timely investigative and remedial response. Police have unique legal authority, including seeking and executing search warrants, collecting forensic evidence, making arrests, and assisting in seeking emergency protective orders. Complainant may decline to notify such authorities, and the complainant may choose whether or not to file a police report.

The definitions of Prohibited Conduct and the burden of proof for internal processes differ from those of criminal behavior and the burden of proof used in the criminal justice system. These reporting options are not mutually exclusive and may be made simultaneously or at different times.

A criminal investigation or proceeding does not relieve KGI of its duty to conduct its timely inquiry into the alleged misconduct. Consequently, the Institute will not wait for the conclusion of any criminal investigation or proceedings to commence the KGI investigation and complaint resolution procedures outlined below. Neither law enforcement's determination of whether or not to prosecute a respondent nor the outcome of any criminal prosecution is determinative of whether conduct prohibited under this Policy occurred.

KGI takes seriously the rights of complainant and the institute's responsibilities for orders of protection, "no contact" orders, and restraining orders. Complainant may seek no-contact orders through the institute or may be assisted with obtaining a restraining order through the court. These measures are available to the complainant, regardless of whether the complainant files a formal complaint with KGI or local law enforcement. This is provided to complainants in writing as outlined below.

- No Contact Order: KGI Campus Safety, the Dean of Students and Title IX Coordinator, and the Assistant Vice President and Chief Human Resources Officer may impose a "no-contact" order, which typically will include a directive that the parties refrain from having any contact with one another, directly or through third parties, whether in person or via electronic means, pending the investigation and/or outcome. When taking steps to separate the complainant and the respondent, the Dean of Students and, Title IX Coordinator, and the Assistant Vice President and Chief Human Resources Officer will seek to minimize unnecessary or unreasonable burdens on either party.

- Restraining Order: The Institute may assist with providing information about or assistance in obtaining a restraining order from a court of law.

## Interim Measures (Supportive and Protective) (Provided in Writing)

Upon receipt of a report of Prohibited Conduct, KGI will impose reasonable and appropriate supportive and protective measures (“interim measures”) designed to protect an individual’s rights and personal safety, the safety of the Institute community, or if determined to be necessary to ensure the integrity of the investigation or adjudication process. The Institute will make reasonable efforts to communicate with the parties to address all concerns about safety, emotional well-being, and physical well-being. Interim support measures are offered in writing to all parties. They may be imposed regardless of whether a report was made to local law enforcement or whether the Complainant and/or the Institute sought formal disciplinary action or legal action.

The Institute will consider all requests for interim measures by the parties and must comply with any reasonable request for academic or work situation change. The Title IX Coordinator or its designee makes determinations regarding interim measures on a case-by-case basis in consultation with appropriate members of Human Resources, Student Affairs, and/or Academic Affairs.

KGI will maintain as confidential any accommodations or protective measures provided to any party to the extent that maintaining such confidentiality would not impair the institution’s ability to provide the accommodations or protective measures. Students or employees may contact the Title IX Coordinator at [Shino\\_Simons@kgi.edu](mailto:Shino_Simons@kgi.edu), 535 Watson Dr., Claremont, CA 91711, Building 517, Office #117.

## Range of Measures

Interim measures should be designed to minimize the impact on the parties involved. Potential remedies that may be taken in response to an allegation of Prohibited Conduct, and which may be applied to the Complaint and/or the Respondent, include, but are not limited to:

- Interim suspension (immediate, temporary suspension pending the outcome of investigation and/or hearing process)
- Imposition of a “no contact” directive





- Restricting or limiting an individual or organization's access to campus or specific areas of campus or activities pending resolution of the matter
- Increased security and monitoring of certain areas of campus
- Referral to medical, counseling, or emergency services
- Assistance with identifying off-campus resources
- Assistance in reporting the matter to the local police or obtaining a court-issued restraining order
- Ensuring that any such criminal or civil restraining order is fully upheld on all institutionally owned and controlled property
- Varied forms of academic assistance, including academic support services, tutoring, alternative course completion options, rescheduling of exams and assignments, changing class schedules, and transferring course sections;
- Change of work schedules, job assignments, and worksite location;
- Other similar measures, determined by the Title IX Coordinator based on the specific facts of each case, that can be tailored to the involved individuals to achieve the goals of this Policy.

Interim measures assume no determination of responsibility. Both parties will receive a written document setting forth the interim measures that have been deemed appropriate. The Title IX Coordinator reserves the right to increase, reduce, or otherwise adjust interim measures. Not all measures listed in this section will be necessary in every case. If an individual identifies an interim measure not provided by KGI, the Institute will consider whether the request can be granted. In those instances where interim measures affect both the Complainant and Respondent, the Institute will minimize the burden on the Complainant wherever appropriate.

Failure by any individual to adhere to the parameters of any interim measure violates KGI policy and may lead to disciplinary action. Individuals are encouraged by another party to report such failures to the Title IX Coordinator. Depending on timing and other circumstances, allegations that an individual has violated any interim measure may be investigated and/or adjudicated (where appropriate) separately from or as part of an ongoing matter.



## Protecting Confidentiality (Provided in Writing)

Under applicable law, KGI's annual security report includes statistics concerning reported sexual assaults and other crimes that occurred on campus, in certain off-campus buildings or property owned or controlled by KGI, and on public property within or immediately adjacent to and accessible from the campus. These reports never include personally identifiable information (e.g., the names or addresses of victims).

## Statistical Reporting

Under the Clery Act, certain Institute officials must report specific misconduct for federal statistical reporting purposes. All personally identifiable information is kept confidential, but statistical information regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) must be passed along to KGI Campus Safety for publication in the annual Campus Security Report.

This report helps to provide the community with a clear picture of the extent and nature of campus crime to ensure excellent community safety. Mandated federal reporters, also known as Campus Security Authorities, include student affairs staff, KGI Campus Safety officers, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities. The information to be shared includes the date, the location of the incident (using Clery location categories), and the Clery crime category. This reporting protects the identity of the victim and may be done anonymously.

## Timely Warning

Complainants should also be aware that Institute administrators must issue immediate, timely warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to campus community members. The Institute will not disclose a Complainant's name for the Timely Warning requirement. However, it will provide enough information for community members to make safety decisions regarding the danger. The reporters for timely warning purposes are as detailed in the paragraph above.

## Location of Records

The Institute will retain documents related to processes under this Policy for a period of seven (7) years. Documents associated with this process include formal complaints, remedies provided to a complainant, the investigation report and attachments, the hearing determination, any sanctioning determination, and all appeal-related documents, as well as any audio recording or transcript of the hearing.

For seven (7) years, the Institute will also retain all materials used to train the Title IX Coordinator and deputy coordinators, Investigators, hearing panel members/officers, and any person facilitating the informal resolution or appeal process. The Institute shall make this training information publicly available on its website.

## Sex Offender Registration – Campus Sex Crimes Prevention Act

Members of the public may request community notification flyers for information concerning sexually violent predators in a particular community by visiting the chief of law enforcement officer in that community. The State of California maintains a database of convicted sex offenders who are required to register their home addresses.

This database can be found at:

Search for Sex Offenders: <https://www.meganslaw.ca.gov/disclaimer.aspx>

For general information, see State of California Department of Justice, Megan’s Law in California: <https://www.meganslaw.ca.gov>

## Disciplinary Procedures for Students and Employees for Cases Involving Alleged Sexual Assault, Dating/Domestic Violence and Stalking

The Claremont Colleges Sexual Misconduct and Sex-Based Harassment Interim Policy is to set forth how KGI and the rest of the Claremont Colleges prevent and respond to Sex-Based Harassment (a form of sex-based discrimination), and related Retaliation (collectively, “Prohibited Conduct”), as defined within this Policy. Prohibited Conduct, as defined by this Policy, is prohibited within all of the programs and activities of the TCC Institutions, and as set forth in this Policy.

The Claremont Colleges is comprised of the following institutions:

- Pomona College
- Claremont Graduate University
- Scripps College
- Claremont McKenna College
- Harvey Mudd College

- Pitzer College
- Keck Graduate Institute

Collectively, the TCC Institutions are referred to as “TCC” throughout this Policy. Individually, they are referred to as “TCC Institution.”<sup>1</sup>

Each TCC Institution has its own formal governance structure and independent board. As a consortium, the TCC Institutions work together to resolve concerns that cross the boundaries of individual Institutions (cross-campus matters).

Each TCC Institution will also respond promptly to other forms of Sex-Based Harassment or discrimination on the basis of sex, such as discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity, and gender expression that are not covered by this Policy but are prohibited by each TCC Institution in its individual nondiscrimination policies.

This Policy defines Prohibited Conduct and outlines TCC’s responsibilities and procedures related to addressing reports of Prohibited Conduct to ensure an equitable and inclusive education and employment environment. This Policy is adopted and overseen by each individual TCC Institution, consistent with each individual TCC Institution’s obligations as a recipient of federal funding under Title IX.

Allegations that involve conduct that allegedly violates this Policy, as well as other TCC Institution policies, and that are related to the same incident(s), may be joined under the same Resolution Process, including in one investigation and hearing conducted pursuant to Section XI. The decision to join interrelated conduct will be at the discretion of the Respondent’s Home Institution’s Title IX Coordinator in consultation with the TCC Title IX Administrator.

#### A. Purpose of this Policy

This Policy is enacted to allow each TCC Institution to comply with Title IX of the Educational Amendments of 1972 and its subsequent accompanying regulations pertaining to Prohibited Conduct, as defined under this Policy. 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.

This Policy also complies with California law, including conduct prohibited by California Education Code Section 212.5.5, 66262.5, and 67380. For TCC Institution’s whose employees are covered under this Policy, this Policy also sets forth those TCC Institutions’ obligations pertaining to Prohibited Conduct under the California Fair Employment & Housing Act and the California Education Code.

---

1. For purposes of Title IX, “Recipient” is reference to each TCC Institution.

This Policy outlines the procedures TCC will follow to ensure a prompt and equitable resolution of complaints made by Complainants alleging Prohibited Conduct against Respondents, as defined in this Policy in Section XXIII. A TCC Institution is not precluded from investigating other conduct that, if proven, would not constitute Prohibited Conduct under this Policy but may constitute a violation of other TCC Institution policies.

Situations involving other conduct that may be in violation of other TCC Institution student or employee conduct policies should be reported to an individual's Home Institution's Title IX Coordinator.

#### B. Effective Date

This Policy is effective August 1, 2024, and only applies to Prohibited Conduct alleged to have occurred on or after August 1, 2024. Incidents alleged to have occurred before August 1, 2024 will be investigated and adjudicated according to the applicable definitions, policy and process in place at the time the incident allegedly occurred. This may include allegations under:

- the previous policy, The Claremont Colleges Title IX Sexual Harassment Policy (2020 TCC Title IX Policy), available [here](#), which addresses Title IX Sexual Harassment and Retaliation, as defined in that policy, which is alleged to have occurred between August 14, 2020 and July 31, 2024.
- a TCC Institution-specific policy for conduct prohibited under California Education Code from January 1, 2022 – July 31, 2024 or for incidents of sexual harassment alleged to have occurred prior to August 14, 2020.

Please contact your Home Institution's Title IX Coordinator for questions regarding the applicable policy. The policy definitions in effect at the time of the alleged conduct will apply even if the policy is changed subsequently.

#### C. Application of Section 504/Americans with Disabilities Act to this Policy

Each TCC Institution adheres to the requirements of the Americans with Disabilities Act of 1990, as amended 2008 (ADAAA); Sections 504 of the Rehabilitation Act of 1973, as amended; and all other federal and state laws and regulations prohibiting discrimination on the basis of disability that are applicable to the TCC Institutions.

Parties and witnesses may request reasonable accommodations for disclosed disabilities to their Home Institution's Title IX Coordinator or Human Resources professional at any time relating to the implementation of this Policy, including making a disclosure or report, and initiating a resolution process under this Policy.

The Home Institution's Title IX Coordinator and/or Human Resources professional will not affirmatively provide disability accommodations that have not been specifically requested by an individual, even where the individual may be receiving accommodations in other TCC Institution programs and activities. With the consent of the impacted student, staff, or faculty, the individual's Home Institution's Title IX Coordinator will work

collaboratively with the appropriate department at their TCC Institution for review and response to the requested accommodation. The individual's Home Institution's Title IX Coordinator will ensure that approved reasonable accommodations (disability-related) are honored as applicable throughout any process related to this Policy.

#### **D. Revocation by Operation of Law**

Should any portion of the 2024 Title IX Final Rule, 89 Fed. Reg. 33474 (issued April 29, 2024 and effective August 1, 2024), be stayed or held invalid by a court of law, in whole or in part, or should the portions of this Policy in compliance with 2024 Title IX Final Rule be withdrawn or modified to not require specific requirements of this Policy, then this Policy, or the invalidated requirements of this Policy in compliance with the 2024 Title IX Final Rule, will be deemed revoked as of the publication date of the opinion or order (or as otherwise ordered by the court). In the event of revocation, TCC will provide the Parties with information regarding next steps. Should this Policy be revoked in this manner, any conduct covered under this Policy shall be investigated and adjudicated in compliance with Federal and California state law.

## **Home Institution Title IX Coordinator and the TCC Title IX Process Administrator**

### **A. Title IX Coordinator**

Each TCC Institution shall designate a Title IX Coordinator to oversee and ensure compliance with this Policy and any other TCC Institution policies prohibiting similar conduct, such as discrimination on the basis of sex. Each Title IX Coordinator is responsible for ensuring compliance with Title IX, California law, and this Policy within their TCC Institution. Each TCC Institution may designate additional Deputy Title IX Coordinators. For purposes of this Policy, Home Institution Title IX Coordinator refers to the Title IX Coordinator designated for the Party's Home TCC Institution. For students, Home Institution refers to the TCC Institution where the student Party is admitted, regardless of enrollment of credits at any other TCC Institution. For employees subject to this Policy, Home Institution refers to the TCC Institution where the employee Party is employed.

The name and contact information (phone number, email address, and office address) for each TCC Institution's Title IX Coordinator is as follows:

#### **Claremont Graduate University**

160 E. 10th Street Harper Hall East Claremont, CA 91711

#### **Ann Knox, Title IX Coordinator**

[Deanof.Students@cgu.edu](mailto:Deanof.Students@cgu.edu)

909.607.1887

**Alejandra Gaytan, Director of Human Resources**[Alejandra.Gaytan@cgu.edu](mailto:Alejandra.Gaytan@cgu.edu)

909.607.4404

**Dr. Patricia Easton, Executive Vice President and Provost**[Patricia.Easton@cgu.edu](mailto:Patricia.Easton@cgu.edu)

909.607.3318

**Claremont McKenna College**

385 E. 8th Street Marian Miner Cook Athenaeum Second Floor Claremont, CA 91711

**Joanna Rosas, Title IX Coordinator**[Joanna.Rosas@ClaremontMcKenna.edu](mailto:Joanna.Rosas@ClaremontMcKenna.edu)

909.607.8131

**Harvey Mudd College**

301 Platt Boulevard Platt Campus Center Claremont, CA 91711

**Danny Ledezma, Title IX Coordinator**[Dledezma@hmc.edu](mailto:Dledezma@hmc.edu)

909.607.3470

**Keck Graduate Institute**

535 Watson Drive Claremont, CA 91711

**Shino Simons, Title IX Coordinator**[TitleIX@kgi.edu](mailto:TitleIX@kgi.edu)

909.607.0101

**Cheryl Merritt, Deputy Title IX Coordinator, Assistant Vice President of Human Resources and Employee Engagement**[Cheryl\\_Merritt@kgi.edu](mailto:Cheryl_Merritt@kgi.edu)

909.607.7853

**Pitzer College**

1050 N. Mills Avenue Broad Center, Room 212 Claremont, CA 91711

**Christine R. Guzman, Title IX Coordinator**[Christine\\_Guzman@pitzer.edu](mailto:Christine_Guzman@pitzer.edu)

909.607.2958

**Pomona College**

333 N. College Way, Alexander Hall: Suite 113 Claremont, CA 91711

**Destiny Marrufo, Title IX Coordinator**

[Destiny.Marrufo@pomona.edu](mailto:Destiny.Marrufo@pomona.edu)

909.621.8017

**Scripps College**

919 North Columbia Avenue McAlister Center Lower Level Claremont, CA 91711

**Alyssa-Rae McGinn, Interim Title IX Coordinator**

[TitleIX@scrippscollege.edu](mailto:TitleIX@scrippscollege.edu)

909.607.7142

TCC Institution's Title IX Coordinator, or their designee, serves as the primary point of contact for individuals from their campus involved in this Policy's Resolution Process or for allegations of violations occurring in their TCC Institution programs and activities as defined by this Policy.

**B. TCC Title IX Process Administrator**

The TCC Title IX Process Administrator (referred to as the "TCC Title IX Administrator") oversees this Policy, including the Resolution Process, to ensure equity and consistency across TCC. As outlined throughout this Policy, the TCC Title IX Administrator is responsible for a variety of tasks, including, but not limited to, the following:

- Managing the Resolution Process under this Policy across TCC; and
- Evaluating and assigning Investigators, Sanctions Decisionmakers, Hearing Decisionmakers and Appeal Decisionmakers in the Resolution Process under this Policy. TCC reserves the right to assign internal or external investigators or decisionmakers.

The TCC Title IX Administrator, Barbara Reguengo, can be reached at:

[TitleIXAdmin@claremont.edu](mailto:TitleIXAdmin@claremont.edu).

## **Scope and Jurisdiction**

**A. Which Institutions Have Adopted This Policy**

This Policy defines Prohibited Conduct for all members of the TCC community. Depending on an individual's status, the procedures for resolution of allegations of Prohibited Conduct may vary, as follows:

- All cases involving only students or participants (see below) in a TCC Institution's program or activity will be processed under the Resolution Options set forth in Section XIII. This includes complaints made by a TCC student at one TCC Institution against a student at the same TCC Institution, as well as complaints made by a TCC student against a TCC student at a different TCC Institution ("Cross-Campus Complaints").
- Cases that involve an employee, including students in their capacity as a student-employee, of a TCC Institution, will be processed consistent with whether the TCC Institution that is the employer of the Respondent has adopted this Policy for its employees.<sup>2</sup>

Institution	Applicable Policy
Claremont Graduate Institute (CGU)	All cases involving CGU's students, employees and participants in programs and activities are processed under this Policy unless the complaint is against a non-CGU employee, in which case the Policy adopted by the Respondent's Institution for employees will be used.
Claremont McKenna College (CMC)	For cases by anyone against a CMC employee, please see CMC's policy.
	For cases by a CMC employee against a CMC student, this Policy will be used.
	For cases by a CMC employee against a non-CMC student or participant, this Policy will be used.
	For cases by a CMC employee against a non-CMC employee, the policy adopted by the Respondent's Institution for employees will be used.

---

2. The matter should be reported to the Complainant's Institution's Title IX Coordinator so that they can coordinate with the Respondent Institution's Title IX Coordinator (if different) to determine appropriate next steps.



Institution	Applicable Policy
Harvey Mudd College (HMC)	For cases by anyone against an HMC employee, please see HMC's policy.
	For cases by an HMC employee against an HMC student, please see HMC's policy.
	For cases by an HMC employee against a non-HMC student or participant, this Policy will be used.
	For cases by an HMC employee against a non-HMC employee, the policy adopted by the Respondent's Institution for employees will be used.
Keck Graduate Institute (KGI)	All cases involving KGI's students, employees and participants in programs and activities are processed under this Policy unless the complaint is against a non-KGI employee, in which case the policy adopted by the Respondent's Institution for employees will be used.
Pitzer College	All cases involving Pitzer College's students, employees and participants in programs and activities are processed under this Policy unless the complaint is against a non-Pitzer College employee, in which case the policy adopted by the Respondent's Institution for employees will be used.
Pomona College	For cases by anyone against a Pomona College employee, please see Pomona College's policy.
	For cases by a Pomona College employee against a Pomona College student, this Policy will be used.
	For cases by a Pomona College employee against a non-Pomona College student or participant, this Policy will be used.
	For cases by a Pomona College employee against a non-Pomona College employee, the policy adopted by the Respondent's Institution for employees will be used.

Institution	Applicable Policy
Scripps College	For cases by any student or participant (Scripps College or non-Scripps College) against a Scripps College employee, this Policy will be used.
	For cases by a Scripps College employee against any student or participant (Scripps College or non-Scripps College), this Policy will be used.
	For cases by any TCC Institution employee against a Scripps College employee, please see Scripps College's policy.
	For cases by a Scripps College employee against a non-Scripps College employee, the policy adopted by the Respondent's Institution for employees will be used.

## B. Matters Involving a Third-Party Participant(s)

This Policy may also apply to third parties, such as guests, visitors, volunteers, invitees, and alumni, when they are participating or attempting to participate in a TCC-sponsored activity, on or off-campus (referred to as "participants" for purposes of this Policy). A third-party complainant may be subject to different procedures within this Policy, depending on the individual's status, or a TCC Institution's internal policies.

There are instances where allegations may be reported or a Complaint may be made against a third-party individual. Any individual who is alleged to have engaged in Prohibited Conduct who is not a TCC student, faculty member, or staff member is generally considered a third-party who is not subject to the Resolution Process in this Policy. A TCC Institution's ability to take appropriate corrective action against a third-party may be limited and will depend on the nature of the third-party's relationship, if any, to the TCC Institution or TCC. When appropriate, the Title IX Coordinator will refer such allegations against third-party respondents to the appropriate office for further action.

The status of a party may impact which resources and remedies are available to them, as described in this Policy.

## C. The Geographic Jurisdiction of This Policy

This Policy applies to the programs and activities, including the working and learning environments of the TCC Institutions. It may also apply to instances in which the conduct occurred outside of the campus or any TCC Institution-sponsored activity if the Complainant's Home Institution's Title IX Coordinator determines that the off-campus conduct is within the jurisdiction of this Policy, within Respondent's Home Institution's

disciplinary authority (in consultation with the Respondent's Home Institution Title IX Coordinator if Cross-Campus Complaint), or could interfere with access to any educational program or activity, safety and security, compliance with applicable law, or contribute to a hostile educational environment.

#### D. How This Policy Impacts Other Campus Disciplinary Policies

The elements and process established in this Policy, and as required under the 2024 Title IX Final Rule and applicable California state law, have no effect on any other TCC Institution policy or Code of Conduct. This Policy does not set a precedent for other policies or processes of the TCC Institutions and may not be cited for or against any right or aspect of any other policy or process.

#### E. Policy Dissemination and Publication

Each TCC institution shall disseminate this Policy to:

- Each student of their TCC Institution.
- Each employee of their TCC Institution, including student employees.
- Each volunteer who will regularly interacts with students.
- Each individual or entity under contract with the TCC Institution to perform any service involving regular interaction with students at the institution.

This Policy, and contact information for each TCC Home Institution Title IX Coordinator, shall be present on each TCC Home Institution's Title IX Office website. Every handbook and/or catalog made available to the members of each TCC Institution's community shall contain a link to this Policy and the contact information for the Home Institution's Title IX Coordinator.

## **Prohibited Conduct – Sex-Based Harassment and Retaliation**

Only allegations of Prohibited Conduct (Sex-Based Harassment and related Retaliation), as defined by this Policy, are addressed under this Policy.

Other forms of sex discrimination, including discrimination on the basis of sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity, and gender expression are prohibited and will be addressed by each TCC Institution in its individual policies.

This section provides the definitions of Prohibited Conduct for purposes of this Policy.

#### A. Sex-Based Harassment

Sex-Based Harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex as defined by Title IX, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity, and gender expression.

Sex-Based Harassment includes the following:

1. Quid Pro Quo

Quid Pro Quo is defined as:

Someone from or in the work or educational setting, including an employee agent, or other person authorized by a TCC Institution to provide an aid, benefit, or service under a TCC Institution's education program or activity, who explicitly or implicitly conditions the provision of an aid, benefit, or service of a TCC Institution on an individual's participation in unwelcome sexual conduct, which includes but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, including under any of the following conditions:

- Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress;
- Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual; or,
- Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.

Quid Pro Quo can include situations in which an employee, or agent, or individual who purports to have authority under a TCC Institution to provide and condition an aid, benefit, or service under the TCC Institution's education program or activity on a person's participation in unwelcome sexual conduct, even if that person is unable to provide that aid, benefit, or service.

Additionally, the threat of a detriment falls within the definition of Quid Pro Quo, whether or not the threat is actually carried out (e.g. the threat to award a poor grade to a student unless they participate in unwelcome sexual conduct could constitute Quid Pro Quo as it is a condition placed on the provision of the student's education, which is a service of a TCC Institution).

Conditions may involve academics and extracurricular activities within TCC.

2. Sex-Based Hostile Environment Harassment in Programs and Activities

Sex-Based Hostile Environment Harassment is defined as:

- Unwelcome sex-based conduct (where sex includes sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity and gender expression) 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 any TCC Institution's education program or activity; or

- Unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting where the conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.

### 3. California Sex-Based Harassment in Employment

For TCC Institutions whose employees, including student-employees, are covered by this Policy, this form of Prohibited Conduct will be addressed under this Policy and is defined as:

Any unwelcome behavior towards an employee (which for this definition includes a student-employee in their capacity as an employee), applicant for employment, unpaid intern, contractor or volunteer, that is reasonably regarded as offensive, that is based on sex and that:

- Sufficiently offends, humiliates, distresses, or intrudes upon its victim, so as to disrupt the victim's emotional tranquility in the workplace, or,
- Affects the victim's ability to perform the job as usual, or,
- Otherwise interferes with and undermines the victim's personal sense of well-being.

For California Sex-Based Harassment in employment, a single incident of harassing conduct based on sex may create a hostile work environment if the harassing conduct has unreasonably interfered with the victim's work performance or created an intimidating, hostile, or offensive work environment. Whether or not the person meant to give offense or believed their comments or conduct were welcome is not significant. Rather, the Policy is violated when other individuals, whether recipients or mere observers of the conduct, are actually offended by comments or conduct based on sex and the conduct is considered offensive by a reasonable person.

Examples of conduct that may constitute California Sex-Based Harassment in employment may include, but are not limited to:

- Unwanted physical touching;
- Telling sexually explicit jokes or stories;
- Making comments or gestures reasonably regarded as lewd or offensive;
- Displaying sexually suggestive objects, cartoons, or pictures;
- Sending sexually explicit messages by letter, notes, electronic mail, social media posting, or telephone;
- Making unwelcome comments reasonably regarded as offensive about a person's body, physical appearance, or clothing;

- Frequent use of unwelcome terms of endearment; or
- Repeatedly asking an individual for a date or meetings outside of working hours after they have indicated an unwillingness to go.

#### 4. Sexual Assault under Title IX

Sexual Assault is any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. In California, Affirmative Consent is required.<sup>3</sup>

For the purpose of these definitions, a Sexual Act is defined as conduct between persons consisting of:

- Contact between the penis and the vulva, or between penises and vulvas;
- Contact between the penis and the anus;
- Contact between the mouth and the penis;
- Contact between the mouth and the vulva;
- Contact between the mouth and anus;
- Contact between anuses; or,
- Contact involving any of the above or the buttocks or breasts.

Private body parts include all of the body parts specified above, including genitals, groin area, breasts and buttocks.

Sexual Assault includes:

- Rape—The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. In California, Affirmative Consent is required.<sup>3</sup> Attempted Rape falls under this prohibition. (This type of conduct is not eligible for mediation as a form of agreement-based resolution<sup>4</sup> in California).
- Fondling—The touching of the private body parts of another for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity. In California, Affirmative Consent is required. (This type of conduct is not eligible for mediation as a form of agreement-based resolution in California).

Private body parts include genitals, groin area, breasts, and buttocks.

---

3. Affirmative Consent is defined in Section XXIII of this Policy.

4. Agreement-Based Resolution is discussed in Section XIII.B.



- Incest—Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. (This type of conduct is not eligible for mediation as a form of agreement-based resolution in California).
- Statutory Rape—Sexual intercourse with a person who is under the statutory age of consent. In California the statutory age of consent is 18. (This type of conduct is not eligible for mediation as a form of agreement-based resolution in California).

## 5. Sexual Violence under California Education Code

TCC also prohibits Sexual Violence as defined by the California Education Code.

“Sexual Violence” means physical sexual acts perpetrated against a person without the person’s Affirmative Consent. Physical sexual acts include both of the following:

- Rape, defined as penetration, no matter how slight, of the vagina or anus with any part or object, or oral copulation of a sex organ by another person, without the consent of the victim. (This type of conduct is not eligible for mediation as a form of agreement-based resolution in California).
- Sexual battery, defined as the intentional touching of another person’s intimate parts without their Affirmative Consent, intentionally causing a person to touch the intimate parts of another without Affirmative Consent, or using a person’s own intimate part to intentionally touch another person’s body without Affirmative Consent. (This type of conduct is not eligible for mediation as a form of agreement-based resolution in California).

## 6. Sexual Exploitation

TCC also prohibits Sexual Exploitation as defined by the California Education Code.

For this Policy, Sexual Exploitation includes a person taking sexual advantage of another person for the benefit of anyone other than that person without that person’s consent, including, but not limited to, any of the following acts:

- The prostituting of another person.
- The trafficking of another person, defined as the inducement of a person to perform a commercial sex act, or labor or services, through force, fraud, or coercion.
- The recording of images, including video or photograph, or audio of another person’s sexual activity or intimate parts, without that person’s consent.
- The distribution of images, including video or photograph, or audio of another person’s sexual activity or intimate parts, 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 the disclosure.

- The viewing of another person's sexual activity or intimate parts, in a place where that other person would have a reasonable expectation of privacy, without that person's consent, for the purpose of arousing or gratifying sexual desire.

Intimate body parts include genitals, groin area, breasts, buttocks, anus, vulva, and mouth.

## 7. Dating Violence

Dating Violence is violence committed by a person:

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

Emotional and psychological abuse do not constitute violence for the purposes of this definition.

## 8. Domestic Violence

Domestic violence is violence committed by a person who:

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

Emotional and psychological abuse do not constitute violence for the purposes of this definition.

## 9. Stalking on the Basis of Sex

Engaging in a course of conduct, on the basis of sex, directed at a specific person that would cause:

- a reasonable person to fear for the person's safety or the safety of others; or
- suffer substantial emotional distress.

## B. Retaliation



TCC prohibits retaliation against any person opposing Prohibited Conduct or participating in any Prohibited Conduct Resolution Process, including an investigation, whether internal or external to TCC.

Retaliation includes threats, intimidation, harassment, coercion, discrimination, violence, or any other conduct against any person by TCC, a student, or an employee or other person authorized by TCC to provide aid, benefit, or service under any TCC Institution's education program or activity, for the purpose of interfering with any right or privilege secured by this Policy, 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 under this Policy, including the Agreement-Based Resolution Process, Investigation and Hearing Resolution Process, and in any other action taken by a TCC Institution to promptly and effectively end any Prohibited Conduct in its education program or activity, prevent its recurrence, and remedy its effects. Retaliation does not include perceived or petty slights, or trivial annoyances.

This Policy also applies to peer retaliation, which is defined as retaliation by a TCC student against another TCC student.

A TCC Institution may require an employee or other person authorized by the TCC Institution to provide aid, benefit, or service under the TCC Institution's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing under this Policy.

## **Conflict of Interest or Bias**

Any individual responsible for carrying out any part of this Policy shall be free from any actual conflict of interest or demonstrated bias that would impact the handling of a matter.

Should any Party believe that any designated Investigator, Hearing Decisionmaker, Appeal Decisionmaker, or Sanctions Decisionmaker (for cases where Respondent has accepted responsibility pursuant to Section XIV.) has a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent, they must notify the TCC Title IX Administrator of their objection in writing within three (3) business days from the date the individual's identity is shared with the Parties.

If any Party believes that their Home Institution Title IX Coordinator or the TCC Title IX Administrator has a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent, they must notify the TCC Title IX Administrator (regarding Home Institution Title IX Coordinator), or the appropriate TCC official (regarding the TCC Title IX Administrator) as soon as possible upon discovery of an actual conflict of interest or bias.

The TCC Title IX Administrator will consider and resolve any objections, except any objections to the TCC Title IX Administrator, which will be assigned to the appropriate official. If the objection is substantiated with regard to an Investigator or Decisionmaker, then a new Investigator or Decisionmaker will be designated, and the Parties will be notified of this decision in writing. If the objection to a Home Institution Title IX Coordinator or the TCC Title IX Administrator is substantiated, the role will be reassigned to an appropriately designated official for purposes of completing and finalizing the matter at issue.

Should the Complainant's Home Institution Title IX Coordinator or the Respondent's Home Institution Title IX Coordinator have a conflict of interest, they shall immediately notify the designated official at their TCC Institution who will either take, or reassign, the role of their Party's Title IX Coordinator for purposes handling and finalizing the matter at issue. Should the TCC Title IX Administrator have a conflict of interest, they will notify their designated official who will reassign the role accordingly.

## **Supportive Measures**

Each Party's Home Institution's Title IX Coordinator will be responsible for implementing Supportive Measures, as defined in this Policy, as appropriate for their Party (Complainant or Respondent), which are legally available to both Parties, and as applicable to restore or preserve the Party's access to any TCC Institution, program, or activity or provide support during the Resolution Process, including Agreement-Based Resolution Process, under this Policy.

The Complainant's Home Institution Title IX Coordinator shall, upon becoming aware of alleged Prohibited Conduct, promptly contact the Complainant, if their identity is known, to discuss the availability of Supportive Measures, as well as other rights and options in accordance with this Policy and their Home Institution's policies. Supportive Measures shall be offered to the Complainant, and the Complainant has the right under this Policy to request Supportive Measures, regardless of whether they desire to make a report or Complaint, have their allegations investigated, or seek Agreement-Based Resolution. In implementing any Supportive Measures, the Complainant's Home Institution's Title IX Coordinator shall consider the Complainant's wishes.

The Respondent's Home Institution Title IX Coordinator shall offer Supportive Measures to a Respondent upon notification to the Respondent that there has been a report or Complaint made against them, or earlier as appropriate if a Respondent is aware of a potential Complaint against them.

Supportive Measures provided to a Complainant or Respondent shall remain confidential to the extent that maintaining such confidentiality will not impair the TCC Institution's ability to provide the Supportive Measures. For Cross-Campus Complaints, each Party's Home Institution Title IX Coordinator shall promptly notify the other Party's Home Institution Title IX Coordinator of any Supportive Measures implemented on behalf

of a Party or witness. This information will not be shared with the other Party unless it specifically impacts that Party. If there is disagreement about whether information about a specific Supportive Measure for one Party will be shared with the other Party, the Parties' Home Institution Title IX Coordinators shall discuss with the TCC Title IX Administrator to determine best approach to balance privacy and effectiveness.

Supportive Measures may include, but are not limited to, the following:

- Counseling;
- Extensions of deadlines or other course-related adjustments, in coordination with the relevant Faculty member;
- Modifications of work or class schedules, in coordination with the relevant Faculty member and/or supervisor;
- Campus escort services;
- Restrictions on contact and communication applied to one or more parties, including no contact directives (which may be mutual or unilateral, and at the discretion of each Party's Home Institution's Title IX Coordinator as set forth below);
- Changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative;
- Training and education programs related to Prohibited Conduct;
- Leaves of absence;
- Increased security and monitoring of certain areas of campus; and,
- Other similar measures determined by the Parties' Home Institution's Title IX Coordinator(s) based on the specific facts of each case.

#### A. Specific Requirements for No Contact Orders

A No Contact Order (NCO) is a documented directive issued by a Party's Home Institution's Title IX Coordinator that is designed to limit or prohibit contact or communications between the Parties. An NCO may be mutual or unilateral, with the exception that a NCO issued as either a sanction or remedy shall be unilateral, directing that the Respondent to not contact the Complainant.

For cases of Prohibited Conduct involving only students:

- When requested by a Complainant or otherwise determined to be appropriate, the Respondent's Home Institution's Title IX Coordinator shall issue an interim, unilateral NCO prohibiting the Respondent from contacting the Complainant during the pendency of the Resolution Process under this Policy, including any appeal.
- A Home Institution Title IX Coordinator shall not issue an interim mutual NCO automatically, but instead shall consider the specific circumstances of each case to determine whether a mutual NCO is necessary or justifiable to protect the

noncomplaining Party's safety or well-being, or to respond to interference with the Resolution Process. Upon issuance of an interim mutual NCO, the Party's Home Institution's Title IX Coordinator shall provide the Parties with a written justification for the mutual NCO and an explanation of the terms of the NCO, including the circumstances, if any, under which a violation of the NCO could be subject to disciplinary action.

#### **B. Challenges to Supportive Measures**

Each Party's Home Institution's Title IX Coordinator has the discretion to implement, modify, deny, or terminate Supportive Measures.

A Party may challenge, in writing, their Home Institution's Title IX Coordinator's decision to provide, deny, modify, or terminate Supportive Measures when such measures are applicable to them. An impartial employee will be designated to consider modification or reversal of the Home Institution's Title IX Coordinator's decision to provide, deny, modify, or terminate Supportive Measures. The individual who authorized the Supportive Measure(s) shall not be authorized to decide any challenge to the same Support Measure(s). The impartial employee will typically respond to the challenge within two (2) business days. Information regarding the process to challenge any Supportive Measure will be provided to the Party in writing by the individual providing, denying, modifying, or terminating the Supportive Measures.

Any Party's non-compliance with the parameters of Supportive Measure(s), such as no contact orders, may be referred by either Party's Home Institution's Title IX Coordinator to the appropriate TCC Institution department for review and investigation as to whether the alleged conduct violates the TCC Institution's code of conduct (student), handbook policy (employee), or other applicable policies. Violations may result in sanctions or discipline.

## **Resources**

TCC students and/or employees may wish to speak with a confidential resource. Access to support, including confidential support, is available regardless of whether they make a report or Complaint, or engage in the Resolution Process under this Policy. Below is a list of the available on- and off-campus resources, both confidential and non-confidential. Each TCC Institution may have additional resources available to its students and/or employees. Contact the Home Institution Title IX Coordinator for more information. More information, including disclosing Prohibited Conduct to a Confidential Resource, may be found in the following Section VIII. Reporting Prohibited Conduct.

#### **A. On-Campus Confidential Resources**

##### **1. Confidential Resources for Students**

##### **EmPOWER Center**

1030 Dartmouth Avenue

909.607.2689

[www.7csupportandprevention.com](http://www.7csupportandprevention.com)

Director, Rima Shah

**TimelyCare\*** (24/7 medical and mental telehealth care for all students, at no cost)

<https://app.timelycare.com/auth/login>

Available to all 7Cs\*

**The Chaplains for The Claremont Colleges**

McAlister Center

919 N. Columbia Avenue

909.621.8685

[chaplains@claremont.edu](mailto:chaplains@claremont.edu)

<https://services.claremont.edu/chaplains/>

**Queer Resource Center** (the “QRC”)

Walton Commons

395 E. 6th Street

909.609.1817

For confidential matters, contact the QRC’s Director, Bri Serrano

[Bri.Serrano@pomona.edu](mailto:Bri.Serrano@pomona.edu)

For non-confidential matters, contact [qrc@claremont.edu](mailto:qrc@claremont.edu)

<https://colleges.claremont.edu/qrc/>

**2. Confidential Resources for Staff and Faculty**

**Employee Assistance Program** (EAP)

800.234.5465

[www.liveandworkwell.com](http://www.liveandworkwell.com)

Please contact your Human Resources Department for access code.

**B. Off-Campus and Community-Based Confidential Resources**

**1. Services and Support for Dating and Domestic Violence**

**Project Sister Sexual Assault 24/7 Crisis Hotline** (Pomona, CA) (Sexual Violence)

Project Sister Family Services provides services to women, men, and child survivors of sexual violence, and their families, in the East San Gabriel and Inland Valleys in Southern California. Project Sister works with local law enforcement, district attorneys, courts, hospital and health care providers, schools, churches and other community groups and agencies. Its mission is to reduce the trauma and risk of sexual violence and child abuse. All services are provided in both English and Spanish.

800.656.4673

(909) 626-HELP

909.626.4357

<https://projectsister.org/>

**RAINN National Sexual Assault Crisis Hotline** (Rape, Abuse & Incest National Network)

(800) 656-HOPE

800.656.4673

<https://rainn.org/about-national-sexual-assault-telephone-hotline>

## 2. Services and Support for Dating and Domestic Violence

**House of Ruth** (Dating and Domestic Violence)

Pomona, CA

877.988.5559 (toll-free hotline)

909.623.4364 (Pomona Outreach Office)

<https://www.houseofruthinc.org>

**National Domestic Violence Hotline**

(800) 799-SAFE (7233)

800.787.3224 (TTY)

<https://www.thehotline.org/>

## 3. Medical Resources

**Pomona Valley Health Center**

1798 North Garey Avenue Pomona, CA 91767

909.865.9500

<https://www.pvhmc.org/>

## Reporting Prohibited Conduct

### A. Reporting Prohibited Conduct Directly to the Home Institution's Title IX Coordinator

Any person may report Prohibited Conduct under this Policy. The individual reporting the Prohibited Conduct need not be the individual subjected to the alleged misconduct. However, only the following individuals have the right to make a Complaint, as defined by this Policy in Section XXIII, requesting that the TCC Institution investigate and make a determination about alleged Prohibited Conduct under this Policy:

- A Complainant, as defined by this Policy in Section XXIII;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant;
- The Complainant's Home Institution's Title IX Coordinator upon making case-specific analysis as described in Section IX.C. and
- For Cross-Campus allegations of Prohibited Conduct, the Respondent's Home Institution's Title IX Coordinator, and upon consultation with the Complainant's Home Institution's Title IX Coordinator.

Any person wishing to report or file a Complaint of Prohibited Conduct may do so utilizing the contact information of their Home Institution Title IX Coordinator found in Section II.A. These reports or Complaints shall be accepted when received in-person, via mail, electronic mail, telephone, electronic incident report submission, and/or by any other means clearly defined by TCC. Reporting alleged Prohibited Conduct or filing a Complaint may be done orally or in writing. A report of Prohibited Conduct does not necessarily constitute a Complaint and will not automatically initiate the resolution process procedures under this Policy. The "Resolution Process" refers to the process initiated upon receipt of information regarding allegations of Prohibited Conduct. The resolution options available in the Resolution Process under this Policy are outlined in Section XIII.

Upon receipt of a report or Complaint of Prohibited Conduct, the Complainant's Home Institution's Title IX Coordinator will respond in accordance with Section IX.

### B. Disclosing Prohibited Conduct to a Confidential Resource

A Confidential Resource is a campus- or community-based resource that has the duty of confidentiality. The duty of confidentiality is an obligation on the part of the resource provider to keep a person's information private and confidential unless consent to release or share the information is provided by the disclosing person.

A disclosure to a Confidential Resource does not result in any report or initiation of the Resolution Process unless requested by the disclosing individual.

There are two types of Confidential Resources at TCC.

#### 1. Confidential Resources with the Legal Privilege of Confidentiality



Communications with these resources have legal protections from disclosure in court. These resources also possess professional obligations (the duty of confidentiality) to hold such communications in confidence and they cannot divulge information about an individual seeking their services to a third party without that individual's consent. There are established limits to confidentiality and these must be communicated to the individual seeking services.

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 they provide medical services for a physical condition to a person who they know or reasonably suspect 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.

Examples of Confidential Resources with the legal privilege of confidentiality at TCC include, but are not limited to: Chaplains, Monsour Counseling and Psychological Services (MCAPS), and Student Health Services (SHS).

## 2. Institution-Designated Confidential Resources

Communications with these resources do not have legal privilege and as such are not provided legal protections from disclosure in court. These individuals and/or offices do possess professional obligations (the duty of confidentiality) to hold communications in confidence and they cannot divulge information about an individual seeking their services to a third party without that individual's consent.

Institution-Designated Confidential Resources also have limited reporting responsibilities federally mandated by the Clery Act. Under the Clery Act, their reporting obligation arises when they become aware of information or allegations of criminal behavior and must report the information regarding an incident to the TCC Institution's Clery Coordinator. They do not report identifying information about the individuals involved in an incident. Institution-Designated Confidential Resources are not obligated to inform the Home Institution Title IX Coordinator of a report/disclosure unless requested by the individual seeking their services.

Examples of Institution-designated Confidential Resources at TCC include, but are not limited to: the Director of the EmPOWER Center and the Director of the Queer Resource Center (QRC).

Some campus advocates are Institution-designated Confidential Resources. All campus Advocates, however, are private resources, and do not have an obligation to share any information with the Title IX Coordinator. Please check with your individual TCC institution for a definitive list of confidential resources.



A list of on and off-campus Confidential Resources is included in Section VII, and each TCC Home Institution's Title IX Coordinator maintains a list of additional, TCC Institution-based confidential resources available to its Institution's students and employees.

#### C. Reporting Prohibited Conduct to a TCC Institution Employee and Their Reporting Obligations

Employees should refer to their own TCC Institution's Responsible Employee Policy.

#### D. Amnesty for Student Conduct Charges when Reporting Prohibited Conduct Under this Policy

An individual who makes a report of Prohibited Conduct to the Title IX Coordinator or who participates in an investigation of Prohibited Conduct as Complainant or witness, will not be subject to disciplinary action for a violation of their Home TCC Institution's student conduct policy that occurred at or around the time of the incident, unless the Party or witness' Home TCC Institution determines that the violation was egregious, including, but not limited to, an action that placed the health or safety of any other person at risk, or involved plagiarism, cheating, or academic dishonesty. The Party or witness' Home TCC Institution may suggest an educational conference where support, resources, and educational counseling options may be discussed and potentially require a learning action plan for an individual who has engaged in the illegal or prohibited use of alcohol or drugs.

#### E. Reporting to Law Enforcement and Concurrent Criminal Investigations

Some Prohibited Conduct may constitute a violation of both the law and this Policy. TCC encourages individuals to report alleged crimes promptly to local law enforcement agencies should they wish to do so. All persons have the right to file with law enforcement, as well as the right to decline to file with law enforcement. The decision not to file shall not be considered as evidence that there was not a violation of this Policy. Filing a complaint with law enforcement does not relieve TCC of its responsibility to address reported concerns or complaints under this Policy.

Criminal investigations may be useful in the gathering of relevant evidence, particularly forensic evidence. The standards for finding a violation of criminal law are different from the standards for finding a violation of this Policy. Conduct may constitute Prohibited Conduct under this Policy even if law enforcement agencies lack sufficient evidence of a crime and decline to prosecute.

Proceedings under this Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. A Complainant may make a report or Complaint under this Policy and also file a complaint with law enforcement at the same time. However, when a Complaint is made under this Policy, as well as to law enforcement, TCC may delay its process for a reasonable amount of time if a law enforcement agency requests this delay to allow law enforcement to gather evidence

of criminal misconduct. Such delay would constitute good cause for extending the timeline. Criminal or legal proceedings are separate from the processes in this Policy and do not determine whether this Policy has been violated.

All investigations and determinations under this Policy will be thorough, reliable and impartial, and will seek to collect evidence and names of witnesses to gather information that is relevant to whether the alleged Policy violation occurred and will not be based on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

In the case of an emergency, where the physical well-being of a member of the TCC community or the safety of any TCC Institution is threatened, any individual with such knowledge should promptly contact The Claremont Colleges Campus Safety at 909.607.2000 or 909.607.7233 (SAFE), or 911. TCC may take any immediate steps as may be necessary and appropriate under the circumstances to ensure the well-being of the TCC community and TCC as a consortium.

## **Response to a Report or Complaint of Prohibited Conduct**

### **A. Initial Contact by the Complainant's Home Institution's Title IX Coordinator**

Following receipt of a report or Complaint alleging Prohibited Conduct under this Policy, the Complainant's Home Institution's Title IX Coordinator will contact the Complainant to request to meet with them for an initial intake and assessment meeting, and will provide the following information in their outreach to Complainant:

- An invitation to meet with Complainant's Home Institution's Title IX Coordinator to offer assistance and explain their rights, resources, and options under this Policy;
- Access to this Policy via link or attachment;
- Information regarding available campus and community-based resources for counseling, health care, mental health, or victim advocacy. Upon request, information regarding legal assistance, visa and immigration assistance, student financial aid and other available services may be provided;
- The availability of Supportive Measures regardless of whether a Complaint is filed and/or any Resolution Process is initiated;
- Information regarding resolution options (Support-Based, Agreement-Based, and Investigation and Hearing Resolution) under this Policy, how to initiate such Resolution Processes; and how those procedures work, including contacting and interviewing Respondent and seeking identification and location of witnesses;
- The right to notify law enforcement as well as the right not to notify law enforcement;

- The importance of preserving evidence and, in the case of potential criminal misconduct, how to get assistance from TCC Campus Safety or local law enforcement in preserving evidence;
- The right to have a Support Person and/or Advisor during any meetings or proceedings under this Policy, including the initial meeting with the Complainant's Home Institution's Title IX Coordinator; as well as the right to consult with an attorney, at their own expense, at any stage of the process if they wish to do so; and
- A statement that Retaliation for reporting a concern, filing a Complaint, or participating in the Complaint process, is prohibited.

If the Title IX Coordinator who received the report is different from the Complainant's Home Institution's Title IX Coordinator, then the Title IX Coordinator who received the report will forward the report to the appropriate Home Institution Title IX Coordinator.

#### B. Initial Intake Meeting and Assessment

A Complainant, or another individual reporting the potential Prohibited Conduct (Reporting Party)<sup>5</sup> may meet with their Home Institution's Title IX Coordinator for the purposes of discussing their reporting options, Supportive Measures, and resolution options under this Policy. The primary concern during the intake meeting shall be safety, and a trauma-informed approach shall be used while meeting with the Complainant.

Below is a summary of the topics the Complainant's Home Institution's Title IX Coordinator will address during the intake meeting with the Complainant:

- Assistance with immediate safety concerns, care and support resources, medical providers, and law enforcement;
- Supportive Measures; and
- Procedures for determining next steps and appropriate resolution options under this Policy, including Agreement-Based Resolution options.

During this initial meeting, or in a separate follow-up meeting, the Complainant's Home Institution Title IX Coordinator will gather preliminary information about the nature of the circumstances or the report to determine appropriate next steps, including appropriate Supportive Measures, whether this Policy applies, and if so, which resolution option(s) may be appropriate based on the allegations and status of the Parties. Information

---

5. Upon receipt of a report of Prohibited Conduct made by an individual other than the Complainant (referred to as the "Reporting Party" in this instance), and the Complainant's identity is disclosed within the report, or is otherwise known to the Complainant's Home Institution's Title IX Coordinator, Complainant's Home Institution's Title IX Coordinator may meet or communicate with the Reporting Party that they will contact Complainant to offer to meet with them. If Complainant's identity is not disclosed in the report, the Complainant's Home Institution's Title IX Coordinator may request that information from the Reporting Party, who may decide whether or not to disclose this information to the Complainant's Home Institution's Title IX Coordinator.

gathered may include names of individuals involved, date of incident(s), location of incident(s), and a description of the alleged incident. The Complainant's Home Institution's Title IX Coordinator may also determine that the provision of only Supportive Measures is the appropriate response under the Policy based on the information provided. The intake meeting is not intended to serve as an exhaustive interview, but rather to provide the Complainant's Home Institution's Title IX Coordinator with sufficient contextual information to determine the appropriate next steps to support the Complainant and to guide the TCC Institution's response. The initial assessment is not a finding of fact or responsibility. If the individual bringing forward the report or Complaint is not the actual Complainant, the Complainant's Home Institution's Title IX Coordinator will limit communication to general information regarding this Policy.

Should the Complainant wish to initiate the Resolution Process, the Complainant's Home Institution's Title IX Coordinator will determine whether this Policy applies and, if so, the appropriate process under this Policy. The Complainant's Home Institution's Title IX Coordinator will communicate to the Complainant the determination whether to initiate the Resolution Process, close the matter due to insufficient information to warrant further review under this Policy, and/or refer the matter for handling under a different policy, and/or appropriate TCC Institution office for handling, pursuant to the dismissal provisions of this Policy in Section X. The Complainant's Home Institution's Title IX Coordinator will make reasonable efforts to clarify the allegations with the Complainant prior to any determination to close, dismiss, or refer the report or Complaint.

If the reported information involves a student or employee Respondent from a different TCC Institution, then the Complainant's Home Institution's Title IX Coordinator and Respondent's Home Institution's Title IX Coordinator will jointly make the initial assessment and determination.

### C. Request for Confidentiality or No Further Action

When a Complainant requests that their Home Institution's Title IX Coordinator not use their name as part of any Resolution Process, or that their Home Institution Title IX Coordinator not take any further action, the Complainant's Home Institution's Title IX Coordinator will take the requests seriously and generally grant the request, while at the same time considering the TCC Institution's responsibility to provide safe and nondiscriminatory access to TCC Institution programs and activities, including learning and work environments.

However, the Complainant's Home Institution's Title IX Coordinator and TCC Institution's ability and options to address Complainant's concerns will be limited if the Complainant's identity cannot be shared with the Respondent. For example, an equitable and fair ABR process or Investigation and Hearing Resolution process would not be feasible resolution options without disclosing the Complainant's identity to the Respondent.



Also, there are circumstances where a Complainant may not want to pursue an investigation, however, their Home Institution's Title IX Coordinator determines there is a broader obligation to the TCC community and may need to act against the wishes of the Complainant. In determining whether to disclose Complainant's identity or proceed to an investigation over the objection of Complainant, the Home Institution's Title IX Coordinator and/or TCC may consider the following:

- The Complainant's request not to proceed with initiation of a Complaint or investigation process;
- The Complainant's reasonable safety concerns if their identity is disclosed or an investigation process is initiated;
- The risk that additional acts of Prohibited Conduct would occur if a Complaint is not initiated;
- Whether there are multiple or prior reports of the same or similar Prohibited Conduct against the Respondent;
- The severity of the alleged Prohibited Conduct, including whether the Prohibited Conduct, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the Prohibited Conduct and prevent its recurrence; or if Respondent reportedly used a weapon, physical restraints, or engaged in physical assault;
- The age and relationship of the Parties, including whether the Respondent is an employee of a TCC Institution, and whether there is an identifiable power differential between Complainant and Respondent (with regard to positional authority or employment);
- The scope of the alleged Prohibited Conduct, including information suggesting a pattern, ongoing Prohibited Conduct, or Prohibited Conduct alleged to have impacted multiple individuals;
- Whether the TCC Institution is able to conduct a thorough investigation under this Policy and obtain relevant evidence in the absence of Complainant's participation and cooperation;
- The availability of evidence to assist a Hearing Decisionmaker in determining whether Prohibited Conduct occurred;
- Whether the Parties' Home Institution's Title IX Coordinator(s) and Parties' TCC Home Institution could end the alleged Prohibited Conduct and prevent its recurrence without initiating its Investigation and Hearing Resolution procedures under this Policy; and,

- Whether the alleged Prohibited Conduct presents an imminent and serious threat to the health or safety of the Complainant or other persons, or that the conduct as alleged prevents any TCC Institutions from ensuring equal access on the basis of sex to its education programs or activities.

If the Complainant's Home Institution's Title IX Coordinator determines that it can honor the Complainant's request for confidentiality, it shall still take reasonable steps to respond to the report, consistent with the request, to limit the effects of the alleged Prohibited Conduct and prevent its recurrence without initiating formal action against the alleged Respondent or revealing the identity of Complainant. These steps may include increased monitoring, supervision, or security at locations or activities where the alleged Prohibited Conduct occurred; providing additional training and education materials for students and employees; or conducting climate surveys regarding sexual misconduct.

The Complainant's Home Institution Title IX Coordinator and TCC Institution shall also take immediate steps to provide for the safety of Complainant while keeping Complainant's identity confidential as appropriate. These steps may include changing living arrangements or course schedules, assignments, or tests. Complainant shall be notified that the steps TCC will take to respond to the complaint will be limited by the request for confidentiality.

If the Complainant's Home Institution's Title IX Coordinator determines that it must disclose Complainant's identity to the Respondent or proceed with an investigation, they will inform Complainant, in writing, prior to making this disclosure or initiating taking any action. The Complainant's Home Institution's Title IX Coordinator and TCC Institution shall also take immediate steps to provide for the safety of Complainant where appropriate. In the event Complainant requests that Complainant's Home Institution's Title IX Coordinator inform Respondent that Complainant asked the Complainant Home Institution's Title IX Coordinator not to investigate or seek discipline, the Complainant's Home Institution's Title IX Coordinator will honor this request.

#### D. Emergency Removal

In certain circumstances, a Respondent's Home Institution may remove a Respondent from a TCC Institution's education program or activity on an emergency basis. In Cross-Campus matters where all Parties are students, the Complainant's Home Institution's Title IX Coordinator or designee, shall be consulted and given the opportunity to participate in every step of the emergency removal process, including participating in all communications, meetings, and correspondence regarding the individualized safety and risk assessment. An emergency removal is not equivalent to a determination of responsibility, nor is it a sanction for alleged behavior. The Respondent's Home Institution can pursue an emergency removal of a student and/or employee, including students in their capacity as student employees, Respondent regardless of whether a Complaint is filed, or before or after the filing of a Complaint.



Emergency removals will occur only after the Respondent's Home TCC Institution has completed the following steps:

1. Completion of an individualized safety and risk analysis. This analysis will focus on the specific Respondent and the specific circumstances arising from the allegations of Prohibited Conduct.
2. Determination that the following three components are present:
  - An imminent and serious threat justifying emergency removal. This analysis should focus on the Respondent's propensity, opportunity, and/or ability to effectuate a stated or potential threat. This determination will be fact-specific.
  - The threat is to the health or safety of a TCC Institution's students, employees, or other persons. This may be the Complainant, the Respondent, or any other individual.
  - And it is a threat arising from the allegations of Prohibited Conduct. For purposes of emergency removal under this Policy, the emergency situation must specifically arise from the allegations of Prohibited Conduct.
1. Consideration of the appropriateness of Supportive Measures in lieu of an emergency removal. Emergency removals should only occur when there are genuine and demonstrated emergency situations.
2. Respondent's Home Institution provides the Respondent with notice and an opportunity to appeal the decision immediately following the emergency removal. The Respondent's Home Institution will provide the Respondent with a sufficiently detailed notice, notifying the Respondent of the identified imminent and serious threat of health or safety to any individuals. Pursuant to the process identified in the applicable student conduct code, employee handbook, or similar policy of the Respondent's Home Institution, Respondent's Home Institution will provide the Respondent with notice and the opportunity to appeal the emergency removal decision immediately following the removal. The Respondent may challenge the decision by notifying their Home Institution Title IX Coordinator in writing.

#### E. Administrative Leave (Only Employees Covered by this Policy)

For TCC Institution employees subject to this Policy, a TCC Institution may place an employee Respondent on administrative leave in response to a reported concern while a resolution is pending under this Policy. At the discretion of the Respondent's Home Institution, the Respondent's Home Institution can place an employee Respondent on administrative leave regardless of whether a Complaint is filed, or before or after the filing of a Complaint. A TCC student who is also an employee subject to this Policy can be placed on administrative leave with respect to their employment, but administrative leave cannot impact their educational access, removal from which must be pursuant to the emergency removal provisions outlined in Section IX.D.

For employees subject to this Policy, their Home Institution has its own process for implementing administrative leave.

Placement on administrative leave is not equivalent to a determination of responsibility, nor does it constitute discipline for alleged behavior prior to the conclusion of the Resolution Process under this Policy.

#### **F. Student Withdrawal or Employee Resignation While Matters Are Pending**

If a student or employee Respondent that is subject to this Policy withdraws or resigns from their TCC Institution with unresolved allegations pending, regardless of the stage of the process, the Complainant and Respondent's Home Institution Title IX Coordinators will consider whether and how to proceed with the Resolution Process. This includes the decision whether to continue with the pending Resolution Process through conclusion, to the extent possible, or to dismiss or terminate the Complaint and Resolution Process.

Each Party's Home Institution Title IX Coordinator will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s) and any ongoing effects of the alleged Prohibited Conduct.

Subject to the discretion of the Respondent's Home Institution, a student Respondent who withdraws or leaves at any point during the Resolution Process may not return to their TCC Home Institution without first resolving any pending allegations of Prohibited Conduct under this Policy. Such exclusion may apply to all TCC Institutions, and any TCC Institution programs, and activities. The Respondent's TCC Institution may place a registration hold, and/or notation on their transcript, or otherwise note their record indicating that they withdrew or left TCC pending the process under this Policy.

An employee Respondent who is subject to this Policy who resigns without resolving pending allegations of Prohibited Conduct under this Policy, regardless of the stage of the process, may not be eligible for rehire with that TCC Institution and the records retained by the Home Institution Title IX Coordinator and Human Resources Office may reflect that status. Responses to future inquiries regarding employment references for employees covered by this Policy may include that the former employee resigned or left their employment during a pending process.

### **Closure or Dismissal of a Complaint**

The Complainant's Home Institution's Title IX Coordinator may dismiss a report, Complaint, or any included allegations, at any time after the report or Complaint is made, including during the Investigation and Hearing Resolution process, if it is determined that:

- The Complainant's Home Institution's Title IX Coordinator is unable to identify the Respondent after taking reasonable steps to do so;



- The Respondent is not participating in any TCC Institution education programs or activities and/or is not employed by a TCC Institution;
- The Complainant voluntarily withdraws their Complaint in writing, and the Complainant's Home Institution's Title IX Coordinator determines they will not continue with the Complaint process against Complainant's wishes;
- The Complainant voluntarily withdraws, in writing, some but not all allegations in a Complaint, and the Complainant's Home Institution's Title IX Coordinator determines that, the conduct that remains alleged in the Complaint would not constitute Prohibited Conduct under this Policy; or,
- The Complainant's Home Institution Title IX Coordinator determines the conduct alleged in the Complaint, even if proven, would not constitute Prohibited Conduct under this Policy.

Before dismissing a Complaint, the Complainant's Home Institution's Title IX Coordinator will make reasonable efforts to clarify the allegations with the Complainant.

A decision to dismiss a Complaint or close a matter based on any of the above-listed factors is made at the discretion of the Complainant's Home Institution's Title IX Coordinator, in consultation with the TCC Title IX Administrator. The Respondent's Home Institution's Title IX Coordinator will also be consulted for decisions involving Cross-Campus Complaints.

Upon decision to dismiss the Complaint, which may effectively terminate a pending Investigation and Hearing Resolution process, the TCC Title IX Administrator 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 TCC Title IX Administrator will notify the Parties simultaneously, in writing. If a dismissal of one or more allegations changes the appropriate Resolution Process under this Policy, then the TCC Title IX Administrator will also include that information in the notification.

The TCC Title IX Administrator will notify the Complainant that a dismissal may be appealed on any of the appeal grounds outlined in the Appeals Rights and Process Section XVIII.A. If dismissal occurs after the Respondent has been notified of the allegations, then the TCC Title IX Administrator will also notify the Respondent of the dismissal and that the dismissal may be appealed on the same basis. If a dismissal is appealed by any Party, TCC will follow the appeal procedures, as applicable, outlined in Section XVIII of this Policy.

Even when a Complaint is dismissed, the Complainant's Home Institution's Title IX Coordinator will, at a minimum:

- Offer Supportive Measures to the Complainant, as appropriate;

- If the Respondent has been notified of the Complaint or allegations, the Respondent's Home Institution's Title IX Coordinator (if different) will offer Supportive Measures to the Respondent, as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Home Institution Title IX Coordinator(s) to ensure that Prohibited Conduct does not continue or recur within the TCC Institution education programs or activities.

A Complainant who decides to withdraw a Complaint may later request to reinstate or refile the Complaint.

## **Referrals for Other Misconduct Not Subject to this Policy**

TCC has the discretion to refer complaints of misconduct not covered by or dismissed under this Policy for review under any other applicable TCC Institution-specific policy or code. As part of any such referral for further review and handling, the TCC Institution may use evidence already gathered through any process covered by this Policy.

For Complaints dismissed under this Policy, including based on the Complainant's Home Institution's Title IX Coordinator's determination that the conduct alleged in the Complaint, even if proven, would not constitute Prohibited Conduct under this Policy, the Respondent's Home Institution may continue to investigate the allegations as a potential violation of another policy of Respondent Home Institution. If the Respondent's Home Institution elects to continue the investigation outside of this Policy, the TCC Title IX Administrator shall include this information in the written notice to the Parties describing this determination.

## **Consolidation of Complaints and Allegations**

TCC may consolidate Complaints as to allegations of Prohibited Conduct under the following two circumstances:

- Where there is a Complaint involving more than one Complainant and/or more than one Respondent, that arises from the same facts or circumstances; or,
- Where a Cross Complaint has been filed by a Respondent against a Complainant, that arises from the same facts or circumstances.

Where a Complaint or report 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.

A decision to consolidate matters based on any of the above-listed factors is made at the discretion of the TCC Title IX Administrator in consultation with the Parties' Home Institution Title IX Coordinator(s). If the TCC Title IX Administrator determines consolidation is appropriate, written notice must be provided to all Parties.

Where multiple policies may be implicated by the same set of facts or circumstances, TCC may bifurcate the proceedings in accordance with the requirements of the individual policies. Additionally, where allegations made in a Complaint include both Prohibited Conduct that falls under this Policy and conduct that is outside of this Policy but is associated with alleged Prohibited Conduct under this Policy, TCC reserves the right to join all allegations and adjudicate all charges consistent with the procedures under this Policy. The Home Institution Title IX Coordinator(s) will address these consolidated complaints in collaboration and coordination with other appropriate offices, such as Student Conduct and/or Human Resources.

## **Resolution Options (Support-Based, Agreement-Based, and Investigation and Hearing)**

TCC recognizes that the decision of whether to engage in the Resolution Process, and which resolution process option to pursue is an important decision. This Policy provides multiple ways to resolve a report or complaint of Prohibited Conduct, including Support-Based Resolution, Agreement-Based Resolution, and Investigation and Hearing Resolution options (collectively referred to as the “Resolution Process”).

In response to a reported concern or Complaint alleging Prohibited Conduct, the Complainant’s Title IX Coordinator will make initial contact pursuant to Section IX.A. Should Complainant choose to meet for an intake with Complainant’s Title IX Coordinator, Complainant’s Home Institution’s Title IX Coordinator will provide Complainant with information regarding their rights and options under this Policy, including the available resolution options, and access to on-campus and community-based resources and support (both confidential and non-confidential). Complainant’s Home Institution’s Title IX Coordinator will explain how privacy and confidentiality are handled and discuss with Complainant which Support Measures and resolution options require disclosing Complainant’s identity to Respondent (for example, implementing an NCO with Respondent).

During the Complainant’s intake, and throughout the resolution process of a report or Complaint of Prohibited Conduct, each Party’s Home Institution’s Title IX Coordinator will determine what type of support may be available and appropriate to assist the Parties, including whether to implement reasonable Supportive Measures, Section VI.

### **A. Support-Based Resolution**

There are circumstances where a Complainant may only wish to report the conduct to their Home Institution Title IX Coordinator and/or receive information regarding their rights and options, with no further action desired. Support-Based Resolution is an option for a Complainant who does not wish to take any further steps to address their concern, and when the Complainant’s Home Institution’s Title IX Coordinator determines that another form of resolution, or further action, is not required. Some types of support, which are referred to as Supportive Measures, that may be appropriate under this option

include, but are not limited to: adjustments or changes to class schedules; relocation from one residence hall room or residence hall to another; adjusted deadlines for projects or assignments; adjustments to work schedule; safety escorts to and around campus; implementation of an NCO with Respondent, and/or counseling (Section VI.).

Support-Based Resolution does not preclude later use of another form of resolution by the Complainant under this Policy, for example if the Complainant later decides to file a Complaint and/or pursue the Agreement-Based Resolution Process (see below) or the Investigation and Hearing Process (see below). Additionally, if new information becomes available to the Complainant's Home Institution's Title IX Coordinator, they may reassess the concern and determine whether additional action is needed to address the report, including initiating the Investigation and Hearing Resolution process.

## B. Agreement-Based Resolution<sup>6</sup>

The Agreement-Based Resolution (ABR) process is an alternative resolution option where the Parties each voluntarily agree to resolve the allegations or Complaint of Prohibited Conduct through a Resolution Agreement with agreed upon resolution terms and without engaging in an investigation or proceeding to a hearing where there is a determination of responsibility. No Party may be required to participate in the ABR, and it may never be a condition of enrollment, employment, or enjoyment of any other right or privilege of TCC. The Parties' Home Institution's Title IX Coordinators must determine that ABR is an appropriate resolution option. Generally speaking, ABR may be less time intensive than the Investigation and Hearing Resolution process, while affording Parties an opportunity to actively participate in a process that seeks to provide autonomy with regard to achieving a desired outcome. ABR is a voluntary, structured interaction between or among affected Parties.

### 1. General Information and Requirements for Engaging in Agreement-Based Resolution

A Complaint is not required for ABR; however, the Complainant must articulate the allegations of Prohibited Conduct they wish to resolve through the process.

The ABR process is generally expected to commence as soon as possible, and within 15 business days, after receipt of the Parties' agreement in writing to engage in the process. The process of facilitating and finalizing the Resolution Agreement will generally be completed within 30 business days, depending on the form of ABR, and may be extended by the TCC Title IX Administrator as appropriate. The length of time provided to complete the terms of the Resolution Agreement after the Agreement is finalized will vary depending on the terms and what the Parties have agreed upon. All Parties will be notified, in writing, of any extension and the reason

---

6. Also referred to as Alternative Resolution Process.

for the extension. During the ABR process, all timeframes for any other stages under this Policy, including investigation, Evidence Review Process, or conducting the hearing will be paused to allow the Parties sufficient opportunity to engage in the ABR process.

The ABR options available under this Policy, include, but are not limited to: Facilitated Resolution Agreement, Mediation, and Restorative Justice. Each option is further described below and is led by a designated Facilitator who is appropriately trained on the ABR option and must not have any conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent. The Parties' Home Institution Title IX Coordinator may serve as the Facilitator. The Investigator, Hearing Decisionmaker, or any other decisionmaker within the process for the same matter under this Policy may not serve as the Facilitator. Regardless of the elected option, the Parties may have a Support Person and/or Advisor present with them through the ABR process. The Facilitator and/or TCC reserves the right to exclude or remove a Support Person and/or Advisor who does not comply with this Policy during the ABR process. Unless they have decided to withdraw from the ABR process, the Parties are required to actively participate in the selected ABR process, including by attending the meetings, engaging with the Facilitator, providing timely responses, and completing any actions required in their ABR process.

The Facilitator will provide regular status updates to the Parties and the Home Institution's Title IX Coordinator(s), if applicable. The Home Institution Title IX Coordinator(s) will assist in managing the ABR process to the extent necessary to ensure the process is moving forward in a productive and timely manner, and they will be available to the Parties should they have any questions or concerns throughout the ABR process.

If the matter is successfully resolved, the process concludes with a written Resolution Agreement outlining the resolution terms agreed upon by the Parties. The Home Institution Title IX Coordinator(s) must review and approve the Resolution Agreement. The ABR process concludes when the Resolution Agreement is signed by all Parties and the Home Title IX Coordinator(s), and upon sufficient completion of the agreed upon terms.

ABR may be initiated at any time during the Resolution Process prior to the release of the Hearing Decision Report. ABR does not include any determination made as to whether a Respondent engaged in the alleged Prohibited Conduct and/or violated this Policy.

The Home Title IX Coordinator(s) must still take other prompt and effective steps as needed to ensure that Prohibited Conduct does not continue or recur within the TCC Institution education program or activity even if the Parties voluntarily agree to engage in ABR.

## 2. Determining Appropriateness of Agreement-Based Resolution

It is important to note that there are circumstances where ABR, or a specific option under ABR, is not available or is determined not appropriate to resolve a report or Complaint of Prohibited Conduct. Under California law, mediation is not a permitted resolution option to resolve reports or Complaints involving allegations of Sexual Assault or Sexual Violence.<sup>7</sup> Instead, a Facilitated Resolution Agreement or Restorative Justice process are permitted options to resolve such allegations. Also, the Complainant's Home Institution Title IX Coordinator has discretion to not offer ABR to resolve a particular matter, or to determine that the ABR process is not appropriate based on the circumstances of the report or Complaint, and that the matter must instead be resolved through an alternate resolution process option, such as the Investigation and Hearing Resolution process. In situations involving Cross-Campus Complaints when the Home Institution Title IX Coordinators do not agree on the appropriateness of ABR, they may consult with the TCC Title IX Administrator. The Complainant's Home Institution's Title IX Coordinator makes the final decision on whether ABR is appropriate. In making this determination, the Complainant's Home Institution's Title IX Coordinator may consider the following: The severity of the allegations, whether there is an ongoing threat of harm or safety, or risk of future harm, to others in the campus community, whether there is an identifiable power differential (with regard to positional authority or employment) between the Parties, and whether the Parties are participating in good faith. This determination is not subject to appeal.

### 3. Right to Withdraw or Discretion to Terminate the Agreement-Based Resolution Process

Any Party may withdraw from the ABR process at any point before all Parties have signed the Resolution Agreement. Additionally, the Home Title IX Coordinator(s) have discretion to terminate the process when the Parties do not agree on the terms, it is determined that the process is no longer productive or that any Party is not engaging in good faith, or upon receipt of evidence or information that would make addressing the alleged conduct via ABR no longer appropriate. The Complainant's Home Institution's Title IX Coordinator makes the final decision on whether to terminate the ABR process.

If a Party withdraws from the ABR process, they may consider other resolution options, including initiating or resuming the Investigation and Hearing Resolution process. If the Home Institution's Title IX Coordinator(s) terminates the process, the Complainant's Home Institution's Title IX Coordinator, in consultation with the TCC

---

7. Mediation is not permitted under California law to resolve reports or Complaints of Sexual Violence. The Home Institution's Title IX Coordinator(s) must specifically determine that it is permissible, under California Law, for resolving Prohibited Conduct in Employment.



Title IX Administrator, will determine potential next steps under this Policy, and will notify the Parties in writing, accordingly. Complainant's wishes regarding next steps will be considered in making this determination.

#### 4. Agreement-Based Resolution Options

This Policy offers multiple ABR options for addressing reports or Complaints of Prohibited Conduct covered under this Policy. These options include, but are not limited to:

##### a. Facilitated Resolution Agreement

The Facilitated Resolution Agreement is a process facilitated by the Home Institution's Title IX Coordinator(s), or other designated Facilitator, with the purpose of finding resolution that addresses the concerns and desired outcome for all Parties. The Parties meet separately with their Home Institution's Title IX Coordinator(s), and do not interact directly with the other Parties. While this option must still be approved by the Home Institution's Title IX Coordinator(s), this option allows the Parties flexibility in finding resolution as it does not have the same limitations as the other options (e.g., can be used to address any Prohibited Conduct under this Policy, so long as it is approved by the Home Institution's Title IX Coordinator(s), it does not require the Respondent to acknowledge harm (Restorative Justice), and does not include any direct dialogue between the Parties (Mediation or Restorative Justice)).

When a Facilitated Resolution Agreement is being negotiated between Parties from different TCC Institutions, each Party's Home Institution Title IX Coordinator will assist with facilitating the process, including meeting with their respective Parties to provide information regarding the process, managing expectations, communicating presented terms from the other Party, and explaining any impact those terms have on their Party's access to any TCC programs and activities.

##### b. Mediation

Under California law, mediation is not permitted, even on a voluntary basis, to resolve allegations involving Sexual Assault and Sexual Violence as defined in this Policy.<sup>8</sup> Mediation may be permitted for other situations not involving Sexual Assault or Sexual Violence, such as reports involving allegations of Hostile Environment Sexual Harassment, as defined in this Policy. Mediation may be preferable for Parties who wish to have facilitated dialogue without the condition of Respondent acknowledging harm. The purpose of mediation is for the

---

8. Mediation is not permitted under California law to resolve reports or Complaints of Sexual Violence. The Home Institution's Title IX Coordinator(s) must specifically determine that it is permissible, under California Law, for resolving Prohibited Conduct in Employment.

Parties who are in conflict to identify the alleged conduct, the implications of a Respondent's actions and, with the assistance of a trained Facilitator (mediator), identify points of agreement and appropriate remedies to address the harm. Either Party can request mediation to seek resolution.

During the mediation process, the Facilitator will guide a discussion between the Parties. The Parties are not permitted to contact one another outside of the mediation process.<sup>9</sup> Meetings may be held in person or via videoconference. In circumstances where the Parties do not wish to meet face to face, either Party can request that the Facilitator conduct separate meetings.

#### c. Restorative Justice

To qualify for the Restorative Justice ("RJ") resolution option, the Respondent must acknowledge the harm experienced by Complainant and agree to take responsibility for repairing the harm, to the extent possible, experienced by the Complainant, and any other relevant, directly impacted individuals in the TCC community. Respondent's acknowledgment of harm is not an admission of a Policy violation(s), unless Respondent has expressly accepted responsibility pursuant to the process outlined in this Policy, Section XIV.

The Restorative Justice resolution process, may include, but is not limited to, a Restorative Conference, or Restorative Circle, in person or via videoconference (if possible), that is facilitated by an appropriately trained Facilitator(s), and is intended to restore relationships and repair harm, to the extent possible, after a conflict has occurred. The Respondent(s), Complainant(s), and any other relevant, directly impacted individual(s) come together with the Facilitator to identify what harm was caused and, collaboratively, determine how conflict and trust might be, respectively, resolved and repaired. All Parties must agree on who is present during the discussion.

A Restorative Conference, generally, is a structured, facilitated dialogue between the individual(s) who caused harm and the individual(s) impacted by the harm.

A Restorative Circle, generally, is similar to a Restorative Conference, but utilizes a circle process to facilitate the dialogue and may include a talking piece that is passed around the circle allowing for each person in the circle, while holding the talking piece, to speak and be heard.

### 5. The Agreement-Based Resolution Process

#### a. Initiating the Agreement-Based Resolution Process

---

9. In cases where the Parties have a No Contact Order implemented, the Parties will be permitted (not required) to have limited communication with one another in the presence of the Facilitator and for the purpose of participating in the process. All other communication is prohibited.



Prior to initiating the process, each Party must provide their voluntary agreement to engage in the ABR process to their Home Institution Title IX Coordinator in writing and if applicable, indicate the ABR option (i.e., Facilitated Resolution Agreement, Mediation, or Restorative Justice).

Upon confirmation of the Parties' voluntary agreement to proceed with ABR and the selected option, the Home Institution Title IX Coordinator(s) will provide a written Notice of ABR to the Parties (or their respective Party for Cross-Campus matters) that explains:

- The specific allegation(s) and alleged Policy violation(s);
- The requirements of ABR;
- That the process is voluntary, and the Parties must not be required or pressured to participate;
- The Parties agree that this process is confidential related to any information including admissions of responsibility they share or receive during the ABR process concerning the allegations of the report or Complaint. No information concerning the allegations of Prohibited Conduct obtained solely within the ABR process may be disseminated to any person outside the ABR process, provided that any Party may generally discuss the allegations under investigation for the purpose of gathering evidence. Should the ABR process end or be terminated prior to reaching a Resolution Agreement, information disclosed or obtained for purposes of the ABR process remains confidential, and shall not be used except where the Home Institution's Title IX Coordinator(s) has determined it is appropriate with regard to admission of responsibility in the same case, or to allegations of similar conduct raised against Respondent in another case;
- Any consequences resulting from participating in the ABR process, including the records that will be maintained or could be shared, and whether the Parties' Home Institution Title IX Coordinator(s) could disclose such information for use in a future TCC Resolution Process or TCC Institution-specific processes, including an Investigation and Hearing Resolution Process arising from the same or different allegations, as may be appropriate;
- Consequences should any Party fail to comply with the agreed upon terms applicable to them in the Resolution Agreement. This may include resuming or initiating the Investigation and Hearing Resolution process, and/or referral to the Party's Home Institution's Student Conduct or Human Resource office for review, which may result in new or additional discipline or sanctions, including probation, suspension, or expulsion;
- The Resolution Agreement resulting from the ABR process is binding on the Parties and is not subject to appeal;

- Once the Resolution Agreement is finalized and signed by the Parties, the Parties cannot initiate or resume an investigation process arising from the same allegations, unless it is determined that there was failure to comply with the terms of the Resolution Agreement and the matter should be resolved under a different resolution option;
- A matter is considered resolved and concluded once the agreed upon terms have been sufficiently completed;
- The decision to participate in the ABR process does not presume that the alleged Prohibited Conduct at issue has occurred;
- A statement that the Respondent is presumed not responsible for violating this Policy, unless Respondent admits to violations of this Policy;
- An explanation that all Parties may be accompanied by a Support Person, and/or an Advisor, who may be a parent, colleague, friend, or may be, but is not required to be, an attorney;
- A statement that any Party has the right to withdraw from the ABR process and may initiate or resume the Investigation and Hearing Resolution Process (if already begun), at any time before all Parties sign the Resolution Agreement. Should the Parties withdraw from the ABR process, information disclosed or obtained for purposes of the ABR process remains confidential as set forth above;
- A statement that the Home Institution Title IX Coordinator has the discretion to terminate the ABR process upon determination that the Parties are not engaging in the process in good faith, or upon
- appropriate;
- A statement that participating in ABR, the Parties understand that timelines for any stages of the Resolution Process, including any pending Investigation and Hearing Resolution process, will be paused to allow the Parties full participation in the ABR Process and will only recommence if ABR is ended, by withdrawal by a Party, or termination by the Home Institution's Title IX Coordinator(s);
- Information regarding Supportive Measures, which are equitably available to the Parties; and
- Examples of potential resolution terms that may be requested or offered in a Resolution Agreement.

b. Facilitating Agreement-Based Resolution and the Resolution Agreement

Upon confirmation that the Parties still wish to proceed with ABR after issuance of the Notice of ABR, and an option has been selected by the Parties and approved by the Home Institution's Title IX Coordinator(s), the Parties will then

meet with the designated Facilitator(s) pursuant to their selected ABR option (Facilitated Resolution Agreement, Mediation, or RJ) to resolve Complainant's report or Complaint and facilitate the Resolution Agreement.

Any Party may craft or create proposed resolution terms for their Resolution Agreement and will be asked for their suggestions or ideas by their Home Institution's Title IX Coordinator. Examples of resolution terms that may be included in a Resolution Agreement include, but are not limited to:

- The Parties will not communicate or otherwise engage with one another, either directly or indirectly, by any means (Mutual No Contact Order) or agreement that Respondent will not communicate or otherwise engage with Complainant, either directly or indirectly, by any means (Unilateral No Contact Order);
- Class adjustments and/or restriction from enrolling in mutual classes with Complainant for a specified term(s);
- Housing relocation or removal, and/or restriction from living in specific residence halls for a specified term(s);
- Restriction from or limiting access to certain buildings on campus, including residence halls, dining halls, library, and recreational facilities;
- Changes in work schedules, locations, or assignments;
- Restrictions or limitations on participation in and/or presence at activities and events, such as extracurricular activities, athletics events, student organizations, social events, etc.;
- Sufficient completion of educational training or project by the Respondent, and sufficient completion of any assignments, such as a reflection paper or essay. Training or education topics may include, but are not limited to: affirmative consent, healthy relationships, bystander intervention, and drug or alcohol use (if related to the allegations);
- Sufficient completion of community service hours or project by the Respondent;
- Participation in and completion of mentoring, coaching, or counseling sessions within specified term(s), and sufficient completion of any assignments, such as a reflection paper or essay;
- An agreement to engage in a restorative justice process, such as a conference, circle, or facilitated dialogue;
- Sharing of Complainant's impact statement with Respondent, with optional reflection or response from Respondent;

- Disciplinary terms, such as agreement to serve conduct probation or suspension for a specified term(s), or to permanently separate from Respondent's Home Institution and ineligibility to re-enroll or apply for admission at any other TCC Institutions; and
- Agreement to have degree conferral delayed for specified term.
- The Home Institution's Title IX Coordinator(s) may require certain resolution terms be included in the Resolution Agreement as a matter of practice, such as educational training and/or implementation or extension of a mutual or unilateral No Contact Order. Any agreed-upon remedies and disciplinary sanctions agreed to in ABR have the same effect as remedies given and disciplinary sanctions imposed following an investigation and hearing.
- If a Resolution Agreement cannot be reached, either because the Parties do not agree, any Party withdraws from the process, or the Complainant Home Institution's Title IX Coordinator terminates the process for any reasons previously discussed, the Complainant's Home Institution's Title IX Coordinator may decide that the reported Prohibited Conduct will instead be addressed through the Investigation and Hearing Resolution process, and may include initiating the process, or continuing with any pending process paused for the ABR process. The Home Institution's Title IX Coordinator(s) (or TCC Title IX Administrator) will inform the Parties of such decision, in writing.

c. Finalizing the Resolution Agreement

If a Resolution Agreement is reached, the Home Institution's Title IX Coordinator(s) will review and approve the resolution terms. The Facilitator will draft the Resolution Agreement to include the resolution terms discussed with the Parties and approved by the Home Institution's Title IX Coordinator(s). The opportunity for any Party to withdraw from an ABR process concludes when the Parties and the Home Institution's Title IX Coordinator(s) sign the Resolution Agreement. Once signed, the agreed upon terms of the Resolution Agreement are binding on all Parties, and no appeal is permitted.

The TCC Title IX Administrator will provide copies of the Resolution Agreement to the Parties. The Respondent's Home Institution's Title IX Coordinator, if different from the Complainant's Home Institution's Title IX Coordinator, and/or Human Resources professional will monitor adherence and completion of the agreed upon terms and will update the Complainant accordingly. In situations involving a Cross-Campus Complaint, the Respondent's Home Institution's Title IX Coordinator and/or Human Resources professional will update the Complainant's Home Institution's Title IX Coordinator, who will update the Complainant, accordingly. The matter will be considered resolved and closed when it is determined that Respondent has sufficiently completed and/or complied with the terms of the Resolution Agreement.

The Parties' Home Institution's Title IX Coordinators and/or Human Resources professionals will keep records of all reports and timelines for any stages of the Resolution Process, Prohibited Conduct addressed through ABR consistent with their TCC Institution's record retention policies.

Records of the ABR process can be shared with other TCC Institution offices or administrators, as deemed appropriate and necessary by the Home Institution's Title IX Coordinator(s).

Any violations or unsuccessful completion of any terms of the Resolution Agreement may result in a referral for review by the appropriate office, which may result in disciplinary action. The Home Institution's Title IX Coordinator(s), in consultation with the TCC Title IX Administrator, will determine next steps in the Resolution Process under this Policy should there be a failure to comply with the terms of the Resolution Agreement, including initiating or resuming the Investigation and Hearing Resolution process. The Complainant's wishes regarding next steps will be considered in this determination.

### C. Investigation and Hearing Resolution

A Complainant may choose to engage in the Investigation and Hearing Resolution process under this Policy. In summary, this process includes: the investigation of Complainant's allegations of Prohibited Conduct against Respondent by an impartial investigator, a Final Investigation Report, a hearing at the end of the process led by an impartial Hearing Decisionmaker who will provide a determination as to whether there were any violations of Prohibited Conduct under this Policy, issuance of any remedies and sanctions, if applicable, and an appeal process, if applicable. The Investigation and Hearing Resolution process and procedures are provided in Section XV.

## **Respondent's Acceptance of Responsibility**

At any point prior to the Hearing Decisionmaker issuing their Hearing Decision Report, a Respondent may accept responsibility for some, or all of the alleged Prohibited Conduct outlined in the governing Notice of Allegations document issued to the Parties. When Respondent accepts responsibility for the alleged Prohibited Conduct, the fact-finding hearing on the issue of whether the alleged Prohibited Conduct occurred and whether there was a Policy violation(s) is waived, and instead, the matter is referred to a Sanctions Decisionmaker to provide a Remedies and Sanctions Determination for the conduct for which Respondent has accepted responsibility. If Respondent accepts responsibility for only some of the alleged Prohibited Conduct, at the discretion Respondent's Home Institution, the matter may be forwarded to the Sanctions Decisionmaker to provide a Sanctions Determination for the accepted Prohibited Conduct, and the Investigation and Hearing Process will continue for the remaining non-accepted allegations, unless otherwise resolved through an Agreement-Based Resolution, if eligible. The Respondent's Home Institution may place any Sanctions

Determination for the accepted Prohibited Conduct in abeyance until the conclusion of the Investigation and Hearing Resolution Process. If there is a Policy violation found with regard to any of the remaining allegations of Prohibited Conduct, the Sanctions Decisionmaker may consider any previously issued remedies and sanctions for conduct for which Respondent accepted responsibility, but only after a finding of responsibility has been made.

In order to accept responsibility for allegations of Prohibited Conduct under this Policy, a Respondent must sign a written document prepared by the TCC Title IX Administrator, that includes a statement that the Respondent is:

- Aware of the allegation(s) of Prohibited Conduct, including the factual allegations, and definitions of the Prohibited Conduct;
- Voluntarily accepting responsibility for all (or some, as explicitly specified) of the Prohibited Conduct;
- Acknowledging receipt of information regarding the implications of accepting responsibility, including a list of possible sanctions that can be imposed based on the nature of the Prohibited Conduct;
- Aware and agrees that by accepting responsibility, they have waived the fact-finding hearing, and any right to appeal the issue of their responsibility, and instead the matter will be referred to a Sanctions Decisionmaker to determine appropriate remedies and sanctions (Remedies and Sanctions Determination).

The TCC Title IX Administrator will provide a copy of Respondent's signed Acceptance of Responsibility to the Home Institution Title IX Coordinator(s).

Within five (5) business days of receiving the Respondent's signed Acceptance of Responsibility, the TCC Title IX Administrator will:

- Provide written notice to all Parties that Respondent has accepted responsibility for all (or specifically which conduct) and provide information regarding the next steps.
- In consultation with the Home Institution's Title IX Coordinator(s), designate a Sanctions Decisionmaker (internal or external to TCC), whose role will be to review the relevant documents, and issue a Remedies and Sanctions Determination. The Sanctions Decisionmaker's identity will be shared with the Parties, along with information regarding the process to object to the Sanctions Decisionmaker based on a conflict of interest or bias, pursuant Section V.

The Parties may submit a written statement, no longer than three (3) pages, related to suggested remedies or sanctions, and any other relevant information specific to remedies and sanctions for the Hearing Decisionmaker to consider in making their Remedies and Sanctions Determination. Statements must be submitted in writing to the TCC Title IX Administrator, within five (5) business days from confirmation of the



Sanctions Decisionmaker. The TCC Title IX Administrator will provide copies to the Sanctions Decisionmaker and the Home Institution's Title IX Coordinator(s). The Parties will not receive a copy of any other Party's statement regarding remedies and sanctions.

The Parties' Home Institution(s) will submit written recommendations related to remedies and sanctions, and any other relevant information that would be important for the Hearing Decisionmaker to consider in making their Remedies and Sanctions Determination. The written recommendations must be submitted to the TCC Title IX Administrator within two (2) business days of receiving access to any Party statements. The TCC Title IX Administrator will provide the written recommendations to the Sanctions Decisionmaker. The Parties will not receive a copy of the Parties' Home Institutions' written recommendations regarding remedies and sanctions.

The Sanctions Decisionmaker will make their Remedies and Sanctions Determination based on review of the Prohibited Conduct accepted by the Respondent, relevant documents (limited to the Notice of Allegations, Respondent's Acceptance of Responsibility, any Party statements, and/or written recommendations by the Home Institution(s)), and any applicable information in this Policy, including factors relevant to sanctioning and possible sanctions as outlined in Section XVII. The Sanctions Decisionmaker shall give significant weight to the written Home Institution recommendations in issuing any sanction(s). The Sanctions Decisionmaker will not be provided access to any evidence that was gathered during the investigation process prior to Respondent accepting responsibility.

The Remedies and Sanctions Determination shall be issued to the Parties within ten (10) business days from receipt of the Home Institution recommendations.

#### **A. Appealing the Sanctions Determination**

The Parties have the right to appeal the Remedies and Sanctions Determination on the grounds that the Sanctions Decisionmaker has a conflict of interest or bias, and/or the sanction(s) are disproportionate to the conduct for which the Respondent accepted responsibility. Any appeal, limited to ten (10) pages, must be submitted in writing to the TCC Title IX Administrator within five (5) business days from issuance of the Remedies and Sanctions Determination to the Parties. TCC and the Parties will follow the process outlined in Section XVIII. as applicable.

### **Investigation and Hearing Resolution Process**

This procedure is for all allegations of Prohibited Conduct where the Parties are TCC students. To determine whether this Policy applies to a case involving Parties other than only students, please refer to the chart in Section III.A.

Throughout the Resolution Process, the Home Institution Title IX Coordinator(s), as well as the TCC Title IX Administrator, will work closely and cooperatively together. They will maintain open communication during all phases of the Investigation and Hearing Resolution process, including the investigation, hearing, and appeal stages.

Respondents are presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Investigation and Hearing Resolution process, and any applicable appeal process has concluded. TCC does not make determinations of responsibility prior to the completion of the Resolution Process.

#### A. General Information

##### 1. Nature of Process

The Investigation and Hearing Resolution process under this Policy is not an adversarial process between a Complainant, a Respondent, and the witnesses, but rather a process for TCC to comply with its obligations under existing law. The Investigation and Hearing Resolution process shall provide all Parties with appropriate due process and will reach reasonable conclusions based on the evidence collected.

##### 2. Burden of Evidence

TCC has the burden of conducting an investigation that gathers sufficient evidence to determine whether Prohibited Conduct occurred. Complainant does not have the burden to prove, nor does Respondent have the burden to disprove, the underlying allegation(s) of Prohibited Conduct. Any Party may decide to limit their participation in part or all of the process, or to decline to participate. This does not shift the burden of proof away from TCC and does not indicate responsibility. See below for more information regarding Party participation in the investigation process (Section XV.A.5) and hearing process (Section XVI.B.4).

##### 3. Evidence Standard

In evaluating all allegation(s) of Prohibited Conduct, and in any Investigation and Hearing Resolution process, TCC will utilize the “Preponderance of the Evidence” standard, which means that the alleged Prohibited Conduct is more likely than not to have occurred. 39

##### 4. Resolution Process Timeline and Extensions

Absent extensions for good cause, TCC strives to complete the entire Investigation and Hearing Resolution process as thoroughly, equitably, and as promptly as possible within 150 business days from the issuance of the Notice of Investigation and Allegations to the Parties. This includes the initial assessment and evaluation of the allegations, issuance of notice letters initiating the process, investigation



(interviews with the Parties and relevant witnesses), evidence review process, hearing, issuance of the hearing decision (and remedies and sanctions, if applicable), and any appeal process.

TCC has provided the following estimated timelines for the major stages of the Investigation and Hearing Resolution Process:

a. Initial Assessment and Evaluation of Allegations

This phase is generally completed within 10 (ten) – 15 (fifteen) business days from submission of Complaint or request to investigate allegations, and Complainant's intake meeting with Complainant's Home Institution Title IX Coordinator. This stage includes the Complainant's Home Institution's Title IX Coordinator's assessment of the allegations, determination of whether the allegations meet the definitions of the Prohibited Conduct under this Policy, and decision of whether to dismiss or investigate the Complaint of Prohibited Conduct. This determination will be made once sufficient information has been gathered from the Complainant at the initial meeting and/or intake meeting.

b. Investigation

This phase is generally completed within 80 (eighty) business days. This includes investigative interviews with the Parties and witnesses, gathering and reviewing any submitted or collected evidence, drafting the Preliminary Investigation Report (PIR) and providing the Parties an opportunity to review and respond to the PIR (Evidence Review Process), and issuance of the Final Investigation Report.

c. Hearing and Hearing Decision Report (and Sanctioning, if applicable)

This phase is generally completed within 30 (thirty) to 40 (forty) business days from issuance of Final Investigation Report. This process includes scheduling the hearing, pre-hearing conference meetings, conducting the hearing, and the 15 (fifteen) -business day deadline for the Hearing Decisionmaker to issue their Hearing Decision Report. Unless the Parties agree, the hearing must be scheduled at least 10 (ten) business days from the date the Final Investigation Report was issued to the Parties. Scheduling the hearing will be completed as promptly as possible based on the Parties', any Advisors and/or Support Persons, and other participants' (Parties' Home Institution's Title IX Coordinator(s), Decisionmaker, TCC Title IX Administrator) availability and in consideration of campus closures, holidays, and exam periods.

d. Hearing Decision and/or Sanctions Determination Appeal

This phase is generally completed within 20 (twenty) business days. This process includes any appeal submitted by one or all Parties, the assignment of an Appeal Decisionmaker, opportunity for the non-appealing Party to issue a response, and the 15 (fifteen)-business day deadline for the Appeal Decisionmaker to issue their decision.

A thorough investigation and procedurally proper hearing and appeal may necessitate one or more extensions for good cause. The timeline for any part of the Resolution Process may be extended for good cause by the TCC Title IX Administrator. Good cause reasons for extension may include ensuring availability of the Parties, witnesses, or other participants in the process, ensuring that the Parties and

witnesses have sufficient time to review and respond to materials, and ensuring the Investigator has sufficient opportunity to meet with the Parties and witnesses and gather evidence, as needed. The TCC Title IX Administrator will provide notice to all Parties of any timeline extensions. Failure to complete any specific stage, or the entirety of the Investigation and Hearing Resolution process within the estimated time period does not, in and of itself, constitute a procedural error. Any such argument of procedural error (as set forth in Section XVIII.) must also include an explanation as to how the delay(s) materially impacted the outcome of the process.

For pending matters that involve a graduating student Respondent, the Respondent's Home Institution will determine degree issuance consistent with their Institution's process.

#### 5. Impact of Party Non-Participation in the Resolution Process

Any Party may decide to limit their participation in part or in all of the Resolution Process under this Policy, or to decline to participate. This includes limited or no participation in the investigation, evidence review process, or hearing process.

A Party is not required to participate in any stage of the process; however, a Party's decision to limit participation may impact the process by, including but not limited to, delaying the process timeline, limiting the Party's opportunity to present or respond to relevant evidence, the available relevant evidence gathered by the Investigator, and/or available to the Hearing Decisionmaker, the Hearing Decisionmaker's opportunity to ask the Party questions regarding the allegations, and impacting the hearing outcome.

#### 6. Privacy and Confidentiality in the Resolution Process

Parties may share confidential information received through the Resolution Process under this Policy with their Support Person and/or Advisor consistent with the requirements of their Home TCC Institution. Each Party's TCC Institution will

provide their Party a FERPA<sup>10</sup> release form for their Support Person and Advisor that authorizes such sharing and participation. The Party's Home Institution's Title IX Coordinator and/or TCC is unable to share information with a Support Person and/or Advisor under this Policy until the form is sufficiently completed by the Party. The form must also be completed prior to the Support Person and/or Advisor attending any meetings or proceedings under this Policy. The Party's Home Institution's Title IX Coordinator and TCC Institution shall not restrict the ability of any Party to discuss the allegations under investigation for the purpose of gathering and presenting relevant evidence, including by speaking to witnesses, consulting with their family members, Confidential Resources, Support Person or Advisor, or otherwise to prepare for or participate in the Resolution Process under this Policy.

Parties, witnesses, Support Persons, and/or Advisors are expected to maintain the privacy of the information shared with them under this Policy. This information may not be shared with third parties, duplicated, disclosed publicly, or used for purposes not explicitly authorized by the Party's Home Institution Title IX Coordinator or TCC Institution. TCC may seek to restrict the role of any Support Person and/or Advisor who does not respect the sensitive nature of the process or who fails to abide by these expectations.

Any unauthorized disclosure of information or evidence obtained solely through the Resolution Process under this Policy may be referred to the appropriate TCC Institution's Student Conduct or Human Resources office for review. Any unauthorized disclosures made by a TCC Institution student or employee (subject to this Policy), including by Parties, witnesses, Support Person, or Advisor, may be subject to sanctions or discipline at the discretion of the discloser's TCC Home Institution.

For purposes of this paragraph, disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the Complaint of Prohibited Conduct are authorized.

The Party's Home Institution's Title IX Coordinator and other administrators at TCC are permitted to share confidential information amongst other TCC Institution representatives who have a reasonable need to know, and such disclosure is not a violation of FERPA. The Party's Home Institution's Title IX Coordinator and TCC Institution will endeavor to respect any requests for confidentiality but will also weigh those requests against the TCC Institution's responsibility to maintain a safe environment for its community. Complete confidentiality cannot be guaranteed.

## 7. Right to an Advisor

---

10. Family Educational Rights and Privacy Act.

Parties may elect to be accompanied by an Advisor, as defined in this Policy, during meetings and proceedings related to any ABR, investigation, and hearing process under this Policy. Parties are limited to one Advisor. Parties may be accompanied by a Support Person (see below) in addition to an Advisor. An Advisor can be anyone, and may be, but is not required to be, an attorney. Generally, it is not recommended that the selected Advisor be a Party or a witness in the same matter.

The Advisor may not speak or write on behalf of the Party or otherwise disrupt any interviews or proceedings. TCC reserves the right to exclude or remove an Advisor who does not comply with this Policy.

A Party is not required to have an Advisor during any part of the Resolution Process, including meetings, ABR, the investigation, or hearing process, and a TCC Institution is not required to provide one for the Party. Upon a Party's request, however, the Party's Home Institution's Title IX Coordinator may be able to connect a Party with a trained Advisor, if available, who may be an employee at a TCC Institution.

#### 8. Support Person

Parties may elect to be accompanied by a Support Person, as defined in this Policy, during meetings and proceedings related to any ABR, investigation, and hearing process under this Policy. Parties are limited to one Support Person. A Support Person may not be a Party or a witness in the same matter. The Support Person's role is to provide emotional support throughout the process. The Support Person may not speak or write on behalf of the Party or otherwise disrupt any interviews or proceedings. TCC reserves the right to exclude or remove a Support Person who does not comply with this Policy.

### B. Initiation of The Investigation and Hearing Resolution Process

#### 1. Notice of Allegations (NOA)

Once TCC has accepted the Complaint for investigation, and has confirmed the allegations to be investigated, the Parties will be provided a written Notice of Allegations, which outlines the allegations within the scope of the investigation, the alleged Policy violation(s), the identity of the Investigator, and other important information related to the process. The issuance of the NOA communicates the initiation of the investigation process.

A Revised NOA must be provided to the Parties any time during the investigation to include allegations of Prohibited Conduct raised by the Complainant against the Respondent that were not included in the initial NOA that are raised later during the investigation process and are determined to be part of the scope of the investigation.

The NOA shall include, at a minimum:

- A reminder that the date and time of the initial interview with the Investigator, will generally be scheduled with a minimum of five (5) business days' notice, unless otherwise agreed upon by the Party;
- The investigation procedures, including the applicable determination procedures that will be used in the Investigation and Hearing Resolution process under this Policy, and a link to this Policy;
- Information about the ABR options, with a link to the full procedures;
- 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), a description of the facts alleged to constitute Prohibited Conduct, the type of Prohibited Conduct, and the date(s) and location(s) of the alleged incident(s), if known;
- A statement that Retaliation is prohibited;
- A statement indicating whether the Investigator, or another individual, shall serve as the Decisionmaker;
- A statement indicating the expected length of the major stages of the resolution process, as well as any applicable deadlines;
- A statement informing the Parties that the Investigator will establish and communicate, in writing, all investigation deadlines, including the final deadlines for submitting names of witnesses and evidence. These deadlines may be extended by the TCC Title IX Administrator for good cause, and any changes will be provided, in writing, to the Parties, along with the rationale for the revised deadline(s);
- The deadline and process for identifying any conflicts of interest or bias with the Investigator. A statement that the Respondent is presumed not responsible for the alleged Prohibited Conduct until a determination is made at the conclusion of the Resolution Process. Prior to such a determination, the Parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial Hearing Decisionmaker;
- A statement that the Parties may have an Advisor who may be a friend, parent, therapist, colleague, and who may be, but is not required to be, an attorney;
- A statement that the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any Party, and will receive an investigation report that accurately summarizes this evidence;
- A warning that the Decisionmaker may exclude evidence at the hearing that was not presented during the investigation process;

- A statement that the individual TCC Institution's Student Conduct code prohibits knowingly making false statements or knowingly submitting false information during the Resolution Process; and
- The identification of the Investigator.

## 2. Complaints Initiated by the Institution

In instances where an investigation process is initiated by the Complainant's Home Institution's Title IX Coordinator, the person alleged to be harmed (the Complainant) will still retain all rights of a Complainant in this process, if they should choose to exercise them, including the choice to participate or not participate at any step of the process and in receiving notification of the outcome.

## 3. Designation of the Investigator

The TCC Title IX Administrator, in consultation with the Parties' Home Institutions' Title IX Coordinator(s), will designate a trained Investigator to conduct an adequate, reliable, and impartial investigation, in a reasonably prompt timeframe. TCC reserves the right to utilize internal or external Investigators As required by California law, the designated Investigator will have undergone a comprehensive, trauma-informed training program for campus officials involved in investigating and adjudicating sexual assault, domestic violence, dating violence, and stalking cases.

The designated Investigator identity will be provided in the NOA. Any Party that believes that the designated Investigator has a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent, may submit an objection pursuant to Section V.

## C. Investigation Process

### 1. Evidence Gathering

#### a. Interviews

After the Parties have been notified in writing of the confirmed Investigator, the Investigator will contact the Parties and identified witnesses to conduct their interviews. Interviews may be conducted in person, or via video conference. Recording of investigative interviews, by any individual, and by any means, is prohibited.

The Investigator will provide to a Party or witness whose participation is invited or expected, advance written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time to prepare to participate. The Investigator has discretion of the order in which to interview the Parties and witnesses.

A Party is permitted to have one Support Person and one Advisor accompany them to any meetings with the Investigator and must provide at least 72-hour notice of the Support Person and/or Advisor's planned attendance at the meeting to ensure the appropriate FERPA documentation is completed in advance of the meeting.

TCC may adopt and apply other reasonable rules regarding decorum, provided they apply equally to the Parties. TCC will share expectations of decorum to be observed at all times in any meeting or proceeding under this Policy. These expectations are applied equally to all Parties, Support Persons and Advisors. TCC has the discretion to remove, with or without prior warning, from any meeting or proceeding a Party, witness, Advisor, or Support Person who does not comply with these expectations and any other applicable TCC rules or expectations.

All Parties will be provided equal opportunity to meet with the Investigator, submit relevant evidence, and identify relevant witnesses. The Investigator will meet separately with all Parties, and any identified witnesses that are deemed relevant, and will gather relevant documentary evidence provided by the Parties and any identified witnesses.

When a Party meets with the Investigator, the Investigator will ask questions related to the allegations in the Complaint, and Notice of Allegations, and the Party is given the opportunity to speak to the allegations and related events. Parties may identify relevant fact witnesses and provide evidence that is relevant to the allegations and not otherwise impermissible. This will include inculpatory evidence (that tends to show more likely that an individual engaged in the alleged conduct) and exculpatory evidence (that tends to show less likely that an individual engaged in the alleged conduct).

The Investigator has discretion regarding whom to interview to determine the facts relevant to the Complaint and scope of the investigation, and when to conduct follow-up interviews with Parties and witnesses.

After each Party or witness interview, the Investigator will prepare a written summary of the interview and send the same to the Party or witness for their review for accuracy. Unless the Party or witness requests additional time for review, the written summary will be deemed accurate if the Party or witness does not provide feedback on the written summary within two (2) business days of the Investigator emailing it to the Party or witness.

**b. Investigator Determination of Evidence Relevance**



The Investigator will take reasonable steps to gather relevant available evidence. The Investigator may exclude evidence they determine to be irrelevant or impermissible. Parties may provide the Investigator with any evidence they believe to be relevant. Character evidence is not relevant evidence, and therefore will not be considered. Expert and polygraph evidence will not be considered.

It is ultimately the role of the Hearing Decisionmaker to determine what weight, if any, to give to the evidence gathered.

TCC shall not restrict the ability of the Parties to discuss the allegations under investigation for the purpose of gathering and presenting relevant evidence.

The Investigator may gather information related to prior or subsequent conduct of the Respondent in determining pattern, knowledge, intent, motive, or absence of mistake.

**c. Impermissible Evidence**

- The following types of evidence, and questions seeking that evidence, are impermissible. This means this information will not be accessed or considered, except by the Parties' TCC Home Institution(s) to determine whether one of the exceptions listed below applies. This information must not be disclosed and must not be otherwise used, regardless of relevance:
- Evidence that is protected under a privilege recognized by Federal or State law, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- Evidence provided to an employee designated by TCC as exempt from internal reporting under this Policy, unless the person who made the disclosure or otherwise provided evidence to that employee has voluntarily consented to re-disclosure;
- 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 TCC obtains that Party's or witness's voluntary, written consent for use in the Resolution Process under this Policy; and
- 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 Prohibited Conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to alleged Prohibited Conduct. The fact of prior consensual



sexual conduct between the Parties does not by itself demonstrate or imply the Complainant's consent to other sexual activity or preclude a determination that Prohibited Conduct occurred.

For cases of California Sex-Based Harassment in Employment, the Investigator or Hearing Decisionmaker shall not consider the past sexual history of Complainant or Respondent except in the limited circumstances. Specifically, they shall not consider:

- Prior or subsequent sexual history between Complainant and anyone other than Respondent for any reason unless directly relevant to prove that physical injuries alleged to have been inflicted by Respondent were inflicted by another individual.
- The existence of a dating relationship or prior or subsequent consensual sexual relations between Complainant and Respondent unless the evidence is relevant to how the Parties communicated consent in prior or subsequent consensual sexual relations. Where the Investigator or Hearing Decisionmaker allows consideration of evidence about a dating relationship or prior or subsequent consensual sexual relations between Complainant and Respondent pursuant to this paragraph, the mere fact that Complainant and Respondent engaged in other consensual sexual relations with one another is never sufficient, by itself, to establish that the conduct in question was consensual.

Before allowing the consideration of any evidence proffered pursuant to this section, the Investigator or Hearing Decisionmaker shall provide a written explanation to the Parties as to why consideration of the evidence is consistent with this paragraph. If the issue is raised at the hearing, the Hearing Decisionmaker will include their written explanation in the Hearing Decision Report.

## 2. Evidence Review Process

At the conclusion of all fact-gathering and before issuing the Final Investigation Report, the TCC Title IX Administrator will provide the Parties access to the Preliminary Investigation Report (PIR) drafted by the Investigator, which includes all relevant evidence and not otherwise impermissible evidence gathered. The purpose of this review process is to provide the Parties with an equal opportunity to meaningfully respond to the relevant and not otherwise impermissible evidence prior to the conclusion of the investigation and issuance of the Final Investigation Report. This is known as the Evidence Review Process. This opportunity will be provided to each Party, and their Advisor and/or Support Person, if any, regardless of whether the Party made the Complaint or participated in the investigation.

Absent good cause, Parties are provided with ten (10) business days to review and provide a written response to the evidence to the Investigator should they wish to do so. Parties are not required to submit a response. The TCC Title IX Administrator has the discretion to extend the evidence review period based on the volume and nature of the evidence and/or may grant a Party's request for additional time.

The Preliminary Investigation Report will include the following:

- The identities of the Parties;
- The identities of the witnesses;
- A summary of the allegations of the Prohibited Conduct and the alleged Policy violation(s);
- Information about the policies and procedures used to evaluate the allegations;
- A description of the procedural steps and process taken from the receipt of the Complaint through the investigation process, including any notifications to the Parties, interviews with Parties and witnesses, and methods used to gather other evidence;
- The relevant statements of the Parties and witnesses, and evidence gathered for each allegation;
- A summary of the relevant, and not otherwise impermissible, evidence gathered by the Investigator; and
- Explanations for why evidence or witnesses submitted by the Parties were not considered or interviewed by the Investigator.

Given the sensitive nature of the information provided in the PIR, the TCC Title IX Administrator will facilitate this review in a secure manner and has the discretion to determine how to provide access to the PIR to the Parties based on the particular circumstances of the case and any Party or witness privacy concerns. Unless provided express written permission and access by the TCC Title IX Administrator, neither the Parties, Advisors, Support Persons, nor anyone on any Party's behalf may copy, remove, photograph, print, image, screenshot, videotape, record, or in any other manner duplicate or remove the information contained in the PIR (unless a Party is describing or quoting the material in a written response to the evidence pursuant to the Evidence Review Process). Any TCC student or employee (subject to this Policy) who fails to abide by this may be subject to discipline. Any Advisor or Support Person who fails to abide by this may be subject to discipline, if applicable, and/or may be excluded from further participation in the process.

As part of this Evidence Review Process, the Parties may:

- Submit additional relevant evidence or information;
- Provide a written response to any of the relevant evidence;

- Submit proposed questions for the Investigator to ask of the other Parties or any witnesses;
- Request additional interviews and information-gathering; and/or
- Suggest additional witnesses for the Investigator to interview.

The Party's Advisor and/or Support Person may provide support to the Party during the Evidence Review Process; however, they are not permitted to speak or write on behalf of their Party. This includes any response to the Evidence Review Process.

The Evidence Review Process serves as the final opportunity to submit reasonably available evidence, or names of witnesses. Evidence, that was reasonably available, but not provided during the investigation process will not be considered by the Hearing Decisionmaker.

The Investigator has discretion to determine if the Parties' responses warrant additional information-gathering. If the Investigator determines it is unnecessary to ask individuals additional questions, interview new witnesses, and/or gather additional evidence, the Investigator will explain their decision in the Final Investigation Report.

If additional evidence is submitted by the Parties, the Parties submit a written response to the evidence, or new evidence is gathered by the Investigator (through additional or follow-up interviews or additional fact-gathering), it will be included in either a Revised Preliminary Investigation Report or a separate addendum, as deemed appropriate by the Investigator.

All Parties will be provided a second reasonable opportunity to review and respond to any new evidence made available through the Revised Preliminary Report or in a separate addendum. The TCC Title IX Administrator will determine how much time is reasonable to review the new evidence. No new evidence will be accepted as part of any response to the second review and response period, except that the Investigator shall have the discretion to accept relevant evidence that was not previously available or known to exist, and that was not previously discoverable with the exercise of reasonable diligence.

The Investigator will determine when it is appropriate to conclude the Evidence Review Process. The TCC Title IX Administrator will notify the Parties when the Evidence Review Process is complete and when the Final Investigation Report is finalized.

### 3. Final Investigation Report

At the conclusion of the Evidence Review Process, the Investigator will prepare a written Final Investigation Report that includes, at minimum:

- The identities of the Parties;

- The identities of the witnesses;
- A summary of the allegations of the Prohibited Conduct and the alleged Policy violation(s);
- Information about the policies and procedures used to evaluate the allegations;
- A description of the procedural steps and process taken from the receipt of the Complaint through the investigation process, including, any notifications to the Parties, interviews with Parties and witnesses, and methods used to gather other evidence;
- The relevant statements of the Parties and witnesses, and evidence gathered for each allegation;
- A summary of the relevant, and not otherwise impermissible, evidence gathered by the Investigator;
- A statement describing how and when the parties were given the opportunity to review the evidence; and
- Explanations for why evidence or witnesses submitted by the parties were not considered.

The Final Investigation Report will not include findings of fact, findings of whether there was a Policy violation(s), or credibility determinations for Parties or witnesses.

The TCC Title IX Administrator will provide the Parties with access to the Final Investigation Report, including all attachments, at least ten (10) business days prior to the scheduled hearing. The Parties may submit a written response to the Final Investigation Report within ten (10) business days from receipt of access to the Final Investigation Report, or by the deadline otherwise communicated by the TCC Title IX Administrator. Written responses are incorporated into the materials that can be reviewed and considered by the Hearing Decisionmaker. Each Party will receive a copy of any other Party's written response to the Final Investigation Report.

## Hearing

The purpose of a hearing is for a Hearing Decisionmaker to determine whether the conduct occurred as alleged, and if so, whether that conduct violates this Policy. The Hearing Decisionmaker will make credibility determinations, findings of fact, and will determine whether a Policy violation(s) occurred. The Hearing Decisionmaker will also determine appropriate remedies and sanctions if a Policy violation(s) is found to have occurred. The hearing is a closed proceeding and will not be open to the public.

### A. Prior to the Hearing

#### 1. Hearing Coordinator

The TCC Title IX Administrator will be responsible for designating a Hearing Coordinator who will coordinate the hearing process. The TCC Title IX Administrator, or their designee, may serve as the Hearing Coordinator. The Hearing Coordinator will ensure the Hearing Decisionmaker is provided with all necessary materials, including the Final Investigation Report and attachments, as well as any written Party responses to the Final Investigation Report. The Hearing Coordinator will arrange the logistics for the hearing, including coordination of the pre-hearing conferences, a location for the hearing (if not conducted via video conference), and coordination of the date and time for the hearing. Other than at the pre-hearing conference, the Parties and their Advisors and/or Support Persons, if any, are prohibited from directly communicating with the Hearing Decisionmaker prior to the scheduled hearing. The Hearing Coordinator will act as a liaison between the Parties and the Hearing Decisionmaker on all procedural matters.

## 2. Designation of the Hearing Decisionmaker

The TCC Title IX Administrator, in consultation with the Parties' Home Institution's Title IX Coordinator(s), will designate a Hearing Decisionmaker distinct from the Hearing Coordinator and any Home Institution Title IX Coordinator, who will preside over the hearing and draft the Hearing Decision Report, including remedies and sanctions, if applicable. The Hearing Decisionmaker is a single individual. TCC reserves the right to utilize internal or external Decisionmakers. The Hearing Decisionmaker is responsible for overseeing the hearing, making procedural determinations, managing the questioning process (questions must be submitted by the Parties directly to the Hearing Decisionmaker or through the Hearing Coordinator), and issuing the Hearing Decision Report, as well as a Remedies and Sanctions Determination, if applicable.

The Hearing Decisionmaker will have had appropriate training in the definitions of Prohibited Conduct, the scope of the TCC Institution's education programs and activities, the Investigation and Hearing Resolution process under this Policy, bias, the ABR Process, hearing decision writing, assessing questions and evidence related to relevant and not otherwise impermissible evidence, and any technology to be used at the hearing.

The Hearing Coordinator will provide the Parties with written notice of the Hearing Decisionmaker's identity at the time of scheduling the hearing, as well as information regarding any Party's option to object to the Hearing Decisionmaker based on actual conflict of interest or bias pursuant to Section V.

## 3. Hearing Notice

At least five (5) business days prior to the scheduled hearing, the Hearing Coordinator shall send the Parties written notice of the hearing. The written notice will include the following information:

- Confirmation of the assigned Hearing Decisionmaker;
- The time, date, and location of the hearing, including if the hearing will be conducted entirely via videoconference;
- The identity of all participants expected to participate in the hearing, including Parties, and witnesses approved by the Hearing Decisionmaker;
- A list of all documents the Hearing Decisionmaker may consider in reaching their determination;
- TCC's Hearing Expectations and Rules of Decorum; and
- A general overview of the hearing process.

#### 4. Pre-Hearing Conferences

Prior to the hearing, each Party and their Advisors and/or Support Person will be offered the opportunity to meet with the Hearing Decisionmaker to review what to expect at the hearing, rules of decorum, and to provide the Parties and their Advisor and/or Support Person, if any, the opportunity to ask any procedural questions, including questions regarding the Hearing Notice. The Hearing Coordinator and the Party's Home Institution Title IX Coordinator may also be present at the pre-hearing conference. After the Hearing Decisionmaker has conducted the pre-hearing conferences with each Party, the Hearing Decisionmaker will issue a written summary of matters discussed at the pre-hearing conferences. Attending the pre-hearing conference is recommended, however, a Party may waive their opportunity for a pre-hearing conference and is not required to participate.

Parties are expected to notify the Hearing Coordinator of the identity of their Advisor and/or Support Person as soon as possible in advance of the scheduled hearing. The Hearing Coordinator will share this information with the Hearing Decisionmaker and other Parties through the Hearing Notice.

#### 5. Witnesses Identified and Requested to Participate in the Hearing

The Parties and Hearing Decisionmaker all have the right to call witnesses. Unless notified otherwise by the Hearing Coordinator, Parties who wish to call witnesses must submit the name and contact information of the witness, as well as an explanation as to what testimony they will provide at the hearing, at least five (5) business days in advance of the hearing or upon request by the Hearing Coordinator.

Only witnesses who participated in the investigation will be permitted to participate in the hearing, unless the witness was otherwise unknown or not known to have relevant information during the course of the investigation. If the witness did not participate in the investigation, the Party must provide the reason the witness was not identified or was not interviewed by the Investigator, and what information the witness has that is relevant to the allegations. The Hearing Decisionmaker will then determine whether the witness has relevant information and if there is sufficient

justification for permitting the witness to participate in the hearing after not having participated in the investigation. The Hearing Officer may instead send the case back to the Investigator to interview the newly proffered witness prior to the hearing taking place.

The Hearing Decisionmaker may determine not to call witnesses submitted by the Parties, and/or to call witnesses who were not submitted by the Parties, and who participated in the investigation.

The Hearing Decisionmaker will communicate to the Hearing Coordinator as soon as possible the witnesses they have determined should be called for the hearing. The Hearing Decisionmaker will document their explanations for determining not to call certain witnesses submitted by the Parties in the Hearing Decision Report.

With the assistance of the Parties' Home Institution Title IX Coordinator(s), the Hearing Coordinator will request the attendance of the relevant witnesses identified by the Hearing Decisionmaker, and a list of witnesses approved by the Hearing Decisionmaker will be provided to the Parties at least three (3) days prior to the hearing.

The Complainant's and Respondent's Home Institution's Title IX Coordinators can be present in a silent role during the entirety of the hearing.

#### 6. Proposed Questions Submitted by the Parties in Advance of the Hearing

No later than three (3) business days prior to the hearing, each Party shall submit to the Hearing Coordinator a preliminary list of questions they wish the Hearing Decisionmaker to ask of the other Party, or to a witness. The Parties will also have the opportunity to submit questions to the Hearing Decisionmaker at the hearing as well. If the Hearing Decisionmaker determines that any questions are not relevant or seek otherwise impermissible evidence, the Hearing Decisionmaker shall exclude the question, not ask the question of the intended Party or witness, and explain the reason for the exclusion of the question at the hearing. Questions that are unclear or harassing of a Party or witness being questioned will not be permitted. The Hearing Decisionmaker must give a Party an opportunity to clarify or revise any question that the Hearing Decisionmaker has determined is unclear or harassing and, if the Party sufficiently clarifies or revises a question, and the question is relevant, the Hearing Decisionmaker will ask the question of the intended Party or witness.

### B. During the Hearing

#### 1. Hearing Recording



The hearing will be recorded by TCC and this recording will be considered the only official recording of the hearing. The Hearing Coordinator is responsible for ensuring the hearing is audio recorded.<sup>11</sup> No other individual is permitted to record while the hearing is taking place. For the purpose of preparing an appeal, a recorded Party may request to review the hearing recording, or review the transcript of the hearing, if available, in-person or via video conference, and under supervision by a TCC representative or other designee. Requests should be made to the TCC Title IX Administrator.

Hearing audio recordings will be maintained for seven (7) years after the conclusion of the Resolution Process under this Policy, the Respondent's graduation, separation from TCC, or separation from TCC Institution employment, whichever is latest.

## 2. Separation of Parties

Hearings may be conducted with any or all Parties, witnesses, and other participants appearing virtually, with technology enabling participants to simultaneously see and hear one another, or with Parties physically present in the same geographic location.

As standard practice, the Parties will be physically separated during the hearing and will participate virtually, unless all Parties request otherwise. If needed, the Party's Home Institution Title IX Coordinator may assist the Party with access to a private location to participate in the hearing. The Parties should request this assistance as soon as possible in advance of the hearing.

## 3. Hearing Expectations and Rules of Decorum

TCC expects that all participants in the hearing process do so truthfully and respectfully, and that all who have a responsibility for carrying out one or more aspects of the hearing process do so fairly and without prejudice or bias.

The Hearing Decisionmaker shall have the authority to maintain order and decorum at the hearing, including responding to disruptive or harassing conduct, and when necessary, to adjourn the hearing or exclude the disruptive person. In the event the Hearing Decisionmaker removes a Party's Advisor or Support Person, the Hearing Decisionmaker will have the discretion to appoint another Advisor for the remainder of the hearing. The Hearing Decisionmaker also has the authority to determine whether any questions are not relevant, abusive, intimidating, or disrespectful, and will not permit such questions.

## 4. Party and Witness Participation in the Hearing

---

11. Hearings that take place via videoconference may include both an audio and visual recording. Only the audio recordings shall be retained in accordance with Section XIX.

While Party and witness participation is considered crucial to providing an equitable hearing process for the Parties and provides the Hearing Decisionmaker the opportunity to ask questions to inform their findings, TCC cannot compel Parties or witnesses (with the exception of the Investigator) to attend or participate in the hearing. Any Party or witness's decision not to participate will not be a reason to cancel or postpone a hearing. The TCC Title IX Administrator, in consultation with the Home Institution Title IX Coordinator(s) and Hearing Decisionmaker, may determine that the hearing will continue in the absence of any Party or any witness.

Parties or witnesses may choose to attend the hearing and not answer questions. The Hearing Decisionmaker may choose to place less or no weight upon statements by a Party or witness who refuses to respond to questions deemed relevant and not impermissible. The Hearing Decisionmaker will not draw any inference about the determination regarding responsibility solely based on a Party or witness's absence from the hearing or refusal to respond to questions deemed relevant and not impermissible, although this decision may impact the information available to the Hearing Decisionmaker in reaching their determination. However, the Hearing Decisionmaker may draw inferences if an individual selectively participates in the hearing (for example, answering some questions but declining to answer others).

The Parties, and their Advisors and/or Support Persons, if any, can be present in the hearing for the entire duration of the hearing. The witnesses will only be present in the hearing for the duration of their testimony.

Investigators who are current employees of a TCC Institution, or external investigators retained by TCC, are expected to participate in the hearing, if requested. Non-employee Investigators, including Investigators who have left employment with TCC, can be requested, but cannot be compelled, to participate in the hearing.

#### 5. Participation of the Advisor and Support Person During the Hearing

Each Party is entitled to be accompanied by one Advisor and one Support Person at the hearing. The role of the Advisor at the hearing is to assist the Party with understanding and navigating the proceeding. The Advisor may not advocate for, respond for, or otherwise speak or write on behalf of, a Party during the hearing. In the event that a Party does not appear for the Hearing, the Advisor for that Party may not participate in the hearing or submit questions to be asked on behalf of the Party.

The role of the Support Person is to provide emotional support to the Party during the proceeding. The Support Person may not advocate for, respond for, or otherwise speak or write on behalf of, a Party during the hearing. In the event that a Party does not appear for the Hearing, the Support Person for that Party may not participate in the hearing or submit questions to be asked on behalf of the Party.

#### 6. Hearing Timeline

The following provides a general timeline for the Hearing; however, the Hearing Decisionmaker shall have the authority and discretion to change the order of process as necessary, to limit the time allotted to any phase of the hearing, and/or to limit the time allotted to the full hearing.

a. Opening Introductory Statements

The Hearing Decisionmaker will begin the hearing and provide information regarding the expected timeline of the hearing and allow the Parties and their Advisors, to ask any questions regarding the structure of the hearing.

Each Party will then be permitted to provide an opening introductory statement, no longer than five (5) minutes, unless otherwise extended at the discretion of the Hearing Decisionmaker. Any additional time granted to one Party must be provided to all other Parties, if requested. An Advisor and/or Support Person is not permitted to provide an opening introductory statement on behalf of their Party.

Following opening introductory statements, the Hearing Officer will call Parties and witnesses for questioning.

b. Questions by the Hearing Decisionmaker

The Hearing Decisionmaker will determine the order of questioning at the hearing. The Hearing Decisionmaker may change the order of questioning, with appropriate verbal notice to the Parties, if the Hearing Decisionmaker determines a change is necessary to accommodate a witness' schedule, or for other procedural reasons. Only the Hearing Decisionmaker is permitted to ask questions of any Party or witness during the hearing. No Party may directly question the other Parties or witnesses. Advisors and/or Support Persons, if any, are not permitted to directly or indirectly question, or otherwise communicate with the other Parties or witnesses.

The Hearing Decisionmaker will pose questions to the Parties and witnesses, including the questions the Hearing Decisionmaker approved to be asked that were submitted by each Party prior to the hearing. Each Party will then be provided an opportunity to submit follow-up written questions to the Hearing Decisionmaker to be asked of the other Parties and any witnesses, including questions challenging credibility. The Parties will submit their proposed questions through the Hearing Coordinator. The questions must be relevant to the allegations and must not seek otherwise impermissible evidence, not be duplicative or repetitive of information already gathered, and/or not be harassing of any individual providing testimony. The Hearing Decisionmaker will evaluate each question submitted by the Parties. If the Hearing Decisionmaker determines the question should not be asked, the Hearing Decisionmaker will not ask the Party or witness the question will state their reasoning for this determination

on the record, and offer the Party an opportunity to reframe or resubmit the question. The Hearing Decisionmaker also has the authority to ask additional follow-up questions, or as otherwise deemed necessary. All determinations made by the Hearing Decisionmaker at the hearing are final, including determinations on questioning.

A Party may choose not to submit any questions for a Party or witness, either prior to the hearing or during the hearing. A Party's waiver of their right to submit questions does not eliminate the ability of the Hearing Decisionmaker to consider the testifying individual's statements made during the hearing and/or to the Investigator during the investigation process.

c. Closing Statements and Concluding the Hearing

Following the questioning of Parties and witnesses, each Party will be permitted a reasonable opportunity, no longer than five (5) minutes, unless otherwise extended at the discretion of the Hearing Decisionmaker, to provide a closing statement. Any additional time granted to one Party must be provided to all other Parties, if requested. An Advisor and/or Support Person is not permitted to provide a closing statement on behalf of their Party.

The Hearing Decisionmaker will provide closing remarks, if any, and then conclude the hearing.

C. After the Hearing

1. Party Statements Regarding Remedies and Sanctions

Within five (5) business days of the hearing, each Party may provide to the TCC Title IX Administrator a written statement, limited to three (3) pages, related to suggested remedies and sanctions, and any other relevant information specific to remedies and sanctions for the Hearing Decisionmaker to consider in making their sanctions determination. If a Party chooses not to provide a written statement in accordance with this section, they will not be provided an additional opportunity to submit a written statement to the Hearing Decisionmaker.

If the Hearing Decisionmaker determines there was a Policy violation, the Hearing Decisionmaker will notify the TCC Title IX Administrator before issuing their Hearing Decision. The TCC Title IX Administrator will provide the Hearing Decisionmaker with copies of the Party statements, in accordance with Section XVII. The TCC Title IX Administrator will also provide copies of the Party statements to the Parties' Home Institution Title IX Coordinator(s) and appropriate administrator(s).

If the Hearing Decisionmaker determines there was not a Policy violation,, the TCC Title IX Administrator will not release the Party statements to the Hearing Decisionmaker.

2. Notice of Hearing Outcome and Hearing Decision Report

In reaching findings and drafting their decision, the Hearing Decisionmaker will consider the investigation record, including the Final Investigation Report and attachments, which will include all relevant and not otherwise impermissible evidence gathered by the Investigator, and evidence accepted at the hearing.

The Hearing Decisionmaker will use the preponderance of the evidence standard, which means more likely than not, to determine whether the alleged Prohibited Conduct occurred, and if so, whether a Policy violation occurred. To the extent the Hearing Decisionmaker must make credibility determinations, such determinations shall not be based on an individual's status as complainant, respondent, or witness.

The Hearing Decisionmaker will not draw any inference about the determination regarding responsibility solely based on a Party's absence from the hearing or refusal to answer questions posed, although this decision may impact the information available to the Hearing Decisionmaker in reaching their determination. However, the Hearing Decisionmaker may draw inferences if an individual selectively participates in the hearing (for example, answering some questions but declining to answer others).

The Hearing Decision Report will include the following:

- A description of the Prohibited Conduct as defined in this Policy, and any other allegations, if applicable;
- A reference to the policies and procedures used to evaluate the allegations;
- A description of the procedural steps taken from receipt of the Complaint, (or TCC Institution's decision to initiate the process) through the determination;
- A list of Parties and witnesses who participated in the hearing and applicable credibility determinations;
- The Hearing Decisionmaker's evaluation of the relevant and not otherwise impermissible evidence along with the finding of facts;
- Finding for each allegation, with rationale;
- Policy findings, with rationale;
- Sanctioning determination with rationale (if applicable); and
- Remedies with rationale (if applicable).

Within fifteen (15) business days from the hearing, the TCC Title IX Administrator will issue to the Parties the Notice of Hearing Outcome and Hearing Decision Report, which will include the Hearing Decisionmaker's policy, and sanctioning, determinations, as applicable.

If the Hearing Decisionmaker finds a Policy violation, the Hearing Decisionmaker and TCC shall follow the procedures set forth in Section XVII, and the Hearing Decision Report will a Remedies and Sanctions Determination.

If the Hearing Decisionmaker does not find a violation of Policy, the Hearing Decisionmaker's Hearing Decision Report will not include sanctions.

The TCC Title IX Administrator will explain the Appeal Rights and Process, including the permissible bases for appeal, in the Notice of Hearing Outcome. The Hearing Decisionmaker's determinations become final on the date on which an appeal would no longer be considered timely (see Section XVIII).

## Remedies and Sanctioning

This section sets forth the procedures to be followed should the Hearing Decisionmaker find a Policy violation(s) occurred. A student or employee found responsible for a Policy violation will be subject to sanction(s) regardless of whether legal proceedings involving the same incident are pending or anticipated.

If the Hearing Decisionmaker determines there was a Policy violation, prior to issuing the Hearing Decision Report, the Hearing Decisionmaker will notify the TCC Title IX Administrator of this determination. The TCC Title IX Administrator will take two steps:

- Home Institution Written Recommendations: They will notify the Home Institution Title IX Coordinator(s) and the appropriate administrator(s) of each Parties' Home Institution. The Parties' Home Institutions may submit a written recommendation related to remedies and sanctions, and any other relevant information that would be important for the Hearing Decisionmaker to consider in making their Remedies and Sanctions Determination. The Home Institution's written recommendation shall be completed collaboratively between each Party's Home Institution Title IX Coordinator and/or other appropriate Student Affairs administrator(s). The Parties' Home Institutions will provide those recommendations to the TCC Title IX Administrator, who will transmit them to the Hearing Decisionmaker. The Parties' Home Institution written recommendations will not be shared with the Parties; and
- Party Statements: Pursuant to Section XVI.C.1, they will provide the Hearing Decisionmaker with any submitted written Party statements. If a Party did not provide a written statement, the Party will not be provided an additional opportunity to submit a written statement to the Hearing Decisionmaker. Any submitted Party statement(s) will not be shared with the other Parties.

The Hearing Decisionmaker will make their Remedies and Sanctions Determination based on the factual and Policy findings, written Party statements, written Home Institution recommendations, and other factors relevant to sanctioning as outlined below. The Hearing Decisionmaker shall give significant weight to the written Home

Institution recommendations in issuing remedies and sanction(s). Expulsions and employment terminations are at the sole discretion of the Respondent's Home Institution.

The Hearing Decisionmaker will decide if remedies are appropriate in order to restore or preserve the Party's equal access to TCC's education, activity, and/or employment. Such remedies may include Supportive Measures. However, unlike Supportive Measures, remedies need not be non-disciplinary or non-punitive, and need not avoid unreasonably burdening the Respondent.

The factors a Hearing Decisionmaker (or Sanctions Decisionmaker)<sup>12</sup> may consider in issuing sanctions include, but are not limited to:

- **Severity of the Violation:** The duration of the conduct; whether the conduct was repeated; the number of Policy violations; abuse of power; use of intimidation; use of force; level of endangerment to the Complainant; level of injury to the Complainant; presence of a weapon; deliberate embarrassment; exploitation of level of intoxication.
- **Aggravation:** Whether the Respondent used force, threat, violence, duress, or intentionally caused intoxication or impairment to engage in conduct without Complainant's consent.
- **Intent:** Whether Respondent intended to cause harm; whether Respondent premeditated the conduct; whether Respondent pressured others to engage in the conduct or similar conduct; whether Respondent was pressured by others to engage in the conduct.

**Retaliation:** Whether Respondent complied with No Contact Orders, Supportive Measures, and other interim measures in place during the Investigation and Hearing Resolution process; whether Respondent continued to engage in alleged Prohibited Conduct after commencement of the Complainant or participants for their participation in the investigation or hearing process; whether Respondent was forthcoming during the investigation and hearing process; whether Respondent engaged in any other conduct which would obstruct the investigation or hearing process, or impacted the fairness of the processes.

- **Impact:** The impact of Respondent's conduct and presence on the Complainant's safety and participation in any TCC Institution's education or employment programs and activities; the impact of Respondent's conduct on TCC's community; the impact of sanctions on Respondent's access to participation in TCC's programs, if applicable.

Possible remedies and sanctions that the Hearing Decisionmaker may issue include:

---

12. For cases where the Respondent has accepted responsibility pursuant to Section XIV.



- **Warning:** Written notice that the Respondent's behavior was in violation of this Policy and that future violations will result in more severe sanctions.
- **Restitution:** Reimbursement by the Respondent(s) to the TCC Institution, another TCC Institution, TCC, the Complainant(s), or a member of TCC's community to cover the cost of property damage or other loss.
- **Service Hours:** A set number of work hours the Respondent must complete. The Home Institution Title IX Coordinator(s) will determine the nature of the work to be performed. Generally, service hours are conducted within TCC.
- **Educational Program/Project:** Programs and activities designed to help the Respondent become more aware of the TCC Institution's policies and help the Respondent understand the inappropriateness of their behavior to avoid repeat offense, including, but not limited to, participation in an educational program or completion of an online program.
- **Counseling and/or Coaching Sessions:** A set number of counseling and/or coaching sessions that the Respondent must complete, as well completion of any assigned reflection essay or other assignment(s) within a specified time. The counselor, facilitator, and/or the Home Institution Title IX Coordinator(s) will review the required assignments for sufficiency.
- **Referral for Assessment:** A referral for an assessment with an appropriately trained therapist who will recommend a process for treatment. Reinstatement is conditioned upon receiving proof of completion of the recommended treatment.
- **Loss of Privileges:** Denial of specific privilege(s) for a defined period of time. Privileges include, but are not limited to, participation in extracurricular activities and events such as on-campus, or campus-sponsored or affiliated social events, intercollegiate athletics, intramural programs, student organizations, and student government, eligibility to apply for and gain on campus employment within TCC, as well as the privilege of living on campus, living in a specific residence hall, participation in commencement ceremonies, or having a vehicle on campus.
- **Restricted Access:** Conditions which specifically dictate and limit the Respondent's presence on campus and/or participation in TCC Institution-sponsored or affiliated activities and events. The restrictions will be clearly defined and may include, but are not limited to, presence in certain buildings or locations on campus, including residential and dining halls, sports and recreation fields, buildings, and courts, and classrooms. This also includes a No Contact Order, which prohibits communication, by any means, with the Complainant, and/or any other specified different TCC Institutions restricted access may extend to exclusion from another TCC Institution's campus, programs, activities, and events.
- **Removal of Offending Cause:** Requirement to remove the item which was the subject of the Complaint.

- Relocation or Removal from Residence Halls: Requirement that the Respondent relocate to another residence hall, or off-campus residence, by a specified date.
- Conduct Probation: Formal, written notice that the Respondent's behavior is in violation of its TCC Institution's policies and an expectation that the Respondent exhibit good behavior for a defined period of time. Pursuant to the Respondent's Home Institution's policy regarding Conduct Probation, such probation may limit Respondent's on-campus privileges. Any violation during the probationary period will result in increased sanctioning, including academic suspension or expulsion. Notice of Conduct Probation is sent to the Respondent's academic advisor, as well as to the Respondent's parent(s)/guardian if the Respondent is a minor.
- Employment Probation: Formal, written notice that the employee's conduct is in violation of its Institution Policies and an expectation that the employee exhibit good behavior for a defined period of time. Any further violations during the probationary period will result in increased sanctioning and may result in employment suspension without pay or termination of employment.
- Suspension Up to One (1), Two (2), Three (3), Four (4), Five (5), Six (6), Seven (7), or Eight Semesters (8): Separation from the Institution for one (1), two (2), three (3), four (4), five (5), six (6), seven (7), or eight (8) semesters. During the suspension period, the Respondent is not permitted on campus, is not permitted to participate in any Institution-sponsored or affiliated program or activity, or events, and is not permitted to enroll in any courses and earn any credits towards the Respondent's degree. The terms of the suspension may include the designation of special conditions affecting eligibility for re-enrollment or special conditions to be in effect upon re-enrollment, including a term of Conduct Probation. A term of suspension may also include delayed conferral of degree. Notice of Respondent's suspension will be communicated to the Registrar and other appropriate administrator(s) at the other TCC Institutions to ensure compliance.
- Employment Suspension without Pay (staff and faculty, including student-employees): Separation of employment for a defined period of time without pay for the time of separation.
- Employment Termination: Permanent separation of the employee from their position. If the Respondent is a student, they may be permanently separated from their student-employee position. A staff or faculty member who is terminated from their employment is not permitted to participate in any TCC Institution-sponsored or affiliated program or activity, or event. A staff, faculty, or student-employee terminated from their TCC Institution employment is not eligible for rehire at that TCC Institution.

- **Expulsion:** Permanent separation from their Home Institution and ineligibility to apply for admission at any other Institutions in the TCC. A Respondent who has been expelled is not permitted on any TCC Institution property and is not permitted to participate in any TCC Institution-sponsored or affiliated program, activity, or events.

The Respondent's Home Institution will determine degree and transcript status for expelled students.

- **Degree Non-Conferral, Delayed Degree Conferral, or Revocation of Degree:** At the discretion of the Respondent's Home Institution.

## **Appeal Rights and Process**

A Complainant or Respondent who is not satisfied with the determinations made as to closure or dismissal of a Complaint, or the dismissal of any included allegations, under this Policy, and/or the Policy findings, or sanctions imposed at the completion of the hearing process may submit an appeal (Appealing Party) to the TCC Title IX Administrator. The TCC Title IX Administrator, in consultation with the Parties' Home Institution's Title IX Coordinator(s), will identify an appropriately trained Appeal Decisionmaker to review and make a determination of the appeal(s).

When the TCC Title IX Administrator identifies an Appeal Decisionmaker, they will provide written notice of the individual's identity to the Parties, along with information regarding the process to object to the designated Appeal Decisionmaker on the basis of actual conflict of interest or bias pursuant to Section V.

### **A. Appeal Grounds**

Each Party has a right to appeal:

- The dismissal of a Complaint or any included allegations;
- The Hearing Decisionmaker's Policy findings; and/or
- Any sanctions.

Appeals must be submitted in writing to the TCC Title IX Administrator within five (5) business days following the issuance of the Notice of the Hearing Outcome and Hearing Decision Report (Notice of Case Dismissal, or Remedies and Sanctions Determination for Complaints where Respondent accepted responsibility). The appeal must be no longer than 10 (ten) pages, and must specify which grounds the appeal is based upon and include any arguments the Party wishes to make in support of their appeal.

A Party may appeal based on one or more of the following grounds:<sup>13</sup>

- **Procedural Error:** There was a procedural error(s) that would change the outcome of the matter (i.e., failure to follow the process outlined in this Policy). The appealing party must describe in their appeal the procedural error and its impact on the decision outcome.
- **Conflict of Interest or Bias:** Any Party's Home Institution Title IX Coordinator, the TCC Title IX Administrator, Investigator(s), Hearing Decisionmaker, and/or Sanctions Decisionmaker (for cases where the Respondent has accepted responsibility) has a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent, that would change the decision outcome. The appealing party must describe in their appeal the alleged conflict of interest or bias held by the individual and how this impacted the decision outcome.

**New Evidence:** There is new evidence or information that would change the decision outcome that was not reasonably available or known (and could not have reasonably been known) during the made. Information that was known to the party during the resolution process but which they did not to present is not considered new evidence or information. The appealing party must describe in their appeal how the new evidence would change the decision outcome and why the new evidence was not reasonably available or reasonably known prior to the appeal.

- **Disproportionate Sanctions:** The sanctions are disproportionate to conduct for which the Respondent accepted responsibility, or to the Hearing Decisionmaker's findings.

The submission of an appeal pauses the implementation of any sanctions, and any change in student or employee status, during the pendency of the appeal(s). Supportive Measures remain available during the appeal process.

#### B. Designation of Appeal Decisionmaker

As noted above, the TCC Title IX Administrator will designate an appropriate Appeal Decisionmaker to conduct a prompt, thorough, and impartial review of the appeal(s). The Appeal Decisionmaker will not be the same person as the Investigator, Hearing Decisionmaker, Sanctions Decisionmaker, TCC Title IX Administrator, or any of the Parties' Home Institution's Title IX Coordinator(s).

---

13. As explained in Section XIV, for cases where the Respondent has accepted responsibility, a Party may only appeal on the grounds that the Sanctions Decisionmaker had a conflict of interest or bias, and/or that the sanctions are disproportionate to the Prohibited Conduct for which Respondent accepted responsibility.

The Appeal Decisionmaker will have had appropriate training as required by Title IX and California law, which includes but is not limited to training in the definitions of Prohibited Conduct, the scope of the TCC Institution's education programs and activities, the Investigation and Hearing Resolution process under this Policy, bias, the ABR Process, and appeal process.

#### C. Appeal Response by Non-Appealing Party

The TCC Title IX Administrator will send a written notice of the appeal to the Non-Appealing Party or Parties and provide them with a copy of the appeal. A Non-Appealing Party or Parties may issue a response to the appeal. Any Party's decision not to submit a response to an appeal is not evidence that the Non-Appealing Party agreed with the appeal. The appeal response is limited to ten (10) pages, including attachments, and may address only the issues raised in the appeal. The Non-Appealing Party will have five (5) business days to submit their appeal response after receiving the notice of the appeal. Any response to the appeal must be sent to the TCC Title IX Administrator, who will provide the response to the Appeal Decisionmaker. Requests to submit an appeal response of more than ten (10) pages must be sent to the TCC Title IX Administrator, along with an explanation as to why additional pages are needed.

#### D. Appeal Clarification

If the Appeal Decisionmaker needs clarification on any point raised in the appeal, they may make a written request for clarification from the Appealing Party, through the TCC Title IX Administrator. The Appealing Party may respond in writing. The TCC Title IX Administrator will transmit the written response to the Appeal Decisionmaker. The Appeal Decisionmaker may not communicate directly with the Parties. The TCC Title IX Administrator will provide copies of any written communications to the Non-Appealing Party and to the Parties' Home Institution Title IX Coordinator(s).

#### E. Appeal Record

The review of an appeal will not involve any additional investigation by the Appeal Decisionmaker. The review will be based upon evidence gathered during the investigation process and presented at the hearing, including access to the hearing recording, as well as the arguments made during the appeal process. The

Appeal Decisionmaker will not consider new evidence for the purposes of upholding, overturning, or modifying the findings. Appeals submitted under the ground of new evidence will be considered only to determine whether the new evidence could likely change the determination of responsibility.

#### F. Appeal Decision Report

The Appeal Decisionmaker will issue an Appeal Decision Report which summarizes their decision regarding the appeal. The Appeal Decision Report will include a description of the ground(s) for the appeal, a summary of the issues raised on appeal, a statement

regarding the evidence considered, a statement describing the decision was made based on the preponderance of the evidence standard, and the determination regarding the appeal.

The Appeal Decisionmaker may decide to do the following:

- Uphold the findings and sanctions;
- Overturn the findings and/or sanctions;
- Modify the findings and/or sanctions; or
- Remand the case, to the Investigator for additional fact-gathering, or for a new hearing based on new evidence which could change the outcome; or
- If the Appeal Decisionmaker finds that The Title IX Coordinator, TCC Title IX Administrator, Investigator(s), and/or Hearing Decisionmaker had an actual conflict of interest or bias that changed the decision outcome, the Appeal Decisionmaker may, as appropriate, remand the case for a new hearing with a new Hearing Decisionmaker, or remand the case for a new investigation with a new investigator.

#### 1. Notice of the Appeal Decision

The TCC Title IX Administrator will send the Notice of the Appeal Decision to the Parties within ten (10) business days of the submission of an appeal response from the Non-Appealing Party (or the deadline for the Non-Appealing Party to submit a response). The Notice of the Appeal Decision will include a copy of the written Appeal Decision Report. The notice will inform the Parties that there is no further review of the matter, no further right to appeal, and if applicable, that the matter is closed.

The determination regarding responsibility and sanctioning becomes final on the date of the Appeal Decision Report, unless the Appeal Decision Report determines further investigation, and/or a new or additional hearing or investigation is necessary based on new evidence available or actual conflict of interest or bias.

#### 2. Final Remedies and Sanctioning Determination

After the issuance of the final decision (the Notice of Hearing Outcome and Hearing Decision Report if there is no appeal, or the Notice of Appeal Decision), the TCC Title IX Administrator will send a Notice of Final Outcome and Sanctions to the Parties, with a copy to designated Student Affairs, faculty, or Human Resources administrator(s) within the Respondent's Home Institution, as appropriate. The designated administrator will review the issued remedies and sanctions and determine if any enhancements are warranted based on a Respondent's disciplinary history. Recommendations for enhancements based on a prior disciplinary history are not shared with the other Party.

For student Respondents, the Respondent's Home Institution's Title IX Coordinator is responsible for ensuring completion of the sanction(s), which may include collaboration with the appropriate Student Affairs administrator(s), as necessary.

For employee Respondents, the Respondent's Home Institution's designated Human Resource professional or other designated administrator is responsible for ensuring completion of the discipline or sanction(s). The Human Resource professional or other designated administrator shall update the Respondent's Home Institution Title IX Coordinator on sanction completion and/or compliance.

### 3. Failure to Complete or Comply with Imposed Sanctions

All Respondents are expected to comply with conduct sanctions, responsive actions, or corrective actions within the timeframe specified in the Parties' Notice of Remedies and Sanctions Determination. Respondents who need an extension to comply with their sanctions must submit a written request to their Home Institution Title IX Coordinator stating the reason(s) for needing additional time.

At the discretion of the Respondent's Home Institution, failure to follow through on conduct sanctions, responsive actions, or corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions, responsive actions, or corrective actions, such as suspension, expulsion, termination, or transcript notations. Respondent students who fail to comply may be referred to their Home Institution's Student Conduct office, and employees who fail to comply may be referred to their Human Resource office. A student or employee Respondent who withdraws or leaves their employment prior to sanction completion may receive a notation on their transcript or employee record, respectively.

## Recordkeeping

Records of all reports and resolutions will be kept by the Home Institution's Title IX Coordinator(s) for a period of seven (7) years. All records will be afforded the confidentiality protections required by law, including but not limited to the Family Educational Rights and Privacy Act (FERPA) governing confidentiality of student information. This means that the TCC Institutions 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. Documents related to this process include: Complaints, Supportive Measures provided to the Parties, remedies provided to the Complainant, any Agreement-Based Resolution Process documents, if applicable, the Final Investigation Report and attachments, the hearing record, including any audio recording or transcript of the hearing, the Hearing Decision Report, and any sanctioning determination and appeal-related documents, if applicable.



Each Home Institution Title IX Coordinator will also retain, for a period of seven (7) years, all materials used to train their TCC Institution's Title IX administration, including Title IX Coordinators, Deputy Title IX Coordinators, Hearing Coordinators, Investigators, Decision-makers, and any person(s) facilitating the Agreement-Based Resolution process.

## **Crime and Incident Disclosure Obligations**

The Clery Act is a federal crime and incident disclosure law. Pursuant to the Clery Act, each TCC Institution is required to include statistics about certain offenses, including some of the Prohibited Conduct in this Policy (Sexual Assault as defined by Title IX, Dating Violence, Domestic Violence, and Stalking), that occur in particular campus-related locations, in its annual security report (ASR) and provide those statistics to the United States Department of Education in a manner that does not include any personally identifying information about individuals involved in an incident. The Clery Act also requires the TCC Institution to issue timely warnings to the TCC Institution's community about certain crimes that have been reported and which may continue to pose a serious or continuing threat to campus safety. Consistent with the Clery Act, the TCC Institution withholds the names and other personally identifying information of Complainant(s) when issuing timely warnings to the TCC Institution's community.

As a condition of participation in CalGrants, the TCC Institutions state the following pursuant to section 67380 of the California Education Code:

The TCC Institutions require any report made by a victim or an employee pursuant to Section 67383 of a Part 1 violent crime, sexual assault, or hate crime, as described in Section 422.55 of the Penal Code, received by a campus security authority and made by the victim for purposes of notifying the TCC Institution or law enforcement, to be immediately, or as soon as practicably possible, disclosed to the local law enforcement agency with which the TCC Institution has a written agreement pursuant to Section 67381 without identifying the victim, unless the victim consents to being identified after the victim has been informed of the victim's right to have the victim's personally identifying information withheld. If the victim does not consent to being identified, the alleged assailant shall not be identified in the information disclosed to the local law enforcement agency, unless the TCC Institution determines both of the following, in which case the TCC Institution shall disclose the identity of the alleged assailant to the local law enforcement agency and shall immediately inform the victim of that disclosure:

- (i) The alleged assailant represents a serious or ongoing threat to the safety of students, employees, or the TCC Institution.
- (ii) The immediate assistance of the local law enforcement agency is necessary to contact or detain the assailant.

## Policy Review and Revision

This Policy, effective August 1, 2024, supersedes previous policies addressing Title IX Sexual Harassment and Retaliation, and is maintained by The Claremont Colleges Services (TCCS), and will be reviewed and updated regularly in a manner consistent with changes in federal and state law, regulations, and best practices that may require policy or procedural revisions.

## Non-Discrimination Application and Additional Enforcement Information

The requirements and protections of this Policy apply equally regardless of sex, sexual orientation, gender identity, gender expression, or other protected classes covered by federal or state law. All requirements and protections are equitably provided to individuals regardless of such status or status as a Complainant, Respondent, or witness.

Individuals who wish to file a Complaint about this Policy or process may contact the Department of Education's Office for Civil Rights using contact information available at <https://ocrcas.ed.gov/contact-ocr>.

Questions about Title IX may be referred to the individual's Home Institution Title IX Coordinator or to the assistant secretary for civil rights:

Office for Civil Rights, San Francisco Office U.S. Department of Education

50 United Nations Plaza, San Francisco, CA 94102

Telephone: 415.486.5555

Facsimile: 415.486.5570

Email: [OCR.SanFrancisco@ed.gov](mailto:OCR.SanFrancisco@ed.gov)

TCC Institutions whose employees are covered by this Policy are not required to report concerns directly to their immediate supervisors at their TCC Institution. Concerns about violations of this Policy may be reported to the U.S. Equal Employment Opportunity Commission (EEOC) and California Civil Rights Division (CCRD). Each investigate reports of unlawful harassment, discrimination, and retaliation, including sex-based harassment, in employment.

U.S. Equal Employment Opportunity Commission (EEOC) Roybal Federal Building

255 East Temple St., 4th Floor Los Angeles, CA 90012

213.785.3090

<https://www.eeoc.gov/contact-eeoc>

California Civil Rights Department (formerly DFEH)

320 West 4th Street, Suite 1000, 10th Floor Los Angeles, CA 90013

Monday to Friday: 8am to 5pm

800.884.1684

<https://calcivilrights.ca.gov/>

## Important Definitions

**Advisor of Choice:** An Advisor of Choice (Advisor) is an individual who provides guidance to the Complainant or Respondent throughout the Resolution Process, including any Agreement-Based Resolution Process, if applicable, as set forth in this Policy. Each Party is entitled to choose and consult with an Advisor, at their own expense, through any stage of the Resolution Process (including the Agreement-Based Resolution Process, when applicable). Parties may be accompanied by an Advisor to any meeting or proceeding to which they are required or are eligible to attend. A Party can select an Advisor at any time in the process. An Advisor can be any person, including a friend, colleague, and may be, but is not required to be, an attorney. Generally, it is not recommended that the selected Advisor be a Party or a witness in the same matter.

A Party does not have to have an Advisor during the Resolution Process.

The Advisor's role is limited. An Advisor may never speak or write on behalf of a Party or otherwise disrupt any meetings or hearings in any manner. Any restrictions on Advisor participation will be applied equally.

A Party's Advisor is expected to have reviewed this Policy to understand their role and expectations under this Policy prior to providing support to the Party. The Party's Home Institution's Title IX Coordinator and/or the TCC Title IX Administrator may require the Advisor to meet with the Party's Home Institution's Title IX Coordinator and/or the TCC Title IX Administrator to ensure the Advisor understands their role and the expectations under this Policy prior to their involvement in any process under this Policy. A Party and their Advisor are encouraged to contact the Party's Home Institution's Title IX Coordinator with any questions regarding this Policy and its Resolution Process and procedures.

TCC reserves the right to exclude an Advisor who does not abide by these procedures and expectations set forth in this Policy.

**Affirmative Consent:** Affirmative Consent means 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. Affirmative Consent must be ongoing throughout a sexual activity and can be revoked at any time.

- Lack of protest or resistance does not mean consent.

- Silence does not mean consent.
- 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.

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:

- The Complainant was asleep or unconscious.
- The Complainant was incapacitated, as defined below, 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.
- The Complainant was unable to communicate due to a mental or physical condition.

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:

- The Respondent's belief in Affirmative Consent arose from the intoxication or recklessness of the Respondent. A Respondent's own intoxication or incapacitation from drugs or alcohol does not diminish that person's responsibility to obtain Affirmative Consent before engaging in sexual activity.
- The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented.

Affirmative Consent cannot be given if any of the following are present: Incapacitation, Force, or Coercion.

Consent may not be given by an individual who has not reached the legal age of consent under applicable law, which is the age of 18 in California.

**Complainant:** A Complainant is any individual, including a TCC Institution student or employee (including applicants for employment, student-employees, unpaid interns, volunteers, contractors), or participant who has reported being, or is alleged to be, impacted by Prohibited Conduct as defined by this Policy, and who was employed, or participating or attempting to participate in a program or activity offered by a TCC Institution at the time of the alleged misconduct. This Policy only applies to employees of TCC Institutions as set forth above.

**Complaint:** A Complaint means an oral or written request to the Complainant's Home Institution's Title IX Coordinator that objectively can be understood as a request for the TCC Institution to investigate and make a determination about alleged Prohibited

Conduct under this Policy. A Complaint may be filed with the Complainant's Home Institution's Title IX Coordinator in person, by mail, by phone, by electronic means (email or by submitting an online report form via the Home Institution's Title IX Office website, if applicable), by using the contact information listed in Section II.A, or as otherwise described in this Policy. (Individuals who would like more information about making a Complaint are encouraged to contact their Home Institution's Title IX Coordinator for additional information).

A Complaint is not required to engage in the Agreement-Based Resolution process as explained in Section XIII.B.

**Education Program or Activity:** For purposes of this Policy, "Education Program or Activity" refers to all the operations of each TCC Institution, including, but not limited to: in-person and online educational instruction, employment, research activities, extracurricular activities, athletics, residence life, dining services, performances, and community engagement and outreach programs. The term applies to all activity that occurs on campus or on other property owned or occupied by a TCC Institution. It also includes off-campus locations, events, or circumstances over which a TCC Institution exercises substantial control over the Respondent and the context in which the Prohibited Conduct occurs, including Prohibited Conduct occurring in any building owned or controlled by a student organization that is officially recognized by a TCC Institution. It also includes conduct subject to the Respondent's Home Institution's disciplinary authority that occurs off-campus and conduct that takes place via TCC Institution sponsored electronic devices, computer and internet networks and digital platforms operated by, or used in the operations of, the TCC Institution or TCC. Conduct that occurs outside of the education program or activity may contribute to a hostile environment within the program or activity and may be covered by this Policy.

Conduct that is not covered by this Policy may still be addressed through other policies and processes, such as those under a TCC Institution's student codes of conduct, civil rights policies, discrimination and harassment policies, and/or any other applicable policy adopted by a TCC Institution.

**Incapacitation:** Consent cannot be given by someone who is incapacitated. Incapacitation occurs when someone cannot make rational decisions because they lack the capacity to give knowing and informed consent (e.g., to understand the "who, what, when, where, why, and how" of their sexual activity). Incapacitation is determined through consideration of all relevant indicators of a person's state and is not synonymous with intoxication, impairment, or being under the influence of drugs, including prescription drugs, or alcohol. This Policy also covers a person whose incapacity results from temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs, or who are sleeping.

Consumption of alcohol or other drugs alone is insufficient to establish incapacitation. Whether an intoxicated person (as a result of using alcohol or other drugs) is incapacitated depends on the extent to which the alcohol or other drugs impact the person's decision-making ability, awareness of consequences, and ability to make rational decisions.

In general, sexual contact while under the influence of alcohol or other drugs poses a risk to all parties. Alcohol and drugs impair a person's decision-making capacity, awareness of consequences, and ability to make informed judgments. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication. If there is any doubt as to the level or extent of the other individual's intoxication or impairment, the prudent course of action is to forgo or cease any sexual contact or activity.

The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol or drugs impacts an individual's:

- Decision-making ability;
- Awareness of consequences;
- Ability to make rational decisions; and/or,
- Capacity to appreciate the nature and the quality of the act.

**Reporting Party:** An individual who makes a report of alleged Prohibited Conduct, as defined by this Policy. This can be any person, including an individual unassociated with TCC. A Reporting Party is not considered a Complainant for purposes of the Resolution Process under this Policy.

**Respondent:** A Respondent is an individual, or individuals, who are subject to a TCC Institution's disciplinary authority, and who has been reported to have engaged in conduct that could constitute Prohibited Conduct, as defined by this Policy. In some situations, an individual does not have to be enrolled or employed by TCC to qualify as a Respondent under this Policy and may be a third-party participant whom a TCC Institution has the ability to take corrective action against. This Policy only applies to employees of TCC Institutions as set forth above.

**Responsible Employee:** A Responsible Employee is designated by each TCC Institution. Please refer to your Home Institution for their Responsible Employee Policy definition of this term.

**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:



- Restore or preserve that Party's access to any TCC Institution education program or activity, including measures that are designed to protect the safety of the Parties or the TCC Institution educational or working environment; or.
- Provide support during the TCC Resolution Process, including during an Agreement-Based Resolution process.

The range of Supportive Measures available is listed in Section VI of this Policy.

**Support Person:** A Support Person is an individual who provides emotional support to a Complainant or Respondent throughout the Resolution Process, including any Agreement-Based Resolution Process, if applicable, as set forth in this Policy. Each Party is entitled to one Support Person to provide them support through every stage of the Resolution Process (including the Agreement-Based Resolution Process. A Party's Support Person may not be acting as an attorney, nor may they be another Party or witness in the same matter.

The Support Person may never speak or write on behalf of a Party or otherwise disrupt any meetings or hearings in any manner.

A Party's Support Person is expected to have reviewed this Policy to understand their role and expectations under this Policy prior to providing support to the Party. The Party's Home Institution's Title IX Coordinator and/or the TCC Title IX Administrator may require the Support Person to meet with the Party's Home Institution's Title IX Coordinator and/or the TCC Title IX Administrator to ensure the Support Person understands their role and the expectations under this Policy prior to their involvement in any process under this Policy. A Party and their Support Person are encouraged to contact the Party's Home Institution's Title IX Coordinator with any questions regarding this Policy and its Resolution Process and procedures. TCC reserves the right to exclude a Support Person who does not abide by these procedures.

## Policy and Annual Notification

In compliance with the Drug-Free Workplace and Drug-Free Schools and Campuses Regulations of the Drug-Free Schools and Communities Act (DFSCA), KGI electronically provides each employee with a copy of the Employee Handbook. Moreover, each student can access an online copy of the Student Handbook. All Handbooks contain full descriptions of the Alcohol and Other Drug Policy on campus. Hard copies of the Handbooks and policy are available upon request. The institution's Drug-Free Workplace Policy describes standards of conduct by employees and students on campus or as part of any of its activities.



## Drug, Alcohol, and Substance Abuse Policy Statements

### KGI Student Drug-Free Campus Policy

#### **Purpose and Scope of Policy**

KGI is committed to providing a safe, healthy, productive learning environment. Consistent with this commitment and its obligations under applicable law, KGI has adopted this policy.

#### **Prohibitions**

KGI prohibits the unlawful manufacture, possession, distribution, dispensation, sale, transportation, offer to sell, promotion, purchase, and/or use of drugs (including marijuana<sup>1</sup>) and alcohol on KGI-owned or controlled property ("KGI property"); at KGI-sponsored/sanctioned activities and events; and while conducting or performing KGI-related business, regardless of location.

Additionally, any types of drug paraphernalia, including but not limited to bongs, pipes, hookahs, water pipes, or any items modified or adapted so that they can be used to consume drugs, are not permitted on KGI property. Any such drug paraphernalia found on KGI property will be confiscated.

Students shall not report for class, lab, clinic, or experiential sites under the influence of any drug, alcohol, or substance that will impair their performance, alertness, coordination, or response or affect the safety of others.

Nothing in this policy, however, is meant to prohibit the appropriate use of over-the-counter medication or other medication that can legally be prescribed under federal and state law to the extent that such use does not impair one's performance or affect the safety of others.

KGI does not permit the use of marijuana for any purpose on KGI property, even if the use meets the qualifications of the California Compassionate Use Act, Proposition 215. Therefore, even students who qualify under Proposition 215 to use marijuana for medical purposes are not permitted to possess, store, provide, or use the marijuana on KGI-owned or controlled property (including but not limited to residence halls, academic buildings, athletic facilities, and parking lots) or during KGI-sanctioned activities or events, regardless of the location.

This policy does not prohibit the responsible consumption of alcohol by students over 21 at KGI-sponsored/sanctioned activities and events where alcohol is served, or at social, business, or professional events that KGI students attend in their capacity

as such or to perform work for KGI. The consumption of alcohol by students at KGI-sponsored/sanctioned activities or events is governed by KGI's Policy on Student Use of Alcoholic Beverages On and Off-Campus.

The consumption of alcohol by KGI students under twenty-one (21) years old on KGI's campus or at KGI-sponsored/sanctioned activities or events is strictly prohibited.

## **California and Local Alcohol & Drug Laws**

Each member of the KGI community is personally responsible for compliance with the applicable provisions of the law of the State of California. The following codes are provided for your information:

### **Simple possession of marijuana**

California law sets forth the rules for personal possession of marijuana (Health and Safety Code 11357). Possession for personal use of not more than 28.5 grams (a bit more than an ounce) of marijuana is legal in California as of November 9, 2016, for people age 21 and older, as is possession of up to 4 grams of concentrated cannabis (hashish). The following, however, are crimes (either misdemeanors or infractions):

- Possession of marijuana by anyone under 21
- Possession of more than 28.5 grams of marijuana or more than 4 grams of concentrated cannabis
- Possession of marijuana or concentrated cannabis on the grounds of any K-12 school while school is in session

Complete California laws on marijuana possession, cultivation, sale, and transportation; possession of and possession for sale of controlled substances; and possession with intent to manufacture may be found at: <https://www.leginfo.legislature.ca.gov>.

### **Possession by a Person(s) Under 21 Years of Age**

Any person under the age of 21 years who has any alcoholic beverage in their possession on any street or highway or in any public place open to the public is guilty of a misdemeanor (PC.25662). In 1988, California amended Bus. & Prof. Code 25662. The amendment states that peace officers who lawfully enter premises may confiscate alcoholic beverages in plain view and possessed by or provided to underage persons at social gatherings. The gatherings must be open to the public, have ten or more underage persons in attendance, and have those under 21 consuming alcoholic beverages. There must be no supervision by the parent or guardian of one or more participants. Alcoholic beverages in open containers that are confiscated may be destroyed. At the same time, those in unopened containers shall be impounded for no more than seven working days,

after which they too may be destroyed. Unopened containers may be released within seven days to the owner or resident of the property, provided they are 21 years of age. (Bus. & Prof. Code 25662(b))

## **Sales, Furnishing Alcohol to a Minor**

Every person who sells, furnishes, gives, or causes to be sold, furnished, or given away any alcoholic beverage to any person under 21 years is guilty of a misdemeanor (B & PC. 25658). Any person under the age of 21 years who purchases any alcoholic beverage or any person under the age of 21 years who consumes any alcoholic beverage in any on-sale premises is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100), no part of which shall be suspended. The penalty is more severe under the Penal Code Section 272, which states if any person provides an alcoholic beverage to a minor person under 18, he/she will be contributing to the delinquency of a minor, which is also a misdemeanor. The maximum penalty for violating this code section is one year in the County Jail for each count and/or \$1,000 fine for each count. It should be pointed out that each minor so provided with an alcoholic beverage is a separate count and may be charged by the District Attorney (PC. 272).

## **Financial Aid**

A student will be ineligible for financial aid (e.g., federal grants, loans, work-study, fellowships, and/or scholarships) if the student is convicted of an offense under federal or state law involving possession or sale of a controlled substance, provided the conduct occurred while the student was enrolled and receiving financial aid. Ineligibility will run from the date of conviction for the following periods:

- For possession of illegal drugs: a first offense carries a one-year disqualification, a second offense carries a two-year disqualification, and a third offense makes the student ineligible indefinitely.
- For sale of illegal drugs: a first offense carries a two-year disqualification, and a second offense makes the student ineligible indefinitely.

A student can regain eligibility by completing an approved drug rehabilitation program.

## **Licensure**

A federal or state drug conviction can also disqualify a student from obtaining an intern or pharmacist license. A student's inability to get an intern license will result in termination from the PharmD program. This does not apply to Genetics students.

## **Available Resources, Education, and Assistance concerning Substance Abuse**

KGI is committed to education and counseling as the primary focus of its substance abuse program and will provide confidential, professional assistance for any students who want it. Students are urged to seek information and help regarding substance abuse for themselves or their friends.

Referrals are available at:

### **KGI Division of Student Affairs**

517 Watson Drive, Claremont, CA 91711 (By the Chan Family Café)

To protect students' privacy, information regarding a student during participation in any related program will be treated with care. This was approved by the KGI President's Cabinet on September 9, 2014.

## **Student Use of Alcoholic Beverages On and Off-Campus Policy**

### **Purpose and Scope of Policy**

This policy is intended to sanction only the legal, safe, and appropriate consumption of alcoholic beverages by KGI students on campus and at KGI-sponsored/sanctioned off-campus activities or events. This policy should be read in conjunction with KGI's Drug-free Campus Policy. Students who are KGI employees are also subject to KGI's Drug-free Campus Policy.

### **Policy**

**Students' Possession or Consumption of Alcohol on Campus or at Off-Campus KGI-Sponsored Programs Must Be Approved in Advance**

- No student under the age of twenty-one may possess or consume an alcoholic beverage (as that term is defined in California Business and Professions Code § 23004) on KGI-owned or controlled property ("KGI property") or at a KGI-sponsored/sanctioned off-campus activity or event at any time.
- Students twenty-one years of age and older may not possess or consume alcoholic beverages on KGI property or at a KGI-sponsored/sanctioned off-campus activity or event unless the possession and consumption of alcohol have been specifically approved explicitly in advance by the President or Deans.

### **Rules Related to Students' Approved Possession or Consumption of Alcohol Possession or Consumption by Individual Students**

- At events where KGI has approved students' possession and consumption of alcohol in advance, only students twenty-one years of age and older may possess and consume alcohol.
- Students violate this policy if they are present on campus (including program sites, such as an internship, clinic, and experiential education sites) while intoxicated, regardless of where they consumed the alcohol. For purposes of this policy, whether a KGI student is intoxicated is a determination that may be made based on the student's behavior and observations by third parties (and without any requirement that a student submits to a breathalyzer, blood alcohol, or other tests).
- Individual violations of this policy and/or related federal or state regulations will be subject to disciplinary action as outlined in the KGI Honor Code and the School of Pharmacy and Health Sciences (SPHS) Student Clinical Code of Conduct.

### **Student Organizations' Sponsorship of Events Serving Alcohol**

- This policy governs all official student organizations. A student organization's violation of this policy and/or of related federal or state law may result in the suspension or revocation of the organization's official recognition by KGI, thus precluding the organization from functioning on campus.
- The policies of national organizations may also govern student organizations governed by this policy.
- Where a provision of this policy and a national organization policy concerning the use or possession of alcoholic beverages are in conflict, the more stringent provision shall apply.
- Student organizations must supervise and conduct their off-campus activities responsibly and lawfully. Students attending off-campus student organization activities are expected to take personal responsibility for their conduct and comply with this policy and all local, state, and federal laws and statutes.

### **Guidelines for Student-Organization-Sponsored Events Serving Alcohol**

- Sponsored by a KGI- KGI-sanctioned student organization shall comply with any and all local, state, and federal laws and statutes.
- The serving and/or consumption of alcoholic beverages shall be carried out only by individuals at least twenty-one years old. Valid age determinations must be made to assure compliance with minimum age requirements, including efforts to determine if a person is using a false I.D.
- The sale of alcoholic beverages on campus is prohibited.

- No portion of any charge levied for attendance at an event shall be used to pay for alcoholic beverages unless the President or Dean specifically approves the event following review of the event's purpose and the plans to ensure that participants follow the provisions of this policy.
- Alcohol consumption shall not be promoted as the primary focus of any event.
- Organizations are responsible for ensuring that moderation is encouraged during the lawful consumption of alcoholic beverages.
- A person's decision not to use alcohol is to be respected.
- Food, snacks, and non-alcoholic beverages must be readily available at any event in which alcoholic drinks are served.
- Student organizers must ensure that an appropriate number of designated drivers and/or additional transportation will be available at any event in which alcoholic beverages are served. The student organizations will coordinate transportation with assistance from the Office of Student Affairs.

#### **Assistance Available to Students with Difficulties Related to Alcohol Use or Dependency**

Every effort will be made to assist students who are experiencing difficulty related to substance use, abuse, or dependency. The KGI Drug-free Campus Policy provides detailed information about the support KGI offers such students.

## **Oasis KGI Commons Alcohol/Drug Policy**

### **Alcohol**

- The intent of this policy is neither to encourage nor to endorse the use of alcoholic beverages but to describe the permitted and prohibited use of alcoholic beverages in the Oasis KGI Commons. The University is committed to maintaining an environment for its students that promotes the responsible use of alcoholic drinks and fully complies with federal and state laws. Students, employees, or visitors who violate laws or University policies concerning alcoholic beverages shall be subject to criminal prosecution and/or institutional sanctions.
- Possession of bulk alcoholic beverages, that is, amounts for storage or use that is excessive under the circumstances for personal use, is prohibited. Devices used or intended for the rapid consumption of alcoholic beverages are not permitted. Kegs, cases of beer, and other drinks with an equivalent amount of alcoholic content in any form of container are considered bulk alcohol.

- Violating any other regulation while under the influence of alcohol is considered an additional infraction of Housing Services Regulations.
- Inability to exercise care for one's safety, the safety of others, or the safety of property owned by the university or residents due in whole or in part to being under the influence of alcohol is considered an infraction of the Oasis license agreement.
- Selling, or causing to be sold, any alcoholic beverage to any other person is prohibited.
- Residents are not permitted to provide any alcoholic beverage to anyone under the age of 21 years old, including guests and visitors.

## **Drugs and Drug Paraphernalia**

- Unlawful manufacture, distribution, dispensing, possession, use, or sale of, or the attempted manufacture, distribution, dispensing, or sale of controlled substances identified in federal or state law or regulations is prohibited.
- Possession or use of drug-related paraphernalia is prohibited, which includes medical marijuana.
- Violating any other regulation while under the influence of a controlled substance is considered an additional infraction of the Oasis license agreement.
- Inability to exercise care for one's safety, the safety of others, or the safety of property owned by the university or residents due in whole or in part to being under the influence of a controlled substance is considered an infraction of the Oasis license agreement.

## **Drug-Free Workplace Policy – Faculty & Staff**

### **Purpose and scope of the policy**

Federal regulations require that, as a condition of receiving funds or any other form of financial assistance under any federal program, an institution of higher education must certify that it has adopted and implemented a program to prevent the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees.

Keck Graduate Institute ("KGI" or "Institute") is committed to providing a safe, healthy, and productive work environment. Consistent with this commitment and its obligations under applicable law, this policy establishes the Institute's intent to maintain a drug and alcohol-free work environment. All employees of KGI, including faculty, staff, and student employees/workers, must comply with this policy as a condition of employment. Persons who are not employees of the Institute but who attend or perform work at the



Institute for its benefit (such as students, contractors, and their employees, temporary workers provided by agencies, visitors engaged in joint projects, volunteers, etc.) are also required to comply with this policy.

## **Prohibitions**

KGI prohibits the unlawful: manufacture, possession, distribution, dispensation, sale, transportation, offer to sell, promotion, purchase, and/or use of drugs (including marijuana<sup>14</sup> or alcohol on KGI-owned or controlled property at KGI-sponsored/sanctioned activities and events; while conducting or performing KGI-related business, regardless of location. In addition, employees shall not report for work or work under the influence of any drug, alcohol, or other substance that will impair work performance, alertness, coordination, or response or affect the safety of others.

Nothing in this policy is meant to prohibit the appropriate use of over-the-counter or other medication that can legally be prescribed under federal and state law, to the extent that it does not impair an employee's job performance or safety or the safety of others. Employees who take over-the-counter medication or other medication that can legally be prescribed under both federal and state law to treat a disability should inform their supervisors and/or the Human Resources Department if they believe the medication will impair their job performance, safety or the safety of others or if they think they need a reasonable accommodation before reporting to work while under the influence of that medication.

Nor does this policy prohibit using or consuming alcohol at KGI-sponsored activities or events where alcohol is served or at social, business, or professional events attended by KGI employees while performing work for or in their capacity as KGI employees. However, employees who choose to consume alcohol at such events must do so responsibly; they must conduct themselves appropriately and professionally at all times, and they must abide by all state and federal laws related to alcoholic beverages, including laws that prohibit the operation of vehicles while under the influence.

## **Alcohol and event planning guidelines**

Where alcohol is to be served at an Institute function, the department or group hosting the event ensures that it is offered safely and legally.

---

14. KGI does not permit the use of marijuana for any purpose on Institute property even if the use is otherwise permissible under the California Compassionate Use Act, Proposition 215, or the Adult Use of Marijuana Act, Proposition 64. Therefore, even employees and/ or students who qualify under California law to use marijuana for medical or recreational purposes are not permitted to possess, store, provide, use, or consume marijuana on KGI-owned or controlled property (including but not limited to Graduate housing, academic buildings, laboratories, and parking lots), or during KGI-sanctioned activities or events regardless of the location.

- An individual or group sponsoring an event where alcoholic beverages are made available must adhere to applicable laws (e.g., securing a license to sell and/or serve) and Institute regulations. The sponsor will be held responsible for any abuses arising from the use of alcoholic beverages by servers and/or consumers.
- Ample non-alcoholic beverages and food must be provided at events where alcohol is served.
- Any individual or group intending to serve alcoholic beverages must register the event with the appropriate office or department and follow the rules set by that office or department.
- Questions about student events should be directed to Student Affairs at [Student\\_Affairs@kgi.edu](mailto:Student_Affairs@kgi.edu).

## **Violations of the Drug-Free Workplace Policy and Employment**

Violations of this policy will result in disciplinary action per Institute policies and procedures covering the conduct of faculty and staff, up to and including dismissal (consistent with the local, state, and federal laws described below). As a condition of employment, all employees must abide by the terms of this policy. Student violations of the Alcohol and Other Drugs Policies of the Institute will be handled per the Student Code of Conduct Rules and Regulations.

## **Reporting obligations**

Per the Drug-Free Workplace Act of 1988, any employee who is convicted (including a plea of nolo contendere [no contest]) of a criminal drug statute violation occurring in the workplace

must, within five (5) days after the conviction, notify KGI of such conviction by informing the AVP & Chief Human Resources Officer, Provost & VP of Academic Affairs or President. If required, appropriate government agencies will be notified within ten (10) days after KGI has been informed of such a conviction.

## **Health risks associated with the abuse of alcohol and other drugs**

The consumption of drugs and alcohol can have significant adverse effects on health.

Alcohol consumption causes several marked changes in behavior. Even low doses significantly impair the judgment and coordination required to drive a car safely, increasing the likelihood that the driver will be involved in an accident.

High doses of alcohol may cause respiratory depression and death. Repeated use of alcohol can lead to dependence and cause severe damage to the nervous and circulatory systems, mental disorders, and other health problems.

Drugs and alcohol are chemicals, and any chemical is potentially harmful. Drugs, by their very nature, cause reactions in the body. Possible effects from non-therapeutic drug use include convulsions, memory loss, psychosis, anxiety, delusions, hallucinations, and even death.

All drugs are toxic and poisonous when abused. Health risks of drug abuse include, but are not limited to, sleep disorders, confusion, hallucinations, paranoia, depression, malnutrition, liver and kidney damage, cardiac irregularities, hepatitis, and neurological damage. HIV infection associated with intravenous drug use is a prevalent hazard.

Drug use during pregnancy may result in fetal damage and birth defects, causing hyperactivity, neurological abnormalities, and developmental difficulties. Consumption of alcohol by women during pregnancy may lead to fetal alcohol syndrome.

### **Local, state, and federal legal sanctions**

Local, state, and federal laws establish severe penalties for unlawful possession or distribution of illegal drugs and alcohol. These sanctions, upon conviction, may range from a fine to life imprisonment. In the case of possession and distribution of illicit drugs, these sanctions could include seizure and summary forfeiture of property, including vehicles. It is essential to know that federal penalties for illegally distributing drugs include life imprisonment and fines over \$1,000,000.

The following is a summary of some of the state and federal criminal sanctions that may be imposed upon someone who violates the alcohol and other drug policy at KGI or elsewhere in California.

- A violation of California law for the unlawful sale of alcohol may include imprisonment in the county jail for six months, plus fines and penalties.
- A violation of California law for the possession, use, and sale of narcotics, marijuana, and other illicit drugs includes imprisonment in the county jail or state prison for one to nine years, plus fines up to \$100,000 for each count.
- A violation of California law for the possession, use, and sale of narcotics, marijuana, and other illicit drugs includes imprisonment in the county jail or state prison for one to nine years, plus fines up to \$100,000 for each count.
- A violation of federal law for the possession, use, and sale of narcotics, marijuana, and other illicit drugs may include imprisonment in the federal prison for one to fifteen years plus substantial financial penalties.
- A violation of the law involving an individual being under the influence of a combination of alcohol and other drugs (itself potentially deadly), may increase criminal sanctions and penalties.

## **Available resources, education, and assistance**

KGI recognizes drug and alcohol abuse as treatable conditions. Employees concerned about problems related to substance use, abuse, and rehabilitation should be aware that programs are available through the health insurance plans and the Employee Assistance Program (EAP) of The Claremont Colleges.

- Of particular note is the EAP, which provides counseling and other services for qualified employees with substance abuse and other personal or emotional problems. Under federal and state laws, the EAP will treat information obtained regarding an employee during participation in such programs or services as confidential. The Institute will not use an employee's voluntary participation in an EAP program as a basis for corrective action. An employee may also request a leave of absence to obtain treatment for substance abuse, with documentation from a licensed healthcare provider providing that such treatment is required and undertaken. The granting and returning from medical leaves are subject to applicable KGI personnel policies.
- The Human Resources Department can also provide referral services for confidential, professional counseling, providing a constructive way for employees to deal with drug or alcohol-related and other problems voluntarily. Employees who are also students should seek assistance for similar issues through the Dean of Students' office in the Division of Student Affairs.

## **Accountability**

The success of this policy will depend on the thoughtfulness, consideration, and cooperation of all members of the KGI community. All students, faculty, and staff are responsible for adhering to and enforcing this policy. Students, faculty, or staff refusing to comply with this policy may result in appropriate disciplinary action. Disciplinary action may include termination from employment and referral for prosecution of the most severe violations of law and this policy. For example, an employee found to be selling illegal drugs will be subject to discipline up to and including discharge from employment. Disciplinary action may be invoked entirely apart from any civil or criminal penalties that may apply to the employee or organization.

## No-Smoking Policy – Faculty & Staff

Smoking is prohibited in all administrative and academic buildings. The Institute also prohibits the use of E-cigarettes and other electronic nicotine delivery systems, as well as vapor emitting devices, with or without nicotine content, that mimic the use of tobacco products, inside campus buildings. This policy has been created in recognition of the harmful effects of smoking, including “secondhand” smoke, and by applicable state and local law.

## Safety and Security

### Security Awareness Programs

Below are the programs designed to inform students and employees about campus security procedures and practices. These practices encourage students and employees to be responsible for their own and others’ security. KGI will communicate security awareness to the community annually.

### Crime Prevention Programs

KGI is committed to the safety of our campus and our community. To prevent crimes on or around our campus, KGI has multiple options/programs available to students and employees that educate and raise awareness on preventing crimes. These include:

- Annual Security Awareness Programs
- Sexual Assault/Dating Domestic Violence/Stalking awareness and prevention programs/campaigns
- Partnership with our LiveSafe Application
- Emergency Notifications through Everbridge
- Timely Warning Notifications
- Maintenance of KGI Facilities, including enhanced lighting at KGI
- Emergency Phones located on KGI’s Campus
- Annual Fire Safety Training
- Online training on sexual harassment/assault/alcohol for employees and students via Vector Solutions.
- Nightly patrols of KGI’s campus by KGI Campus Safety
- Locked doors/facilities during non-business hours

- ID Card access for employees and students for locked buildings/facilities
- Annual CPR/AED/First Aid Training

## **Laboratory Safety**

### **Laboratory Guidelines**

KGI's Laboratory Safety Manager is responsible for the maintenance and oversight of the laboratory safety. Below are the guidelines set forth by KGI for lab safety practices.

### **Chemical Hygiene Plan**

The chemical hygiene plan is a written program developed and implemented by the employer that sets forth procedures, equipment, PPE, and work practices capable of protecting employees from health hazards presented by hazardous chemicals used in the workplace. KGI's chemical hygiene plan is updated annually, and a current copy is kept inside each laboratory. It is every lab worker's responsibility to familiarize themselves with this plan.

### **Biological Safety Manual**

At KGI, laboratory workers may encounter exposure to biological hazards. These hazards are present in various sources throughout the laboratory such as blood and body fluids, culture specimens, tissues, as well as other workers. The biosafety program aim to protect all employees, students, the public, and the environment from contamination with or exposure to hazardous biological agents or materials. The biosafety manual provides a practical overview of proper work practices and the requirements for regulatory compliance with laws and guidelines governing the proper use, containment, and disposal of biological hazards. This manual is updated annually, and a copy of it is currently being placed inside each laboratory. It is every lab worker's responsibility to get familiar with this plan.

### **Bloodborne Pathogens Exposure Control**

KGI is committed to providing a safe and healthy work environment for all staff, students, and visitors. Based on the employee's job duties, the PI or laboratory safety manager will identify personnel exposed to blood or other infectious material. Any personnel anticipating exposure to bloodborne pathogens or other potentially infectious materials should receive an explanation of the Exposure Control Plan during their initial training session. The Exposure Control Plan at least covers the following topics: determination of employee exposure, exposure control methods, post-exposure evaluation and follow-up, communication of hazards, etc.

### **Chemical Spill Response guideline**

A chemical spill is defined as the uncontrolled release of a hazardous chemical, either as a solid, liquid, or gas. Chemical spills at KGI may occur in of various worksites, from research and teaching laboratories to facility operations. Regardless of the type or quantity of hazardous chemical involved, all worksites must implement measures to reduce the potential for spills and have a plan for responding to chemical spills. A Chemical Spill Response Guideline is kept together with the Chemical Hygiene Plan in each laboratory.

The document describes generic methods for preventing chemical spills, responding to spills of low or moderate hazard, and information on reporting and addressing higher-hazard chemical spills at KGI.

### **Proper Laboratory Clothing and Lab Coats**

It is important to be properly dressed when working in a laboratory. The worker's skin should be covered with clothing to be protected from spilled chemicals, biological, or radioactive materials, falling objects, and other lab hazards. The workers should wear a shoe that completely covers the foot and clothes that cover your legs down to your ankles. Lab coats, gloves, safety glasses, or goggles are also needed to ensure that you are prepared for any incidents. Two lab coats are ordered for each individual working in a lab at no cost. (Please contact Jasmine Yu for sizing and ordering of lab coats). Additional personal protective equipment may be necessary as well and should be selected based on the hazards of your work. For students joining laboratories during summer, extra lab coats of various sizes will be ordered for classes. Lab coats stay in the labs until dirty and dirty lab coats can be dropped in the gray bins located in 114/535 and 131/517 for cleaning. The lab coats must not be worn outside the buildings.

KGI-specific rules regarding PPE are listed below:

- Gloves: Please remove gloves when using computer keyboards. Do not wear contaminated gloves in hallways, where they may come into contact with door handles, etc.
- Safety Glasses must always be worn when working with chemicals or reagents. Please consult with your lab instructor or manager for proper eye protection.
- Lab coats must stay within the labs, so please do not wear your lab coat from building to building. Do not take lab coats home, KGI provides laundry service.

### **Laboratory Inspection and Hood/Cabinet Certifications**

1. Why does KGI perform Lab Inspections?



KGI maintains annual laboratory inspections to evaluate the laboratory workplace and develop a plan for protecting lab workers. This inspection combines immediate actions with longer-term solutions. The inspections ensure that certain practices are maintained to keep laboratories clean, hygienic, and safe.

## 2. How are Lab Inspections done?

The inspections are performed by the safety committee members, who apply standard procedures to check that the laboratory is in compliance with all State and Federal laws and regulations. The PI, lab instructor, or manager will receive a detailed report including pictures and findings as well as a date of corrections. Once all findings have been corrected, the report is returned to safety, who will follow up for completion.

## 3. How are the safety hood and cabinet inspected?

All laboratory hoods at KGI are certified annually, as regulated by the California Code of Regulations, Title 8, Section 5154.1. KGI maintains best practices for safety hood certification and only hires trained technicians. TSS is the company that performs that duty for KGI. They conduct all maintenance and certifications and “out of compliance” reports. TSS attaches all certification labels and reports to the front of the cabinet in plain view for OSHA inspectors and users. TSS includes chemical and biological safety hoods and cabinets in the annual certification.

The lab worker/student is responsible for immediately reporting any safety hood or cabinet malfunction to Lab Operations 70160. Lab Operations personnel will announce via e-mail to all researchers in advance of TSS performing certifications or repairs to hoods, this prevents compromising experiments during the hood certification process.

## **Hazardous waste disposal**

### 1. Biological waste

A. Biohazardous waste is All biologically contaminated waste that could potentially cause harm to humans, domestic or wild animals or plants. Examples include human and animal blood, tissues, certain body fluids, recombinant or synthetic nucleic acid molecules, and human, animal, or plant pathogens.

B. All biohazardous waste must be decontaminated before disposal. Standard decontamination methods include heat sterilization (e.g., autoclaving), chemical disinfection, and incineration.

C. KGI is fully licensed by the State of California to treat and dispose of biological and medical waste on-site.

D. Strict guidelines must be followed to be compliant with the State.

E. Please contact Jasmine Yu 909.607.8698) if you need further training in properly disposing of biohazards.

## 2. Chemical waste

- A. The chemical waste disposal guideline is discussed in the Chemical Hygiene Plan.
- B. KGI has all hazardous chemical waste picked up quarterly by North State Environmental (Licensed Waste Hauler).
- C. Your supervisor will direct you to proper waste containers.
- D. Fill out the KGI waste tag and place it on the waste container (with the start date).
- E. Separate waste by DOT hazard class if possible.
- F. Do not mix solids and liquids.
- G. Do not overfill bottles.
- H. Store waste in the designated area within secondary containers to prevent leakage.

### **Laboratory Chemical and Biological Safety Committee**

The Laboratory Chemical and Biological Safety committee (LCABS) is a standing committee responsible for reviewing research activities conducted by faculty, staff, students and/or visiting scientists on Keck Graduate Institute (KGI) property that involve the use of biological agents and hazardous chemicals. The committee also serves as a forum for discussing safety, health, and OSHA regulatory issues that affect the campus research community, students, faculty, and staff.

## **Annual Disclosure of Crime Statistics**

Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 USC § 1092(f)) requires colleges and universities across the United States to disclose information about crime on and around their campuses. KGI and TCC Campus Safety teams maintain a close relationship with the Claremont police department to ensure that crimes reported directly to the police department that involve KGI are also brought to the attention of TCC Campus Safety Office.

KGI Campus Safety collects the crime statistics disclosed in the charts through several methods. Police dispatchers and officers enter all reports of crime incidents made directly to the department through an integrated computer-aided dispatch systems/ records management system. After an officer enters the report in the system, a department administrator reviews the report to ensure it is appropriately classified in the correct crime category. The Department periodically examines the data to ensure that all reported crimes are recorded under the crime definitions outlined in the FBI Uniform Crime Reporting Handbook and the FBI National Incident-Based Reporting System

Handbook (sex offenses only). In addition to the crime data that TCC Campus Safety maintains, the statistics below include crimes reported to various Campus Security Authorities, as defined in this report. The statistics reported here generally reflect the number of criminal incidents reported to multiple authorities. The statistics reported for the subcategories on liquor laws, drug laws, and weapons offenses represented the number of people arrested or referred to campus judicial authorities for respective violations, not the number of crimes documented. The statistics reported for the categories under VAWA Offenses, and Sex Offenses include reports made to the Title IX Coordinator that may otherwise not have been reported to campus judicial authorities or safety.

## Definitions for Clery Reportable Crimes

- Murder and Non-negligent Manslaughter is defined as the willful (non-negligent) killing of one human being by another.
- Manslaughter by Negligence is defined as the killing of another person through gross negligence.
- Rape is the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This offense includes the rape of both males and females.
- Fondling is the touching of the private body parts of another person for sexual gratification without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape is sexual intercourse with a person who is under the statutory age of consent.
- Robbery is the taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and by putting the victim in fear.
- Aggravated Assault is an unlawful attack by one person upon another to inflict severe or aggravated bodily injury. This type of assault is usually accompanied by the use of a weapon or by means likely to produce death or great bodily harm.
- Burglary is the unlawful entry of a structure to commit a felony or a theft.
- Motor Vehicle Theft is the theft or attempted theft of a motor vehicle.



- Arson is any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.
- A Hate Crime is a criminal offense that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim.
- Under the Clery Act, Hate Crimes include any of the following offenses motivated by bias: Murder and Non-negligent Manslaughter, Sexual Assault, Robbery, Aggravated Assault, Burglary, Motor Vehicle Theft, Arson, Larceny-Theft, Simple Assault, Intimidation, Destruction/Damage/Vandalism of Property. Larceny-Theft, Simple Assault, Intimidation, and Destruction/Damage/Vandalism of Property are included in your Clery Act statistics only if they are Hate Crimes.
- Larceny-theft: The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another.
- Simple Assault: An unlawful physical attack by one person on another where neither the offender displays a weapon nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.
- Intimidation: To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and conduct, but without displaying a weapon or subjecting the victim to actual attack. Includes cyber-intimidation if the victim is threatened on Clery geography.
- Destruction, damage, or vandalism of property: To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of the property.
- Dating Violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and considering the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For this definition, dating violence includes but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.
- Domestic Violence is defined as a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim; by a person with whom the victim shares a child in common; by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; by any other

person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

- Stalking is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress.
- Weapons: Carrying, Possessing, Etc., is defined as the violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons. This classification encompasses weapons offenses that are regulatory.
- Drug Abuse Violations are defined as the violation of laws prohibiting the production, distribution, and use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. They also include the unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation, or importation of any controlled drug or narcotic substance. Arrests for violations of state and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs, are also included.
- Liquor Law Violations are defined as the violation of state or local laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, or use of alcoholic beverages, not including driving under the influence and drunkenness.

## Categories of Prejudice

- Race: A preformed negative attitude toward a group of persons who possess common physical characteristics genetically transmitted by descent and heredity which distinguish them as a distinct division of humankind.
- Gender: A preformed negative opinion or attitude toward a group of persons because those persons are male or female.
- Gender Identity: A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender identity, e.g., bias against transgender or gender non-conforming individuals.
- Hate Crimes: There were no reportable hate crimes for 2021, 2022, or 2023
- Unfounded Crimes according to the Violence Against Women Reauthorization Act regulations, an institution may withhold, or subsequently remove, a reported crime from its crime statistics in the rare situation where sworn or commissioned law enforcement personnel have fully investigated the reported crime and, based on the results of this full investigation and evidence, have made a formal determination that the crime report is false or baseless and therefore "unfounded." Only sworn

or commissioned law enforcement personnel may “unfound” a crime report. The recovery of stolen property, the low value of stolen property, the refusal of the victim to cooperate with the prosecution, and the failure to make an arrest do not “unfound” a crime report.

- Unfounded Crimes: There were no unfounded crimes reported for 2021, 2022, or 2023

## KGI Crime Statistics Chart

Offense	Year	On-Campus	Residential Facility	Non-campus Building or Property	Public Property
<b>Criminal Homicide</b>					
	2021	0	0	0	0
Murder and Non-negligent Manslaughter	2022	0	0	0	0
	2023	0	0	0	0
Manslaughter by Negligence	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
<b>Sex Offenses</b>					
Rape	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Fondling	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Incest	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0



Offense	Year	On-Campus	Residential Facility	Non-campus Building or Property	Public Property
Statutory Rape	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
<b>Offense</b>					
Robbery	2021	0	0	1	0
	2022	0	0	0	0
	2023	0	0	0	0
Aggravated Assault	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Burglary	2021	0	0	0	0
	2022	2	2	0	0
	2023	3	3	5	0
Motor Vehicle Theft	2021	4	0	1	0
	2022	4	0	0	0
	2023	1	1	0	0
Arson	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0

## Judicial Referral

Other Offenses	Year	On-Campus	Residential Facility	Non-campus Building or Property	Public Property
Liquor Law Violations	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Drug Abuse Violations	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Illegal Weapons Possession	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0

## VAWA Amendment Offenses

Other Offenses	Year	On-Campus	Residential Facility	Non-campus Building or Property	Public Property
Stalking	2021	0	0	0	0
	2022	0	0	0	0
	2023	1	1	0	0
Dating Violence	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Domestic Violence	2021	0	0	0	0
	2022	0	0	0	0
	2023	1	1	0	0

## Hate Crimes

Hate Crime	2021	There were no reportable hate crimes in any of KGI's required geographic areas
	2022	There were no reportable hate crimes in any of KGI's required geographic areas
	2023	There were no reportable hate crimes in any of KGI's required geographic areas

## KGI Fire Statistics for Student Housing Facilities

Fire: Residential Facility	2021	0
	2022	1
	2023	0

## Annual Fire Safety Report

KGI opened its first residential facility, Oasis KGI Commons, during the 2019-2020 academic year. In consultation with our Residential Life Management Group, KGI has drafted Fire Safety policies to promote safety within the Oasis Commons proactively. The property is owned by National Campus & Community Development (NCCD) and managed by The Michaels Organization.

In addition to these policies, KGI Facilities works closely with Marx Brothers Fire Extinguisher Company to keep our fire extinguishers up to date and operating. The Human Resources Department annually schedules fire extinguisher training for all faculty and staff.

### Residence Hall Fire Safety

- Residents shall take due care to prevent fires. Flammable materials shall not be used or stored on the premises. These items include, but are not limited to, candles, incense, fireworks, lighter fluid, propane, or other gas cylinders.

- Residents shall not leave cooking appliances unattended (e.g., stoves, rice cookers, and crockpots).
- Tampering with the fire alarm system or firefighting equipment is strictly prohibited. Violators of this policy may be subject to fines.
- False reports of fire or other dangerous conditions (except those resulting from reasonable error/accident), failure to properly report fires or interference with the response of University or city officials to such emergency calls is prohibited. Violators will be prosecuted and subjected to a fine and jail time.
- Multiple fire extinguishers are located in the exterior walkways of every floor of the Oasis KGI Commons. Each fire extinguisher is enclosed in a locked case with a glass cover. In the case of an emergency, residents can access a fire extinguisher by pulling the metal handle on the case. (Please note: this will break the glass cover). It is illegal for residents to tamper with or access a fire extinguisher in a non-emergency situation.
- Fire alarms are tested on a semester basis (2x's a year).
- Decorations that are flammable or fire hazards (including candles and incense) are prohibited.
- "Live cut" trees (such as Christmas Trees) or other combustible decorations are prohibited in the Oasis KGI Commons.
- Any permissible holiday decorations in the apartments must be made of fireproof materials and be UL (Underwriters Laboratories) List-approved for the intended use.

## Training

All Employees in Oasis KGI Commons receive comprehensive fire safety training at the beginning of the academic year. This training includes lectures and demonstrations on fire behavior, automatic sprinklers, building evacuation, and proper use of fire safety equipment. The Dean's office, Academic, Facilities, and Residential staff work with students with special needs to develop personalized emergency plans, procedures, and audio/visual devices as needed.

Fire drills will be conducted each semester in Oasis KGI Commons (twice per year). Human Resources/Facilities also provides guidance and information about evacuations and emergency procedures during new employee and student orientation sessions.

## **Fire Reporting, Drills, and Evacuation Response**

All building fire alarms are monitored by Facilities staff continuously around the clock. In the event of a problem with the central monitoring system, the fire alarm panels will still work locally for each building wing. In the event of the discovery of a fire, students, staff, and faculty are urged to activate the building fire alarm by pulling the handle on a red fire pull station and call the Department of KGI Campus Safety emergency telephone line at 909.607.8736 immediately and evacuate the building. If individuals are in a building and the alarm goes off, they should go outside by the shortest possible route and wait until permission is given to re-enter the building.

Please report an already extinguished fire to The Michaels Organization by contacting Miguel Magana, Community Manager, at [mmagana@tmo.com](mailto:mmagana@tmo.com) or at 213.444.8235 so the information can be included in the fire safety report.

Fire drills will be held twice per year in Oasis KGI Commons for the protection of the students except as noted. officers. Campus safety officers conduct the drills in conjunction with the employees for Oasis KGI Commons. The Oasis employees assist Campus Safety in the evacuation process both during fire drills and actual alarms, guiding students to pre-determined gathering places to aid in accounting for those occupants who have evacuated.

Students are encouraged to participate in a fire drill to learn the quickest and safest exits from the residence hall.

## **General Statement of College-Owned Student Housing Fire-Safety Systems**

Oasis KGI Commons is protected by automatic sprinklers and fire alarm systems, which are continuously monitored by Oasis KGI Commons Facilities staff. Fire detection devices include smoke detectors throughout the residence hall, including the residence hall rooms. Heat detectors are also provided in many students' rooms as one integrated unit with the room's smoke detector. Plans for future improvements in fire safety, if determined necessary by the institution, will be implemented with all due diligence and speed.

### **Future Improvements in Fire Safety**

Recognizing that Oasis KGI Commons is a relatively new building, there are no current plans for future fire safety improvements. However, as the institution determines necessary, future improvements will be implemented with all due diligence and speed.

### **Fire Log and Fire Statistics**

The Oasis KGI Commons opened in July 2019 and is the first and only residential hall located at KGI. The Michaels Organization manages the Oasis KGI Commons. The housing office maintains the building's fire log. The fire log records all reported fires, including arson, in on-campus student housing facilities. To request a copy of the building's fire log, you may contact Miguel Magana Community Manager, at [mmagna@tmo.com](mailto:mmagna@tmo.com) or at 213.444.8235.

There were no reported fires for 2021 or 2023 for the residential hall, address listed below.

There was one reported fire at the facility listed below during 2022. The cause of the fire was "A bean bag chair sitting on a cord to an electric fan caught fire." There were no reported injuries. The estimated cost of fire-related property damage was \$30,000.

#### **KGI Oasis Commons: 111 Bucknell Avenue, Claremont, CA 91711**

This report is published annually with Section 488(g) of the Higher Education Opportunity Act, otherwise known as the Campus Fire Safety Right-to-Know. It is made available on the KGI website at <https://www.kgi.edu/policies/title-ix-and-clery> and on Campus Safety's website by October 1 of each year. It details statistics on fires in the college's on-campus housing facilities, a description of the college's fire safety systems, and other related information.

All currently registered students and employees are directly notified by electronic mail of the report's availability and a link to the electronic address where the report is posted. This report is also available in paper form upon request. Prospective students and employees are also informed of the report's availability.



## Important Phone Numbers and Other Contact Information

Official	Campus Address	Phone Number
<b>KGI Campus Safety</b>	Building 517, Room 122	909.607.8736
<b>Cheryl Merritt</b> AVP & Chief Human Resources Officer	Building 535 West, Room 150D	909.607.7853
<b>Trevor Garrett</b> AVP, Financial Planning & Analysis	Building 555, Room 1-W-9	909.607.0002
<b>Shino Simons</b> Dean of Students and Title IX Coordinator	Building 517, Room 117	909.607.0584
<b>Anna Hickerson</b> Associate Professor	Building 535 East, Room 111	909.607.9541
<b>Megan Prosser</b> Provost and VP of Academic Affairs	Building 535 East, Room 10	909.607.2394

## Appendix

### TCC Title IX Sexual Harassment Policy

Effective August 14, 2020; Revised February 15, 2021

TCC Title IX Policy  
Revised February 15, 2021

#### Table of Contents

I.	Introduction.....	2
II.	Title IX Coordinator and TCC Title IX Process Administrator.....	6
III.	Relevant Terms.....	7
IV.	Sexual Harassment and Retaliation.....	12
V.	Behavior That Does Not Constitute “Sexual Harassment” Under This Policy.....	14
VI.	Supportive Measures .....	15
VII.	Emergency Removal.....	16
VIII.	Administrative Leave (Employees Only).....	17
IX.	Title IX Grievance Process .....	17
A.	General Information .....	18
B.	Step One: Initiation of the Title IX Grievance Process.....	22
C.	Step Two: Investigation Process.....	24
D.	Step Three: Hearing.....	27
E.	Step Four: Sanctioning.....	32
F.	Step Five: Appeal Rights .....	35
G.	Final Sanctioning Determination .....	37
H.	Alternative Resolution Process.....	38
X.	Recordkeeping.....	41
XI.	Clery Act Reporting .....	41
XII.	Periodic Review .....	41
XIII.	Revocation by Operation of Law .....	41
XIV.	Non-Discrimination in Application .....	42
XV.	Effective Date .....	42

## I. Introduction

The Claremont Colleges believe all members of our community – including students, faculty, and staff – should pursue their work and education in a safe environment, free from discrimination, harassment, and retaliation. The purpose of this Policy is to prevent and respond to Sexual Harassment, as defined within this Policy.

Sexual Harassment, as defined by this Title IX Sexual Harassment Policy (Policy), is prohibited within all of The Claremont Colleges.<sup>1</sup> The Claremont Colleges will respond promptly and effectively to reports of Sexual Harassment. Other forms of sexual discrimination, sexual harassment, and sexual exploitation that do not meet the definition of Sexual Harassment under this Policy, remain prohibited by each Institution in its individual policies.

This Policy addresses the member Institutions' (see below) responsibilities and procedures related to Sexual Harassment, as defined in this Policy, to ensure an equitable and inclusive education and employment environment. The Policy defines Sexual Harassment and Retaliation, and explains the administrative procedures member Institutions use to resolve reports of such conduct.

***Which Institutions have adopted this Policy?*** This Policy applies to member Institutions that compose The Claremont Colleges.

The Claremont Colleges is composed of seven (7) individual Institutions<sup>2</sup>:

- Pomona College
- Claremont Graduate University
- Scripps College
- Claremont McKenna College
- Harvey Mudd College
- Pitzer College
- Keck Graduate Institute

Collectively, the member Institutions are referred to as TCC throughout this Policy.

The Policy, while identical across TCC, is adopted and overseen by each individual Institution.

This Policy does not alter any institutional obligations under federal disability laws, including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Parties and witnesses may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator or Human Resources professional at any point before or during the Title IX Grievance Process. The Title IX Coordinator and/or Human

---

<sup>1</sup> Title IX Sexual Harassment now refers to specific forms of sexual misconduct (see Section IV). Conduct that does not meet the definition of Sexual Harassment, as defined by this Policy, may still be addressed through other policies and processes, such as those under the Institution's student codes of conduct, civil rights policies, discrimination and harassment policies, and/or any other applicable policy adopted by an individual Institution. Interrelated conduct that includes allegations of conduct prohibited by this Policy, as well as conduct outside of this policy, may be joined in one investigation and hearing, as outlined in Section IX.A.11.

<sup>2</sup> Each Institution has its own formal governance structure and independent board. As a consortium, the Institutions work together to resolve concerns that cross the boundaries of individual Institutions.

Resources professional will submit any request for reasonable accommodation to the appropriate department for review and response. The Title IX Coordinator and/or Human Resources professional will not affirmatively provide disability accommodations that have not been specifically requested by an individual, even where the individual may be receiving accommodations in other institutional programs and activities.

**Who does this Policy apply to?** This Policy applies to any allegation of Sexual Harassment and/or Retaliation, brought against a student within TCC. Some Institutions also apply this Policy to matters involving staff and faculty. This Policy is applicable as follows:

<b>TCC Institution</b>	<b>Allegations Against Students</b>	<b>Allegations Against Faculty</b>	<b>Allegations Against Staff</b>
<b>Claremont Graduate University</b>	X	X	X
<b>Claremont McKenna College</b>	X		
<b>Harvey Mudd College</b>	X		
<b>Keck Graduate Institute</b>	X	X	X
<b>Pitzer College</b>	X	X	X
<b>Pomona College</b>	X		
<b>Scripps College</b>	X	X	X

**What is the purpose of this Policy?** This Policy is enacted to comply with Title IX of the Educational Amendments of 1972 and its subsequent accompanying regulations. 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.

The U.S. Department of Education, which enforces Title IX, has long defined the meaning of Title IX's prohibition on sex discrimination broadly to include various forms of sexual harassment and sexual violence that interfere with a student, staff, or faculty member's participation in our educational programs and opportunities.

On May 6, 2020, the U.S. Department of Education issued a Final Rule under Title IX of the Education Amendments of 1972 (the Final Rule). The Final Rule did a number of things, including:

- Specifically redefined "Sexual Harassment," (including forms of sex-based violence), for purposes of Title IX.

- Addressed how an educational institution must respond to reports of Sexual Harassment, as defined by the Final Rule.
- Mandated the grievance process an educational institution must follow before issuing disciplinary sanctions against a person accused of Sexual Harassment, as defined by the Final Rule.

Based on the requirements of the Final Rule, TCC implemented this TCC Title IX Sexual Harassment Policy effective August 14, 2020, and revised effective February 15, 2021.<sup>3</sup>

This Policy outlines the procedures TCC will follow to ensure a prompt and equitable resolution of student and employee complaints alleging Sexual Harassment. The Institutions are not precluded from investigating other conduct that, if proven, would not constitute Sexual Harassment under this Policy but may constitute a violation of other Institution policies.

***How does this Policy impact other campus disciplinary policies?*** Only incidents that would qualify as Sexual Harassment, as defined by this Policy, will be investigated and, if appropriate, brought to a live hearing through the process defined below.

Each Institution covered by this Policy remains committed to addressing any violations of its policies, even those that do not meet the narrow standards defined under the Final Rule.

If alleged misconduct falls outside this Policy (including alleged misconduct discovered in the course of investigating conduct falling within this Policy), each Institution retains authority to investigate and adjudicate the allegations under their individual policies and procedures.

The elements and process established in this Policy, and as required under the Final Rule, have no effect on any other Institution policy or Code of Conduct. This Policy does not set a precedent for other policies or processes of the Institutions and may not be cited for or against any right or aspect of any other policy or process.

***How does this Policy impact the handling of complaints?*** Institutions' existing Title IX Offices and reporting structures remain in place. This Policy changes the way the Title IX Offices handle reports alleging Sexual Harassment, as defined by this Policy.

Further, as outlined in Section XV., this Policy applies only to Sexual Harassment (as defined by this Policy) alleged to have occurred on or after August 14, 2020. Incidents of Sexual Harassment alleged to have occurred before August 14, 2020 will be investigated and adjudicated according to the process and definitions in place at the time of the alleged incident.

***What is the difference between reporting and disclosing Sexual Harassment?*** Some individuals within TCC are required to report alleged misconduct, including Sexual Harassment, when they learn of the alleged behavior. Other individuals, including Confidential Resources, are not required to report Sexual Harassment. The information below provides additional clarification:

---

<sup>3</sup> See Footnote 17.

- **Reporting Sexual Harassment.** Any person may report misconduct, including Sexual Harassment. The reporting party need not be the purported victim of the Sexual Harassment.

Any person wishing to report Sexual Harassment may do so utilizing the contact information of the Title IX Coordinator for their individual Institution (Home Institution). These reports shall be accepted when received in-person, via mail, electronic mail, telephone, and/or by any other means clearly defined by TCC. Any person can report alleged Sexual Harassment verbally or in writing.

If an individual communicates with a Responsible Employee (defined in Section III) that they experienced or are aware of specific incidence(s) of alleged Sexual Harassment, that communication is considered a report of Sexual Harassment and the Responsible Employee is required to inform their Title IX Coordinator. The Responsible Employee is expected to keep information about any report in confidence, meaning they are not to share with anyone other than the Title IX Coordinator.

If an individual communicates with their Title IX Coordinator that they experienced or are aware of specific incidence(s) of alleged sexual misconduct, harassment and/or discrimination, that communication is also considered a report of a possible Policy violation. The Title IX Coordinator is also obligated to keep information about a report in confidence to every extent possible by law.

Upon receipt of a report of Sexual Harassment, the Institution is required to respond. This response **may** include the initiation of the Title IX Grievance Process.<sup>4</sup> Reports of Sexual Harassment do not automatically initiate the Title IX Grievance Process. The Title IX Grievance Process is only initiated upon receipt of a signed Formal Complaint, as defined in Section III.

- **Disclosing Sexual Harassment.** A disclosure is made when an individual communicates with a Confidential Resource (defined below) or someone who is not a Responsible Employee (defined below) about misconduct, including Sexual Harassment, that they either experienced or became aware of. A disclosure to a Confidential Resource will be kept confidential unless otherwise requested by the disclosing individual. A disclosure does not result in any formal report or initiation of the Title IX Grievance Process unless requested by the disclosing individual. Each Institution's Title IX Coordinator maintains a list of all Confidential Resources available to students, staff, and faculty.

Accordingly, if an individual wishes to discuss alleged Sexual Harassment without initiating the Title IX Grievance Process, they may disclose the conduct to a Confidential Resource.

**Publication.** This Policy shall be distributed and made available to all members of the TCC community. The Policy, and contact information for each Title IX Coordinator, shall be present on each Institution's website. Every handbook and/or catalog made available to the members of each Institution's community shall contain a link to this Policy and the contact information for the Institution's Title IX Coordinator.

---

<sup>4</sup> "The Title IX Grievance Process" refers to the process initiated upon receipt of a Formal Complaint. The Title IX Grievance Process is explored in detail in Section IX.

## II. Title IX Coordinator and TCC Title IX Process Administrator

**Title IX Coordinator.** Each Institution within TCC shall designate a Title IX Coordinator to oversee and ensure compliance with this Policy. Each Title IX Coordinator is responsible for ensuring compliance with Title IX and this Policy within their Institution.

The name and contact information (phone number, email address, and office address) for each Institution's Title IX Coordinator is as follows:

Institution	Title IX Coordinator	Email	Address
Claremont Graduate University	Jami Hinshaw Title IX and Clery Coordinator  Alejandra Gaytan, Director of Human Resources  Dr. Patricia Easton Executive Vice President and Provost	<a href="mailto:jami.hinshaw@cgu.edu">jami.hinshaw@cgu.edu</a> (909) 607-1887  <a href="mailto:alejandra.gaytan@cgu.edu">alejandra.gaytan@cgu.edu</a> (909) 607-4404  <a href="mailto:patricia.easton@cgu.edu">patricia.easton@cgu.edu</a> (909) 607-3318	160 E. 10th Street  Harper Hall East  Claremont, CA 91711
Claremont McKenna College	Lynzie DeVeres, Assistant VP for Diversity and Inclusion  Title IX Administrator	<a href="mailto:ldeveres@cmc.edu">ldeveres@cmc.edu</a> (909) 607-8131 and (909) 607-2000	385 E. 8 <sup>th</sup> Street  Marian Miner Cook Athenaeum, Second Floor  Claremont, CA 91711
Harvey Mudd College	Dr. Jennifer Alanis  Title IX Coordinator	<a href="mailto:jalanis@hmc.edu">jalanis@hmc.edu</a> (909) 607-3470	301 Platt Boulevard  Platt Campus Center  Claremont, CA 91711
Keck Graduate Institute	Cynthia Martinez  Interim Title IX Coordinator	<a href="mailto:cynthia_martinez@kgi.edu">cynthia_martinez@kgi.edu</a> (909) 607-7150	535 Watson Drive  Building 535, Room 30  Claremont, CA 91711
Pitzer College	Corinne Vorenkamp  Title IX Coordinator	<a href="mailto:titleix@pitzer.edu">titleix@pitzer.edu</a> (909) 607-2958	1050 N. Mills Avenue  Broad Center, Room 212  Claremont, CA 91711



Institution	Title IX Coordinator	Email	Address
Pomona College	Erica Moorer Associate Dean Title IX Coordinator	<a href="mailto:Erica.Moorer@pomona.edu">Erica.Moorer@pomona.edu</a> (909) 621-8017	333 N. College Way Alexander Hall: Suite 113 Claremont, CA 91711
Scripps College	Sara Miller Title IX Coordinator	<a href="mailto:titleix@scrippscollege.edu">titleix@scrippscollege.edu</a> (909) 607-7142	919 North Columbia Avenue McAlister Center, Lower Level Claremont, CA 91711

Each Institution's Title IX Coordinator, or their designee, serves as the primary point of contact for individuals from their campus involved in the Title IX Grievance Process.

**TCC Title IX Process Administrator.** The TCC Title IX Process Administrator (referred to as the "TCC Title IX Administrator") oversees the Title IX Grievance Process for TCC. As outlined throughout this Policy, the TCC Title IX Administrator is responsible for a variety of tasks, including, but not limited to, the following:

- Managing the Title IX Grievance Process across the six above-listed Institutions.
- In consultation with the Title IX Coordinators, evaluating and assigning Investigators, Hearing Officers, and Appeal Authorities in the Title IX Grievance Process.
- Confirming and documenting the training of all individuals involved in the Title IX Grievance Process.

The TCC Title IX Administrator can be reached at: [TitleIXAdmin@claremont.edu](mailto:TitleIXAdmin@claremont.edu)

### III. Relevant Terms

**Advisor:** An Advisor is an individual who provides guidance to the Complainant or Respondent throughout the Grievance and Alternative Resolution process, as set forth in this Policy. Each party is entitled to one Advisor through every stage of the Grievance process (including the Alternative Resolution process, when applicable). A party can select an Advisor of their choice at any time in the process. An Advisor can be any person, including an attorney, who is not otherwise a party or a witness.

A party does not have to have an Advisor during the investigation and Alternative Resolution process. TCC will not provide any party with an Advisor during the investigation process. However, as outlined below, each party is required to have an Advisor during the hearing. If a party has not already obtained an Advisor prior to the start of the hearing, the party's Home Institution's Title IX Coordinator will be responsible for ensuring their respective Respondent and/or Complainant is appointed an Advisor at no fee or charge to the party. TCC will not pay for, nor will TCC reimburse any party for the cost of, an Advisor selected by the party.

The Advisor is responsible for questioning witnesses and other parties during the hearing. Other than this responsibility, the Advisor's role is limited. See Section IX.D.7 for a full overview of the Advisor's role. Outside

the role of questioning during a hearing, an Advisor may never speak on behalf of a party or otherwise disrupt any meetings or hearings in any manner. TCC reserves the right to exclude an Advisor who does not abide by these procedures.

**Support Person:** A Support Person is an individual who provides emotional support to a Complainant or Respondent throughout the Grievance and Alternative Resolution process, as set forth in this Policy. Parties are entitled to one Support Person through every stage of the Grievance and Alternative Resolution process.

The Support Person may never speak on behalf of a party or otherwise disrupt any meetings or hearings in any manner. See Section IX.A.7 for a full description of the Support Person's role. TCC reserves the right to exclude a Support Person who does not abide by these procedures.

**Complainant:** A Complainant is an individual alleged to be the victim of conduct that could constitute Sexual Harassment, as defined by this Policy. For purposes of this Policy, a Complainant must be participating in, or attempting to participate in, an education program or activity of TCC. An individual who is on leave from their TCC employment or TCC student status is considered to be a person attempting to participate in an education program or activity for purposes of this Policy.

**Confidential Resource:** A Confidential Resource is a campus- or community-based resource that has the duty of confidentiality. The duty of confidentiality is an obligation on the part of the resource provider to keep a person's information private and confidential unless consent to release or share the information is provided by the disclosing person. Each Institution's Title IX Coordinator maintains a list of Confidential Resources.

There are two types of Confidential Resources at TCC:

- ***Confidential Resources with the legal privilege of confidentiality.***

Communications with these resources have legal protections from disclosure in court. These resources also possess professional obligations (the duty of confidentiality) to hold such communications in confidence and they cannot divulge information about an individual seeking their services to a third party without that individual's consent. There are established limits to confidentiality and these must be communicated to the individual seeking services.

Examples include, but are not limited to: Chaplains, Monsour and Project Sister Counselor at EmPOWER. **Some** campus Advocates are Confidential Resources with legal privilege – please check with your individual Institution for a definitive list of confidential resources with legal privileges.

- ***Institution-designated Confidential Resources.***

Communications with these resources do not have legal privilege and as such are not provided legal protections from disclosure in court. These individuals and/or offices do possess professional obligations (the duty of confidentiality) to hold communications in confidence and they cannot divulge information about an individual seeking their services to a third party without that individual's consent.

In addition to established limits to confidentiality that must be communicated to the individual seeking services, Institution-designated Confidential Resources also have limited reporting responsibilities federally mandated by the Clery Act. Under the Clery Act, their reporting obligation arises when they become aware of information or allegations of criminal behavior and must report the information

regarding an incident to the Institution's Clery Coordinator. They do not have to report identifying information about the individuals involved in an incident. Institution-designated Confidential Resources are not obligated to inform the Title IX Coordinator of a report/disclosure unless requested by the individual seeking their services.

Examples include, but are not limited to: the EmPOWER Center and the Director at the Queer Resource Center (QRC).

**Consent:** Consent is affirmative, clear, knowing, voluntary, conscious, and revocable permission. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in sexual activity, and the physical conditions of sexual activity (e.g., use of a condom).<sup>5</sup>

Affirmative Consent must be ongoing and can be revoked at any time during sexual activity. It is the responsibility of each person to ensure they have the Affirmative Consent of the other to engage in the sexual activity. The existence of a dating relationship between the persons involved, or the fact of past or subsequent sexual relations between them, should never by itself be presumed to be an indicator of consent.

- Consent to any one form of sexual activity does not automatically imply consent to any other forms of sexual activity.
- Consent can be withdrawn at any time.
- Previous relationships or prior consent does not imply consent to future sexual acts; this includes "blanket" consent (i.e., permission in advance for any/all actions at a later time/place).
- It is the obligation of the person initiating the sexual activity to obtain consent.
- An individual cannot consent who has been coerced, including being compelled by force, threat of force, or deception; who is unaware that the act is being committed; or, who is coerced by a supervisory or disciplinary authority.
  - Force: violence, compulsion, or constraint physically exerted by any means upon or against a person.
  - Coercion: the application of pressure by the Respondent that unreasonably interferes with the Complainant's ability to exercise free will. Factors to be considered include, but are not limited to, the intensity and duration of the conduct.
- A person who does not want to engage in sexual activity is not required to resist or to verbally object.
- Withdrawal of consent can be manifested through conduct and need not be a verbal withdrawal of consent (e.g., crying, pulling away, not actively participating, uncomfortable or upset facial expressions).

---

<sup>5</sup> "Condom stealthing" refers to a person's knowing or intentional removal of, or failure to use, a condom during sexual activity without the consent of the other person(s), when consent to the sexual activity was conditioned on the use of a condom.

- Consent may not be given by an individual who has not reached the legal age of consent under applicable law.

Affirmative Consent cannot be given by a person who is asleep, unconscious, or incapacitated. A person with a medical or mental disability may also lack the capacity to give consent. The definition of incapacitation follows.

**Incapacitation.** A person is unable to consent when incapacitated due to the influence of drugs, alcohol, or medication so that the person could not understand the fact, nature, or extent of the sexual activity.

Incapacitation is a state where an individual cannot make an informed and rational decision to engage in sexual activity because the individual lacks conscious knowledge of the nature of the act (e.g., to understand the who, what, when, where, why or how of the sexual interaction) or is physically unable to consent (e.g., asleep or unconscious).

Incapacitation may result from the use of alcohol or drugs. However, consumption of alcohol or other drugs alone is insufficient to establish incapacitation. Whether an intoxicated person (as a result of using alcohol or other drugs) is incapacitated depends on the extent to which the alcohol or other drugs impact the person's decision-making ability, awareness of consequences, and ability to make informed judgments. A person's own intoxication or incapacitation from drugs or alcohol does not diminish that person's responsibility to obtain Affirmative Consent before engaging in sexual activity.

In general, sexual contact while under the influence of alcohol or other drugs poses a risk to all parties. Alcohol and drugs impair a person's decision-making capacity, awareness of consequences, and ability to make informed judgments. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication. If there is any doubt as to the level or extent of the other individual's intoxication or impairment, the prudent course of action is to forgo or cease any sexual contact or activity.

Being intoxicated or impaired by drugs or alcohol is never an excuse for Sexual Harassment, sexual violence, stalking, or intimate partner violence, and does not diminish one's responsibility to obtain consent.

The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol or drugs impacts an individual's:

- Decision-making ability;
- Awareness of consequences;
- Ability to make informed judgments; and/or,
- Capacity to appreciate the nature and the quality of the act.

A Respondent must either have known, or reasonably should have known, that a Complainant was unable to consent to sexual activity under any of the following circumstances:

- The person was asleep or unconscious;
- The person was incapacitated due to the influence of drugs, alcohol or medication, so that the person could not understand the fact, nature or extent of the sexual activity; or,
- The person was unable to communicate due to a mental or physical condition.

It shall not be a valid excuse that the Respondent believed the Complainant consented to sexual activity under either of the following circumstances:

- The Respondent's belief in Affirmative Consent arose from the intoxication or recklessness of the Respondent; and/or,
- The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented.

**Education Program or Activity:** Alleged Sexual Harassment is only covered under this Policy if the alleged conduct occurred within TCC's "Education Program or Activity."

For purposes of this Policy, "Education Program or Activity" refers to all the operations of TCC, including, but not limited to: in-person and online educational instruction, employment, research activities, extracurricular activities, athletics, residence life, dining services, performances, and community engagement and outreach programs. The term applies to all activity that occurs on campus or on other property owned or occupied by TCC. It also includes off-campus locations, events, or circumstances over which TCC exercises substantial control over the Respondent and the context in which the Sexual Harassment occurs, including Sexual Harassment occurring in any building owned or controlled by a student organization that is officially recognized by TCC.

**Conduct that does not occur within TCC's Education Programs or Activities, as defined by this Policy, including conduct that takes place off-campus or within a TCC study abroad program, may still be addressed through other policies and processes, such as those under the Institution's student codes of conduct, civil rights policies, discrimination and harassment policies, and/or any other applicable policy adopted by an individual Institution.**

**Formal Complaint:** A document – including an electronic submission – filed and signed by a Complainant (or with other indication that the Complainant is the person filing the Formal Complaint) or signed by the Title IX Coordinator, alleging Sexual Harassment against a Respondent that occurred within TCC's Education Programs or Activities, and requesting initiation of the procedures consistent with this Policy to investigate the allegations.

Any individual may make a report of Sexual Harassment. This individual is known as a Reporting Party. If the Reporting Party is not the Complainant, the Title IX Coordinator may initiate and sign the complaint. If the Formal Complaint is signed by the Title IX Coordinator, the Title IX Coordinator is not treated as a Complainant, nor is the Title IX Coordinator treated as a party to the complaint. At the time of filing the Formal Complaint, the Complainant must be participating in, or attempting to participate in, an education program or activity of TCC.<sup>6</sup>

Individuals can report alleged Sexual Harassment verbally or in writing.

**Reporting Party:** An individual who makes a report of alleged Sexual Harassment, as defined by this Policy. This can be any person, including an individual unassociated with TCC. A Reporting Party is not considered a Complainant for purposes of this process.

**Respondent:** A Respondent is an individual who has been reported to have engaged in conduct that could constitute Sexual Harassment, as defined by this Policy. An individual does not have to be enrolled or employed

---

<sup>6</sup> The Complainant need not initiate nor sign the Formal Complaint (see definition of "Complainant" in Section III., above) to be designated a Complainant.

by TCC to qualify as a Respondent under this Policy. TCC may dismiss a Formal Complaint if the Respondent is no longer enrolled or employed by TCC; however, the decision to dismiss will be made on an individual basis, with consultation between each involved Institution's Title IX Coordinators.

**Responsible Employee:** Responsible Employees are TCC employees who, upon receipt of a disclosure or report of Sexual Harassment, are required to report the alleged conduct to the Institution's Title IX Coordinator. Responsible Employees will maintain confidentiality to the greatest extent possible and will only relay the disclosed or reported information to the Title IX Coordinator or designee.

A Responsible Employee is defined by each Institution. Please refer to your Home Institution for their definition of this term.

**Supportive Measures:** Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge, to the Complainant and/or the Respondent. The range of Supportive Measures available is listed in Section VI. of this Policy.

**Violence:** For purposes of this Policy, violence can be physical violence or patterns of abusive behavior.

- *Physical violence:* Physical conduct that intentionally or recklessly threatens the health and safety of the recipient of the behavior.
- *Patterns of Abusive Behavior:* This may consist of, or include, non-physical tactics such as threats, isolation, property destruction, abuse of pets, economic control, displaying weapons, degradation, or exploitation of a power imbalance.

Conduct by an individual in defense of self or another is not violence under this Policy. If either party asserts that they acted in defense of self or another, the Adjudicator (see Section IX.D.) will use all available, relevant evidence to evaluate the assertion, including reasonableness of the defensive actions and which party is the predominant aggressor.

## IV. Sexual Harassment and Retaliation

Only allegations of Sexual Harassment, alleged to have occurred within TCC's Education Programs or Activities, and Retaliation (as defined by this Policy) are addressed under this Policy. Sexual Harassment and Retaliation, as defined by this Policy, are prohibited within all of TCC. TCC will respond promptly and effectively to reports of Sexual Harassment and/or Retaliation, as outlined in this policy. *Other forms of sex discrimination, sexual harassment, and sexual misconduct remain prohibited by each Institution in its individual policies.*<sup>7</sup>

This section provides the definitions of Sexual Harassment and Retaliation, for purposes of this Policy.

---

<sup>7</sup> Behavior which does not fall under this Policy's definition of Sexual Harassment may be addressed through other policies and processes, such as those under the Institution's student codes of conduct, civil rights policies, discrimination and harassment policies, and/or any other applicable policy adopted by an individual Institution.

**Sexual Harassment** is conduct on the basis of sex that satisfies one or more of the following:

- a) An employee of TCC conditioning the provision of an aid, benefit, or service of the Institution on an individual's participation in unwelcome sexual conduct (also known as *quid pro quo Sexual Harassment*).
  - Complainant's statement that they found the conduct to be unwelcome is sufficient to constitute "unwelcome conduct."
- b) Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to TCC's Education Programs or Activities.
  - "Unwelcome conduct" depends on a variety of factors and must be evaluated in light of the known circumstances.
  - "Severe, pervasive, and objectively offensive" must be evaluated in light of the known circumstances, and is dependent on the facts in each situation. However, this element must be determined from the perspective of a reasonable person standing in the shoes of the Complainant.
- c) Sexual assault (as defined in the Clery Act), or dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).
  - A single instance of any conduct as defined below is sufficient to constitute Sexual Harassment. Any instance of any of the conduct defined below does not need to demonstrate severity, pervasiveness, objective offensiveness, or denial of equal access to education or employment, because denial of equal access is assumed.

**Sexual Assault.** As defined in the Clery Act (20 USC 1092(f)(6)(A)(v)), Sexual Assault is: an offense that meets the definition of rape, fondling, incest, or statutory rape, as used in the FBI's Uniform Crime Reporting (UCR) Program. The relevant FBI UCR definitions are as follows:

*Rape.* The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.

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

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

*Statutory Rape.* Sexual intercourse with a person who is under the statutory age of consent. In California, the statutory age of consent is 18.

**Dating Violence.** As defined in VAWA (34 USC 12291(a)(10)), Dating Violence is: violence committed by a person:

- Who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and,

- Where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship;
  - The type of relationship; and,
  - The frequency of interactions between the persons involved in the relationship.

**Domestic Violence.** As defined in VAWA (34 USC 12291(a)(8)), Domestic Violence is: acts that include felony or misdemeanor crimes of violence committed by one of the following:

- A current or former spouse or intimate partner of the Complainant;
- A person with whom the Complainant shares a child in common;
- A person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner;
- A person similarly situated to a spouse of the Complainant under the domestic or family violence laws of the state of California; or,
- Any other person whose acts an adult or youth Complainant is protected from under the domestic or family violence laws of the state of California.

**Stalking.** As defined in VAWA (34 USC 12291(a)(30)), Stalking is: engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for their safety or the safety of others; or,
- Suffer substantial emotional distress.

**Retaliation.** No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or 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.

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or Sexual Harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of Sexual Harassment, for the purpose of interfering with any right or privilege secured by Title IX or this Policy, constitutes Retaliation.

## V. Behavior That Does Not Constitute “Sexual Harassment” Under This Policy

Behavior which does not fall under this Policy’s definition of Sexual Harassment may be addressed through other policies and processes, such as those under the Institution’s student codes of conduct, civil rights policies, discrimination and harassment policies, and/or any other applicable policy adopted by an individual Institution.



Each Institution maintains individual policies addressing sexual misconduct, harassment, and discrimination. These policies might address conduct constituting sexual misconduct, sexual harassment, and/or sex discrimination, as defined by those individual policies. Any conduct that constitutes Sexual Harassment, as defined by this Policy, is addressed using the process established in this Policy. Other conduct, as defined under other Institution policies, may be addressed using the processes established in those individual policies.<sup>8</sup>

## VI. Supportive Measures

Supportive Measures are designed to restore or preserve equal access to a Complainant's and Respondent's educational program or activity without unreasonably burdening the other party.

The Complainant's Home Institution Title IX Coordinator shall, upon becoming aware of alleged Sexual Harassment, promptly contact the Complainant if their identity is known to discuss the availability of Supportive Measures as well as other rights and options in accordance with the Institution's policies. Supportive Measures shall be offered to the Complainant regardless of whether they wish to file a Formal Complaint. In implementing any Supportive Measures, the Title IX Coordinator shall consider the Complainant's wishes.

The Respondent's Home Institution Title IX Coordinator shall offer Supportive Measures to a Respondent upon notification to the Respondent that there has been a Formal Complaint, or earlier as appropriate if a Respondent is aware of a potential complaint against them.

Supportive Measures provided to a Complainant or Respondent shall remain confidential to the extent that maintaining such confidentiality will not impair the Institution's ability to provide the Supportive Measures. For complaints involving parties from more than one Institution, each party's Home Institution Title IX Coordinator shall promptly notify the other party's Home Institution Title IX Coordinator of any Supportive Measures implemented on behalf of a party or witness. This information will not be shared with the other party unless it specifically impacts that party. If there is disagreement about whether information about a specific supportive measure for one party will be shared with the other party, the parties' Home Institution Title IX Coordinators shall confer with the TCC Title IX Administrator.

Supportive Measures may include, but are not limited to, the following:

- Counseling;
- Extensions of deadlines or other course-related adjustments, in coordination with the relevant Faculty member;
- Modifications of work or class schedules, in coordination with the relevant Faculty member and/or supervisor;
- Campus escort services;

---

<sup>8</sup> Where allegations made in a Formal Complaint include both conduct that falls under this Policy and conduct that is outside of this Policy but is interrelated to Policy-covered conduct, the allegations may be joined. If the allegations under this Policy and under an Institution's other policies are joined, during the hearing direct cross-examination by a Party's Advisor will be limited to questions relating to the allegation of conduct falling under this Policy. Determinations as to when a question is appropriate to be posed by a party's Advisor or through the Hearing Officer shall be made at the sole discretion of the Hearing Officer.

- Mutual restrictions on contact between the parties;
- Changes in work or housing locations;
- Leaves of absence;
- Increased security and monitoring of certain areas of campus; and,
- Other similar measures determined by the parties' Home Institution Title IX Coordinator(s) based on the specific facts of each case.

## VII. Emergency Removal

In certain circumstances, a Respondent's Home Institution may remove a Respondent from an education program or activity before the completion of the Title IX Grievance Process. Such removal will only occur on an emergency basis. The Complainant's Home Institution Title IX Coordinator or designee shall be consulted and given the opportunity to participate in every step of the emergency removal process, including participating in all communications, meetings, and correspondence regarding the individualized safety and risk assessment. An emergency removal is not equivalent to a determination of responsibility, nor is it a sanction for alleged behavior. The Respondent's Home Institution can pursue an emergency removal of a student and/or employee Respondent before or after the filing of a Formal Complaint.

Emergency removals will occur only after the Respondent's Home Institution determines there is an emergency situation. This determination occurs only after the Respondent's Home Institution has completed the following steps:

- **Completion of an individualized safety and risk analysis.** This analysis will focus on the specific Respondent and the specific circumstances arising from the allegations of Sexual Harassment.<sup>9</sup>
- **Determination that the following three components are present:**
  - *An "immediate threat" justifying emergency removal.* This analysis should focus on the Respondent's propensity, opportunity, and/or ability to effectuate a stated or potential threat. This determination will be fact-specific.
  - *The threat is "to the physical health or safety of any student or other individual."* This may be the Complainant, the Respondent, or any other individual.
  - *And the threat "arises from the allegations of Sexual Harassment."* The emergency situation must specifically arise from the allegations of Sexual Harassment.
- **Consideration of the appropriateness of Supportive Measures in lieu of an emergency removal.** Emergency removals should only occur when there are genuine and demonstrated emergency situations.

---

<sup>9</sup> If a Respondent's behavior does not arise from the allegations of Sexual Harassment, the Institution may still address the behavior under other policies and processes, such as the Institution's student codes of conduct, civil rights policies, discrimination and harassment policies, and/or any other applicable policy adopted by an individual Institution.

- **Providing the Respondent with notice and an immediate opportunity to challenge the emergency removal.** The Respondent's Home Institution will provide the Respondent with a sufficiently detailed notice, notifying the Respondent of the identified emergency threat of physical safety or harm. The Respondent is not entitled to a full evidentiary hearing (as set forth in Section IX.D.) to challenge an emergency removal.

## VIII. Administrative Leave (Employees Only)

An Institution may place a non-student, employee Respondent on administrative leave during the pendency of the Title IX Grievance Process. A student who is also an employee can be placed on administrative leave with respect to their employment, but administrative leave cannot impact their educational access.

An employee can be placed on administrative leave only after a Formal Complaint has been filed against a Respondent and the Title IX Grievance Process has begun. Administrative leave is intended for situations that do not qualify for Emergency Removal as outlined in Section VII.

Each Institution has its own process for administrative leave. The Complainant's Home Institution's Human Resources Professional or Title IX Coordinator will work in coordination with the Respondent's Home Institution Human Resources Professional or Title IX Coordinator to facilitate the administrative leave process.

## IX. Title IX Grievance Process

The Title IX Grievance Process is initiated upon the receipt of a Formal Complaint. Complainants are only able to file a Formal Complaint under this Policy if they are currently participating in, or attempting to participate in, the Education Programs or Activities of TCC within the United States, including as an employee.<sup>10</sup>

If a Complainant does not wish to make a Formal Complaint, the Title IX Coordinator may determine a Formal Complaint is necessary. In these circumstances, the Title IX Coordinator will inform the Complainant of this decision in writing. The correspondence will include notice that the Complainant need not participate in the process further, but will receive all notices issued under this Policy and Title IX Grievance Process.

Nothing in the Title IX Policy prevents a Complainant from seeking the assistance of state or local law enforcement alongside the appropriate on-campus process.

Throughout the Title IX Grievance Process, the Complainant's and Respondent's Home Institution Title IX Coordinators, as well as the TCC Title IX Administrator, will work closely and cooperatively together. They will maintain open communication during all phases of the Title IX Grievance Process, including the investigation, hearing, and appeal stages.

TCC does not make determinations of responsibility prior to the completion of the Title IX Grievance Process. All evidence gathered will be objectively evaluated. This includes both inculpatory and exculpatory evidence. Credibility determinations will not be made based solely on a person's status as a Complainant, Respondent, or

---

<sup>10</sup> For Complainants who do not meet these criteria, the Institution will review the allegations under other existing policies.

witness. Respondents are presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Title IX Grievance Process.

TCC, not the parties, has the burden of proof and the burden of gathering evidence, i.e., the responsibility of showing whether a violation of this Policy has occurred.

## A. General Information

### 1. Standard of Evidence

TCC will utilize a “Preponderance of the Evidence” standard in evaluating all allegations of Sexual Harassment (as defined by this Policy). “Preponderance of the Evidence” means the evidence on one side outweighs, or is more than, the evidence on the other side. This is a qualitative, not a quantitative, standard.

### 2. Initial Meetings and the Intake Process

**Initial Meetings.** A Complainant may meet with their Home Institution’s Title IX Coordinator for the purposes of discussing their reporting options, Supportive Measures, etc. Below is a summary of the topics the Complainant’s Home Institution’s Title IX Coordinator will address during initial meetings with the Complainant:

- Assistance with care and support resources, medical providers, and law enforcement;
- Supportive Measures;
- Procedures for determining next steps and appropriate resolution process; and,
- Options for participating in an Alternative Resolution or Title IX Grievance Process.

The Title IX Grievance Process is initiated upon receipt of a Formal Complaint.

**Intake Process.** Upon receipt of such a Formal Complaint, the Complainant’s Home Institution’s Title IX Coordinator will engage in the Intake Process, in which they meet with the Complainant, gather preliminary information about the allegation(s), and write the information gathered in an Intake Report. The Intake Process might take place during the Title IX Coordinator’s initial meeting with the Complainant, or it might take place during a subsequent meeting. The Intake Process commences when a Complainant has decided to make a Formal Complaint, and/or when the Institution has been provided sufficient information to proceed with a complaint signed by the Title IX Coordinator.

The Intake Process is not intended to serve as an exhaustive interview, but rather to provide TCC with sufficient contextual information to determine the appropriate next steps to support the Complainant and to guide TCC’s response.

The Complainant’s Home Institution’s Title IX Coordinator will send a copy of the Formal Complaint and Intake Report to the Respondent’s Home Institution’s Title IX Coordinator and the TCC Title IX Administrator.

The Complainant’s and Respondent’s Home Institution Title IX Coordinators will jointly make an initial determination of whether the Title IX Grievance Process is applicable to the Formal Complaint, as outlined in Section IX.B., below.

### 3. Timing

Absent extensions for good cause, the entire Title IX Grievance Process should be completed within 90 to 100 business days from the issuance of the Notice of Allegations to the Respondent(s), which shall occur upon initiation of the Title IX Grievance Process. This includes the investigation, hearing, and any appeal process. A thorough investigation and/or procedurally proper hearing and appeal may necessitate one or more extensions for good cause. Extension requests will be evaluated and denied or granted by the TCC Title IX Administrator. The TCC Title IX Administrator will provide notice to both parties of any timeline extensions.

Failure to complete the Title IX Grievance Process within this time period does not, in and of itself, constitute a procedural error. Any such argument of procedural error (as set forth in Section IX.F.) must also include an explanation as to how the delays materially impacted the outcome of the Title IX Grievance Process.

### 4. Concurrent Criminal Investigations

On occasion, a criminal investigation may be initiated by a law enforcement agency over the same allegations that are reported in a Formal Complaint submitted to TCC. A pending police investigation is a separate investigation and it does not relieve TCC of its responsibility to timely investigate complaints under this Policy. A temporary delay for the length of the fact-finding portion of a criminal investigation may constitute good cause for extending the timeline of TCC's investigation.

### 5. Confidentiality

Parties may share confidential information received through the process with their Support Person and Advisor. TCC shall not restrict the ability of the parties to discuss the allegations under investigation for the purpose of gathering and presenting relevant evidence.

TCC is permitted to share confidential information amongst other Institution representatives who have a reasonable need to know. TCC will endeavor to respect any requests for confidentiality, but will also weigh those requests against TCC's responsibility to maintain a safe environment for its community. Complete confidentiality cannot be guaranteed.

### 6. Right to an Advisor

Parties may elect to be accompanied by an Advisor during meetings and proceedings related to the investigation and hearing process outlined in this Policy. Parties are limited to one Advisor. Parties may be accompanied by a Support Person (see below) in addition to an Advisor. An Advisor can be anyone, including an attorney. The Advisor may not speak on behalf of the party or otherwise disrupt any interviews or proceedings.

Specific guidelines regarding the Advisor role at the hearing are outlined in Section IX.D.7. TCC reserves the right to exclude or remove an Advisor who does not comply with this Policy.

A party does not have to have an Advisor during the investigation process. TCC will not provide any party with an Advisor during the investigation process. However, as outlined below, the party's Home Institution will provide the party with an Advisor during the hearing, if the party has not already obtained an Advisor.

## 7. Support Persons

Parties may elect to be accompanied by a Support Person during the hearing process, in addition to an Advisor. Parties are limited to one Support Person. A Support Person may not be a party or a witness in the case. The Support Person's role is to provide emotional support throughout the process. The Support Person may not speak on behalf of the party or otherwise disrupt any interviews or proceedings. TCC reserves the right to exclude or remove a Support Person who does not comply with this Policy.

## 8. Accepting Responsibility

At any time prior to the commencement of a hearing, a Respondent may waive the right to a hearing and instead accept responsibility for the alleged Policy violation. A Respondent may do so by providing the TCC Title IX Administrator with a signed, written notice, stating the Respondent accepts responsibility for the alleged violation and waives the right to a fact-finding hearing on this issue. If a Respondent accepts responsibility in writing in advance of a hearing, the Complainant and Adjudicator shall be provided a copy of the waiver and a hearing will be conducted only on the question of sanctions. Each party retains all rights with regard to sanctioning.

The parties will be given an opportunity to be heard at the sanctions hearing, including but not limited to the submission of impact statements. The parties may be accompanied by their Advisors, but questioning of parties or witnesses by Advisors will not be permitted. The parties will receive simultaneous written notification of the decision regarding sanctions and remedies, which may be appealed according to the process described in Section IX.F.

## 9. Closure

Not all reports of alleged Sexual Harassment constitute a report of prohibited conduct that may be resolved through this Policy.

TCC must dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

- The conduct alleged in the Formal Complaint would not constitute Sexual Harassment as defined above, even if proved; and/or,
- The conduct did not occur in an educational program or activity controlled by TCC (including buildings or properties controlled by officially recognized student organizations); and/or,
- The alleged conduct did not occur against a person in the United States; and/or,
- At the time of filing a Formal Complaint, a Complainant was not participating in or attempting to participate in an education program or activity of TCC.

Additionally, TCC may close and dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing:

- A Complainant notifies their Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; or,

- It is determined that the Respondent is no longer enrolled in or employed by TCC; or,
- Specific circumstances prevent TCC from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

A decision to close a matter based on any of the above-listed factors is made at the discretion of the TCC Title IX Administrator.

Upon termination of the process, the TCC Title IX Administrator will provide written notice to the parties describing the reason for the dismissal. The Respondent's Home Institution may continue to investigate the allegations as a potential violation of another policy. If the Respondent's Home Institution elects to continue the investigation outside of this Policy, the TCC Title IX Administrator shall provide written notice to the parties describing the determination.

The dismissal determination is appealable by any party under the procedures for appeal outlined in Section IX.F. The decision not to dismiss is also appealable by any party claiming a dismissal is required or appropriate.

A Complainant who decides to withdraw a complaint may later request to reinstate or refile the complaint.

## 10. Amnesty

Any individual (including a witness or a third party) who shares information in the interest of any individual's health and safety will not be subject to disciplinary action by TCC for student conduct policy violations that occur around the time of the alleged prohibited conduct, including their own personal consumption of alcohol or other drugs at or near the time of any incident, provided they did not harm another or place the health or safety of any other person, or the community, at risk. TCC may suggest an educational conference where support, resources, and educational counseling options may be discussed and potentially required with a learning action plan for an individual who has engaged in the illegal or prohibited use of alcohol or drugs.

## 11. Consolidation of Formal Complaints and Allegations

TCC may consolidate Formal Complaints under two circumstances:

- Where there is a complaint involving more than one Complainant and/or Respondent, stemming from the same facts or circumstances; or,
- Where a cross-complaint has been filed by a Respondent against a Complainant.

A decision to consolidate matters based on any of the above-listed factors is made at the discretion of the TCC Title IX Administrator in consultation with the parties' Home Campus Title IX Coordinator(s). If the TCC Title IX Administrator determines consolidation is appropriate, they must send notice to all involved parties.

Where allegations made in a Formal Complaint include both conduct that falls under this Policy and conduct that is outside of this Policy but is interrelated to Policy-covered conduct, the allegations may be joined. If the allegations under this Policy and under an Institution's other policies are joined, during the hearing direct cross-examination by a Party's Advisor will be limited to questions relating to the allegation of conduct falling under this Policy. Determinations as to when a question is appropriate to be posed by a party's Advisor or through the Hearing Officer shall be made at the sole discretion of the Hearing Officer.

## 12. Interpretation

This Policy is intended to be self-explanatory. The Adjudicator (defined in Section IX.D.2) is responsible for interpretation of policy definitions of prohibited conduct. Should a disagreement arise over interpretation of another area of this Policy, exclusive authority to interpret the Policy lies with the TCC Title IX Administrator. Any such interpretation shall be final. In reaching a final interpretation, the TCC Title IX Administrator shall consult with the Title IX Coordinators, unless not feasible or practicable.

### B. Step One: Initiation of the Title IX Grievance Process

The Complainant's and Respondent's Home Institution Title IX Coordinators will jointly make an initial determination of whether the Title IX Grievance Process is applicable to the Formal Complaint. The Title IX Coordinators will make a reasonable determination as to whether or not the following elements are met:

1. The conduct is alleged to have occurred on or after August 14, 2020;
2. The conduct is alleged to have occurred in the United States;
3. The conduct is alleged to have occurred in TCC's Education Programs or Activities; and,
4. The alleged conduct, if true, would constitute Sexual Harassment, as defined in this Policy.

If the Title IX Coordinators disagree whether these elements are met, the Title IX Coordinators agree to confer with the TCC Title IX Administrator, who will make the final determination.

If it is determined all of the elements are met (either through consensus by the Title IX Coordinators or review by the TCC Title IX Administrator), TCC will initiate the Title IX Grievance Process.

**Initiation of the Title IX Grievance Process.** If it is determined (through the process above) that the Formal Complaint will proceed under this Policy, the TCC Title IX Administrator will initiate the Title IX Grievance Process.<sup>11</sup>

When a Formal Complaint is filed, the TCC Title IX Administrator will notify the parties of their option to participate in the Alternative Resolution Process (see Section IX.H). If either party declines to participate in the Alternative Resolution Process, the Title IX Grievance Process will proceed, as set forth in this Section.

In instances where a Formal Complaint is signed by the Title IX Coordinator, the person alleged to be harmed (the Complainant) will still retain all rights of a Complainant in this process, if they should choose to exercise them, including the choice to participate or not participate at any step of the process and in receiving notification of the outcome.

---

<sup>11</sup> If the conduct alleged would not meet the definition of Sexual Harassment, even if sustained, the Title IX process will be terminated. However, the conduct may continue to be investigated under other policies and processes, such as those under the Institution's student codes of conduct, civil rights policies, discrimination and harassment policies, and/or any other applicable policy adopted by an individual Institution.



Finally, in instances where it is determined a Formal Complaint will not proceed under this Policy, the parties may appeal the determination using the procedures outlined in Section IX.F.

### 1. Notice of Allegations

Once an investigation has been initiated, the TCC Title IX Administrator will send a written notice to both parties, which will include:

- The identities of the parties (if known);
- A summary of the alleged conduct, including the date(s), time(s), and location(s) of incident(s) (if known);
- Policy sections alleged to be violated by the conduct;
- An outline of the Title IX Grievance Process, including any available Alternative Resolution Processes;
- A statement that Respondent is presumed not responsible until a determination of responsibility is made following the investigation and hearing;
- A statement that TCC will not make a determination of responsibility until the conclusion of the Title IX Grievance Process;
- A notice regarding whether interviews will be recorded, and that only the Investigator is permitted to record interviews;
- A description of the parties' opportunities to present, inspect, and review evidence;
- A statement that the parties may have an Advisor of their choice, who is permitted to be an attorney;
- A statement that the parties may have a Support Person of their choice;
- A statement urging the parties to maintain discretion as to the details of the matter, both in recognition of the sensitive nature of the matter, and to ensure they do not influence other individuals' statements;
- A summary of the hearing process and a statement that the Hearing Decision will make factual and policy findings regarding the allegations;
- A statement that findings will be based on a Preponderance of the Evidence Standard;
- A notice admonishing the parties against Retaliation; and,
- A notice informing the parties they are prohibited from making false statements or knowingly submitting false information based on the Institution's conduct codes.

The Notice of Allegations shall be amended any time during the investigation to include additional allegations of Policy violations identified during the investigation. An amended Notice of Allegations should include all required information described above.

## C. Step Two: Investigation Process

### 1. Designation of the Investigator

The TCC Title IX Administrator, in consultation with the parties' Home Institution's Title IX Coordinators, will designate an Investigator to conduct a fair, thorough, and impartial investigation. If either party believes the assigned Investigator has an actual conflict of interest or bias, they should immediately notify the TCC Title IX Administrator. The TCC Title IX Administrator will consider and resolve any objections to the selection of an Investigator.

The Investigator will have had appropriate training in the definitions of Sexual Harassment, bias, the scope of TCC's education programs and activities, the investigation and hearing processes, the Alternative Resolution Process, and investigative report writing.

### 2. Investigation

Both parties will be provided equal opportunity to meet with the Investigator, submit evidence, and identify relevant witnesses. The Investigator will meet separately with the Complainant, Respondent, and witnesses. The Investigator has discretion regarding which witnesses to interview and when to conduct follow-up interviews with parties and witnesses.

The Investigator will prepare a written summary of each interview and send the same to the witness or party for a review of accuracy. Unless the individual requests additional time, the written summary will be deemed accurate if the individual does not provide feedback on the written summary within two (2) business days of the Investigator emailing it to the individual.

The Investigator will take reasonable steps to gather relevant available evidence. The Investigator may exclude evidence they determine to be irrelevant or immaterial. Parties may provide the Investigator with any evidence they believe to be relevant, including expert and polygraph evidence. It is ultimately the role of the Adjudicator (Section IX.D.) to determine what weight, if any, to give to the evidence gathered. The Investigator will not consider evidence which requires seeking information protected by a legally recognized privilege, unless the person holding the privilege has waived the privilege.

TCC shall not restrict the ability of the parties to discuss the allegations under investigation for the purpose of gathering and presenting relevant evidence.

The Investigator may gather information related to prior or subsequent conduct of the Respondent in determining pattern, knowledge, intent, motive, or absence of mistake.

The Investigator will not gather evidence or ask questions related to the parties' sexual predisposition or prior sexual behavior unless:

- The evidence and/or questions are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant;
- They concern specific incidents of the Complainant's or Respondent's prior sexual behavior with respect to one another and are offered to prove or disprove consent (with the understanding that consent to

any one form of sexual activity does not automatically imply consent to any other forms of sexual activity and that previous relationships or prior consent does not imply consent to future sexual acts);

- The sexual history is relevant to explain an injury; and/or,
- The sexual history is relevant to show a pattern of behavior.

The Investigator will not gather sexual history as it pertains to a party's reputation or character.

Prior to any meeting, including an investigative interview meeting with a party, the Investigator shall provide the party with written notice of the date, time, location, participants, and purpose of the meeting. The Investigator shall provide the written notice with sufficient time for the party to prepare for the meeting. An Advisor and a Support Person may accompany a party to every meeting.

### 3. Recording

TCC may elect to electronically record investigative interviews. The Investigator may only record investigative interviews with the consent of each individual being recorded. TCC will retain any recordings it has made as the only authorized recording of the interviews. A recorded party may request to review the transcript or audio of their interview in-person and under supervision by a TCC representative. A party may request to review the transcript of the other party's interview in-person and under supervision by a TCC representative.

Investigation recordings will be maintained for seven (7) years after the conclusion of the Title IX Grievance Process, the Respondent's graduation, separation from TCC, or separation from Institutional employment, whichever is latest.<sup>12</sup>

### 4. Evidence Review

Before issuing the final Investigation Report, the TCC Title IX Administrator will provide a preliminary Investigation Report to the parties, and provide the parties with an equal opportunity to respond to the relevant evidence, including allowing parties to present additional relevant evidence or information. This is known as the Evidence Review Process. This opportunity should be provided to each party regardless of whether the party participated in the investigation. Absent good cause, parties are provided with ten (10) business days to review and respond to the evidence.

The TCC Title IX Administrator will have discretion to determine how to provide access to the preliminary Investigation Report to the parties based on the particular circumstances of the case and any party or witness privacy concerns. Neither Complainant, Respondent, nor anyone on either party's behalf may copy, remove, photograph, print, record, or in any other manner duplicate the information contained in the preliminary Investigation Report (unless a party is describing the material in a written response to the evidence).

As part of this Evidence Review Process, the parties may submit proposed questions for the Investigator to ask of the other party or any witness, request additional interviews and information-gathering, and/or suggest additional witnesses. The Investigator has discretion to determine if the responses warrant additional information-gathering. If the Investigator determines it is unnecessary to ask individuals additional questions,

---

<sup>12</sup> Interviews that take place via videoconference, and are recorded, may include both an audio and visual recording. Both recordings shall be retained in the same manner as other grievance materials, in accordance with Section X.

interview new witnesses, and/or gather additional evidence, the Investigator will explain their decision in the final Investigation Report.

If additional evidence is provided, the parties submit a written response to the evidence, or new evidence is gathered, it will be included in either a revised preliminary Investigation Report or a separate addendum, as deemed appropriate by the Investigator. Both parties will be provided a reasonable opportunity to review and respond to any new evidence. The Investigator will determine when it is appropriate to conclude the Evidence Review Process. The TCC Title IX Administrator will notify the parties when the Evidence Review Process is complete and the Investigation Report is finalized.

## 5. Final Investigation Report

At the conclusion of the Evidence Review Process, the Investigator will prepare a final written Investigation Report that includes:

- The identities of the parties;
- The identities of the witnesses;
- The dates of conducted interviews;
- A summary of the allegations;
- The policy alleged to be violated by the conduct;
- A summary of the investigation process;
- The relevant statements of the parties and witnesses;
- A summary of the relevant evidence gathered by the Investigator;
- A description of the relevant, material undisputed facts;
- A description of the relevant, material disputed facts;
- A statement describing how and when the parties were given the opportunity to review the evidence; and,
- Explanations for why evidence or witnesses submitted by the parties were not considered.

The Investigation Report will not include findings of fact, findings of policy, or credibility determinations for parties or witnesses (other than to note when credibility is not disputed).

The TCC Title IX Administrator will provide the parties with a final copy of the Investigation Report, including all attachments, at least ten (10) days prior to a hearing. The parties may submit a written response to the final Investigation Report. Written responses are incorporated into the materials that can be reviewed and considered by the Adjudicator. Each party will receive a copy of the other party's written response to the Investigation Report.

#### D. Step Three: Hearing

Upon receipt of the final Investigation Report, the TCC Title IX Administrator will evaluate the evidence gathered and determine if the Title IX Grievance Process is still applicable to the Formal Complaint. The TCC Title IX Administrator will consider if the following elements are met:

1. The conduct is alleged to have occurred on or after August 14, 2020;
2. The conduct is alleged to have occurred in the United States;
3. The conduct is alleged to have occurred in TCC's education program or activity; and,
4. The alleged conduct, if true, would constitute Sexual Harassment, as defined in this Policy.

If the TCC Title IX Administrator determines that the required elements are met, the matter shall proceed to a hearing. A hearing will be held in which an Adjudicator will make credibility determinations, findings of fact on disputed facts, and findings of policy on the relevant Policy the Respondent is alleged to have violated. In reaching findings, the Adjudicator may consider the final Investigation Report, all evidence gathered by the Investigator, and testimony provided at the hearing.

Individuals may choose not to participate in the hearing. If any individual – Complainant, Respondent, and/or witnesses – chooses not to participate in the hearing, the Adjudicator may not consider any statement made by the individual to the Investigator. Parties (Complainants and Respondents) may also choose to attend the hearing and not answer questions. The Adjudicator will not draw any adverse inference solely from an individual's decision to not participate in the hearing, although this decision may impact the information available to the Adjudicator in reaching their decision. However, the Adjudicator may draw adverse inferences if an individual selectively participates in the hearing (for example, answering some questions but declining to answer others).

The hearing is a closed proceeding and will not be open to the public. The witnesses will only be present in the hearing for the duration of their testimony.

The Adjudicator will permit breaks, as needed, throughout the hearing. All participants in the hearing will behave in a respectful manner, as outlined in TCC's Rules of Decorum. The Rules of Decorum will be shared with the parties, their Advisors, and Support Persons prior to the hearing. The Adjudicator has the discretion to remove any participant or observer who is not conducting themselves according to the Rules of Decorum.

TCC expects the parties will wish TCC to share documentation related to the allegations with their Support Person and/or Advisor. TCC provides a FERPA release form that authorizes such sharing and participation. The parties must complete this form before TCC is able to share records with a Support Person and/or Advisor. Parties must also complete this form before the commencement of the hearing. The parties are not otherwise restricted from discussing and sharing information relating to allegations with others who may support them or assist them in preparing and presenting. Support Persons and/or Advisors are expected to maintain the privacy of the records shared with them by TCC. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by TCC. TCC may seek to restrict the role of any Support Person

and/or Advisor who does not respect the sensitive nature of the process or who fails to abide by TCC's privacy expectations.

### 1. Hearing Coordinator

The TCC Title IX Administrator will be responsible for designating a Hearing Coordinator who will coordinate the hearing process. The Hearing Coordinator will ensure the Adjudicator is provided with all necessary materials, including the Investigation Report and attachments, as well as any party's written responses to the final Investigation Report. The Hearing Coordinator will also arrange a location for the hearing and coordinate a date and time for the hearing.

The Hearing Coordinator will act as a liaison between the parties and the Adjudicator on all procedural matters.

### 2. Designation of Adjudicator

The TCC Title IX Administrator, in consultation with the parties' Home Institution's Title IX Coordinators, will designate an Adjudicator, distinct from the Hearing Coordinator and any Title IX Coordinator, who will preside over the hearing and draft the Hearing Decision. The Adjudicator is a single individual, either internal or external to TCC. The Adjudicator is responsible for overseeing the hearing, making procedural determinations, managing the questioning process, and issuing the Hearing Decision.

The Adjudicator will have had appropriate training in the definitions of Sexual Harassment, the scope of TCC's education programs and activities, the investigation and hearing processes, bias, the Alternative Resolution Process, and hearing decision writing.

Additionally, the Adjudicator will be trained on the following:

- Any technology to be used at the hearing; and,
- Issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant.

The Hearing Coordinator will provide the parties with written notice of the Adjudicator's identity. If either party believes the assigned Adjudicator has an actual conflict of interest or bias, they should immediately notify the TCC Title IX Administrator. The TCC Title IX Administrator will consider and resolve any objections to the selection of an Adjudicator.

### 3. Witnesses

The Adjudicator has ultimate discretion to call witnesses and may determine not to call witnesses submitted by the parties, and/or to call witnesses who were not submitted by the parties. The Adjudicator will communicate to the Hearing Coordinator the witnesses they have determined should be called for the hearing, what their expected relevant testimony will be, and their explanations for determining not to call witnesses submitted by the parties if they make such determinations.

The Hearing Coordinator will request the attendance of all the witnesses whose testimony the Adjudicator determined was within the hearing scope. The Hearing Coordinator will coordinate to have the Investigator present at the hearing for questions regarding the Investigation and the Investigation Report.

TCC cannot compel parties or witnesses (with the exception of the Investigator) to testify in the hearing. Any witness' decision not to participate will not be a reason to cancel or postpone a hearing. Investigators who are current employees of TCC are expected to participate in the hearing, if requested. Non-employee Investigators, including Investigators who have left employment with TCC, can be requested, but cannot be compelled, to participate in the hearing.

The Complainant's and Respondent's Home Institution's Title IX Coordinators can be present in a silent role during the entirety of the hearing.

#### 4. Hearing Notice

At least five (5) business days prior to the scheduled hearing, the Hearing Coordinator shall send the parties written notice of the hearing. The written notice will include the following information:

- The identity of the Adjudicator;
- The time, date, and location of the hearing, including if the hearing will be conducted entirely via videoconference;
- The identity of all parties participating in the hearing, including witnesses approved by the Adjudicator;
- A list of all documents the Adjudicator may consider in reaching their determination;
- TCC's Live Hearing Expectations; and,
- A general overview of the hearing process.

#### 5. Recording

The Hearing Coordinator is responsible for ensuring the hearing is audio recorded.<sup>13</sup> TCC shall retain the recording as the only authorized recording of the hearing. A recorded party may request to review the transcript or audio of the hearing in-person and under supervision by a TCC representative.

Hearing recordings will be maintained for seven (7) years after the conclusion of the Title IX Grievance Process, the Respondent's graduation, separation from TCC, or separation from Institutional employment, whichever is latest.

#### 6. Separation of Parties

Hearings may be conducted with any or all parties, witnesses, and other participants appearing virtually, with technology enabling participants to simultaneously see and hear one another, or with parties physically present in the same geographic location.

As standard practice, the parties will be physically separated during the hearing and participate virtually unless both parties request otherwise. The Adjudicator is responsible for making a final decision about the location of the parties during the hearing.

---

<sup>13</sup> Hearings that take place via videoconference may include both an audio and visual recording. Both recordings shall be retained in the same manner as other grievance materials, in accordance with Section X.

## 7. Hearing Questioning and Role of the Advisor

The Adjudicator will determine the order of questioning at the hearing. The Adjudicator may change the order of questioning, with appropriate verbal notice to the parties, if the Adjudicator determines a change is necessary to accommodate a witness' schedule, or for other procedural reasons. The Adjudicator may ask questions at any time of any party providing testimony during the hearing.

The Adjudicator will permit each party's Advisor to ask the other party or parties and any witnesses relevant questions, including questions challenging credibility. This questioning will be conducted directly, orally, and in real-time by the party's Advisor and never by a party personally. The questions must be relevant to the hearing scope, not be repetitive of information already gathered, and/or not be harassing of any individual providing testimony.<sup>14</sup> The Adjudicator will evaluate each question asked. If the Adjudicator determines the question should not be asked, the Adjudicator will direct the party/witness not to answer the question and state their reasoning for this determination on the record. The Adjudicator also has the authority to pause questioning by an Advisor at any time to ask follow-up questions, or as otherwise deemed necessary. All determinations made by the Adjudicator are final, including determinations on questioning.

Should a party choose not to question a party or witness, the party shall affirmatively waive their right to question through a written or oral statement to the Adjudicator either before or during the hearing. A party's waiver of their right to question an individual providing testimony does not eliminate the ability of the Adjudicator to consider the testifying individual's statements made during the hearing and/or to the Investigator.

Parties are expected to notify the Hearing Coordinator of the identity of their Advisor and Support Person in advance of the Hearing. The Hearing Coordinator will share this information with the other party.

Parties are required to have an Advisor present during the hearing, even if the party does not wish to ask questions of any individual testifying. If a party does not have an Advisor at the commencement of the hearing, that party's Home Institution will provide the party with an Advisor trained in the hearing process and in the development and posing of relevant questions. The party must utilize the Advisor provided by their Home Institution for purposes of questioning during the hearing.

If parties know they will not have their own Advisor at the hearing, they are encouraged to notify the Hearing Coordinator of this fact as soon as possible.

If a party does not participate in, or attend, the hearing, their Advisor may still appear at the hearing and ask questions of the other party(ies) and witnesses.

Absent their role in questioning, Advisors will remain silent during the hearing. They may not answer questions on behalf of any party, nor may they make closing statements on behalf of any party.

---

<sup>14</sup> If the Hearing involves allegations of conduct falling outside this Policy, the party's Advisor may only directly ask questions of the other party or parties or witnesses that relate to the conduct falling under this Policy. The party's Advisor may propose questions related to other, non-covered Policy conduct, by submitting them in writing to the Hearing Officer. The Hearing Officer will evaluate the questions and ask the questions they deem relevant, non-repetitive, and non-harassing.



All participants at the hearing will behave in a respectful manner. The Adjudicator has discretion to remove any participant or observer who is not conducting themselves in a manner conducive to a fair, safe, and orderly hearing.

#### 8. Party Mitigation and Impact Statements

Within five (5) business days after the last day of the hearing, the parties may provide to the TCC Title IX Administrator written statements related to potential sanctions. Specifically, parties may submit a written impact and/or mitigation statement.

If the Adjudicator determines there was a violation of Policy, the Adjudicator will notify the TCC Title IX Administrator before issuing their Hearing Decision. The TCC Title IX Administrator will provide the Adjudicator with copies of the party statements, in accordance with Section IX.E. The TCC Title IX Administrator will also provide copies of the statements to the parties' Home Institution Title IX Coordinators. If the Adjudicator determines there was not a violation of Policy, the TCC Title IX Administrator will not release the party statements to the Adjudicator.

#### 9. Hearing Decision

The Adjudicator will consider the investigation record, including the Investigation Report and attachments, and the evidence accepted at the hearing in drafting their Hearing Decision. The Adjudicator will use a preponderance of the evidence standard to determine whether a Policy violation occurred. The Adjudicator will make their own findings and credibility determinations based on a preponderance of the evidence.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]<sup>15</sup> The Adjudicator will not draw an inference regarding a person's decision not to participate in the hearing, nor will they draw an inference regarding a person's decision not to answer questions posed during the hearing. However, the Adjudicator may consider a person's selective participation during the hearing in assessing credibility. Selective participation, for purposes of this Policy, means a party chooses to answer some questions and declines to answer others.

If the Adjudicator finds a violation of Policy, the Adjudicator and TCC shall follow the procedures set forth in Section IX.E. – Sanctioning.

If the Adjudicator does not find a violation of Policy (and the Appeal process, as outlined in Section IX.F has concluded), the Adjudicator will finalize the Hearing Decision and submit the Hearing Decision to the TCC Title IX Administrator.<sup>16</sup>

---

<sup>15</sup> The sentence removed from the Policy set specific parameters on what an Adjudicator could not consider related to party and witness statements. Those parameters were mandated by a provision of the Final Rule. On July 28, 2021, a federal court district court ruled the provision mandating the now-removed sentence was "arbitrary and capricious." On August 24, 2021, the Department of Education released guidance, notifying institutions that the Department will cease enforcement of that particular provision of the Final Rule and that postsecondary institutions are no longer subject to the provision. In accordance with Section XIII of this Policy, the language was struck.

<sup>16</sup> If there is no finding of a Policy violation, no sanctions will be issued.

The final Hearing Decision will include the following:

- The allegations allegedly constituting Sexual Harassment, as defined by this Policy;
- A description of the procedural steps taken from receipt of the Formal Complaint through the determination;
- Findings of fact;
- Policy findings;
- Rationale for each finding;
- Sanctioning determination (if applicable); and,
- Rationale for the sanctioning determination (if applicable).

Within fifteen (15) business days of the hearing, the TCC Title IX Administrator will send written notice to both parties of the Adjudicator's policy and sanctioning determinations. The TCC Title IX Administrator will include a copy of the Adjudicator's decision.

The TCC Title IX Administrator will explain the Appeal Process, including the permissible bases for appeal, in their written notice to the parties. The Adjudicator's determination becomes final on the date on which an appeal would no longer be considered timely (see Section IX.F.).

For potential enhancements to sanctions, occurring when a Respondent has instances of prior conduct, please see Section IX.G.

#### E. Step Four: Sanctioning

This section sets forth the procedures to be followed should the Adjudicator find that a Policy violation(s) occurred. This section applies to instances involving both student and employee Respondents.

In cases involving employee Respondents, the TCC Title IX Administrator will refer the matter to the Title IX Coordinator of Respondent's Institution for sanctions and appeals.

In cases involving student Respondents, if the Adjudicator determines there was a Policy violation, the Adjudicator will notify the TCC Title IX Administrator. The TCC Title IX Administrator will take two steps:

- They will notify the Title IX Coordinator and the appropriate Administrator of each parties' Home Institution. The parties' Home Institutions may submit written recommendations related to sanctions. The parties' Home Institutions will provide those recommendations to the TCC Title IX Administrator, who will transmit them to the Adjudicator; and,
- They will provide the Adjudicator with any written party statements, as set forth in Section IX.D.8. If the parties did not provide written statements in accordance with Section IX.D.8., above, they will not be provided an additional opportunity to submit a written statement to the Adjudicator.

The Adjudicator will decide if remedies are appropriate in order to restore or preserve equal access to the party's education and/or employment. Such remedies may include the same individualized services described

as “Supportive Measures.” However, unlike Supportive Measures, remedies need not be non-disciplinary or non-punitive, and need not avoid burdening the Respondent.

The Adjudicator will make a sanctioning determination based on the factual and Policy findings, written party statements, written Institution recommendations, and other factors relevant to sanctioning. The Adjudicator shall give significant weight to the written Institution recommendations in issuing a sanction. The factors an Adjudicator may consider include, but are not limited to:

**Severity of the violation:** The duration of the conduct; whether the conduct was repeated; the number of Policy violations; abuse of power; use of intimidation; use of force; level of endangerment to the Complainant; level of injury to the Complainant; presence of a weapon; deliberate embarrassment; exploitation of level of intoxication

**Aggravation:** Whether the Respondent used force, threat, violence, duress, or intentionally caused intoxication to engage in conduct without Complainant’s consent.

**Intent:** Whether Respondent intended to cause harm; whether Respondent premeditated the conduct; whether Respondent pressured others to engage in the conduct or similar conduct; whether Respondent was pressured by others to engage in the conduct.

**Retaliation:** Whether Respondent complied with No Contact Orders and other interim measures in place during the investigation and hearing process; whether Respondent engaged in conduct meant to intimidate or harass participants for their participation in the investigation or hearing process; whether Respondent was forthcoming during the investigation and hearing process; whether Respondent engaged in any other conduct which would obstruct the investigation or hearing process, or impacted the fairness of the processes.

**Impact:** The impact of Respondent’s conduct and presence on the Complainant’s safety and participation in TCC’s programs; the impact of Respondent’s conduct on TCC’s community; the impact of sanctions on Respondent’s access to participation in TCC’s programs.

Possible sanctions are as follows:

**Warning:** Written notice that the Respondent’s behavior was in violation of TCC Policy and that future violations will result in more severe sanctions.

**Restitution:** Reimbursement by the Respondent(s) to the Institution, another Claremont College, TCC, the Complainant(s), or a member of TCC’s community to cover the cost of property damage or other loss.

**Service Hours:** A set number of work hours the Respondent must complete. The Title IX Coordinator will determine the nature of the work to be performed. Generally, service hours are conducted within TCC.

**Educational Program/Project:** Programs and activities designed to help the Respondent become more aware of Institution policies and help the Respondent understand the inappropriateness of their behavior, including, but not limited to, participation in an educational program or completion of an online program.

**Referral for Assessment:** A referral for an assessment with an appropriately trained therapist who will recommend a process for treatment. Reinstatement is conditioned upon receiving proof of completion of the recommended treatment.

**Loss of Privileges:** Denial of specific privilege(s) for a defined period of time. Privileges include, but are not limited to, participation in extracurricular activities and events such as social events, intercollegiate athletics, intramural programs, student organizations, and student government, as well as the privilege of living on campus, living in a specific residence hall, participation in commencement ceremonies, or having a vehicle on campus.

**Restricted Access:** Conditions which specifically dictate and limit the Respondent's presence on campus and/or participation in Institution-sponsored activities. The restrictions will be clearly defined and may include, but are not limited to, presence in certain buildings or locations on campus or a No Contact Order. In cases involving parties from different Claremont Colleges, restricted access may extend to exclusion from another Institution's campus.

**Removal of Offending Cause:** Requirement to remove the item which was the subject of the complaint.

**Relocation or Removal from Residence Halls:** Requirement that the Respondent relocate to another residence hall, or off-campus residence, by a specified date.

**Probation:** Formal, written notice that the Respondent's behavior is in violation of Institution Policies and an expectation that the Respondent exhibit good behavior for a defined period of time. Any violation during the probationary period will be referred back to the Respondent's Home Institution for appropriate review and response. Notice of Conduct Probation is sent to the Respondent's academic advisor as well as to the Respondent's parent(s)/guardian if the Respondent is a minor.

**Employment Probation:** Formal, written notice that the employee's conduct is in violation of Institution Policies and an expectation that the employee exhibit good behavior for a defined period of time. Any further violations during the probationary period will result in increased sanctioning and may result in employment suspension without pay or termination of employment.

**Suspension of One, Two, Three, Four, Five, Six, Seven, or Eight Semesters:** Separation from the Institution for one, two, three, four, five, six, seven, or eight semesters. During the suspension period, the Respondent is not permitted on campus, is not permitted to participate in any Institution-sponsored or affiliated program or activity, and is not permitted to earn any credits towards the Respondent's degree. The terms of the suspension may include the designation of special conditions affecting eligibility for re-enrollment or special conditions to be in effect upon re-enrollment, including a term of Conduct Probation.

**Suspension without Pay (staff and faculty):** Separation of employment for a defined period of time without pay for the time of separation.

**Employment Termination:** Permanent separation of the employee from their position. If the Respondent is a student, they may be permanently separated from their student position. A staff or faculty member who is terminated from their employment is not permitted to participate in any Institution-sponsored or affiliated program or activity.

**Expulsion:** Permanent separation from the Institution. A Respondent who has been expelled is not permitted on campus and is not permitted to participate in any Institution-sponsored or affiliated program or activity.

For student Respondents, the Respondent's Home Institution's Title IX Coordinator is responsible for ensuring completion of the sanction. For employee Respondents, the Respondent's Home Institution's designated official is responsible for ensuring completion of the sanction.

## F. Step Five: Appeal Rights

A Complainant or Respondent who is not satisfied with the determinations made as to closure of a Formal Complaint under this Policy and/or the Policy findings or sanctions imposed at the completion of the hearing process may submit an appeal to the TCC Title IX Administrator. The TCC Title IX Administrator, in consultation with the parties' Home Institution's Title IX Coordinators, will identify an appropriately trained Appeal Authority to review and make a determination of the appeal(s).

When the TCC Title IX Administrator identifies an Appeal Authority, they will provide written notice of the individual's identity to the parties. If either party believes the assigned Appeal Authority has an actual conflict of interest or bias, they should immediately notify the TCC Title IX Administrator. The TCC Title IX Administrator will consider and resolve any objections to the selection of an Appeal Authority.

Appeals must be submitted within five (5) business days of the Notice of the Hearing Decision (or the Notice of Case Dismissal) to the TCC Title IX Administrator. The appeal must specify which grounds the appeal is based upon and include any arguments the party wishes to make in support of their appeal.

### 1. Appeal Grounds

Each party has a right to appeal:

- The dismissal of a formal complaint or any included allegations;
- A determination regarding responsibility; and/or,
- Any sanctions.

To appeal, a party must electronically submit their written appeal to the TCC Title IX Administrator within five (5) business days of the notice of the decision being appealed. The appeal must state the grounds for the appeal.

A party may appeal based on one or more of the following grounds:

**Procedural Error:** There was a procedural error(s) which materially affected the outcome of the matter (i.e., failure to follow the process outlined in this Policy). The appealing party must describe in their appeal how the procedural error impacted the outcome.

**Conflict of Interest:** The Title IX Coordinator, TCC Title IX Administrator, Investigator(s), and/or Adjudicator(s) had a conflict of interest or bias for or against an individual party, or for or against Complainants or Respondents in general, that affected the outcome of the matter. The appealing party

must describe in their appeal the alleged conflict of interest or bias held by the individual and how this altered or impacted the outcome.

**New Evidence:** There is new evidence which was not available or known (and could not have reasonably been known) at the time of the final determination which materially affected the outcome of the process. The appealing party must describe in their appeal how the new evidence would have altered the outcome of the process and why the new evidence was not available or reasonably known prior to the appeal.

**Disproportionate Sanctions:** The sanctions are disproportionate to the Adjudicator's findings.

The submission of an appeal pauses the implementation of any sanctions during the pendency of the appeal(s). Supportive Measures remain available during the appeal process.

## 2. Appeal Authority

As noted above, the TCC Title IX Administrator will designate an appropriate Appeal Authority to conduct a prompt, thorough, and impartial review of the appeal. The Appeal Authority will not be the same person as the Adjudicator, Investigator, TCC Title IX Administrator, or the Title IX Coordinator from either parties' Home Institution.

The Appeal Authority will have had appropriate training in the definitions of Sexual Harassment and sexual misconduct, bias, the scope of TCC's education programs and activities, the investigation and hearing processes, the Alternative Resolution Process, and appeal decision writing.

## 3. Appeal Response

The TCC Title IX Administrator will send a written notice of the appeal to the non-appealing party and provide them with a copy of the appeal. The non-appealing party may issue a response to the appeal. The appeal response is limited to ten (10) pages, including attachments, and may address only the issues raised in the appeal. The non-appealing party will have five (5) business days to submit their appeal response after receiving the notice of the appeal.

## 4. Appeal Clarification

If the Appeal Authority needs clarification on any point raised in the appeal, they may make a written request for clarification from the appealing party, through the TCC Title IX Administrator. The appealing party may respond in writing. The TCC Title IX Administrator will transmit the written communications to the Appeal Authority. The Appeal Authority may not communicate directly with either party. The TCC Title IX Administrator will provide copies of the written communications to the non-appealing party and to the parties' Home Institution Title IX Coordinators.

## 5. Appeal Record

The review of an appeal will not involve any additional investigation by the Appeal Authority. The review will be based upon evidence introduced during the investigation process and presented at the hearing, as well as the arguments made during the appeal process. The Appeal Authority will not consider new evidence for the

purposes of upholding, overturning, or modifying the findings. Appeals submitted under the ground of new evidence will be considered only to determine whether the new evidence could likely change the determination of responsibility.

## 6. Appeal Decision

The Appeal Authority will draft a written report which summarizes their decision regarding the appeal. The Appeal Decision will include a description of the ground(s) for the appeal, a summary of the issues raised on appeal, a statement regarding the evidence considered, a statement describing the decision was made based on the preponderance of the evidence standard, and the determination regarding the appeal.

The Appeal Authority may decide to do the following:

- Uphold the findings and sanctions;
- Overturn the findings and/or sanctions;
- Modify the findings and/or sanctions; or,
- Remand the case for a second hearing based on new evidence which could likely affect the outcome of the matter.

## 7. Notice of the Appeal Decision

The TCC Title IX Administrator will send written notice of the Appeal Decision to both parties within ten (10) business days of the submission of an appeal response from the non-appealing party (or the deadline for the non-appealing party to submit a response). The Notice of the Appeal Decision will include a copy of the written Appeal Decision. The notice will inform the parties there is no further review of the matter, no further right to appeal, and that the matter is closed.

The determination regarding responsibility and sanctioning becomes final on the date of the Appeal Decision, unless the Appeal Decision determines further investigation and an additional hearing is necessary based on new evidence discovered.

## G. Final Sanctioning Determination

After the issuance of the final decision (the Hearing Decision if there is no appeal, or the Appeal Decision), the TCC Title IX Administrator will send matters involving findings of Policy violation(s) to the Dean of Students or designated official within the Respondent's Home Institution. The Dean of Students or designated official will review the issued sanctions and determine if any enhancements are warranted based on a Respondent's disciplinary history. Enhancements based on a prior disciplinary history are not shared with the other party.

For student Respondents, the Respondent's Home Institution's Title IX Coordinator is responsible for ensuring completion of the sanction(s). For employee Respondents, the Respondent's Home Institution's designated official is responsible for ensuring completion of the sanction(s).

## H. Alternative Resolution Process

TCC recognizes some parties may want resolution of their matter through an Alternative Resolution Process, instead of through the Title IX Grievance Process. Accordingly, parties can mutually agree to resolve a complaint through an Alternative Resolution Process, instead of undergoing the Title IX Grievance Process. Generally speaking, these resolution options are less time intensive than an investigation and live hearing, while still affording parties an opportunity to actively participate in a process led by their Home Institution for resolution of their complaints.

Alternative Resolution is not available in situations involving a student Complainant and an employee Respondent(s). Any allegation of Sexual Harassment made by a student against an employee must proceed under the Title IX Grievance Process. Alternative Resolution is available when there is a student Respondent and/or when both involved parties are employees.

The parties may, in writing, elect to enter TCC's Alternative Resolution Process. This will include a statement that any agreement reached through the process is binding on the parties. This will also include a statement that the parties understand the Alternative Resolution Process will not result in a notation on either party's disciplinary record.

No party may be required to participate in Alternative Resolution, and it may never be a condition of enrollment, employment, or enjoyment of any other right or privilege. Participation in Alternative Resolution is voluntary, meaning both the Complainant and the Respondent must agree to participate. If Alternative Resolution is selected, the Title IX Coordinator will provide timely written notice to both parties that includes:

- The allegations;
- A statement that the Title IX Coordinator has begun the process;
- The process is voluntary and will end upon either party's request;
- Termination of the Alternative Resolution Process may result in initiation of the Title IX Grievance Process;
- Each party may be accompanied throughout the process by an Advisor (who may be an attorney);
- The Title IX Coordinator will notify both parties of the process' outcome; and,
- The process is confidential; however, the Title IX Coordinator will maintain a record of the process and may share information with others if needed to carry out the resolution of the Alternative Resolution Process. Should the parties withdraw from the Alternative Resolution Process, information disclosed or obtained for purposes of the Alternative Resolution Process remains confidential.

The parties may elect to leave the Alternative Resolution Process at any point until the Alternative Resolution Process is concluded. The process is considered concluded when all parties have signed the agreement. If a party elects to leave the Alternative Resolution Process, the TCC Title IX Administrator will determine the next steps under the Title IX Grievance Process, and will notify the parties of such. In participating in the Alternative Resolution Process, the parties understand that the timeframes governing the formal process temporarily cease, and only recommence upon reentry into the formal process.



**Determination to Approve Entry into Alternative Resolution Process.** Even where the Parties agree to submit a matter to Alternative Resolution, the Home Institution Title IX Coordinator and/or Human Resources Professional must approve the decision to move the matter to the Alternative Resolution Process and may determine that Alternative Resolution is not appropriate under the circumstances.

Factors that the Home Institution Title IX Coordinator and/or Human Resources Professional may weigh in considering the appropriateness of the Alternative Resolution Process include, but are not limited to, the gravity of the allegations, whether there is an ongoing threat of harm or safety to the campus, whether the Respondent is a repeat offender, and whether the parties are participating in good faith. This determination is not subject to appeal.

Alternative Resolution is permitted to address allegations of student-on-student and employee-on-employee sexual harassment, as well as allegations that a student sexually harassed an employee. Alternative Resolution is never allowed as an option to resolve allegations that an employee sexually harassed a student. See, 85 Fed. Reg. 30026, 30054 (May 19, 2020).

At any time after the commencement of the Alternative Resolution Process, the Home Institution Title IX Coordinator and/or Human Resources Professional may determine that the Alternative Resolution Process is not an appropriate method for resolving the matter, and may require that the matter be resolved through the Title IX Grievance Process. This determination is not subject to appeal.

**Role of the Facilitator.** Alternative Resolution Processes are managed by Facilitators, who may not have a conflict of interest or bias in favor of or against Complainants or Respondents generally or regarding the specific parties in the matter. A Title IX Coordinator may serve as the Facilitator.

All Facilitators must have training in the definition of Sexual Harassment under this Policy, the scope of the Institution's education program or activity, how to conduct an Alternative Resolution Process, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, or bias.

**Confidentiality.** In entering the Alternative Resolution Process, the parties agree the process is confidential, related to any testimony and evidence (including admissions of responsibility) they share or receive during the Alternative Resolution Process concerning the allegations of the Formal Complaint. No evidence concerning the allegations obtained within the Alternative Resolution Process may be disseminated to any person, provided that any party to the Alternative Resolution Process may generally discuss the allegations under investigation with a parent, friend, advisor, or other source of emotional support, or with an advocacy organization. Should the parties withdraw from the Alternative Resolution Process, information disclosed or obtained for purposes of the Alternative Resolution Process remains confidential.

**Alternative Resolution Options.** TCC offers Alternative Resolution options for addressing Formal Complaints of Sexual Harassment covered under this Policy. These options include, but are not limited to:

- **Mediation.** The purpose of mediation is for the parties who are in conflict to identify the implications of a student's actions and, with the assistance of a trained Facilitator, identify points of agreement and appropriate remedies to address them. Either party can request mediation to seek resolution. Mediation will be used only with the consent of both parties, who will be asked not to contact one another during the process. The Parties' Home Institutions' Title IX Coordinators and/or Human

Resources Professionals will also review any request for mediation, and may decline to mediate based on the facts and circumstances of the particular case. Either party has the right to terminate the mediation process and choose or resume another option for resolution at any time.

The mediation process will typically commence within thirty (30) business days after the initial report is received and both parties have consented to mediation, and will continue until concluded or terminated by either party or the Parties' Home Institutions' Title IX Coordinators and/or Human Resources Professionals. During mediation, any potential investigation will halt, and calculations for time frames will be paused. If the mediation results in a resolution, the disciplinary process will be concluded and the matter will be closed. If a resolution cannot be reached, the matter will be referred to the Parties' Home Institutions' Title IX Coordinators and/or Human Resources Professionals to re-evaluate other options for resolution, including initiation of the Investigation and/or Hearing process.

During mediation, a Facilitator will guide a discussion between the parties. In circumstances where the parties do not wish to meet face to face, either party can request "caucus" mediation, and the Facilitator will conduct separate meetings. Whether or not the parties agree to meet face to face, each party will be permitted to bring to any meetings an Advisor and a Support Person of their choice, who may be, but is not required to be, an attorney.

At the conclusion of the mediation, the Facilitator will memorialize in writing the agreement that was reached between the parties. The Respondent's Home Institution Title IX Coordinator and/or Human Resources Professional will monitor adherence to the proposed solution and close the matter when compliance is satisfactory.

The Parties' Home Institutions' Title IX Coordinators and/or Human Resources Professionals will keep records of all reports and conduct addressed through Alternative Resolution.

- **Restorative Justice.** A Restorative Justice ("RJ") Conference is a dialogue, facilitated by an employee or contractor with appropriate training, intended to restore relationships and repair harm after a conflict has occurred. Both the responsible party and the individual(s) affected by the conflict come together to identify what harm was caused and, collaboratively, determine how conflict and trust might be, respectively, resolved and repaired.

A party may request to engage in RJ at any stage of the disciplinary process; however, RJ may not be an appropriate mechanism for all conflicts. To qualify for RJ, the student accused of wrongdoing must accept responsibility and express remorse for the harm that was caused. Additionally, all involved parties must agree to and abide by measurable and timely actions within the scope of this Policy and directives. The Parties' Home Institutions' Title IX Coordinators and/or Human Resources Professionals will review any request for RJ, and may decline to initiate RJ based on the facts and circumstances of the particular case.

The RJ conference proceeds only if all parties agree to participate willingly. The RJ process typically commences within thirty (30) business days after the initial report and receipt of written agreements from all involved parties. The conference will continue until the conference is successfully concluded or until the Parties' Home Institutions' Title IX Coordinators and/or Human Resources Professionals determines that the conference will not be successful. If successful, an agreeable resolution is reached by all involved parties, at which time the process is concluded, and the matter is resolved. If a resolution

cannot be reached, the matter will be referred to the Parties' Home Institutions' Title IX Coordinators and/or Human Resources Professionals to re-evaluate other options for resolution.

The Parties' Home Institutions' Title IX Coordinators and/or Human Resources Professionals will monitor the parties' adherence to their proposed solution and reserves the right to close the matter when compliance is satisfactory.

The Parties' Home Institutions' Title IX Coordinators and/or Human Resources Professionals will keep records of all reports and conduct addressed through Alternative Resolution.

## X. Recordkeeping

TCC and the relevant Institutions (as defined in Section I., above) will retain documents related to this process for a period of seven (7) years. Documents related to this process include: Formal Complaints, remedies provided to the Complainant, the Investigation Report and attachments, the hearing record, including accepted documents and the Hearing Decision, any sanctioning determination, and all appeal-related documents, as well as any audio recording or transcript of the hearing.

TCC and the relevant Institutions will also retain, for a period of seven (7) years, all materials used to train the Title IX Administration, Title IX Coordinators, Deputy Title IX Coordinators, Hearing Coordinators, Investigators, decision-makers, and any person(s) facilitating the Alternative Resolution or appeal process. TCC shall make this training material publicly available on its website.

## XI. Clery Act Reporting

Pursuant to the Clery Act, the Institution includes statistics about certain offenses in its annual security report and provides those statistics to the United States Department of Education in a manner that does not include any personally identifying information about individuals involved in an incident. The Clery Act also requires the Institution to issue timely warnings to the Institution's community about certain crimes that have been reported and which may continue to pose a serious or continuing threat to campus safety. Consistent with the Clery Act, the Institution withholds the names and other personally identifying information of Complainant(s) when issuing timely warnings to the Institution's community.

## XII. Periodic Review

This Policy and its procedures supersede previous policies addressing Title IX Sexual Harassment and Retaliation, and is maintained by The Claremont Colleges Services. Upon direction by the member Institutions' Presidents, there will be periodic reviews conducted of this Policy.

## XIII. Revocation by Operation of Law

Should any portion of the Final Rule, 85 Fed. Reg. 30026 (May 19, 2020), be stayed or held invalid by a court of law, or should the Final Rule be withdrawn or modified to not require the elements of this Policy, then this Policy, or the invalidated elements of this Policy, will be deemed revoked as of the publication date of the

opinion or order and for all reports after that date, as well as any elements of the process that occur after that date if a case is not complete by that date of opinion or order publication. Should the Title IX Sexual Harassment Policy be revoked in this manner, any conduct covered under the Title IX Sexual Harassment Policy shall be investigated and adjudicated under the Institution's existing policies.

#### XIV. Non-Discrimination in Application

The requirements and protections of this Policy apply equally regardless of sex, sexual orientation, gender identity, gender expression, or other protected classes covered by federal or state law. All requirements and protections are equitably provided to individuals regardless of such status or status as a Complainant, Respondent, or witness. Individuals who wish to file a complaint about the Institution's policy or process may contact the Department of Education's Office for Civil Rights using contact information available at <https://ocrcas.ed.gov/contact-ocr>.

#### XV. Effective Date

This Policy is effective as of August 14, 2020, and only applies to Sexual Harassment alleged to have occurred on or after August 14, 2020. Incidents of Sexual Harassment alleged to have occurred before August 14, 2020 will be investigated and adjudicated according to the process in place at the time the incident allegedly occurred.

This Policy was last updated on February 15, 2021.<sup>17</sup>

---

<sup>17</sup> Non-substantive, clarifying revisions were made on April 12, 2021. On September 30, 2021, contact information for a Title IX Coordinator was updated, and language was removed from Section IX.D.9 in accordance with Section XIII of this Policy. On December 21, 2021, additional non-substantive, clarifying revisions were made, as were adjustments to the Institutions who adopted this Policy, and Title IX Coordinator contact information.



## **KECK GRADUATE INSTITUTE**

Keck Graduate Institute is a one-of-a-kind graduate school focused on educating tomorrow's biotech, research, and healthcare leaders. We do this through a concentrated and hands-on approach to our methodology that brings students together with our extensive network of partners to work on real-world problems in real-world settings that allow our students to gain the experience and knowledge to truly make an impact on our communities and the individuals within them.

Keck Graduate Institute® and its logos are registered trademarks of Keck Graduate Institute, A member of the Claremont Colleges. © 2024. All rights reserved. Produced by the Office of Marketing and Communications at Keck Graduate Institute.