

**The Claremont Colleges  
Interim Policy on Title IX Sexual Harassment,  
Other Sex-Based Misconduct, and Retaliation**

Effective March 28, 2025

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## I. Introduction

The purpose of this Policy is to set forth how the Claremont Colleges (TCC) 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 Sections XIII - XV. 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.

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

**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 Institutions 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.

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 XXII. 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 March 28, 2025.

The procedures in this Policy for investigating and resolving allegations of Prohibited Conduct will be applied as of the effective date of this Policy.

Prohibited Conduct that is alleged to have occurred from August 14, 2020 to the effective date of this Policy will *also* use the procedures in this Policy.

Prohibited Conduct that is alleged to have occurred *before* August 14, 2020 will be investigated and adjudicated according to the applicable definitions in place at the time the incident allegedly occurred.

<u>Date of Incident</u>	<u>Policy to Be Used for Title IX Conduct</u>	<u>Policy to Be Used for Other Sex-Based Misconduct</u>
<u>August 1, 2024 – present</u>	<u>This Policy</u>	<u>This Policy</u>
<u>January 1, 2022 – July 31, 2024</u>	<u>This Policy</u>	<u>Use campus policy for definitions of Prohibited Conduct, use this Policy for procedures.</u>
<u>August 1, 2020-December 31, 2021</u>	<u>This Policy</u>	<u>Use campus policy (if any) for definitions of Prohibited Conduct, use this Policy for procedures.</u>
<u>Prior to August 14, 2020</u>	<u>See Respondent’s Home Institution’s applicable campus</u>	<u>See Respondent’s Home Institution’s applicable campus</u>

	<u>policy (if any) from this time period.</u>	<u>policy (if any) from this time period.</u>
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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 2020 Title IX Final Rule 85 Fed. Reg. 30026 (2020). 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 2020 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 2020 Title IX Final Rule, will be deemed modified or revoked as of the publication date of the opinion or order (or as otherwise ordered by the court) or as otherwise specified in any revisions to this Policy. In the event of a modification or 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.

**II. 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:

<b>Institution</b>	<b>Title IX Coordinator</b>	<b>Email/Phone</b>	<b>Address</b>
<b>Claremont Graduate University</b>	Ann Knox, Title IX Coordinator  Jalina Najera, Interim Director of Human Resources  Jody Waters, Interim Executive Vice President and Provost	<a href="mailto:Deanof.Students@cgu.edu">Deanof.Students@cgu.edu</a> (909) 607-1887  <a href="mailto:Jaline.Najera@cgu.edu">Jaline.Najera@cgu.edu</a> (909) 607-4404  <a href="mailto:Jody.Waters@cgu.edu">Jody.Waters@cgu.edu</a> (909) 621-8068	160 E. 10th Street Harper Hall East Claremont, CA 91711
<b>Claremont McKenna College</b>	Joanna Rosas, Title IX Coordinator	<a href="mailto:Joanna.Rosas@ClaremontMcKenna.edu">Joanna.Rosas@ClaremontMcKenna.edu</a> (909) 607-8131	385 E. 8 <sup>th</sup> Street Marian Miner Cook Athenaeum Second Floor Claremont, CA 91711
<b>Harvey Mudd College</b>	Danny Ledezma, Title IX Coordinator	<a href="mailto:Dledezma@hmc.edu">Dledezma@hmc.edu</a> (909) 607-3470	301 Platt Boulevard Platt Campus Center Claremont, CA 91711
<b>Keck Graduate Institute</b>	Shino Simons, Title IX Coordinator  Cheryl Merritt, Deputy Title IX Coordinator, Assistant Vice President of Human Resources and Employee Engagement	<a href="mailto:Titleix@kgi.edu">Titleix@kgi.edu</a> (909) 607-0101  <a href="mailto:Cheryl_merritt@kgi.edu">Cheryl_merritt@kgi.edu</a> (909) 607-7853	535 Watson Drive Claremont, CA 91711
<b>Pitzer College</b>	Christine R. Guzman, Title IX Coordinator	<a href="mailto:Christine_guzman@pitzer.edu">Christine_guzman@pitzer.edu</a> (909) 607-2958	1050 N. Mills Avenue Broad Center, Rm 212 Claremont, CA 91711

<b>Institution</b>	<b>Title IX Coordinator</b>	<b>Email/Phone</b>	<b>Address</b>
<b>Pomona College</b>	Destiny Marrufo, Title IX Coordinator	<a href="mailto:Destiny.Marrufo@pomona.edu">Destiny.Marrufo@pomona.edu</a> (909) 621-8017	555 N. College Avenue, Alexander Hall, Ste 104 Claremont, CA 91711
<b>Scripps College</b>	Alyssa-Rae McGinn, Interim 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 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 Processes 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).

**III. Scope and Jurisdiction**

**A. When Title IX Procedural Requirements Apply**

This Policy defines Prohibited Conduct under federal (“Title IX Sexual Harassment”) and state law (“Other Sex-Based Misconduct”) for all members of the TCC community.

This Policy also outlines the resolution procedures to address Prohibited Conduct as defined in this Policy. Specific 2020 Title IX procedural requirements (herein after referred to as “Title IX Procedural Requirements”) for Title IX Sexual Harassment will be applied if:

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 a TCC Institution’s Education Programs or Activities; and,

4. The alleged conduct, if true, would constitute Title IX Sexual Harassment, specifically, Title IX Quid Pro Quo, Title IX Hostile Environment Harassment, Title IX Dating Violence, Title IX Domestic Violence, and/or Title IX Stalking Based on Sex, as defined in this Policy.

Cases that include both Title IX Sexual Harassment and Other Sex-Based Misconduct will be addressed using the Title IX Procedural Requirements. All other cases where the allegations do not meet the above criteria will be addressed using the applicable definitions under Other Sex-Based Misconduct and will not be processed using the Title IX Procedural Requirements (unless the case has been consolidated).

This Policy applies to 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.

- If a TCC Institution has adopted this Policy for its employees, the Title IX Procedural Requirements shall be applied to resolve allegations of Title IX Sexual Harassment that occurred within the jurisdiction of Title IX occurring on or after August 14, 2020.
- All other cases of allegations that do not involve Title IX Sexual Harassment that occur after August 14, 2020 and involve an employee from a TCC Institution that has opted in to this Policy will be processed under the Resolution Options set forth in this Policy.

<b>Institution</b>	<b>Applicable Policy</b>
<b>Claremont Graduate Institute (CGU)</b>	<ul style="list-style-type: none"> <li>• 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.</li> </ul>
<b>Claremont McKenna College (CMC)</b>	<ul style="list-style-type: none"> <li>• For cases by anyone against a CMC employee, please see CMC’s policy.</li> <li>• For cases by a CMC employee against a CMC student, this Policy will be used.</li> <li>• For cases by a CMC employee against a non-CMC student or participant, this Policy will be used.</li> <li>• For cases by a CMC employee against a non-CMC employee, the policy adopted by the Respondent’s Institution for employees will be used.</li> </ul>
<b>Harvey Mudd College (HMC)</b>	<ul style="list-style-type: none"> <li>• For cases by anyone against an HMC employee, please see HMC’s policy.</li> <li>• For cases by an HMC employee against an HMC student, please see HMC’s policy.</li> <li>• For cases by an HMC employee against a non-HMC student or participant, this Policy will be used.</li> <li>• For cases by an HMC employee against a non-HMC employee, the policy adopted by the Respondent’s Institution for employees will be used.</li> </ul>
<b>Keck Graduate Institute (KGI)</b>	<p>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.</p>

<b>Institution</b>	<b>Applicable Policy</b>
<b>Pitzer College</b>	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.
<b>Pomona College</b>	<ul style="list-style-type: none"> <li>• For cases by anyone against a Pomona College employee, please see Pomona College’s policy.</li> <li>• For cases by a Pomona College employee against a Pomona College student, this Policy will be used.</li> <li>• For cases by a Pomona College employee against a non-Pomona College student or participant, this Policy will be used.</li> <li>• 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.</li> </ul>
<b>Scripps College</b>	<ul style="list-style-type: none"> <li>• For cases by any student or participant (Scripps College or non-Scripps College) against a Scripps College employee, this Policy will be used.</li> <li>• For cases by a Scripps College employee against any student or participant (Scripps College or non-Scripps College), this Policy will be used.</li> <li>• For cases by any TCC Institution employee against a Scripps College employee, please see Scripps College’s policy.</li> <li>• 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.</li> </ul>

### **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 2020 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 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.

**IV. Prohibited Conduct – Title IX Sexual Harassment, Other Sex-Based Misconduct, and Retaliation**

Only allegations of Prohibited Conduct, 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.

<b>Definitions of Title IX Sexual Harassment</b>	
<p>In accordance with its obligations under the Title IX Regulations of 2020, TCC Institutions prohibit Title IX Sexual Harassment, which is conduct based on sex (where sex is defined by the federal government as sex assigned at birth) that satisfies one or more of the following definitions and occurs on a TCC Member Institution’s campus or in locations, events, or circumstances in the United States over which a TCC Member Institution exercised substantial control over both the Respondent and the context in which the Title IX Sexual Harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a TCC Member Institution</p>	
<b>Title IX Quid Pro Quo Harassment Based on Sex</b>	<p>An employee of a TCC Member Institution 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).</p>

**Definitions of Title IX Sexual Harassment**

In accordance with its obligations under the Title IX Regulations of 2020, TCC Institutions prohibit Title IX Sexual Harassment, which is conduct based on sex (where sex is defined by the federal government as sex assigned at birth) that satisfies one or more of the following definitions and occurs on a TCC Member Institution’s campus or in locations, events, or circumstances in the United States over which a TCC Member Institution exercised substantial control over both the Respondent and the context in which the Title IX Sexual Harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a TCC Member Institution

<p><b>Title IX Hostile Environment Based on Sex</b></p>	<p>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 Member Institution’s Education Programs or Activities.</p> <ul style="list-style-type: none"> <li>• “Unwelcome conduct” depends on a variety of factors and must be evaluated in light of the known circumstances.</li> <li>• “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.</li> </ul>
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<p><b>Title IX Sexual Assault</b></p>	<p><b>Sexual Assault</b> 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>16</sup></p> <p>For the purpose of these definitions, a Sexual Act is defined as conduct between persons consisting of:</p> <ul style="list-style-type: none"> <li>• Contact between the penis and the vulva, or between penises and vulvas;</li> <li>• Contact between the penis and the anus;</li> <li>• Contact between the mouth and the penis;</li> <li>• Contact between the mouth and the vulva;</li> <li>• Contact between the mouth and anus;</li> <li>• Contact between anuses; or,</li> <li>• Contact involving any of the above or the buttocks or breasts.</li> </ul> <p>Sexual Assault includes:</p> <ul style="list-style-type: none"> <li>• <b>Rape</b>—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. Attempted Rape falls under this prohibition. (This type of conduct is not eligible for mediation as a form of agreement-based resolution in California).</li> <li>• <b>Fondling</b>—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).</li> </ul>
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**Definitions of Title IX Sexual Harassment**

In accordance with its obligations under the Title IX Regulations of 2020, TCC Institutions prohibit Title IX Sexual Harassment, which is conduct based on sex (where sex is defined by the federal government as sex assigned at birth) that satisfies one or more of the following definitions and occurs on a TCC Member Institution’s campus or in locations, events, or circumstances in the United States over which a TCC Member Institution exercised substantial control over both the Respondent and the context in which the Title IX Sexual Harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a TCC Member Institution

<p><b>Title IX Sexual Assault Continued</b></p>	<p>Private body parts include genitals, groin area, breasts, and buttocks.</p> <ul style="list-style-type: none"> <li>• <b>Incest</b>—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).</li> <li>• <b>Statutory Rape</b>—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).</li> </ul>
<p><b>Title IX Dating Violence</b></p>	<p><b>Dating Violence</b> is violence committed by a person:</p> <ul style="list-style-type: none"> <li>• Who is or has been in a social relationship of a romantic or intimate nature with the victim; and</li> <li>• Where the existence of such a relationship shall be determined based on a consideration of the following factors: <ul style="list-style-type: none"> <li>• The length of the relationship;</li> <li>• The type of relationship; and</li> <li>• The frequency of interaction between the persons involved in the relationship.</li> </ul> </li> </ul> <p>Emotional and psychological abuse do not constitute violence for the purposes of this definition.</p>
<p><b>Title IX Domestic Violence</b></p>	<p><b>Domestic violence</b> is violence committed by a person who:</p> <ul style="list-style-type: none"> <li>• 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;</li> <li>• Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;</li> <li>• Shares a child in common with the victim; or</li> </ul>

<b>Definitions of Title IX Sexual Harassment</b>	
<p>In accordance with its obligations under the Title IX Regulations of 2020, TCC Institutions prohibit Title IX Sexual Harassment, which is conduct based on sex (where sex is defined by the federal government as sex assigned at birth) that satisfies one or more of the following definitions and occurs on a TCC Member Institution’s campus or in locations, events, or circumstances in the United States over which a TCC Member Institution exercised substantial control over both the Respondent and the context in which the Title IX Sexual Harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a TCC Member Institution</p>	
	<ul style="list-style-type: none"> <li>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.</li> </ul> <p>Emotional and psychological abuse do not constitute violence for the purposes of this definition.</p>
<b>Title IX Stalking Based on Sex</b>	<p>Engaging in a course of conduct, on the basis of sex, directed at a specific person that would cause:</p> <ul style="list-style-type: none"> <li>a reasonable person to fear for the person’s safety or the safety of others; or</li> <li>suffer substantial emotional distress.</li> </ul>

<b>Definitions of Other Sex-Based Misconduct in Education Programs and Activities and Employment</b>	
<p>In addition to Title IX Sexual Harassment, each TCC Institution prohibits unwelcome sexual conduct, sex-based harassment, sexual violence, sexual exploitation, and retaliation for those individuals who meet the definition of Complainant and Respondent.</p>	
<b>Other Unwelcome Sexual Conduct</b>	<p>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:</p> <ol style="list-style-type: none"> <li>Submission to the conduct is explicitly or implicitly made a term or a condition of an individual’s employment, academic status, or progress; <ul style="list-style-type: none"> <li>Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual; or,</li> <li>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.</li> </ul> </li> <li>Unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by</li> </ol>



**Definitions of Other Sex-Based Misconduct in Education Programs and Activities and Employment**

In addition to Title IX Sexual Harassment, each TCC Institution prohibits unwelcome sexual conduct, sex-based harassment, sexual violence, sexual exploitation, and retaliation for those individuals who meet the definition of Complainant and Respondent.

<p><b>Other Unwelcome Sexual Conduct Continued</b></p>	<p>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.</p> <p>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.</p> <p>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).</p> <p>Conditions may involve academics and/or extracurricular activities within TCC.</p>
<p><b>California Sex-Based Hostile Environment Harassment in Education Programs and Activities</b></p>	<p>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.</p> <p>Nothing in this definition is intended to interfere with an individual’s rights to freedom of speech or expression pursuant to the United States Constitution, the California Constitution, and the California Leonard Law.</p>
<p><b>California Sexual Violence</b></p>	<p>Physical sexual acts perpetrated against a person without the person’s Affirmative Consent. Physical sexual acts include both of the following:</p> <ul style="list-style-type: none"> <li>• <b>Rape</b>, 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).</li> <li>• <b>Sexual Battery</b>, 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</li> </ul>

<b>Definitions of Other Sex-Based Misconduct in Education Programs and Activities and Employment</b>	
<p>In addition to Title IX Sexual Harassment, each TCC Institution prohibits unwelcome sexual conduct, sex-based harassment, sexual violence, sexual exploitation, and retaliation for those individuals who meet the definition of Complainant and Respondent.</p>	
<b>California Sexual Violence Continued</b>	<p>another person’s body without Affirmative Consent.</p> <p>Intimate body parts include genitals, groin area, breasts, buttocks, anus, vulva, and mouth. (This type of conduct is not eligible for mediation as a form of agreement-based resolution in California).</p>
<b>California Sexual Exploitation</b>	<p><b>Sexual Exploitation</b> 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:</p> <ul style="list-style-type: none"> <li>• The prostituting of another person.</li> <li>• 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.</li> <li>• The recording of images, including video or photograph, or audio of another person’s sexual activity or intimate parts, without that person’s consent.</li> <li>• 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.</li> <li>• 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.</li> </ul> <p>Intimate body parts include genitals, groin area, breasts, buttocks, anus, vulva, and mouth.</p>
<b>Stalking Based on Gender Identity, Gender Expression and Sexual Orientation</b>	<p>Engaging in a course of conduct, on the basis of other sex-based protected categories (including sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity and gender expression) directed at a specific person that would cause:</p> <ul style="list-style-type: none"> <li>• a reasonable person to fear for the person’s safety or the safety of others; or</li> <li>• suffer substantial emotional distress.</li> </ul>

<b>Definitions of Other Sex-Based Misconduct in Education Programs and Activities and Employment</b>	
In addition to Title IX Sexual Harassment, each TCC Institution prohibits unwelcome sexual conduct, sex-based harassment, sexual violence, sexual exploitation, and retaliation for those individuals who meet the definition of Complainant and Respondent.	
<b>Other/California Dating Violence</b>	See the definition of Title IX Dating Violence. The conduct must occur outside of the jurisdiction of Title IX and the parties must meet the definitions of “Complainant” and “Respondent.”
<b>Other/California Domestic Violence</b>	See the definition of Title IX Domestic Violence. The conduct must occur outside of the jurisdiction of Title IX and the parties must meet the definitions of “Complainant” and “Respondent.”

<b>Definitions of California Prohibited Harassment in Employment</b>	
For TCC Institutions that have adopted this Policy for their employees, these TCC Institutions prohibit California Sex-Based Harassment in Employment that occurs:	
<ul style="list-style-type: none"> <li>• In the workplace (including the remote workplace during working time) or anywhere on the TCC Institution’s property while employees are working;</li> <li>• Off-campus, if the Prohibited Conduct in employment occurred during a TCC Institution’s work event, activity, program, or event; or</li> <li>• Off-campus, if the off-duty Prohibited Conduct in employment by a supervisor has or reasonably may have the effect of creating a hostile work environment for an employee.</li> </ul>	

<b>California Sex-Based Harassment in Employment</b>	<p>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 (for this definition sex includes sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity and gender expression) and that:</p> <p>Sufficiently offends, humiliates, distresses, or intrudes upon its victim, so as to disrupt the victim’s emotional tranquility in the workplace, or,</p> <p>Affects the victim’s ability to perform the job as usual, or,</p> <p>Otherwise interferes with and undermines the victim’s personal sense of well-being.</p> <p>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.</p>
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**Definitions of California Prohibited Harassment in Employment**

For TCC Institutions that have adopted this Policy for their employees, these TCC Institutions prohibit California Sex-Based Harassment in Employment that occurs:

- In the workplace (including the remote workplace during working time) or anywhere on the TCC Institution’s property while employees are working;
- Off-campus, if the Prohibited Conduct in employment occurred during a TCC Institution’s work event, activity, program, or event; or
- Off-campus, if the off-duty Prohibited Conduct in employment by a supervisor has or reasonably may have the effect of creating a hostile work environment for an employee.

**California Sex-Based Harassment in Employment Continued**

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.

**Definition of Prohibited Retaliation**

Each TCC Institution prohibits Retaliation for those individuals who meet the definition of Complainant and Respondent.

**Retaliation**

TCC Member Institutions prohibit retaliation against any person opposing Prohibited Conduct or participating in any Prohibited Conduct Resolution Process, including an investigation, whether internal or external to a TCC Member Institution.

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

<b>Definition of Prohibited Retaliation</b>	
Each TCC Institution prohibits Retaliation for those individuals who meet the definition of Complainant and Respondent.	
<b>Retaliation Continued</b>	<p>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.</p> <p>Retaliation includes threats, intimidation, harassment, coercion, discrimination, violence, or any other conduct against any person by a TCC Member Institution, a student, or an employee or other person authorized by a TCC Member Institution to provide aid, benefit, or service under any TCC Member 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 Member 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.</p> <p>This Policy also applies to peer retaliation, which is defined as retaliation by a TCC student against another TCC student.</p> <p>A TCC Member Institution may require an employee or other person authorized by the TCC Member 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.</p>

**V. 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 XIII.C.) 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.

## **VI. 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 an 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.

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.

## VII. 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. All resources are confidential and available to 7C students unless otherwise noted. 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 Resources

#### 1. Resources for Students

- **EmPOWER Center**  
1030 Dartmouth Avenue  
(909) 607-2689  
[www.7csupportandprevention.com](http://www.7csupportandprevention.com)  
Director, Rima Shah; [RShahEmPOWER@claremont.edu](mailto:RShahEmPOWER@claremont.edu)
- **Monsour Counseling and Psychological Services(MCAPS)**  
Tranquada Student Services Building  
755 N. College Way  
(909) 621-8222 (For after-hours emergency, press 1 to be connected to the on-call therapist.)  
<https://services.claremont.edu/mcaps/>  
Available only to the 5Cs\*
- **TimelyCare**  
(24/7 medical and mental telehealth care for all students, at no cost)  
<https://app.timelycare.com/auth/login>
- **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/>



- **Student Health Services**  
Tranquada Student Services Center – 1st Floor  
757 College Way Claremont, CA 91711  
(909) 621-8222  
[shsrecords@claremont.edu](mailto:shsrecords@claremont.edu)  
<https://services.claremont.edu/student-health-services/>  
Available only to the 5Cs and limited confidentiality<sup>2</sup>

## 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\*
- **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/>

## B. Off-Campus and Community-Based Resources

### 1. Services and Support for Sexual Assault

- **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/>

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<sup>2</sup> 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.

➤ **Peace Over Violence (Sexual Assault, Dating/Domestic Violence, & Stalking) (Los Angeles, CA)**

The Los Angeles Rape and Battering hotline is a confidential non-judgmental resource where staff and volunteers are available to provide emotional support, advocacy, information and referrals.

**24/7 Hotline: English, Spanish, and ASL**

(213) 626-3393 (Central Los Angeles)

(310) 392-8381 (South Los Angeles)

(626) 793-3385 (West San Gabriel Valley)

<https://www.peaceoverviolence.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/>

Medical staff may have reporting obligation to law enforcement (See FN 2 above).

## **VIII. 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 Formal Complaint alleging Title IX Sexual Harassment, a Complaint of Other Sex-Based Harassment, or Complaint of Retaliation, as defined by this Policy in Section XXII,

requesting that the TCC Institution investigate and make a determination about alleged Prohibited Conduct under this Policy:

1. A Complainant, as defined by this Policy in Section XXII;
2. A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant;
3. The Complainant's Home Institution's Title IX Coordinator upon making case-specific analysis as described in Section IX.C. and
4. 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**

Communication 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) (subject to reporting obligation above).

## **2. Institution-Designated Confidential Resources**

Communication 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 and private 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.

## **IX. 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 including how to file a Formal Complaint to invoke the Title IX Procedural Requirements; 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>3</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:

1. Assistance with immediate safety concerns, care and support resources, medical providers, and law enforcement;
2. Supportive Measures; and

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<sup>3</sup> 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.

3. 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 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 a Resolution Process, the Complainant's Home Institution's Title IX Coordinator will determine whether this Policy applies and, if so, the appropriate Resolution 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; Complaints Initiated by the Title IX Coordinator**

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 where permitted by law, 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 or file a Formal Complaint over the objection of Complainant, the Home Institution's Title IX Coordinator and/or TCC may consider the following:

1. The Complainant's request not to proceed with initiation of a Complaint or investigation process;
2. The Complainant's reasonable safety concerns if their identity is disclosed or an investigation process is initiated;
3. The risk that additional acts of Prohibited Conduct would occur if a Complaint is not initiated;
4. Whether there are multiple or prior reports of the same or similar Prohibited Conduct against the Respondent;
5. 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;
6. 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);
7. The scope of the alleged Prohibited Conduct, including information suggesting a pattern, ongoing Prohibited Conduct, or Prohibited Conduct alleged to have impacted multiple individuals;
8. 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;
9. The availability of evidence to assist a Hearing Decisionmaker in determining whether Prohibited Conduct occurred;
10. 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,
11. 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 for Title IX Sexual Harassment**

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 in Title IX Sexual Harassment cases 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:**
  - a) 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.
  - b) 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.
  - c) 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.
3. **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.
4. **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.

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

Except as provided under Mandatory Dismissal in Section XIV.A.9.d.), 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:

1. The Complainant's Home Institution's Title IX Coordinator is unable to identify the Respondent after taking reasonable steps to do so;
2. The Respondent is not participating in any TCC Institution education programs or activities, is no longer enrolled at any TCC Institution, and/or is not employed by a TCC Institution;
3. 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;
4. 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;
5. 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, or
6. Specific circumstances prevent a TCC Institution or TCC from gathering evidence sufficient to reach a determination as to the allegations.

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 XVII.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 XVII of this Policy.

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

1. Offer Supportive Measures to the Complainant, as appropriate;
2. 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
3. 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.

### **XI. 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.

### **XII. 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 or the Resolution Process

described below. 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.

### **XIII. Resolution Options (Support-Based, Agreement-Based, Respondent's Acceptance of Responsibility, and Investigation and Hearing Resolution)**

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, Respondent's acceptance of responsibility, 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. 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 following Section XIV 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>4</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**

Unless the allegations are subject to the Title IX Procedural Requirements, a Complaint is not required for ABR; however, the Complainant must articulate the allegations of Prohibited Conduct they wish to resolve through the process. Allegations subject to the Title IX Procedural Requirements require a Formal Complaint to be on file before proceeding with ABR.

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 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,

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<sup>4</sup> Also referred to as Alternative Resolution Process.

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. For Title IX Sexual Harassment allegations, ABR involving a student and an employee is not permitted. Under California law, mediation is not a permitted resolution option to resolve reports or Complaints involving allegations of Sexual Assault or California Sexual Violence.<sup>5</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.

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<sup>5</sup> 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.

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 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>6</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 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>7</sup> Meetings may be held in person or

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<sup>6</sup> 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.

<sup>7</sup> 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.



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 XIII.C.

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**

Prior to initiating the process, each eligible 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 receipt of evidence or information that would make addressing the alleged conduct no longer 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. Acceptance of Responsibility by Respondent**

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. (Note: for cases processed under the Title IX Procedural Requirements, a Formal Complaint must be on file.) 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.

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 XVI. 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.

### **1. Appealing the Sanctions Determination When Respondent Has Accepted Responsibility**

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 XVII. as applicable.

## **XIV. Investigation and Hearing Resolution Process that Applies to Title IX Sexual Harassment, Other Sex-Based Misconduct Cases, or Retaliation**

Throughout the Investigation and Hearing 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 Investigation and Hearing 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 XIV.A.5) and hearing process (Section XV.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.

#### **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) Timeline for 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) Timeline for 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) Timeline for 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) Timeline for 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 Investigation and Hearing 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 XVII.) 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.

Any Party may decide to limit their participation in part or in all of the Investigation and Hearing 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.

### **5. Impact of Party Non-Participation in the Investigation and Hearing Resolution 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 Investigation and Hearing 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>8</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

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<sup>8</sup> Family Educational Rights and Privacy Act.

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**

Parties may elect to be accompanied by one 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 one 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.

Unless otherwise specified in this Policy, 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'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.

Except in cases being processed as a Title IX Formal Complaint, where an Advisor is required at the hearing, a Party is not required to have an Advisor during any part of the Investigation and 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 one 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. 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 or remove a Support Person who does not comply with this Policy.

## **9. Special Rules for Title IX Sexual Harassment**

Cases involving Title IX Prohibited Conduct must comply with specific procedural requirements (Title IX Procedural Requirements) in compliance with the 2020 Title IX Final Rule. In addition to the specific rules identified throughout this Policy in their respective section, the below special rules apply to processing Title IX Sexual Harassment cases.

### **a) Title IX Criteria**

Allegations will constitute Title IX Sexual Harassment and will use the Title IX Procedural Requirements when:

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 a TCC Member Institution's Education Programs or Activities; and,
4. The alleged conduct, if true, would constitute Prohibited Conduct under Title IX, specifically, Title IX Quid Pro Quo, Title IX Hostile Environment Harassment, Title IX Dating Violence, Title IX Domestic Violence, and/or Title IX Stalking Based on Sex, as defined in this Policy.

### **b) Complainant Status**

A Complainant must be participating or attempting to participate in a TCC Institution's Education Programs or Activities at the time the Formal Complaint is filed in order to proceed under the Title IX Procedural Requirements.

### **c) Formal Complaint Required**

A Formal Complaint must be filed to process allegations of Title IX Sexual Harassment where the Title IX Sexual Harassment occurred on any TCC Institution's campus or in locations, events, or circumstances within the United States over which a TCC Institution exercised substantial control over both the Respondent and the context in which the Title IX Prohibited Conduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a TCC Institution.

A Formal Complaint may be filed with the Complainant's Home Institution's Title IX Coordinator in person, by mail, 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 of this Policy.

Where the Home Institution's Title IX Coordinator signs a Formal Complaint, the Home Institution Title IX Coordinator is not a Complainant or otherwise a Party. Except as specified below, a Formal Complaint shall initiate the Investigation and Hearing Resolution Process outlined in this document, including the Title IX Procedural Requirements. The Formal Complaint should include the date(s) of the alleged incident(s), the name of the Respondent, the location(s), and should describe the circumstances of the incident(s), where known.

A Formal Complaint must be on file for allegations of Title IX Sexual Harassment prior to engaging in Agreement-Based Resolution.

#### **d) Mandatory Dismissal of a Formal Complaint**

The Title IX Coordinator whose Home Institution has jurisdiction over the education programs and activities where the incident is alleged to have occurred shall dismiss the Formal Complaint, or any included allegations, at any time, if it is determined that:

- the conduct alleged in the Formal Complaint would not constitute Title IX Sexual Harassment as defined by this Policy, even if proved,
- the conduct did not occur in the TCC's education program or activity, and is not within the Title IX jurisdiction;
- the Title IX Coordinator is unable to identify the Respondent after taking reasonable steps to do so;
- the alleged conduct did not occur against a person in the United States; and/or
- at the time of filing the Formal Complaint, the Complainant was not participating in or attempting to participate in a TCC Institution's education program or activity.

A complaint or allegation dismissed under this process may be addressed under other procedures under this Policy, or under a policy or procedures of the Respondent's Home Institution.

Upon a dismissal required under this section, the TCC Title IX Administrator will promptly send written notice of the dismissal and reason(s) simultaneously to the Parties. The notice will inform the Parties if the complaint or allegation(s) will be addressed under another portion of this Policy. If the allegations do not meet the procedural requirements and definitions of Prohibited Conduct under this Policy, the Respondent's Home Institution may refer the matter for further resolution under other policies and procedures at the Respondent's Home Institution.

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

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

Once TCC has accepted the Formal Complaint or 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 Investigation and Hearing 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 Investigation and Hearing 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 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.

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 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.

## **XV. Hearing Process**

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 (and to have advisor-led questioning in Title IX Sexual Harassment cases). 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>9</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

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<sup>9</sup> 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 XVIII.

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**

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. Other than the limited opportunity to cross-examine the other Party and witnesses in Title IX Sexual Harassment cases, 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) Questioning at the Hearing**

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. The rules governing Impermissible Evidence set forth in Section XIV.C.1.c). shall be applied to all questioning. 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.

#### **(1) Cross-Examination at the Hearing by Advisors**

For cases of Title IX Sexual Harassment that are processed as Title IX Formal Complaints, in addition to questioning by the Hearing Decisionmaker described above, the Hearing Decisionmaker must permit each Party's Advisor to ask the other Party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. If a Party does not have an advisor for the live hearing, the Party's Home Institution shall provide without fee or charge to that Party, an advisor of that Home Institution's choice, who may be, but is not required to be, an attorney, to conduct cross examination on behalf of that Party of the other Party/ies and witnesses. Each Party's Home Institution is obligated to ensure each Party has an advisor, either of the Party's or the Home Institution's choice regardless of whether or not the Party is present at the hearing. To ensure timely proceedings, a Party shall alert their Home Institution's Title IX Coordinator as soon as practicable if the Party will need an advisor for the hearing. Only relevant questions may be asked of the other Party or witness (referred to as "cross-examination").

Cross-examination at the live hearing must be conducted directly, orally, and in real time by the Party's advisor of choice and never by a Party personally. TCC and/or the Hearing Decisionmaker may restrict the extent to which advisors may participate in the proceedings.

Before the Complainant, Respondent, or witness answers a cross-examination or other question, the Hearing Decisionmaker must first determine whether the question is relevant and will instruct the Party or witness being asked the question whether they may answer. The Hearing Decisionmaker must explain to the Party proposing the question(s) any decision to exclude a question as not relevant. The rules governing Impermissible Evidence set forth in Section XIV.C.1.c) shall be applied to all questioning. 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.

For allegations of Title IX Sexual Harassment and other Prohibited Conduct that have been consolidated into one case, cross examination may only be used when questioning a witness regarding Title IX Sexual Harassment that is being processed under a Formal Complaint.



### **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 XVI. 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 XVI, and the Hearing Decision Report will include 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 determination(s) becomes final on the date on which an appeal would no longer be considered timely (see Section XVII).

## **XVI. 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 XIV.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>10</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 investigation process; whether Respondent engaged in conduct meant to intimidate or harass 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.

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<sup>10</sup> For cases where the Respondent has accepted responsibility pursuant to Section XIII.C.

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

- **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 individual who participated in the investigation or hearing process. In cases involving Parties from 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. The Respondent's Home Institution will determine degree and transcript status for suspended students.

- **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.**

## **XVII. Appeal Rights and Process**

Except as provided in Addendum A which has its own appeal 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>11</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 investigation process or when the hearing decision or dismissal of complaint or allegations was 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.

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<sup>11</sup> As explained in Section XIII.C., 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.

- **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).

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.

## **G. 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.

## **H. 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 the 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.

### **I. 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.

### **XVIII. 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.

### **XIX. 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.*

## **XX. Policy Review and Revision**

This Policy, effective March 28, 2025, 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.

## **XXI. Non-Discrimination Application and Additional Enforcement Information**

Except where federal law requires distinctions, 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://ocras.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  
Phone: (800) 884-1684  
<https://calcivilrights.ca.gov/>

**XXII. 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 Investigation and Hearing Resolution Process except in cases being processed as a Title IX Formal Complaint, an advisor is required for the hearing.

The Advisor's role is limited. Unless otherwise specified in this Policy, 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 in a TCC Institution's Education Program or Activity 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. (Title IX Sexual Harassment requires the filing of a Formal Complaint as defined below.) 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 or a Formal 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. (A Formal Complaint is required for cases being processed as Title IX Sexual Harassment.)

**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.

**Formal Complaint:** Formal Complaint means a document filed by a complainant or signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a respondent and requesting that the recipient investigate the allegation of Sexual Harassment. At the time of filing a Formal Complaint, a complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the Formal Complaint is filed. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator and by any additional method designated by the recipient. As used in this paragraph, the phrase “document filed by a complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the recipient) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the Formal Complaint. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a complainant or otherwise a party.

**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.