

**Coast Community College District
ADMINISTRATIVE PROCEDURE**

Chapter 7
Human Resources

AP 7910 Sexual Misconduct: Employees

References:

Education Code §§ 210-214, 66260-66264, 66271.2-66271.3, 66271.5-66281.8, 66284, 67380-67386, 67390-67393;

Penal Code §§ 240-248, 261-269, 639-653.2, 11160-11163.6, 11164-11174.3, 13700-13702;

Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681;

34 Code of Federal Regulations Part 106 and § 668.46;

California Code of Regulations, Title 5, §§ 59311 *et seq.*

BP/AP 3410 Prohibition of Discrimination and Harassment

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INTRODUCTION

This Procedure covers reports of sexual harassment, sexual assault, sexual violence, dating violence, domestic violence, stalking, and retaliation when the Complainant or Respondent is a District Employee or an applicant for a District employment position, consistent with the requirements of federal or state law.

Due to the manner in which federal regulations and state law intersect and differ, this Procedure contains bilateral provisions for both Title IX requirements/procedures, noted as subsection "A" where applicable, and requirements/procedures under the California Education Code and Title 5 of the California Code of Regulations ("Title 5"), noted as subsection "B" where applicable. Conduct and complaints that are not governed by Title IX may still be governed by California law or other Board Policies and Administrative Procedures. The District encourages individuals to ask questions about this Procedure and about the application of Title IX and Title 5, regardless of whether they make a report.

SECTION I - DEFINITIONS

Advisor: Each Party has the right to choose and consult with an Advisor of their choice at their own expense. The Advisor may be any person, including a friend, family member, therapist, union representative, or an attorney. The District will not limit their choice of Advisor. Parties in this process may be accompanied by an Advisor at any meeting or proceeding to which they are required or are eligible to attend. Except where explicitly stated otherwise in this Procedure, Advisors shall not participate directly in the process. The District will provide the Parties with equal access to Advisors; any restrictions on Advisor participation will be applied equally. The Advisor may not represent, advocate, or speak on behalf of a Complainant or Respondent, except as otherwise permitted by applicable law. An Advisor may not disrupt or impede any resolution proceeding.

Affirmative Consent¹ 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 they have the Affirmative Consent of the other participants to engage in the sexual activity. Lack of protest, resistance, or silence does not mean Affirmative Consent.

Affirmative Consent must be ongoing throughout the sexual activity and can be withdrawn or revoked at any time. Once one Party withdraws or revokes consent, the sexual activity must stop immediately. Affirmative Consent to one form of sexual activity (or one sexual act) does not constitute Affirmative Consent to other forms of sexual activity. Affirmative Consent given to sexual activity on one occasion does not constitute Affirmative Consent on another occasion. The existence of a dating or social relationship between those involved, or the fact of past sexual activities between them, should never by itself be presumed to indicate Affirmative Consent.

Affirmative Consent must be voluntary (an act of free will), and given without force, coercion, threats, or intimidation. For purposes of this definition:

- Force means the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion (unreasonable pressure for sexual activity) that overcomes free will or resistance or that produces consent.
- There is no requirement for a person to resist the sexual advance or request, but resistance is a clear demonstration of non-consent.

¹ See Education Code § 67386(a)(1).

It shall not be a valid excuse that the Respondent believed that the Complainant consented to the sexual activity if the Respondent knew or reasonably should have known 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 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.

It shall not be a valid excuse 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 person's own intoxication or incapacitation from drugs, alcohol, or medication 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.

Sexual activity with a minor (under 18 years old) is never consensual because a minor is incapable of giving legal consent due to age.

This Procedure is applicable regardless of the gender, sexual orientation, or gender identity of the participants engaging in the sexual activity.

Complaint: A Complaint, under California law, means a written complaint submitted by the Complainant, or by the Complainant's parent/guardian if the Complainant is a minor, alleging that a Respondent has committed Prohibited Conduct under California law. Under Section 59328 of Title 5, some Complaints, such as of sex discrimination or sexual harassment, may be submitted orally.

Complainant: Any Employee who has reported being or is alleged to be impacted by Prohibited Conduct as defined by this Procedure. The District recognizes the legal rights of parents or guardians to act on behalf of the Complainant (including filing a Formal Complaint), if the Complainant is a minor. Any person, other than the Complainant, who reports Prohibited Conduct shall be identified as a Reporter. A Complainant is also defined as an individual who submits a Formal Complaint (under Title IX) or a Complaint (under California law) against a Student or Employee. If the Complainant or Respondent is a Student also refer to BP/AP 5910.

College: Refers to any one of the three Colleges (*i.e.*, Coastline College, Golden West College, and Orange Coast College) within the District.

College Disciplinary Officer performs the duties prescribed in BP/AP 5500. The College Disciplinary Officer or designee will serve as the decision-maker (Hearing Chair) during any hearing and impose appropriate sanctions on the Respondent who is a Student following the determination of responsibility for violating BP/AP 5500.

Day means calendar day unless otherwise stated. "Business Day" means a day that the District or College are open for business to the public, and excludes holidays and weekends.

District: Refers to the Coast Community College District and each of its Colleges.

District Human Resources Representative: The District's Vice Chancellor of Human Resources, or designee, assigned to work with the Title IX Coordinator in the investigation of Prohibited Conduct cases

involving Employees to Student, Student to Employee, or Employee to Employee, to ensure conformance with applicable District Board Policies and Administrative Procedures.

Employee means a person hired by the District to perform work for a prescribed compensation, or a person who has applied for such a position.

Formal Complaint: A Formal Complaint means a written document (paper copy or electronic) submitted by the Complainant or signed by the Title IX Coordinator alleging that a Respondent has committed Prohibited Conduct under Title IX and requesting that the District investigate the allegations therein. Under this Procedure, a Formal Complaint can be filed only against an individual who is a Student or Employee at the time the Formal Complaint is filed. A Formal Complaint is filed by a Complainant when it contains the Complainant's physical or digital signature or otherwise indicates that the Complainant is the person filing the Formal Complaint.

Hearing Chair: The Hearing Chair is the decision-maker (College Disciplinary Officer or designee), responsible for facilitating the hearing pursuant to this Procedure.

Not Responsible: Means, based on the Preponderance of Evidence standard, that the Respondent did not violate this Procedure.

Party or Parties: Means either the Complainant or the Respondent. The term Parties means both the Complainant and Respondent collectively.

Preponderance of the Evidence means the greater weight of the evidence (*i.e.*, the evidence on one side outweighs, preponderates over, or is more than the evidence on the other side). The Preponderance of the Evidence is the applicable standard for demonstrating facts and reaching conclusions in a hearing or investigation conducted pursuant to this Procedure.

Prohibited Conduct means the conduct defined in Sections 2.1(a) and 2.1(b).

Reporter: Any person, other than the Complainant, who reports potential violations of this Procedure.

Respondent: An individual who has been reported to be the perpetrator of the conduct that could constitute Prohibited Conduct. Under Title IX, the Respondent must be a participant in the educational program or activity of the District/College. The District recognizes the legal rights of parents or guardians to act on behalf of a minor. If the Complainant or Respondent is a Student, also refer to BP/AP 5910.

Responsible: Means, based on the Preponderance of Evidence standard, that the Respondent violated this Procedure.

Sanctions: BP/AP 5500 outline the Sanctions the Hearing Chair/decision-maker (College Disciplinary Officer or designee) may impose on the Respondent who is a Student following the determination of responsibility for violating this Procedure.

Student: Means any person who has applied for admission, who is enrolled, or who has expressed their intent to enroll in, any educational program within the District, for the period in which the Prohibited Conduct occurred.

Supportive Measures: Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Parties to restore or preserve access to the District's educational program or activity, including measures designed to protect the safety of the Parties or the

District's educational environment, and/or deter Prohibited Conduct. Refer to Section 9.4 for more information.

Title IX Coordinator is responsible for oversight and coordination of Title IX, Board Policies and Administrative Procedures regarding Title IX, and other related state and federal laws prohibiting Discrimination, Harassment, and Retaliation based on gender or sex. If the Title IX Coordinator delegates an investigation, they shall monitor, supervise, and oversee the investigation to ensure that it is conducted in accordance with the standards, procedures, and timelines set forth in this Procedure.

Title IX Investigator is the designated person to investigate a Formal Complaint of Prohibited Conduct. Referred to as the Investigator throughout this Procedure, the Investigator shall not be within the administrative control or authority of the Parties.

Title IX Team, includes, but is not limited to, the Title IX Coordinator, Investigators, Hearing Chair, Appeal Designees, and District-appointed Advisors.

SECTION II - PROCEDURE STATEMENT

The District is committed to equal opportunity in educational programs, employment, and access to institutional programs and activities. The District embraces the principle of diversity and values community differences in age, disability (physical or mental), gender (or sex),² gender identity (including transgender status), gender expression, genetic information, marital status, medical condition, national origin, race or ethnicity (including color or ancestry), religion or religious creed, sexual orientation, veteran or military status, and other characteristics that make our community unique.³

Students and employees are entitled to an educational and working environment free from sex-based discrimination and harassment. Sexual Harassment, including Sexual Assault, Dating Violence, Domestic Violence, and Stalking, is unlawful sex discrimination.

The District hereby implements this Procedure to address alleged violations of Prohibited Conduct when the Complainant is a Student or Employee and the Respondent is an Employee, or the Complainant is an Employee and the Respondent is a Student.

No provision of this Procedure shall be interpreted to prohibit conduct that is protected under academic freedom as defined in BP 4030, or the U.S. Constitution, including the First Amendment.

2.1 Prohibited Conduct

In cases where the Prohibited Conduct meets the definitions under both Title IX and California law, the Title IX provisions will apply.

The District equally prohibits stranger and non-stranger violations. Even in cases where harm is committed by a stranger who cannot be identified or located or who does not fall under the jurisdiction of the District, the Complainant can be eligible for supportive measures.

² Under California law, see definitions of sex, gender, and related concepts in Section 11030 of Title 2 of the California Code of Regulations and Government Code Section 12926(r).

³ Key capitalized terms are defined in Section I. Terms contained within this Procedure are intended to be gender neutral.

The District will investigate and adjudicate covered violations without regard to whether alcohol or drugs are involved in the incident, either by the person who commits the harm or the person subject to the harm. Amnesty provisions for Complainants and witnesses are set forth in Section 2.2.

2.1(a) Prohibited Conduct Under Title IX

(1) Prohibited Conduct under Title IX includes each of the types of conduct described below that occurs within the District's program or activity:

(A) Quid Pro Quo Sexual Harassment. An Employee conditioning the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct;

(B) Hostile Environment Sexual Harassment. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's educational program or activity.

(C) Sexual Assault: an offense classified as a forcible or nonforcible sex offense under the Uniform Crime Reporting system of the Federal Bureau of Investigation. Specifically, this includes:

- Rape—The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- Fondling—The touching of the private body parts of another person 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.
- Incest—Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape—Sexual intercourse with a person who is under the statutory age of consent.

(D) Dating Violence: violence committed by a person:

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

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

(E) Domestic Violence: felony or misdemeanor crimes of violence committed by a person who:

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

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

(F) Stalking: Engaging in a course of conduct, on the basis of sex, directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others, or suffer substantial emotional distress.

(2) Retaliation: Retaliation is any materially adverse action taken against an individual because they were involved in the disclosure, reporting, investigation, or resolution of a report of Prohibited Conduct. Retaliation includes threats, intimidation, harassment, coercion, discrimination, violence, or any other conduct against any person by the District, a Student, or an Employee or other person authorized by the District to provide aid, benefit, or service under the District's educational program or activity, for the purpose of interfering with any right or privilege secured by this Procedure or by law, including Title IX. Adverse action does not include perceived or petty slights, or trivial annoyances.

The prohibition against retaliation applies to any individuals who participate (or refuse to participate) in any manner in an investigation, or hearing, and to any Student who refuses to participate in an investigation, proceeding, or hearing.

Retaliation may occur even where there is a finding of "Not Responsible" under this Procedure. Good faith actions lawfully pursued in response to a report of Prohibited Conduct are not Retaliation.

2.1(b) Prohibited Conduct Under California Law

- (1) Prohibited Conduct under California law includes the types of conduct described in Section 2.1(a). Except as specifically modified below for Sexual Harassment and Sexual Violence, the definitions and descriptions in Section 2.1(a) apply.
- (2) California law applies to Prohibited Conduct that occurs within the District's program or activity, and may also apply to conduct occurring outside of the District's educational programs or activities, whether on or off campus, when the alleged conduct may contribute to a hostile educational environment or otherwise interfere with a Student's access to education.

(A) Sexual harassment: unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:

- (a) Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress.
- (b) Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.
- (c) 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.
- (d) 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.

(B) Sexual violence: physical sexual acts perpetrated against a person without the person's affirmative consent, including:

- (a) Rape, defined as penetration, no matter how slight, of the vagina or anus with any part or object, or oral copulation of a sex organ by another person, without the consent of the victim.
- (b) Sexual battery: the intentional touching of another person's intimate parts without consent, intentionally causing a person to touch the intimate parts of another without consent, or using a person's own intimate part to intentionally touch another person's body without consent.

(c) Sexual exploitation: 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:

- (1) The prostituting of another person.
- (2) 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.
- (3) The recording of images, including video or photograph, or audio of another person's sexual activity or intimate parts, without that person's consent.
- (4) 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.
- (5) 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.

2.2 Amnesty

An individual who participates as a Complainant or witness in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to disciplinary Sanctions for a violation of the District's Student Code of Conduct at or near the time of the incident, unless the District determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

2.3. Board Policy and Administrative Procedure on Nondiscrimination

The District strives to be free of all forms of Discrimination because of a Protected Status (*i.e.*, age, disability (physical or mental), gender (or sex), gender identity (including transgender status), gender expression, genetic information, marital status, medical condition, national origin, race or ethnicity (including color or ancestry), religion or religious creed, sexual orientation, and veteran or military status).

The District does not discriminate unlawfully in providing educational or employment opportunities to any person on the basis of a Protected Status. Refer to BP/AP 3410: :

https://www.cccd.edu/_assets/documents/board/BP/BP_3410_Prohibition_of_Discrimination_and_Harassment.pdf

https://www.cccd.edu/_assets/documents/board/BP/AP_3410_Prohibition_of_Discrimination_and_Harassment.pdf

2.4 Board Policy and Administrative Procedure on Prohibition of Harassment

Students and Employees are entitled to a working and educational environment free from discrimination and harassment. Unlawful Harassment is prohibited by state and federal law, as well as by BP/AP 3410: https://documents.cccd.edu/Board%20of%20Trustees/Board%20Policies/BP_3410_Prohibition_of_Discrimination_and_Harassment.pdf
https://documents.cccd.edu/Board%20of%20Trustees/Administrative%20Procedures/AP_3410_Prohibition_of_Discrimination_and_Harassment.pdf

2.5 Board Policy and Administrative Procedure on Unlawful Discrimination, Harassment, and Retaliation Complaints and Investigations

The District process for receiving and investigating unlawful discrimination, harassment, and retaliation complaints made by employees, students, and third parties are governed by BP/AP 3435.

[Microsoft Word - BP_3435_Discrimination_Harassment_Investigations.docx](#)

[Microsoft Word - AP_3435_Discrimination_Harassment_Investigations.docx](#)

2.6 Board Policy and Administrative Procedure on Sexual and Other Assaults on Campus

The District does not tolerate acts of sexual assault, including Domestic Violence, Dating Violence, and Stalking. Complaints against Employees, which may include Student Employees, where the Complaint arises out of their employment, shall be governed by BP/AP 3540:

https://documents.cccd.edu/Board%20of%20Trustees/Board%20Policies/BP_3540_Sexual_and_Other_Assaults_on_Campus.pdf

https://documents.cccd.edu/Board%20of%20Trustees/Administrative%20Procedures/AP_3540_Sexual_and_Other_Assaults_on_Campus.pdf

See also BP/AP 5910 pertaining to allegations of sexual misconduct by or against Students.

Employees are subject to the terms of their respective bargaining agreements to the extent that those agreements do not conflict with federal or state law.

SECTION III - OVERSIGHT OF TITLE IX PROCESS

The District's Title IX Coordinator is Crystal Crane, Executive Director, Human Resources and Employee/Employer Relations, (714) 438-4708, ccrane@cccd.edu, located at the District Office (1370 Adams Avenue, Costa Mesa, CA 92626).

The District has also authorized Title IX Coordinators at each College with coordinating the District's responsibilities under Title IX and this Title IX procedure.

- Coastline College Title IX Coordinator is Shonte Thomas, Director Student Equity and Title IX, (714) 241-6142, titleix@coastline.edu, located on the second floor of the Student Services College Center, room 209 (11460 Warner Ave, Fountain Valley, CA 92708).
- Golden West College Title IX Coordinator is Dr. Carla Martinez, Dean of Students, (714) 895-8781, gwc-titleix@cccd.edu, located on the third floor of the Learning Resources Center, room 336 (15744 Goldenwest St, Huntington Beach, CA 92647).
- Orange Coast College Title IX Coordinator is Dr. Shannon Quihuiz, Dean, Student Relations and Title IX, (714) 432-5930, occ-titleix@occ.cccd.edu, located on the second floor of the Student Union, Suite 202 (2701 Fairview Road, Costa Mesa, CA 92626).

Independence and Conflict-of-Interest

The Title IX Coordinator advises the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees resolutions of all Formal Complaints under this Procedure. The members of the Title IX Team are trained to ensure they are not biased for or against any Party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator or report misconduct or discrimination committed by the Title IX Coordinator, contact the District Vice Chancellor of Human Resources or the College President. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

SECTION IV - JURISDICTION

Section IV(a) Title IX Jurisdiction

This Procedure applies to the educational programs and activities of the District/College.

Educational programs or activities refers to locations, events, or circumstances over which the District exercised substantial control over the context in which the Prohibited Conduct occurred, including, but not limited to the District, the Colleges, its property (including offsite locations owned, rented, leased, or operated by the District or the Colleges), on-campus student housing facilities, through online services,

and at District-sponsored/College-sponsored programs, activities, and travel. The Complainant or Respondent must be a participant in an educational program or activity of the District/College in order for this Procedure to apply.

If the Respondent is unknown or is not a member of the District community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local law enforcement if the individual would like to file a police report. Misconduct that falls outside of this jurisdiction may be addressed by the California law provisions of this Procedure or other Board Policies and Administrative Procedures.

Section IV(b) California law Jurisdiction

Under California law, Prohibited Conduct involves Employees as Complainant or Respondent and encompasses that which occurs in connection with any educational activity or other program of the District, as well as incidents that occurred outside of those educational programs or activities, whether they occurred on or off campus, if, based on the allegations, there is any reason to believe that the incident could contribute to a hostile educational environment or otherwise interfere with a Student's access to education.

SECTION V - STANDARD OF PROOF

The Preponderance of the Evidence is the standard for demonstrating facts and reaching conclusions in an investigation. Preponderance of the Evidence means the greater weight of the evidence (*i.e.*, the evidence on one side outweighs, preponderates over, or is more than the evidence on the other side).

The Respondent will be found either responsible or not responsible for violating this Procedure based on the Preponderance of the Evidence.

SECTION VI - CORRESPONDENCE

The District/College shall deliver all correspondence to Students and Employees at their District-assigned email address. At the discretion of the District/College, Students may be notified by another primary email address linked to the Student's account, mailing address, or by in-person delivery.

SECTION VII - REASONABLE ACCOMMODATIONS

7.1 Reasonable Accommodations of Disabilities

Accommodation requests are facilitated by Disabled Student Programs and Services ("DSPS") at Coastline College and Golden West College and by the Accessibility Resource Center ("ARC") at Orange Coast College. A Student must be registered with DSPS or ARC to request accommodations, including but not limited to sign language or the use of assistive technology. Any Student not currently registered with DSPS or ARC requesting any accommodation should first contact the College's respective DSPS or ARC office which coordinates services for Students with disabilities.

7.2 Interpreters

An interpreter may be used to improve communications for Parties with limited English language proficiency. The Parties may have an interpreter present during any meeting or proceeding at their own expense; the District/College is not obligated to provide one. An interpreter shall not be considered the Parties' Advisor. An interpreter may explain the meaning of words only to the Parties who requested them. An interpreter shall not expand or enhance the Parties' statements.

If the Parties choose to have an interpreter present, the Parties must notify the Title IX Coordinator no later than five Days prior to any meeting and proceeding.

SECTION VIII - ADVISOR

The Parties may each elect to be accompanied by an Advisor to all meetings and proceedings regarding the allegations to which the Party is required or invited to participate. The Parties may select an Advisor of their choice, who may be, but is not required to be, an attorney (*e.g.*, a friend, family member, mentor, sexual assault/domestic violence advocate) at their own expense.

The Advisor's role is to provide consultation and support to the Parties. The Advisor may inspect and review all evidence directly related to the allegations and the investigative report that summarizes relevant evidence.

Proceedings under this Procedure are not formal court proceedings, but instead, are administrative proceedings conducted by the District. Although sanctions may be imposed, the process is intended to provide an opportunity for learning and to promote a safe educational environment. Such proceedings are not an adversarial process between the Complainant, the Respondent, and the witnesses, but rather a process for the District to comply with obligations under existing law. The Complainant does not have the burden to prove, nor does the Respondent have the burden to disprove, the underlying allegation or allegations of misconduct.

The Parties must notify the Title IX Coordinator of their Advisor seven Business Days prior to any hearing so that the necessary arrangements can be made. If the Parties choose an attorney as their Advisor, notification of the attorney's name, address, phone number, and state bar number should be given to the Title IX Coordinator. If a Party does not have an Advisor for any hearing, the District will provide a District-appointed Advisor, without fee or charge, for the purpose of conducting questioning.

Where allowed by California law, Parties may have additional participation of other supporting people as their Advisor or in addition to their Advisor, including individuals who support disabilities. A Complainant may, as allowed by California law, have the assistance of a victim advocate as Advisor of choice.

All Parties and Advisors are expected to act with decorum in all phases and aspects of the process. To that end, when addressing District/College officials or other Parties and Advisors (where applicable), all persons shall convey all information in a neutral tone intended to elicit information and not argumentation. No person shall act abusively or disrespectfully towards any other person in the process. At no time may a person approach with menace or anger, use abusive language, yell, scream, badger, or physically lean in to another person. No person shall take any action during the process that a reasonable person in the shoes of the affected person would see as intended to intimidate that person (whether Party, witness, or official) into not participating in the process or meaningfully modifying their participation in the process.

As noted in the Introduction, different standards apply to certain parts of the Procedure based on the differences in Title IX and California law

SECTION VIII(a) Advisor under Title IX

The Advisor is responsible for conducting direct, oral questioning (cross-examination) on behalf of their Party during any hearing. Parties cannot conduct direct, oral questioning (cross-examination). This may include asking the other Party and witness(es) relevant questions and follow-up questions, including those challenging credibility. Other than this limited exception, Advisors may not participate in the process or

Speak on behalf of their Party, though they may advise their Party, including requesting breaks for discussion and advisement.

All questions of decorum and appropriateness of questions shall be determined by the Title IX Coordinator or Title IX Hearing Chair.

The Advisor selected by a Party or provided by the District will be trained by the District on this Procedure with respect to the alleged violations prior to participating in any meeting.

SECTION VIII(b) Advisor under California Law

Advisors of choice may not participate in the process or speak on behalf of their Party, though they may advise the Party, including requesting breaks for discussion and advisement.

If a Party wishes to have an Advisor accompany them to the hearing, the Student must provide the Title IX Coordinator with the name of the individual that they have chosen to act as their Advisor no less than seven Business Days prior to the hearing or request that an Advisor be provided, so that the necessary arrangements can be made for the required training. Advisors must maintain confidentiality and will not be permitted to participate or respond on behalf of the Party during the hearing.

The Advisor selected by the Student or provided by the District shall be trained by the District on this Procedure with respect to the alleged violations prior to participating in any meeting.

SECTION IX - REPORTING PROHIBITED CONDUCT

9.1 Timeframe for Reporting

There is no time limitation on providing complaints under Title IX, but there are limitations under California law.⁴ Reports should be brought forward as soon as possible after the conduct occurs to better enable the District/College to investigate, respond, and provide Supportive Measures

9.2 Reporting Options

Any person may report Prohibited Conduct, whether or not the person reporting is the person alleged to be the victim of conduct that could constitute Prohibited Conduct at any time. Reports may be made using any of the following options:

1. Report directly to the College Title IX Coordinator in person, by mail, by telephone, or by email using the contact information in Section III above;
2. Submit an electronic reporting form available on the College's Title IX website;
3. Report to any Employee who has authority to institute corrective measures on behalf of the District, refer to Section 9.11 and 9.12 to learn more about Employee obligations
4. Report to the College Campus/Public Safety Office (who will notify the College Title IX Coordinator);

⁴ Under Section 59328 of Title 5, for complaints by employees or students not involving employment, the complaint must be filed within one year of the date of the alleged unlawful discrimination or within one year of the date on which the complainant knew or should have known of the facts underlying the allegation of unlawful discrimination; for complaints alleging employment discrimination, the complaint must be filed within 180 days of the date that the alleged unlawful discrimination occurred, except that this period can be extended up to 90 days if the complainant first obtained knowledge of the facts of the alleged violation after the expiration of the 180 days.

5. Report to the College Director of Human Resources (who will notify the College Title IX Coordinator); or
6. Local law enforcement (who may not notify the College Title IX Coordinator); refer to Section 9.9.

9.3 Response to Reports and Written Notice of Rights and Resources

The District/College will provide prompt and equitable response to any report of Prohibited Conduct made to the Title IX Coordinator (throughout this Procedure Title IX Coordinator means Title IX Coordinator or designee) or to an Employee with authority to institute corrective measures.

Upon receiving a report of Prohibited Conduct, the Title IX Coordinator will promptly conduct outreach to the Reporter and if identified, the Complainant, and provide a written Notice of Rights and Resources. The Title IX Coordinator will:

- Inform the availability of Supportive Measures, with or without the filing of a Formal Complaint, and consider their wishes regarding Supportive Measures.
- Explain the process for filing a Formal Complaint.

When the report includes an identifiable Complainant, who is alleged to be the victim of the reported conduct; the outreach and written notice will include:

- The District has received information that the Student or Employee may have been a victim of Prohibited Conduct;
- A statement that retaliation for filing a complaint or participating in a complaint process, or both, under this Procedure is prohibited;
- The availability of on- and off-campus resources and services;
- Where a crime may have occurred, notice that the right, but not the obligation, to report to law enforcement;
- The District's complaint resolution process under this Procedure, including Informal Resolution, Investigation, and Disciplinary proceedings, and Appeal and how the Complainant may receive ongoing status updates throughout the process.
- Potential supportive measures, such as no-contact directives, housing changes, and academic assistance alternatives, as applicable;
- The importance of preserving evidence and methods to preserve evidence, as applicable;
- A request to meet with the Title IX coordinator to discuss options for responding to the report; and
- The manner in which the District responds to reports of Prohibited Conduct and a description of potential disciplinary consequences.

When the report involves Sexual Assault, Dating Violence, Domestic Violence, and Stalking, the outreach and written notice will include:

- How to contact local law enforcement for criminal and civil prosecutions and the steps that the District may take to coordinate with local law enforcement, if applicable.
- Information about orders of protection/restraining orders/no contact orders, and the District's responsibilities regarding such orders.
- Written notification of on and off campus resources and services (*e.g.*, counseling, health, mental health, victim advocacy, legal assistance, and other services, including where available visa/immigration and financial aid resources. The Title IX Coordinator will not contact these resources and services without the Complainant's consent.
- Written notification of options for reasonable accommodations and supportive/protective measures, regardless of whether a report is made to law enforcement.
- A written explanation of potential sanctions that may be imposed following a final determination of responsibility.

None of the Colleges maintain on campus a treatment facility sufficient for medical treatment for those who have experienced sexual assault, domestic, or dating violence. As part of the off-campus resources described above, reporting Students and Employees will be given a list of local hospital and medical facilities that they may access.

9.4 Supportive Measures

The Title IX Coordinator shall offer and implement appropriate and reasonable Supportive Measures to the Parties upon notice of Prohibited Conduct, regardless of whether a Formal Complaint has been filed.

Supportive Measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Parties before or after a Formal Complaint has been filed or where no Formal Complaint has been filed. Supportive Measures are designed to restore or preserve access to the District's educational program or activity without unreasonably burdening the other Party, including measures designed to protect the safety of the Parties or the District's educational environment, and/or deter Prohibited Conduct.

Supportive Measures may include, but are not limited to:

- Campus/Public Safety escort;
- Education and training;
- Implementing contact limitations (*i.e.*, No-Contact Directive) between the Parties;
- Increased security and monitoring of certain areas on campus;
- On-campus employment assistance (*e.g.*, adjustments to work schedule or assignment) in consultation with Human Resources;
- Other measures deemed appropriate by the Title IX Coordinator;
- Referral to counseling, medical, and/or other healthcare services;
- Referral to the Employee Assistance Program, if an Employee;
- Referral to off-campus community-based service providers;
- Safety planning;
- Timely warnings; and
- Trespass orders.

The District will maintain the privacy of the Supportive Measures, provided that privacy does not impair the District's ability to provide the Supportive Measures. The District will act to ensure as minimal an academic or workplace impact on the Parties as possible. The District will implement Supportive Measures in a way that does not unreasonably burden the other Party.

No-Contact Directives

In certain cases, the District may issue a no contact order to one or multiple Parties ordering them to have no contact with another Party or Parties during the course of the process or for a specific time. Failure to follow a No-Contact order may result in additional disciplinary action. A No-Contact Directive may be mutual or unilateral.

Under Title IX, a No-Contact Directive issued before a determination of responsibility must be non-disciplinary, non-punitive, and must not unreasonably burden the other Party; a sanction for a Respondent who is found to be responsible may include a unilateral No-Contact Directive.

Under California law, the District may issue an interim, unilateral No-Contact Directive prohibiting the Respondent from contacting the Complainant during the pendency of the investigation when requested by the Complainant or otherwise deemed appropriate. The District will not issue an interim mutual No-Contact Directive automatically, but instead will consider the specific circumstances of each case to determine whether a mutual No-Contact Directive is necessary or justifiable to protect the noncomplaining Party's safety or well-being, or to respond to interference with an investigation. A No-

Contact Directive issued after a determination of responsibility has been made will be unilateral and apply against only the Party found responsible.

Upon issuance of an interim mutual No-Contact Directive, the District will provide the Parties with a written justification for the directive and an explanation of the terms of the directive, including the circumstances, if any, under which a violation could be subject to disciplinary action.

9.5 Emergency Removal

The District can act to remove a Respondent who is a Student entirely or partially from its educational program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any Student or other individual arising from the allegations of Prohibited Conduct justifies removal. The individualized safety and risk analysis is performed by the District or College Title IX Coordinator in conjunction with the Behavioral Intervention/ Assessment Team using its standard violence risk assessment procedures.

In all cases in which an emergency removal is imposed, the Respondent will be given notice of the action and the option to request to meet with the District or College Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegations, but rather an administrative process intended to determine solely whether the emergency removal was appropriate or whether new information justifies a modification of the emergency removal. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so. This Section also applies to any restrictions that a coach or athletic administrator may place on a Student-athlete arising from allegations related to Title IX. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal two Business Days prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has the sole discretion under this Title IX procedure to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this provision will be grounds for discipline, which may include suspension. The Title IX Coordinator will implement the least restrictive emergency action possible in light of the circumstances and safety concerns.

Employee Administrative Leave

The District can act to remove a Respondent who is an Employee by placing an Employee on administrative leave, consistent with all applicable statutes, regulations, and personnel policies and regulations, including the provisions of any applicable collective bargaining agreement.

9.6(a) Title IX Formal Complaint

A Formal Complaint under Title IX must be in writing and meet the definition in Section I:

- The Complainant must be enrolled as a Student or employed by the District, or attempting to enroll or apply for employment or an educational program or activity of the District;
- The Respondent is a Student or Employee and must be a participant in the educational program or activity of the District/College;
- The alleged Title IX Prohibited Conduct must have occurred in the District's educational program or activity in the United States while the Complainant was participating or attempting to participate in the educational program or activity. Educational program or activity includes

locations, events, or circumstances over which the District exercised substantial control over both the Respondent and the context in which the Prohibited Conduct occurred;

- The Complaint must contain the Complainant's physical or digital signature, or otherwise indicate that the Complainant is the person filing the Formal Complaint, or be signed by the Title IX Coordinator; and
- It must include statement requesting that the District investigate the allegation of Prohibited Conduct.

Once a Formal Complaint has been filed, the District will initiate Title IX Investigation and Hearing Procedures unless the Formal Complaint is dismissed pursuant to Section 9.7(a) or the Parties agree to Informal Resolution pursuant to Section 10(a).

A Complainant who declines to file a Formal Complaint may submit a complaint under California law as set forth below and may still receive Supportive Measures.

The Title IX Coordinator has ultimate discretion over whether the District proceeds when the Complainant does not wish to do so. In these instances, the Title IX Coordinator may sign a Formal Complaint to request that the District investigate the allegations of Prohibited Conduct over the wishes of the Complainant, if it is clearly not reasonable in light of the known circumstances.

9.6(b) Complaints Under California Law

Under California law, a complaint of Prohibited Conduct may be made orally or in writing to a Title IX Coordinator, a member of the Title IX team, the Vice Chancellor of Human Resources, District Human Resources, or at any College Human Resources office, or to the Vice Chancellor of Educational Services and Technology or College Vice Presidents of Student Services for Student complaints. Any Employee who receives a complaint of Prohibited Conduct shall promptly notify the Title IX Coordinator (and District Vice Chancellor of Human Resources as appropriate).

When a Complainant making a California law complaint requests that the Complainant's name not be disclosed, requests that no investigation be conducted, or requests that no disciplinary action be pursued, the District will take the request seriously. The District will provide Supportive Measures as appropriate regardless of whether an investigation is initiated. The District generally will grant the request unless doing so would prevent the District from meeting its responsibility to provide a safe and nondiscriminatory environment for all Students and Employees, including the Complainant.

In determining whether to disclose a Complainant's identity or proceed with an investigation over the objection of the Complainant, the District may consider whether any of the following apply, generally going to the risk of the person committing additional acts that violate this Procedure:

- The Complainant's request not to proceed with initiation of a Complaint;
- The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- The risk that additional acts of Prohibited Conduct would occur if a Complaint is not initiated;
- The severity of the alleged Prohibited Conduct, including whether the misconduct, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the harm and prevent its recurrence;
- The age and relationship of the Parties, including whether the Respondent is an Employee; allegations in which the Respondent is a Student are addressed under AP 5910;
- The scope of the misconduct, including information suggesting a pattern, ongoing Prohibited Conduct, or Prohibited Conduct alleged to have impacted multiple individuals;

- The availability of evidence to enable the District to conduct a thorough investigation and make a determination whether Prohibited Conduct occurred;
- Whether the District could end the alleged Prohibited Conduct and prevent its recurrence without initiating its grievance procedures;
- Whether the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other persons, or that the conduct as alleged prevents the District from ensuring equal access on the basis of sex to its educational program or activity.
- Whether the Respondent reportedly used a weapon, physical restraints, or engaged in battery;
- Whether the Respondent is a faculty or staff member with oversight of Students; allegations in which the Respondent is a Student are addressed under AP 5910.
- Whether there is a power imbalance between the Complainant and Respondent.
- Whether the Complainant believes that the Complainant will be less safe if the Complainant's name is disclosed or an investigation is conducted.
- Whether the District is able to conduct a thorough investigation and obtain relevant evidence in the absence of the Complainant's cooperation.

If the District determines that it can honor a Complainant's request not to proceed, it shall still take reasonable steps to respond to the complaint, consistent with the request, to limit the effects of the alleged Prohibited Conduct and prevent its recurrence without initiating formal action or disclosing the Complainant's identity. These steps may include increased monitoring, supervision, or security at locations or activities where the alleged misconduct occurred; providing additional training and education materials for Students and Employees; or conducting climate surveys regarding Prohibited Conduct. The District shall also take immediate steps to provide for the safety of the Complainant while keeping the Complainant's identity confidential to the extent possible. The Complainant shall be notified that the steps the District will take to respond to the disclosure will be limited by the request for confidentiality.

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

Regardless of whether or not a Complaint has been filed under California law, if the District knows, or reasonably should know, about Prohibited Conduct involving Employees subject to the District's policies at the time, the District will promptly respond, which may include an investigation, to determine whether the alleged conduct more likely than not occurred, or otherwise respond if the District determines that an investigation is not required. If the District determines that the alleged conduct more likely than not occurred, it shall immediately take reasonable steps to end the misconduct, address the hostile environment, if one has been created, prevent its recurrence, and address its effects. The District will be presumed to know of Prohibited Conduct if a responsible Employee knew, or, in the exercise of reasonable care, should have known, about the Prohibited Conduct.

9.7 Dismissal of Complaints

9.7(a) Dismissal of Title IX Formal Complaints

A formal complaint *must* be dismissed by the District under this Procedure based on one or more of the following factors:

- The conduct alleged in the Formal Complaint does not meet the definition of Prohibited Conduct under Section 2.1(a);
- The conduct did not occur in the District's educational program or activity; or
- The conduct did not occur in the United States.

The District *may* also dismiss a Formal Complaint, if at any time during the investigation or hearing:

- A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
- The Respondent is no longer enrolled or employed by the District; or
- Specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

9.7(b) Dismissal of Complaints under California Law

A Complaint *may* be dismissed by the District under this Procedure based on one or more of the following factors:

- The conduct alleged in the Complaint does not meet the definition of Prohibited Conduct under Section 2.1(b);
- The conduct did not occur in the District's educational program or activity and/or it occurred outside of the educational programs or activities, whether on or off campus, based on the allegations, there is not a reason to believe that the incident could contribute to a hostile educational or workplace environment or otherwise interfere with a Student's access to education;
- If at the time of submitting a Complaint, the Complainant is not participating in or attempting to participate in the educational program or activity of or employment with the District.
- A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Complaint or any allegations therein;
- The Respondent is no longer enrolled or employed by the District; or
- Specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the Complaint or allegations therein.
- The Complaint is determined to be defective pursuant to Section 59332 of Title 5.

9.8 Notification of Dismissal

Except as otherwise provided in law, the District must send written notice of the dismissal and reasons for the dismissal simultaneously to the Parties; this written notification must also include the Parties right to appeal the District's dismissal as set forth in Section XIII.

9.9 Local Law Enforcement

Any person has the right to file a criminal complaint based on the same facts that constitute alleged Sexual Assault, Domestic Violence, Dating Violence, Stalking, or Sexual Violence. It is important to take steps to preserve and collect evidence; doing so helps to preserve the full range of options available through the criminal process.

Under these circumstances, the local law enforcement criminal investigation is independent from proceedings of the District/College. A pending police investigation is a separate investigation, and it does not relieve the District/College of its responsibility to perform a timely investigation of a Formal Complaint. Thus, the District/College may not wait until the conclusion of a police investigation to commence its own investigation if a Formal Complaint is filed by a Complainant or signed by the Title IX Coordinator. Although it may be necessary to temporarily delay the District/College investigation while the police are gathering evidence, once notified that the police have completed the fact-gathering

portion of their investigation, the District/College must promptly resume and complete its own investigation.

Where appropriate, the District will coordinate with local law enforcement regarding the response to covered violations.

As a condition of participation in CalGrants, the District states the following pursuant to Education Code Section 67380. The District will 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 Public Safety and made by the victim for purposes of notifying the District or law enforcement, to be immediately, or as soon as practicably possible, disclosed to the local law enforcement agency with which the District 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 institution determines both of the following, in which case the District will disclose the identity of the alleged assailant to the local law enforcement agency and will 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 District/College.
- ii. The immediate assistance of the local law enforcement agency is necessary to contact or detain the assailant.

Any release of information pursuant to this Section 9.9 does not constitute a waiver of any applicable exemptions from disclosure under the California Public Records Act.

This provision implements Education Code requirements related to campus security authority reporting and law enforcement coordination; it is separate from the District's Title IX grievance procedures and does not require a victim to make a police report or participate in the District's process.

9.11 Employee Obligations - Duty to Report

The District/College will provide prompt and equitable response to any report of Prohibited Conduct made to the Title IX Coordinator or any Employee with authority to institute corrective measures. Employees are expected to report actual or suspected Prohibited Conduct to an appropriate official immediately, though there are some limited exceptions outlined below.

9.12 Employee Obligations - Confidential Reporting

Some Employees are required by law to maintain near or complete confidentiality with limited exceptions discussed below. This means that these Employees can offer options and advice without any obligation to inform the Title IX Coordinator, unless the Complainant requests their information to be disclosed. If the Complainant would like the details of an incident to be kept confidential, they should speak with Employees designated below.

Employees who do not have a duty to report are:

- Health service providers and staff in the College's Student Health Center whose primary assignment is to render medical treatment;
- Licensed professional counselors and staff in the College's Student Health Center whose primary assignment is to render mental health treatment or counseling;
- Sexual assault and domestic violence counselors and advocates who work or volunteer on-campus;
- An individual acting in a professional capacity for which confidentiality is required by law.
- Off-campus (non-employees):

- Licensed professional counselors
- Local rape crisis counselors
- Domestic violence resources
- Local or state assistance agencies
- Pastoral counselors (as defined by the Clery Act)

Reporting individuals should clarify whether a person has confidentiality *before* disclosing information.

Exceptions

Under California law, health practitioners are required to make a report to local law enforcement if medical services are provided for a physical condition to a patient whom the practitioner knows or reasonably suspects is suffering from: (1) a wound or physical injury inflicted by a firearm, or (2) any wound or physical injury the result of assaultive or abusive conduct.⁵

Employees may have additional reporting requirements as mandatory child abuse and neglect reporters.⁶

Finally, some of these Employees may also have reporting obligations under California law to (1) local law enforcement in cases involving threats of immediate or imminent harm to self or others where disclosure of the information is necessary to prevent the threatened danger,⁷ or (2) to a court if compelled by court order or subpoena in a criminal proceeding related to the incident.

SECTION X - INFORMAL RESOLUTION

(a) Title IX Informal Resolution

The District may offer an informal resolution process to the Parties only after a Formal Complaint has been filed. Both Parties must give their voluntary, informed, and written consent to the informal resolution process. Further, the Title IX Coordinator must consent to the use of informal resolution as appropriate in each matter. Informal resolution options vary and may include, but are not limited to, facilitated discussions with the Parties, facilitated resolution by the Title IX Coordinator, separating the Parties, mediation, and conducting educational prevention and training programs.

The informal resolution process is intended to resolve a Formal Complaint without a full investigation and adjudication process. The informal resolution process must not be used to resolve allegations that an Employee sexually harassed a Student. The District will never mandate mediation to resolve a disclosure of sexual harassment and will never permit mediation to be used to resolve a disclosure of sexual assault. The District will not require that the Complainant enter a voluntary resolution agreement or any other form of resolution as a prerequisite to receiving remedial measures which safeguard the Complainant's access to education.

Prior to initiating the informal resolution process, the District must provide the Parties with written notice of the following:

- The allegations within the Formal Complaint;
- The requirements of the informal resolution process;
- The alleged violations under review;
- The right to withdraw from the informal resolution process at any time prior to agreeing to a resolution;

⁵ See Penal Code §§ 11160-11163.6.

⁶ See Penal Code §§ 11164-11174.3; see also BP/AP 3518.

⁷ See Evidence Code § 1024.

- Once the agreement resulting from the informal resolution process is finalized and signed by the Parties and the Title IX Coordinator, the Parties cannot initiate or continue an investigation procedure arising from the same allegations;
- Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared, and whether the District could disclose such information for use in a future District resolution process, including an investigation and resolution process arising from the same or different allegations, as may be appropriate; and
- An agreement resulting from the informal resolution process is binding only on the Parties and is not subject to appeal.

Any new allegations that arise during the course of the investigation that could subject either Party to new or additional sanctions shall be subject to the same notice requirements.

If a resolution is reached, and approved by the Title IX Coordinator, then the matter shall be considered closed, and the terms will be put in writing and maintained by the District/College. The Title IX Coordinator may notify the College Disciplinary Officer if any Sanctions were part of the resolution.

(b) Informal Resolution Under California Law

Upon receiving a Complaint of Prohibited Conduct under California law, the District may undertake efforts to informally resolve the Complaint before a final administrative decision is made with the Complainant and Respondent's agreement, unless:

- The Complainant is a Student and the Respondent is an Employee; or
- The informal resolution includes a nondisclosure agreement.

Any informal resolution where the Respondent is an Employee must be approved by the College President, and the College President may not delegate this responsibility to a designee.

SECTION XI - INVESTIGATION PROCESS

11.1(a) Title IX Investigation of Formal Complaints

The District will promptly investigate every Formal Complaint that is not dismissed pursuant to Section 9.7(a) unless the Parties voluntarily provide written consent to attempt Informal Resolution and the Title IX Coordinator determines Informal Resolution is appropriate, as set forth above in Section 10(a).

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the District and not on the Parties. The District must obtain the voluntary, written consent of a Party in order to access, consider, disclose, or otherwise use the Party's records that are maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the Party.

The Parties shall have equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a Party or other source, so that each Party can meaningfully respond to the evidence prior to conclusion of the investigation.

11.1(b) Investigation of Complaints Under California Law

Section 59334 of Title 5 will apply to investigations as applicable. The Responsible District Officer, pursuant to Section 59324 of Title 5, will perform duties as applicable, including the issuance of Administrative Determinations pursuant to Section 59326 of Title 5.

Parties may, but are not required to, submit additional documents that are in the nature of advocacy for their position (making arguments for or against the Investigator and/or Human Resources relying on or weighting certain facts and testimony). These documents are limited to five typewritten, single-spaced pages, Times New Roman or Arial font, one-inch margins all around for each of the investigation, adjudication, and appeals process. Pages beyond this limitation shall not be considered. District Human Resources shall make the determination as to whether a document or page shall count against this limit by determining whether it is more factual than argument or more argument than factual.

Parties shall have an equitable opportunity to submit evidence and documentation. No Party will obtain an extension that is not offered equitably to the other Party.

11.2(a) Title IX Investigation Timeline

Investigations are completed expeditiously, normally within 90 Business Days, however some investigations take more time depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc. At least ten Business Days prior to the hearing, the investigator shall prepare an investigation report that fairly summarizes the relevant evidence and send an electronic or physical copy of the report to each party and their advisor (if any), and allow each Party to submit a written response.

Prior to completion of the investigative report, the District will send to each Party and the Party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and provide the Parties at least ten Business Days to submit a written response. The investigator will consider the Parties' responses prior to completion of the investigative report. The District will make all such evidence subject to the Parties' inspection and review available at the hearing to give each Party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

The Title IX Coordinator may extend the timeframes above for good cause, such as the absence of a Party, a Party's Advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.

11.2(b) California Law Investigation Timeline

Investigations are completed expeditiously, normally within 90 Days, however some investigations take more time depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc. Human Resources may extend the timeline to complete an investigation for any reason deemed legitimate. Human Resources shall provide for notice in writing to Parties of any extension of a time period granted in the investigation and fact-finding process that would change the prospective timeframes for the major stages of the complaint process, and the reason for that extension.

Each Party may make a one-time request for a delay of the process of up to five Days which shall be granted unless unreasonable. In addition, the District will not unreasonably deny a Student Party's request for a delay or an extension during the specific periods of examinations or District/College closures. The District will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the Parties to update them on the progress and timing of the investigation.

11.3(a) Notice of Title IX Investigation

The Title IX Coordinator will provide written Notice of Investigation (the “NOI”) to the Complainant and the Respondent upon commencement of the investigation process. The NOI shall contain the following information:

- A description of the District’s complaint process, including the informal resolution process;
- A description of the alleged conduct constituting Prohibited Conduct, including the date and location of the alleged incident and sufficient details of the misconduct being alleged;
- The identities of the Parties;
- A list of policies allegedly violated that are the subject of the investigation;
- A statement that the District presumes that the Respondent is not responsible until a determination regarding responsibility is made at the conclusion of the grievance process;
- The District’s use of the Preponderance of Evidence standard;
- A statement that determinations of responsibility are made at the conclusion of the process, and that the Parties (and their Advisors) will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period;
- A statement of the potential sanctions/responsive actions that could result;
- Notification of the Parties’ right to have an Advisor of their choice;
- A statement informing the Parties that District Policy prohibits knowingly making false statements, including knowingly submitting false information during the grievance process;
- Notification of the Investigator, along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest; and
- Date, time, and location of the investigatory interview or information and timeframe to schedule this interview.

11.3(b) Notice of Investigation under California Law

Except as otherwise provided by law, the District will provide the Parties with written notice of conducting an investigation that includes the allegations and the alleged policy violations under review. In the event that new allegations arise during the course of the investigation, the District will provide the Parties with written notice of the new allegations and corresponding alleged policy violations.

11.4(a) Title IX Investigation Procedures

All investigations are thorough, reliable, impartial, prompt, and fair conducted by individuals who are neutral. The Investigator must gather sufficient evidence, including interviewing the Parties and witnesses and obtaining available, relevant evidence. The District may not restrict the ability of the Parties to discuss the allegations under investigation or to gather and present relevant evidence.

The District will conduct an interview with a reporting victim/Complainant pursuant to interview protocols that will be used and may be reviewed by the Parties or their Advisors. The protocol will utilize questions asked in a trauma-informed manner. The process may include preliminary and follow up interviews as appropriate for the reporting victim/Complainant, the Respondent, and any relevant witnesses. The Parties may provide information to help identify and locate witnesses, and the Investigator may also receive such information from other District officials. The Parties shall be informed that any evidence available, but not disclosed during the investigation, might not be considered at a subsequent hearing.

The Parties have a full, fair, and equal opportunity to present witnesses and expert witnesses (and suggest questions they wish the Investigator to ask), inculpatory and exculpatory evidence, and to fully review and respond to all evidence. The Parties shall receive written notice of the date, time, location, and purpose of their investigation interview or meeting with sufficient time for the Parties to prepare and participate. The Investigator may decline a Party’s request to gather information if the request seeks access to privileged information. Witnesses (as distinguished from the Parties) are expected to cooperate and participate in the investigation.

Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness. The investigation does not consider: (a) incidents not directly related to the possible violation, unless they evidence a pattern; (b) the character of the Parties; or (c) the past sexual history of a Complainant or Respondent except in the limited circumstances permitted in this paragraph, which are

- If directly relevant to prove that physical injuries alleged to have been inflicted by the Respondent were inflicted by another individual; or
- If the evidence is relevant to how the Parties communicated consent in prior or subsequent consensual sexual relations.

Where the investigator allows consideration of evidence about a dating relationship or about a prior or subsequent consensual sexual relations between the Complainant and the Respondent pursuant to this paragraph, the mere fact that the 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 paragraph, the Investigator shall provide a written explanation to the Parties as to why consideration of the evidence is consistent with this clause.

The Investigator gathers, assesses, and synthesizes evidence, but make no conclusions, engages in no policy analysis, and renders no recommendations as part of their investigative report. Prior to the completion of the investigative report, the Investigator shall send the Parties and their respective Advisors (if so desired by the Parties) an electronic or hard copy of the evidence directly related to the allegations, including evidence upon which the Investigator does not intend to rely in reaching a determination regarding responsibility, for a ten Business Day review and written comment period so that each Party may meaningfully respond to the evidence. The Parties may elect to waive the full ten Business Days.

The Investigator will incorporate relevant elements of the Parties' written responses to the final investigative report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator may elect to respond in writing in the investigative report to the Parties' submitted responses and/or to share the responses between the Parties for additional responses. The Investigator should document all rationales for any changes made after the review and comment period.

The finalized investigative report that fairly summarizes relevant evidence shall be disclosed to the Parties and their respective Advisors (if so desired by the Parties) at least ten Business Days prior to a Hearing for a review and written comment period so that each Party may meaningfully respond prior to the Hearing determining responsibility. The Title IX Coordinator shall review all investigative draft reports before they are final.

11.4(b) Investigation Procedures under California Law

The District will conduct an interview with a reporting victim/Complainant pursuant to an interview protocol. The investigation protocol will utilize questions asked in a trauma-informed manner. The process may include preliminary and follow up interviews as appropriate for the reporting victim/Complainant, the Respondent, and any relevant witnesses. The Parties may provide information to help identify and locate witnesses, and the Investigator may also receive such information from other District officials. The Parties shall be informed that any evidence available, but not disclosed during the investigation, might not be considered at a subsequent hearing.

SECTION XII - HEARING PROCESS

SECTION XII(a) Title IX Hearing Process

Provided that the Formal Complaint is not resolved through Informal Resolution, once the final investigative report is disclosed to the Parties, the Title IX Coordinator will refer the matter for a Hearing.

The Hearing cannot be less than ten Business Days from the conclusion of the investigation when the final investigative report is provided to the Parties and the Hearing Chair (decision-maker).

The Title IX Coordinator will designate a single decision-maker (College Disciplinary Officer or designee), referred to as the Hearing Chair. The Hearing Chair will not have had any previous involvement with the investigation. Those who have served as Investigator may be witnesses in the Hearing and therefore may not serve as Hearing Chair. The Title IX Coordinator may not serve as a Hearing Chair, but may serve as an administrative facilitator of the Hearing, if their previous roles in the matter do not create a conflict of interest.

The Title IX Coordinator shall be responsible for managing the Hearing process and the necessary logistics (*e.g.*, scheduling, notifying witnesses, providing the Parties and Hearing Chair with appropriate documentation and evidence, coordinating the location of the hearing, and any other support that is necessary for the Hearing to run smoothly).

12.1(a) Evidence Considered during the Title IX Hearing

The Hearing Chair shall objectively evaluate all relevant evidence. The Hearing does not consider:

- Incidents not directly related to the possible violation, unless they evidence a pattern;
- The character of the Parties; or
- Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Any witness scheduled to participate in the Hearing must have been first interviewed by the Investigator, unless all Parties and the Hearing Chair assent to the witness's participation in the Hearing. The same holds true for any evidence that is first offered at the Hearing. If the Parties and Hearing Chair do not assent to the admission of evidence newly offered at the Hearing, the Hearing Chair will delay the hearing for a reasonable time to allow review of this evidence by the Parties and, if needed, instruct that the investigation needs to be re-opened to consider that evidence.

Previous disciplinary action involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process.

The Parties may each submit a written impact statement to describe how this violation has affected them prior to the Hearing for the consideration of the Hearing Chair at the sanction stage of the process once a determination of responsibility is reached.

12.2(a) Notice of Title IX Hearing

The Title IX Coordinator will provide written Notice of Hearing ("NOH") to the Complainant and Respondent no less than ten Business Days prior to the Hearing. The NOH shall contain the following information:

- A description of the alleged violations;

- A list of policies allegedly violated;
- A description of the District's grievance process with respect to the Hearing process;
- A statement of the potential sanctions/responsive actions that could result;
- Date, time, and location of the Hearing;
- Notification about the option for the Hearing to occur with the Parties located in separate rooms using technology that enables the Hearing Chair and Parties to see and hear each other. Such a request must be raised to the Title IX Coordinator at least five Business Days prior to the Hearing.
- Notification that the Parties are required to have an Advisor present at the Hearing to conduct questioning. The Parties have the right to an Advisor of their choice. If a Party does not have an Advisor, they must notify the Title IX Coordinator who will appoint one.
- A statement informing the Parties to submit a written impact statement prior to the Hearing for the consideration of the Hearing Chair at the sanction stage of the process;
- Notification of the Hearing Chair, along with a process to identify, in advance of the Hearing, to the Title IX Coordinator any conflict of interest;
- Notification that the Hearing will be recorded; and
- A copy of all the materials provided to the Hearing Chair about the matter, unless they have been provided already.

12.3(a) Title IX Hearing Location

Hearings may be conducted with the Parties physically present in the same geographic location or virtually, with technology enabling them to see and hear each other. If a Party prefers not to attend in person, the Party should request alternative arrangements from the Title IX Coordinator at least five Business Days prior to the Hearing. The Title IX Coordinator can arrange to use technology to allow remote testimony without compromising the fairness of the Hearing.

12.4(a) Title IX Pre-Hearing Preparation

The Title IX Coordinator will give the Hearing Chair a list of the names of all Parties, witnesses, and Advisors at least five Business Days in advance of the Hearing. Any Hearing Chair who cannot make an objective determination must recuse themselves from the proceedings. If the Hearing Chair is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

The Parties will receive the names of the persons who will be participating in the Hearing, all pertinent documentary evidence, and the final investigative report. During the ten Business Day period prior to the Hearing, the Parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be disclosed to the Hearing Chair at the Hearing and will be exchanged between each Party by the Hearing Chair.

The Hearing Chair may convene a pre-Hearing meeting with the Parties and their respective Advisors to invite them to submit the questions or topics the Parties and their Advisors wish to ask or discuss at the Hearing, so that the Hearing Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the Hearing or provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking at the Hearing for a reconsideration based on any new information or testimony offered at the Hearing. The Hearing Chair must document and disclose their rationale for any exclusion or inclusion at this pre-Hearing meeting.

The Hearing Chair, only with full agreement of the Parties, may decide in advance of the Hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator in the investigative report or during the Hearing.

12.5(a) Title IX Hearing Procedures

The Hearing Chair is responsible for conducting an impartial Hearing and issuing a written determination regarding responsibility to the Parties without bias or conflict of interest.

Participants at the Hearing will include the Hearing Chair, the Investigator who conducted the investigation, the Parties, the Advisors, any called witnesses, the Title IX Coordinator, and anyone providing authorized accommodations or assistive services.

Hearings may be conducted with the Parties physically present in the same geographic location or virtually, with technology enabling them to see and hear each other. Refer to Section 12.3.

The Hearing Chair explains the procedures and introduces the participants. The Hearing Chair then conducts the Hearing according to the hearing script. During the Hearing, all logistics and administrative elements are managed by the Title IX Coordinator.

Hearings (but not deliberations) are recorded by the District for purposes of inspection and review. The Parties may not record the proceedings and no other recordings are permitted.

Investigative Report

The Investigator will present a summary of the final investigative report, including items that are contested and those that are not, and will be subject to questioning by the Hearing Chair and the Parties (through their Advisors). The Investigator will be present during the entire Hearing process, but not during deliberations.

Testimony and Questioning

Once the Investigator presents their report and are questioned, the Parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Hearing Chair. The Parties/witnesses will submit to questioning (cross-examination) by the Hearing Chair and then by the Parties through their Advisors.

All questions are subject to a relevance determination by the Hearing Chair. The Advisor, never by a Party personally, will pose the question orally. The proceeding will then pause to allow the Hearing Chair to consider it and the Hearing Chair will determine whether the question will be permitted, disallowed, or rephrased.

The Hearing Chair may consider arguments regarding relevance with the Advisors, if the Hearing Chair so chooses. The Hearing Chair will then state their decision on the question for the record and advise the Party/witness to whom the question was directed, accordingly. The Hearing Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Hearing Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious, or abusive. The Hearing Chair has final say on all questions and determinations of relevance, subject to any appeal. The Hearing Chair may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the Hearing Chair has ruled on a question.

Credibility determinations by the Hearing Chair may not be based solely on an individual's status as a Complainant, Respondent, or witness. The Hearing Chair does not consider: (a) incidents not directly related to the possible violation, unless they evidence a pattern; (b) the character of the Parties; or (c) the past sexual history of a Complainant or a Respondent except in the limited circumstances permitted in this paragraph, which are:

- If directly relevant to prove that physical injuries alleged to have been inflicted by the Respondent were inflicted by another individual; or
- If the evidence is relevant to how the Parties communicated consent in prior or subsequent consensual sexual relations.

Where the Hearing Chair allows consideration of evidence about a dating relationship or prior or subsequent consensual sexual relations between the Complainant and the Respondent pursuant to this paragraph, the mere fact that the 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 paragraph, the Hearing Chair shall provide a written explanation to the Parties as to why consideration of the evidence is consistent with this clause.

Refusal or Failure to Submit to Questioning

If a Party or witness does not to submit to questioning (cross-examination) during the Hearing, either because they do not attend the Hearing, or they attend but refuse to participate in questioning, the Hearing Chair may not rely on any statement of that Party or witness in reaching a determination regarding responsibility. However, the Hearing Chair may not draw an inference about a determination of responsibility solely from a Party's or witness's absence from the Hearing or refusal to answer cross-examination or other questions.

12.6(a) Title IX Deliberation, Decision-making, and Standard of Proof

The Hearing Chair will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violations in question. The Preponderance of the Evidence standard of proof is used.

When there is a finding of responsibility on one or more of the allegations, the Hearing Chair may consider the Party's impact statements and any pertinent conduct history in determining appropriate sanctions.

The Hearing Chair will then prepare a written determination regarding responsibility and deliver it to the Title IX Coordinator, detailing the findings of fact, determination about whether the alleged violations occurred, the rationale, the evidence used in support of its determination, any evidence disregarded, and any sanctions imposed on the Respondent.

12.7(a) Notice of Title IX Hearing Outcome

Using the written determination regarding responsibility, the Title IX Coordinator will work with the Hearing Chair to prepare a Notice of Hearing Outcome. The Notice of Hearing Outcome will be disclosed to the Parties simultaneously in writing within five Business Days of receiving the Hearing Chair's written determination regarding responsibility. In the Notice, the District, as appropriate, will provide assurance that the District will take steps to prevent recurrence of any harassment and correct any discriminatory effects on the Complainant and others.

The Notice of Hearing Outcome shall contain the following information:

- Identification of the allegations constituting Prohibited Conduct;
- A description of the procedural steps taken by the District from the receipt of the formal complaint to the determination, including all notifications to the Parties, interviews with Parties and witnesses, site visits, methods used to gather other evidence, and Hearings held;
- Findings of fact that support the determination;
- Conclusions regarding the application of the District Policy to the facts at issue;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;

- Any sanctions imposed on the Respondent, to the extent the District is permitted to disclose such information under California and federal law;
- Any remedies provided to the Complainant designed to restore and preserve equal access to the District's educational program or activity, to the extent the District is permitted to disclose such information under California and federal law (this information is not typically disclosed to the Respondent unless the remedy directly relates to the Respondent);
- A statement that the results do not become final until the period of time to file an appeal has lapsed or an appeal has been exhausted; and
- Procedures and permissible bases for the Complainant and Respondent to appeal the outcome as set forth in Section XIII.

12.8(a) Title IX Sanctions (Discipline and Corrective Action)

Factors considered when determining a Sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding, the violations;
- The Respondent's disciplinary history in which they were found responsible;
- Consistency among the District's disposition of similar cases;
- The need to bring an end to the behavior, prevent future recurrences, and remedy the effects;
- The impact on the Parties; and
- Any other information deemed relevant by the Hearing Chair.

For Respondents who are a Student, the possible Sanctions include but are not limited to:

- District restriction;
- Community service;
- Disciplinary probation;
- Exclusion from District activities;
- Housing probation;
- Interim suspension;
- Restriction from attending District events;
- Short-term removal from class;
- Suspension;
- Written warning;
- Expulsion.

For Respondents who are an Employee, discipline will conform with applicable law, Board Policies and Administrative Procedures, and the provisions of any applicable collective bargaining agreement.

SECTION XII(b) Hearing Process Under California Law

Outside of Title IX, any disciplinary hearings involving Students as Respondents will be conducted pursuant to AP 5500 Student Code of Conduct.

SECTION XIII - APPEAL

13.1(a) Timeline to Appeal Title IX Determination

A Complainant, Respondent, or both may submit an appeal, following the dismissal of a Formal Complaint or the determination of responsibility, to the Title IX Coordinator no later than ten Business Days after the delivery of the Notification of Dismissal or Notice of Hearing Outcome. Appeals must be based on one or more grounds as set forth in Section 13.2(a). Opposing the dismissal of a formal complaint or the determination of responsibility is not, by itself, grounds for appeal.

13.2(a) Grounds for Appealing Title IX Determination

All appeals must be in writing and must contain detailed information supporting the grounds for appeal. The appeal must specify the grounds on which the appeal is based.

Appeals must be based on one or more of the following grounds:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time that the formal complaint was dismissed or at the time of the determination regarding responsibility, that could affect the outcome of the matter; and
- A member of the Title IX Team had a conflict of interest or bias for or against complainants or respondents generally, or for or against the individual Complainant or Respondent, that affected the outcome of the matter.

13.3(a) Title IX Appeal Procedures

The Title IX Coordinator shall appoint a three-member Appeal Committee, selected from a pool of trained Employees. The Appeal Committee shall then designate an Appeal Committee Chair.

Any member of the Appeal Committee with past association with the Parties, with a conflict of interest in the matter, or who is well aware of the events giving rise to the matter is ineligible to serve on that particular Appeal Committee. Any member of the Appeal Committee who is selected must disclose any potential or actual conflicts of interest. The Parties will be notified of the identities of the Appeal Committee for purposes of review for conflict or bias.

The appeal will be forwarded to the Appeal Committee Chair for consideration. The Appeal Committee Chair will review the appeal to determine if it was timely filed and whether it identifies grounds for appeal. This review is not a review of the merits of the appeal.

If the appeal is not filed by the deadline and/or fails to specify proper grounds for appeal, the Appeal Committee Chair will dismiss the appeal. The Parties will be notified in writing of the dismissal of the appeal and the underlying dismissal of a formal complaint, the hearing outcome, and/or the sanctions will become final and binding.

If the appeal is filed by the deadline and specifies proper grounds for appeal, the Appeal Committee Chair will approve the appeal to proceed and will notify the Title IX Coordinator to initiate an Appeal Committee Review.

13.4(a) Title IX Appeal Committee Review

Dismissals of complaints and determinations made in the investigation and decision-making processes may be appealed in writing by either Party. Appeals will be sent to the Title IX Coordinator, who will then send the appeal to the designated Appeals Officer assigned to conduct a written review of the appeal and to make a final determination. Appeals must be in writing and filed within ten Business Days following the issuance of the Notice of Outcome. The Party may request a precise day and time that the response is due from the Title IX Coordinator.

When an appeal is filed, the other Party shall be notified and provided with a copy of the filed appeal within one Business Day and have five Business Days to respond to the appeal in writing. Any Party's decision not to submit a reply to an appeal is not evidence that the non-appealing Party agreed with the appeal. All responses will be forwarded to all Parties for review and comment.

Neither Party may submit any appeals after this time period. The Title IX Coordinator will collect all documentation regarding the approved grounds, subsequent responses, and any additional information needed and provide it to the Appeal Committee.

The Appeal Committee will review all appeals and corresponding responses. The Appeal Committee may, at its discretion, interview the Parties to clarify the appeal and corresponding responses. If the Appeal Committee interviews one Party, they shall extend the same opportunity to the other Party to ensure that the Parties are given equal opportunity to participate. The Appeal Committee may, at its discretion, interview any Title IX personnel for the sole purpose of clarifying the Party's appeal and corresponding responses.

The Appeal Committee shall notify the Parties simultaneously and in writing of the outcome of the appeal within five Business Days of the conclusion of their review. The Notice of Appeal Outcome shall contain a summary of the approved grounds raised on appeal and the rationale for each decision, the finding on each ground for appeal (which may include specific instructions for remand or reconsideration and/or sanctions that may result) and any rationale supporting essential findings. The decision rendered by the Appeal Committee is final and concludes the appeal process.

13.5(a) Title IX Appeal Considerations

The following principles govern the Appeal Committee's review of an appeal:

- All decisions of the Appeal Committee are by majority vote and the Preponderance of the Evidence standard is used.
- Appeal decisions are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction only if there is a compelling justification to do so.
- Appeals are not intended to provide for a full re-hearing (de novo) of the complaint. In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the specific grounds for appeal.
- Appeals granted based on new evidence will normally be remanded to the original Investigator and/or Hearing Chair for reconsideration.
- An appeal is not an opportunity for the Appeal Committee to substitute their judgment for that of the Hearing Chair merely because they disagree with the finding and/or sanction.
- The Appeal Chair may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Sanction become final once the period of time to file an appeal has lapsed or appeal rights have been exhausted.
- Once an appeal is decided, the outcome is final. Further appeals are not permitted.
 - The only exception to the finality of the appeal is in the case where the Student Respondent is found responsible and the sanction assigned is expulsion. In such cases, the Student Respondent will have additional process under Section VI of AP 5500. This will include specific notice, a specific procedure, and a determination by the Board of Trustees ("Board").

13.1(b) Appeals Under California Law

If the Complainant is not satisfied with the results of the Administrative Determination issued pursuant to Section 59336 of Title 5, the Complainant, within 30 Days of the Administrative Determination may submit a written appeal to the Board of Trustees pursuant to Section 59338 of Title 5. The Board shall review the original Complaint, the investigative report, the administrative determination, and the appeal. The deadline for the Board to issue a final District decision in the matter is within 45 Days after receiving the appeal. If the Board does not act within 45 Days, the Administrative Determination is deemed approved and becomes the final decision of the District.

The District will promptly forward to the Complainant and to the Respondent a copy of the final District decision rendered by the Board, or a notification that the Board took no action, and if applicable, notice of

the Student Complainant's right to appeal the District decision to the State Chancellor's Office within 30 Days from the date of the notice.

The State Chancellor's review on appeal is limited to the following issues:

- (1) whether there was a procedural error in violation of Title 5;
- (2) whether there was a defect in the investigation;
- (3) whether new evidence unavailable during the investigation, despite the appealing Party's due diligence, would substantially impact the outcome of the investigation;
- (4) whether correct legal standards were applied; or
- (5) whether the District's determination was an abuse of discretion.

The State Chancellor will issue a determination within 90 Days of receiving the appeal and appellate file from the District. The State Chancellor may remand any matter to the District for any of the following reasons:

- (1) to cure defects in the investigation or in procedural compliance
- (2) to consider new evidence not available during the investigation, despite the appealing Party's due diligence, would substantially impact the outcome of the investigation; or (3) to modify or reverse a decision of the Board based upon misapplication of an applicable legal standard or an abuse of discretion.

Any appeal regarding student conduct will be conducted pursuant to AP 5500 Student Code of Conduct.

SECTION XIV - RETALIATION

The District strictly prohibits retaliation against any individual for the purpose of interfering with any right or privilege secured by Title IX and California law, or because the individual participated or refused to participate in any investigation, proceeding, or hearing.

Retaliatory acts may include: (1) intimidation, (2) threats, (3) coercion, (4) discrimination, or (5) charging an individual with code of conduct violations that do not involve Prohibited Conduct, but arise out of the same facts or circumstances as a report or formal complaint of Prohibited Conduct. Retaliation is prohibited by the District.

The exercise of rights under the First Amendment does not constitute retaliation for purposes of this Procedure.

Materially False Statements: The District may charge an individual with a code of conduct violation for making a materially false statement in bad faith in the course of the grievance process. A determination regarding responsibility or dismissal, alone, is not sufficient to conclude that any individual made a materially false statement.

A complaint of retaliation may be filed according to the District's Unlawful Harassment and Discrimination Prevention and Complaints policy and procedure (Refer to BP/AP 3435).

14.1 Confidentiality

The District must keep confidential the identity of any Complainant, any Respondent, or any witness except as may be permitted by the Family Educational Rights and Privacy Act ("FERPA"), as required by law, or as necessary to carry out a Title IX and California law proceedings under this Procedure. The District will protect the confidentiality of victims and other necessary parties, even as it completes publicly available recordkeeping, such as the Clery Act Annual Security Report, Crime Log, Timely Warnings, and Emergency Notifications. Each of these disclosures are conducted in a manner that

anonymizes the identity of victims of crimes, or reports a statistic without identifying information or personally identifying information, while still meeting reporting requirements. Accommodations and/or supportive measures provided to any Party under this Procedure will be maintained privately, except to the extent that sharing information about the accommodation or supportive measure is necessary in order to effectuate it. The District will, to the maximum extent possible, under FERPA and California law, maintain the confidentiality of such records when receiving requests from the press, concerned students, and parents.

SECTION XV - STATEMENT OF THE RIGHTS OF THE PARTIES UNDER TITLE IX

This list is intended to help the Parties understand their rights and options under Title IX. Throughout the process, the Parties shall have the following, as applicable:

- The right to an educational and working environment free from Prohibited Conduct.
- The right to be treated with respect by District/College officials.
- The right to be informed of and have access to support services, including Supportive Measures to redress the harm to the Parties and the community and to prevent further violations.
- The right to be informed by District/College officials of options to report Prohibited Conduct.
- The right to have reports responded to promptly and with sensitivity by District/College officials.
- The right to have the District/College policies and procedures followed without material deviation.
- The right to be fully informed of the nature and extent of the alleged violations contained with the formal complaint, applicable District policies, and possible sanctions (*i.e.*, Notice of Investigation and Notice of Hearing).
- The right to be accompanied by an Advisor of the Parties' choosing to all meetings or proceedings regarding the allegations to which they are required or invited to attend.
- The right to a thorough, reliable, impartial, prompt, and fair investigation, hearing, and appeal process.
- The right to present relevant information, witnesses, and evidence regarding the alleged violations during the investigation and hearing process.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to inspect and review the evidence upon which the investigative findings will be based and to be given the opportunity to respond. The right to participate during the hearing. The right to submit an impact statement.
- The right to be promptly informed of the resolution process hearing outcome and sanction in writing, without undue delay between the notifications to the Parties (*i.e.*, Notice of Hearing Outcome).
- The right to appeal.
- The District/College Title IX Team is trained as required by federal and state law.
- The right to petition that any District/College representative in the process be recused on the basis of demonstrated bias and/or conflict of interest.

SECTION XVI - STUDENT RECORD

In implementing this Procedure, records of all allegations, investigations, and resolutions will be maintained by the Title IX Coordinator in the District/College electronic database. The privacy of records shall be held in accordance with the FERPA. Parties have the right to inspect and review their educational record maintained by the District/College. The District/College is not required to provide copies of records unless it is impossible for the Parties to review the records. The District/College may impose a reasonable fee for copies.

SECTION XVII - PREVENTION, EDUCATION, AND TRAINING

The District and each College must implement primary prevention and awareness programs for all incoming Students and new Employees, and ongoing prevention and awareness campaigns for Students and Employees in the areas of Sexual Harassment, Sexual Assault, Sexual Violence (as defined by California law), Dating Violence, Domestic Violence, Stalking, and Retaliation.

Prevention and educational programs shall be comprehensive, multi-pronged, and interconnected in a strategic way to increase awareness and influence a change in behavior. Prevention and educational programs (*e.g.*, educational workshops, empowerment programming, awareness raising campaigns, social marketing campaigns) are intended for: (1) new Students and Employees (*e.g.*, during orientation programs), (2) returning Students and continuing Employees, (3) Student athletes and coaches, (4) members of student organizations including the student organization's advisors, (5) Students and Employees who live or work in on-campus housing, and (6) College Public Safety Officers.

Prevention and educational programs for Employees may include the following information:

- Rights and responsibilities under Title IX and California law;
- Definitions of Prohibited Conduct and Affirmative Consent, as defined in this Procedure, including definitions of Sexual Assault, Dating Violence, Domestic Violence, and Stalking, and information on how the District prohibits such violations;
- Common myths and facts about Sexual Assault and misconduct;
- How to recognize warning signs associated with Dating Violence, Domestic Violence and Stalking;
- Information on risk reduction, including considerations when alcohol, drugs, or medications are involved;
- What someone should do if they have experienced or witnessed any unwanted behavior described in this Procedure;
- Bystander intervention and methods of encouraging peer support for victims;
- Safe and positive options for bystander intervention and safe and effective strategies for bystanders to prevent harm or intervene when there is a potential risk;
- Reporting options and confidential reporting;
- The Procedure used to address Prohibited Conduct;
- The District/College's obligation to take reasonable steps to eliminate the behavior, prevent future recurrence, remedy the effects, and the District/College procedure for processing reports; and

Information regarding the potential consequences (sanctions) for violating this Procedure and potential criminal and civil consequences.

Each College must maintain a website where this information is readily available and will describe these programs in the Annual Security Report, consistent with Clery Act and Violence Against Women Act disclosure requirements.

Employees shall receive training on how to appropriately respond to reports. All Employees are expected to report actual or suspected Prohibited Conduct to an appropriate official immediately, though there are some limited exceptions outlined in Section 9.12. Their training should explain what information to include in a report and consequences for failing to report. Additional training components may include practical information on how to prevent and identify behavior, attitudes of bystanders, effects on the Complainant (*e.g.*, impact of trauma on victims), and appropriate methods for responding (*e.g.*, nonjudgmental language).

Title IX Team, including but not limited to the Title IX Coordinator, Investigators, Hearing Chair, Appeal Designees, and District-appointed Advisors, must receive annual training in addressing and analyzing reports, the procedure for processing reports, how to conduct an investigation, confidentiality issues, and

how to conduct the hearing process that protects the safety of the Parties and promotes accountability. The Title IX Team shall receive comprehensive, trauma-informed training in investigating and adjudicating sexual assault, domestic violence, dating violence, and stalking cases. This training shall include:

- trauma-informed investigatory and hearing practices that help ensure an impartial and equitable process;
- best practices for assessment of a sexual harassment or sexual violence complaint;
- best practices for questioning of the Complainant, the Respondent, and witnesses;
- implicit bias and racial inequities, both broadly and in college disciplinary processes.

Training materials must include statistics on the prevalence of sexual harassment and sexual violence in the educational setting, and the differing rates at which students experience sexual harassment and sexual assault in the educational setting based on their race, sexual orientation, disability, gender, and gender identity.

Residential life student and professional staff must receive annual trauma-informed training on how to handle reports of sexual harassment or sexual violence, as well as how to handle situations in which they are aware of sexual harassment or sexual violence, in student residential facilities.

SECTION XVIII - TITLE IX COORDINATOR

The District and each College is required to designate one Title IX Coordinator with primary responsibility to monitor, supervise, and oversee overall College-wide implementation of and compliance with Title IX, California law, and this Title IX procedure, including coordination of training, education, communications, complaint procedure administration, investigations, and other compliance procedures. The Title IX Coordinator shall have authority across all College-based divisions and programs. The designated Title IX Coordinator should be someone without other institutional responsibilities that could create a conflict of interest and should report directly to a vice president or higher. The Title IX Coordinator must have the qualifications, authority, and time to address all complaints throughout the College involving Title IX and related issues.

The Title IX Coordinators, Investigators, Hearing Chairs, Appeal Designees, and District appointed Advisors, and any other designee must have adequate training annually. Each appointed Title IX Coordinator is cross designated as the Coordinator for California law violations. Pursuant to California law, they must be adequately trained on what constitutes sexual harassment and on trauma-informed investigatory and hearing practices, and shall understand how the District's grievance procedures operate.

The Title IX Coordinator's duties include:

- Coordinate training, education, and preventive programs in the areas of sex-based Discrimination or Harassment, including Sexual Harassment, Retaliation, Sexual Assault, Dating Violence, Domestic Violence, and Stalking.
- Provide annual training for the Title IX Team, including the Investigators, District-appointed Advisors, Hearing Chair, and Appeal designees.
- Monitor, supervise, and oversee all complaints of sex-based Discrimination or Harassment, including Sexual Harassment, Retaliation, Sexual Assault, Dating Violence, Domestic Violence, and Stalking, including related investigations, reports, Supportive Measures, resolution, and appeals.
- Oversight and Coordination of prompt and equitable grievance procedures to stop the behavior, prevent future recurrence and remedy the effects.
- Review all investigation reports before they are final to ensure that they are prompt, adequate, reliable, and impartial and in compliance with this Title IX procedure.

- Provide reasonable Supportive Measures, if requested and available.
- Notify Students, Employees, applicants for admission and employment, all unions or professional organizing holding collective bargaining or professional agreements of the following:
 - Notice of the District's nondiscrimination policies, such that the District does not discriminate on the basis of sex in its educational program or activity.
 - Notice of the Title IX Coordinator's contact information, which shall be prominently displayed on the website.
- Recommend appropriate revisions of policies and procedures.
- Recommend appropriate memoranda of understanding or other agreements with community-based organizations to make services and assistance available to Students.
- Assist the College in developing a method to survey the school climate, coordinate the collection and analysis of information from that survey, and identify and address any systemic or other patterns and implement corrective measures, as appropriate.
- Maintain a website, publications, and other resources related to Title IX.
- Oversee gender equity in athletics in consultation with the Athletic Director, or appropriate administrator, to measure participation compared to enrollment data in three distinct areas: (1) participation; (2) scholarships; and (3) other benefits, including the provision of equipment and supplies, scheduling, travel, tutoring, coaching, locker rooms, facilities, medical and training facilities, and services, publicity, recruiting, and support services.
- Serve as the point of contact for government inquiries regarding sex-based Discrimination and Harassment, including Sexual Harassment, Retaliation, Sexual Assault, Dating Violence, Domestic Violence, and Stalking.

Annual Report

Each Title IX Coordinator will report the following annually to the College President or Chancellor, without disclosing any information that would reveal the identities of the Parties involved:

1. The number of reports received during the academic year;
2. The number of reports investigated, including whether the Respondent was found responsible and the final Sanction, if applicable;
3. A description of the action taken for reports resolved without an investigation;
4. A list of the College's Title IX personnel (*i.e.*, Investigators, Hearing Chairs, District appointed Advisors, and Appeal Designees), including a description of their annual training; and
5. A report of the various training, education, and preventive programs provided to Students, staff, administrators, and faculty during the academic year.

Office for Civil Rights and Other Federal and State Agencies

In addition to the Title IX personnel listed above, an individual has the option and the right to contact the following offices directly with any complaints or questions they may have. Employees are not required to report concerns directly to their immediate supervisors before such contact:

U.S. Department of Education Office for Civil Rights

Web: www.ed.gov/ocr

U.S. Equal Employment Opportunity Commission (EEOC)

Los Angeles District Office

Roybal Federal Building

255 East Temple St., 4th Floor

Los Angeles, CA 90012

Phone: (213) 785-3090

Fax: (213) 894-1118

TTY: 1-800-669-6820

ASL Video Phone: (844) 234-5122

Web: <https://www.eeoc.gov/field-office/losangeles/location>

California Civil Rights Department (formerly DFEH)

Los Angeles Office

320 West 4th Street, Suite 1000, 10th Floor

Los Angeles, CA 90013

Phone: (800) 884-1684

TTY: (800) 700-2320

Web: <https://civildrights.ca.gov/locations/>

Administrative approval May 27, 2026; Board review June 17, 2026 and July 15, 2026