

Staff and Faculty Title IX Sexual Misconduct and Sex-Based Harassment Interim Policy and Procedures

Pomona College

Effective August 1, 2024

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I. Introduction

A. Purpose of this Policy

This Policy addresses Pomona College's responsibilities and procedures related to Sex-Based Harassment allegations against members of its staff and faculty to ensure an equitable and inclusive education and employment environment within The Claremont Colleges ("TCC"). The Policy defines Sex Based Harassment and Retaliation and explains the administrative procedures the College uses to resolve reports of such conduct.

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

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

This Policy also complies with applicable sections of the California Education Code.

This Policy establishes the procedures the College will follow to ensure a prompt and equitable resolution of complaints against employees alleging Sex-Based Harassment. The College is not precluded from investigating other conduct that, if proven, would not constitute Sex-Based Harassment under this Policy but may constitute a violation of other College policies.

B. Effective Date

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

- the previous policy, *Staff and Faculty Title IX Sexual Harassment Policy and Procedures* (2020 Staff and Faculty Title IX Policy), available [here](#), which addresses Title IX Sexual Harassment and Retaliation, as defined in that policy, which is alleged to have occurred between August 14, 2020 and July 31, 2024.
- The 2022 Sexual Misconduct, Sexual Harassment, and Gender Discrimination Policy and Procedures the College for conduct prohibited under California Education Code from January 1, 2022 – July 31, 2024.

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

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

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

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

The Title IX Coordinator and/or Human Resources professional will not affirmatively provide disability accommodations that have not been specifically requested by an individual, even where the individual may be receiving accommodations in other TCC Institution programs and activities. With the consent of the impacted student, staff, or faculty, the Title IX Coordinator will work collaboratively with the appropriate department at their TCC Institution for review and response to the requested accommodation. The Title IX Coordinator will ensure that approved reasonable accommodations (disability-related) are honored as applicable throughout any process related to this Policy.

D. Revocation by Operation of Law

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

II. Title IX Coordinator

Title IX Coordinator. The College has designated a Title IX Coordinator to oversee and ensure compliance with this Policy:

Destiny Marrufo
Associate Dean, Title IX Coordinator & Clery Officer
550 N. College Avenue, Alexander Hall 104
Claremont, CA 91711
destiny.marrufo@pomona.edu
Phone: (909) 621-8017
Fax: (909)607-7228

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

III. Scope and Jurisdiction

As above, this Policy addresses how the College will respond Sex-Based Harassment allegations against members of its staff and faculty. Allegations against the College's students and other non-employees of the College are handled under different processes, as set forth in the TCC Sexual Misconduct and Sex-Based Harassment Policy ("TCC Policy"), the Discrimination and Harassment Policies and Grievance Procedures, the Student Code, or other applicable College policies.

A. Matters Involving a Third-Party Participant(s)

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

There are instances where allegations may be reported or a Complaint may be made against a third-party individual. The College’s ability to take appropriate corrective action against a third-party may be limited and will depend on the nature of the third-party’s relationship, if any, to the College. When appropriate, the Title IX Coordinator will refer such allegations against third-party respondents to the appropriate office within TCC for further action.

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

B. The Geographic Jurisdiction of This Policy

This Policy applies to the programs and activities, including the working and learning environments of the College. It may also apply to instances in which the conduct occurred outside of the campus or any College-sponsored activity if the Title IX Coordinator determines that the off-campus conduct is within the jurisdiction of this Policy, within the College’s disciplinary authority (in consultation with the other appropriate TCC officials if Cross-Campus Complaint), or could interfere with access to any educational program or activity, safety and security, compliance with applicable law, or contribute to a hostile educational environment.

C. How This Policy Impacts Other Campus Disciplinary Policies

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

D. Policy Dissemination and Publication

The College shall disseminate this Policy to:

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

A link to this Policy, and contact information for the Title IX Coordinator, shall be present on the College’s Title IX Office website. Every handbook and/or catalog made available to the members of the College’s community shall contain a link to this Policy and the contact information for the Title IX Coordinator.

IV. Prohibited Conduct – Sex-Based Harassment and Retaliation

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

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

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

A. Sex-Based Harassment

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

Sex-Based Harassment includes the following:

1. Quid Pro Quo

Quid Pro Quo is defined as:

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

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

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

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

Conditions may involve academics and extracurricular activities within TCC.

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

Sex-Based Hostile Environment Harassment is defined as:

- Unwelcome sex-based conduct (where sex includes sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity and gender expression) that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from any TCC Institution's education program or activity; or
- Unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting where the conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.

3. Sexual Assault under Title IX

Sexual Assault is any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. In California, Affirmative Consent is required.¹

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

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

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

Sexual Assault includes:

- Rape—The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. In California, Affirmative Consent is required. Attempted Rape falls under this prohibition. (This type of conduct is not eligible for mediation as a form of agreement-based resolution² in California.)

¹ Affirmative Consent is defined in Section XXIII of this Policy.

² Agreement-Based Resolution is discussed in Section XIII.B.

- Fondling—The touching of the private body parts of another for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity. In California, affirmative consent is required. (This type of conduct is not eligible for mediation as a form of agreement-based resolution in California.)

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

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

4. Sexual Violence under California Education Code

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

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

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

5. Sexual Exploitation

The College also prohibits Sexual Exploitation as defined by the California Education Code. For this Policy, Sexual Exploitation includes a person taking sexual advantage of another person for the benefit of anyone other than that person without that person’s consent, including, but not limited to, any of the following acts:

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

or should have known that the person depicted in the images or audio did not consent to the disclosure.

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

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

6. Dating Violence

Dating Violence is violence committed by a person:

- Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship;
 - The type of relationship; and
 - The frequency of interaction between the persons involved in the relationship.
- Emotional and psychological abuse do not constitute violence for the purposes of this definition.

7. Domestic Violence

Domestic violence is violence committed by a person who:

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

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

8. Stalking on the Basis of Sex

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

- a reasonable person to fear for the person's safety or the safety of others; or

- suffer substantial emotional distress.

B. Retaliation

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

Retaliation includes threats, intimidation, harassment, coercion, discrimination, violence, or any other conduct against any person by the College, a student, or an employee or other person authorized by the College to provide aid, benefit, or service under any TCC education program or activity, for the purpose of interfering with any right or privilege secured by this Policy, or because the person has reported information, made a Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding under this Policy, including the Agreement-Based Resolution Process, Investigation Resolution Process, and in any other action taken by the College to promptly and effectively end any Prohibited Conduct in its education program or activity, prevent its recurrence, and remedy its effects. Retaliation does not include perceived or petty slights, or trivial annoyances.

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

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

V. Conflict of Interest or Bias

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

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

If any Party believes that their Title IX Coordinator has a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent, they must notify the Vice President and Dean of Students as soon as possible upon discovery of an actual conflict of interest or bias.

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

Should the Title IX Coordinator have a conflict of interest, they shall immediately notify an appropriate official who will either take, or reassign, the role of their Party's Title IX Coordinator for purposes handling and finalizing the matter at issue.

VI. Supportive Measures

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

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

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

Supportive Measures provided to a Complainant or Respondent shall remain confidential to the extent that maintaining such confidentiality will not impair the College's ability to provide the Supportive Measures. For Cross-Campus Complaints, each Party's Home Institution Title IX Coordinator shall promptly notify the other Party's Home Institution Title IX Coordinator of any Supportive Measures implemented on behalf of a Party or witness. This information will not be shared with the other Party unless it specifically impacts that Party. If there is disagreement about whether information about a specific Supportive Measure for one Party will be shared with the other Party, the Parties' Home Institution Title IX Coordinators shall discuss with the TCC Title IX Administrator to determine best approach to balance privacy and effectiveness.

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

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

- Increased security and monitoring of certain areas of campus; and,
- Other similar measures determined by the Parties' Home Institution's Title IX Coordinator(s) based on the specific facts of each case.

A. Specific Requirements for No Contact Orders

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

For cases of Prohibited Conduct involving only students:

- When requested by a Complainant or otherwise determined to be appropriate, the Respondent's Home Institution's Title IX Coordinator shall issue an interim, unilateral NCO prohibiting the Respondent from contacting the Complainant during the pendency of the Resolution Process under this Policy, including any appeal.
- A Home Institution Title IX Coordinator shall not issue an interim mutual NCO automatically, but instead shall consider the specific circumstances of each case to determine whether a mutual NCO is necessary or justifiable to protect the noncomplaining Party's safety or well-being, or to respond to interference with the Resolution Process. Upon issuance of an interim mutual NCO, the Party's Home Institution's Title IX Coordinator shall provide the Parties with a written justification for the mutual NCO and an explanation of the terms of the NCO, including the circumstances, if any, under which a violation of the NCO could be subject to disciplinary action.

B. Challenges to Supportive Measures

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

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

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

VII. Resources

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

A. On-Campus Confidential Resources

1. Confidential Resources for Students

EmPOWER Center

1030 Dartmouth Avenue

(909) 607-2689

www.7csupportandprevention.com

Director, Rima Shah

Monsour Counseling and Psychological Services(MCAPS)

Tranquada Student Services Building

755 N. College Way

(909) 621-8222 (For after-hours emergency, press 1 to be connected to the on-call therapist.)

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

Available to the 5Cs*

TimelyCare

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

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

Available to all 7Cs*

The Chaplains for The Claremont Colleges

McAlister Center

919 N. Columbia Avenue

(909) 621-8685

chaplains@claremont.edu

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

Queer Resource Center (the “QRC”)

Walton Commons

395 E. 6th Street

(909) 609-1817

For confidential matters, contact the QRC’s Director, Bri Serrano (Bri.serrano@pomona.edu)

For non-confidential matters, contact qrc@claremont.edu

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

Student Health Services

Tranquada Student Services Center – 1st Floor

757 College Way Claremont, CA 91711

(909) 621-8222

shsrecords@claremont.edu

<https://services.claremont.edu/student-health-services/>

2. Confidential Resources for Staff and Faculty**Employee Assistance Program (EAP)**

(800) 234-5465

www.liveandworkwell.com

Please contact your Human Resources Department for access code.

The Chaplains for The Claremont Colleges

McAlister Center

919 N. Columbia Avenue

(909) 621-8685

chaplains@claremont.edu

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

B. Off-Campus and Community-Based Confidential Resources**1. Services and Support for Dating and Domestic Violence****Project Sister Sexual Assault 24/7 Crisis Hotline (Pomona, CA) (Sexual Violence)**

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

(800) 656-4673

(909) 626-HELP ((909) 626-4357)

<https://projectsister.org/>

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

(800) 656-HOPE ((800) 656-4673)

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

2. Services and Support for Dating and Domestic Violence**House of Ruth (Dating and Domestic Violence) (Pomona, CA)**

(877) 988-5559 (toll-free hotline)

(909) 623-4364 (Pomona Outreach Office)

<https://www.houseofruthinc.org>

National Domestic Violence Hotline

(800) 799-SAFE (7233)

(800) 787-3224 (TTY)

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

3. Medical Resources**Pomona Valley Health Center**

1798 North Garey Avenue

Pomona, CA 91767

(909) 865-9500

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

VIII. Reporting Prohibited Conduct**A. Reporting Prohibited Conduct Directly to the Title IX Coordinator**

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

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

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

Upon receipt of a report or Complaint of Prohibited Conduct, the Complainant's Home Institution's Title IX Coordinator will respond in accordance with Section IX. The Title IX Coordinator may enlist the Title IX Coordinator's Team to assist in the review, investigation, and/or resolution of the report. Members of this team include the Title IX Coordinator, deputy Title IX coordinators, and the associate deans of students. At any point during the process, from initial intake through the appeal, the Title IX Coordinator

and the Title IX Coordinator's Team may consult with an expert on trauma-informed response and sexual assault response or with the College's legal counsel.

B. Disclosing Prohibited Conduct to a Confidential Resource

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

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

There are two types of Confidential Resources at TCC.

1. Confidential Resources with the Legal Privilege of Confidentiality

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

Under California law, any health practitioner employed in a health facility, clinic, physician's office, or local or state public health department or clinic is required to make a report to local law enforcement if they provide medical services for a physical condition to a person who they know or reasonably suspect is suffering from: (1) a wound or physical injury inflicted by a firearm; or (2) any wound or other physical injury where the injury is the result of assaultive or abusive conduct (including Sexual Assault, and Dating and Domestic Violence).

This requirement does not apply to sexual assault and domestic violence counselors and advocates.

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

2. Institution-Designated Confidential Resources

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

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

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

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

A list of on and off-campus Confidential Resources is included in Section VII, and the Title IX Coordinator maintains a list of additional confidential resources available to its students and employees.

C. Reporting Prohibited Conduct to a College Employee and Their Reporting Obligations

Although a report may come in through many sources, the College is committed to ensuring that all reports of sexual misconduct, harassment, and discrimination are referred to the College's Title IX Coordinator, which ensures consistent application of this Policy. **Consistent with state law, the College treats all of its faculty and staff as "Responsible Employees."** Responsible Employees are the College employees who cannot guarantee confidentiality upon learning of potential Sexual Harassment. These individuals are required to report the alleged conduct to the College's Title IX Coordinator, which may initiate the formal Title IX Grievance Process.

Responsible Employees will maintain confidentiality to the greatest extent possible and will relay the information disclosed only as necessary to the Title IX Coordinator or designee. The College will limit the disclosure as much as practicable, even if the Title IX Coordinator determines that the request for confidentiality cannot be granted.

Responsible Employees should maintain confidentiality of the reported information to the greatest extent possible and should promptly provide related information to the Title IX Coordinator or designee. Consistent with FERPA, the College will limit the disclosure as much as practicable, even if the Title IX Coordinator determines that the request for confidentiality cannot be granted.

An individual who wishes for the details of the incident to remain completely confidential may speak with certain designated College employees who, by law, shall maintain confidentiality and may not disclose the details of an incident, subject to certain exceptions in the law (e.g., child abuse). If an individual makes a report to these confidential resources but not to the persons or entities identified in section IV.B above, then the College will not be in a position to take action because it will not have notice of the incident.

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

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

E. Reporting to Law Enforcement and Concurrent Criminal Investigations

Some Prohibited Conduct may constitute a violation of both the law and this Policy. The College encourages individuals to report alleged crimes promptly to local law enforcement agencies should they

wish to do so. All persons have the right to file with law enforcement, as well as the right to decline to file with law enforcement. The decision not to file shall not be considered as evidence that there was not a violation of this Policy. Filing a complaint with law enforcement does not relieve the College of its responsibility to address reported concerns or complaints under this Policy.

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

Proceedings under this Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. A Complainant may make a report or Complaint under this Policy and also file a complaint with law enforcement at the same time. However, when a Complaint is made under this Policy, as well as to law enforcement, the College may delay its process for a reasonable amount of time if a law enforcement agency requests this delay to allow law enforcement to gather evidence of criminal misconduct. Such delay would constitute good cause for extending the timeline. Criminal or legal proceedings are separate from the processes in this Policy and do not determine whether this Policy has been violated.

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

In the case of an emergency, where the physical well-being of a member of the TCC community or the safety of the College or any other TCC Institution is threatened, any individual with such knowledge should promptly contact The Claremont Colleges Campus Safety at (909) 607-2000 or (909) 607-7233 (SAFE), or 911. The College may take any immediate steps as may be necessary and appropriate under the circumstances to ensure the well-being of the College and broader TCC community.

IX. Response to a Report or Complaint of Prohibited Conduct

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

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

- An invitation to meet with Complainant's Home Institution's Title IX Coordinator to offer assistance and explain their rights, resources, and options under this Policy;
- Access to this Policy via link or attachment;
- Information regarding available campus and community-based resources for counseling, health care, mental health, or victim advocacy. Upon request, information regarding legal assistance, visa and immigration assistance, student financial aid and other available services may be provided;
- The availability of Supportive Measures regardless of whether a Complaint is filed and/or any Resolution Process is initiated;

- Information regarding resolution options (Support-Based, Agreement-Based, and Investigation Resolution) under this Policy, how to initiate such Resolution Processes; and how those procedures work, including contacting and interviewing Respondent and seeking identification and location of witnesses;
- The right to notify law enforcement as well as the right not to notify law enforcement;
- The importance of preserving evidence and, in the case of potential criminal misconduct, how to get assistance from TCC Campus Safety or local law enforcement in preserving evidence;
- The right to have a Support Person and/or Advisor during any meetings or proceedings under this Policy, including the initial meeting with the Complainant's Home Institution's Title IX Coordinator; as well as the right to consult with an attorney, at their own expense, at any stage of the process if they wish to do so; and
- A statement that Retaliation for reporting a concern, filing a Complaint, or participating in the Complaint process, is prohibited.

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

B. Initial Intake Meeting and Assessment

A Complainant, or another individual reporting the potential Prohibited Conduct (Reporting Party),³ may meet with their Home Institution's or the College's Title IX Coordinator for the purposes of discussing their reporting options, Supportive Measures, and resolution options under this Policy. The primary concern during the intake meeting shall be safety, and a trauma-informed approach shall be used while meeting with the Complainant.

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

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

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

³ Upon receipt of a report of Prohibited Conduct made by an individual other than the Complainant (referred to as the "Reporting Party" in this instance), and the Complainant's identity is disclosed within the report, or is otherwise known to the Title IX Coordinator, the Title IX Coordinator may meet or communicate with the Reporting Party that they will contact Complainant to offer to meet with them. If Complainant's identity is not disclosed in the report, the Title IX Coordinator may request that information from the Reporting Party, who may decide whether or not to disclose this information to the Title IX Coordinator.

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

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

If the reported information involves an employee Respondent from a different TCC Institution, then the Complainant's Home Institution's Title IX Coordinator and Respondent's Home Institution's Title IX Coordinator will jointly make the initial assessment and determination, which could involve a transfer of the matter to the Respondent's Home Institution's Title IX Coordinator.

C. Request for Confidentiality or No Further Action

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

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

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

- The Complainant's request not to proceed with initiation of a Complaint or investigation process;
- The Complainant's reasonable safety concerns if their identity is disclosed or an investigation process is initiated;
- The risk that additional acts of Prohibited Conduct would occur if a Complaint is not initiated;

- Whether there are multiple or prior reports of the same or similar Prohibited Conduct against the Respondent;
- The severity of the alleged Prohibited Conduct, including whether the Prohibited Conduct, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the Prohibited Conduct and prevent its recurrence; or if Respondent reportedly used a weapon, physical restraints, or engaged in physical assault;
- The age and relationship of the Parties, including whether the Respondent is an employee of the College, and whether there is an identifiable power differential between Complainant and Respondent (with regard to positional authority or employment);
- The scope of the alleged Prohibited Conduct, including information suggesting a pattern, ongoing Prohibited Conduct, or Prohibited Conduct alleged to have impacted multiple individuals;
- Whether the College is able to conduct a thorough investigation under this Policy and obtain relevant evidence in the absence of Complainant's participation and cooperation;
- The availability of evidence to assist a Hearing Decisionmaker in determining whether Prohibited Conduct occurred;
- Whether the Title IX Coordinator(s) and College could end the alleged Prohibited Conduct and prevent its recurrence without initiating its Investigation or Agreement-Based Resolution procedures under this Policy; and,
- Whether the alleged Prohibited Conduct presents an imminent and serious threat to the health or safety of the Complainant or other persons, or that the conduct as alleged prevents any TCC Institutions from ensuring equal access on the basis of sex to its education programs or activities.

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

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

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

D. Emergency Removal

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

Emergency removals will occur only after the College has completed the following steps:

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

E. Administrative Leave

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

Human Resources will be involved in any potential administrative leave given the College's general process for implementing administrative leave.

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

F. Employee Resignation While Matters Are Pending

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

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

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

X. Closure or Dismissal of a Complaint

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

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

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

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

Upon decision to dismiss the Complaint, which may effectively terminate a pending Investigation Resolution process, the Title IX Coordinator will promptly notify the Complainant in writing of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then the Title IX Coordinator will notify the Parties simultaneously, in writing. If a dismissal of one or more allegations changes the appropriate Resolution Process under this Policy, then the Title IX Coordinator will also include that information in the notification.

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

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

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

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

XI. Referrals for Other Misconduct Not Subject to this Policy

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

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

XII. Consolidation of Complaints and Allegations

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

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

Where a Complaint or report involves more than one Complainant or more than one Respondent, references in this section to the singular “Party,” “Complainant,” or “Respondent” include the plural, as applicable.

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

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

XIII. Resolution Options (Support-Based, Agreement-Based, and Investigation)

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

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

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

A. Support-Based Resolution

There are circumstances where a Complainant may only wish to report the conduct to the Title IX Coordinator and/or receive information regarding their rights and options, with no further action desired. Support-Based Resolution is an option for a Complainant who does not wish to take any further steps to address their concern, and when the Title IX Coordinator determines that another form of resolution, or further action, is not required. Some types of support, which are referred to as Supportive Measures, that may be appropriate under this option include, but are not limited to: adjustments or changes to class schedules; relocation from one residence hall room or residence hall to another; adjusted deadlines for

projects or assignments; adjustments to work schedule; safety escorts to and around campus; implementation of an NCO with Respondent, and/or counseling (Section VI.).

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

B. Agreement-Based Resolution⁴

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

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

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

The ABR process is generally expected to commence as soon as possible, and within 15 business days, after receipt of the Parties' agreement in writing to engage in the process. The process of facilitating and finalizing the Resolution Agreement will generally be completed within 30 business days, depending on the form of ABR, and may be extended by the Title IX Coordinator as appropriate. The length of time provided to complete the terms of the Resolution Agreement after the Agreement is finalized will vary depending on the terms and what the Parties have agreed upon. All Parties will be notified, in writing, of any extension and the reason for the extension. During the ABR process, all timeframes for any other stages under this Policy, including investigation, Evidence Review Process, or conducting the hearing will be paused to allow the Parties sufficient opportunity to engage in the ABR process.

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

⁴ Also referred to as Alternative Resolution Process.

selected ABR process, including by attending the meetings, engaging with the Facilitator, providing timely responses, and completing any actions required in their ABR process.

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

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

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

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

2. Determining Appropriateness of Agreement-Based Resolution

It is important to note that there are circumstances where ABR, or a specific option under ABR, is not available or is determined not appropriate to resolve a report or Complaint of Prohibited Conduct. Under California law, mediation is not a permitted resolution option to resolve reports or Complaints involving allegations of Sexual Assault or Sexual Violence.⁵ Instead, a Facilitated Resolution Agreement or Restorative Justice process are permitted options to resolve such allegations. Also, the Title IX Coordinator has discretion to not offer ABR to resolve a particular matter, or to determine that the ABR process is not appropriate based on the circumstances of the report or Complaint, and that the matter must instead be resolved through an alternate resolution process option, such as the Investigation Resolution process. In situations involving Cross-Campus Complaints when the Home Institution Title IX Coordinators do not agree on the appropriateness of ABR, they may consult with the TCC Title IX Administrator. The Title IX Coordinator makes the final decision on whether ABR is appropriate. In making this determination, the Title IX Coordinator may consider the following: The severity of the allegations, whether there is an ongoing threat of harm or safety, or risk of future harm, to others in the campus community, whether there is an identifiable power differential (with regard to positional authority or employment) between the Parties, and whether the Parties are participating in good faith. This determination is not subject to appeal.

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

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

⁵ Mediation is not permitted under California law to resolve reports or Complaints of Sexual Violence. The Title IX Coordinator(s) must specifically determine that it is permissible, under California Law, for resolving Prohibited Conduct in Employment.

alleged conduct via ABR no longer appropriate. The Title IX Coordinator makes the final decision on whether to terminate the ABR process.

If a Party withdraws from the ABR process, they may consider other resolution options, including initiating or resuming the Investigation Resolution process. If the Title IX Coordinator(s) terminates the process, the Title IX Coordinator, in consultation with the Complainant's Title IX Coordinator, will determine potential next steps under this Policy, and will notify the Parties in writing, accordingly. Complainant's wishes regarding next steps will be considered in making this determination.

4. Agreement-Based Resolution Options

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

a. Facilitated Resolution Agreement

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

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

b. Mediation

Under California law, mediation is not permitted, even on a voluntary basis, to resolve allegations involving Sexual Assault and Sexual Violence as defined in this Policy.⁶ Mediation may be permitted for other situations not involving Sexual Assault or Sexual Violence, such as reports involving allegations of Hostile Environment Sexual Harassment, as defined in this Policy. Mediation may be preferable for Parties who wish to have facilitated dialogue without the condition of Respondent acknowledging harm. The purpose of mediation is for the Parties who are in conflict to identify the alleged conduct, the implications of a Respondent's actions and, with the assistance of a trained Facilitator (mediator), identify points of agreement and appropriate remedies to address the harm. Either Party can request mediation to seek resolution.

During the mediation process, the Facilitator will guide a discussion between the Parties. The Parties are not permitted to contact one another outside of the mediation process.⁷ Meetings may be held in person or

⁶ Mediation is not permitted under California law to resolve reports or Complaints of Sexual Violence. The Title IX Coordinator(s) must specifically determine that it is permissible, under California Law, for resolving Prohibited Conduct in Employment.

⁷ In cases where the Parties have a No Contact Order implemented, the Parties will be permitted (not required) to have limited communication with one another in the presence of the Facilitator and for the purpose of participating in the process. All other communication is prohibited.

via videoconference. In circumstances where the Parties do not wish to meet face to face, either Party can request that the Facilitator conduct separate meetings.

c. Restorative Justice

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

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

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

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

5. The Agreement-Based Resolution Process

a. Initiating the Agreement-Based Resolution Process

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

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

- The specific allegation(s) and alleged Policy violation(s);
- The requirements of ABR;
- That the process is voluntary, and the Parties must not be required or pressured to participate;
- The Parties agree that this process is confidential related to any information including admissions of responsibility they share or receive during the ABR process concerning the allegations of the report or Complaint. No information concerning the allegations of Prohibited Conduct obtained solely within the ABR process may be disseminated to any person outside the ABR process, provided that any Party may generally discuss the allegations under investigation for the purpose of gathering evidence. Should the ABR process end or be terminated prior to reaching a Resolution

Agreement, information disclosed or obtained for purposes of the ABR process remains confidential, and shall not be used except where the Title IX Coordinator(s) has determined it is appropriate with regard to admission of responsibility in the same case, or to allegations of similar conduct raised against Respondent in another case;

- Any consequences resulting from participating in the ABR process, including the records that will be maintained or could be shared, and whether the Title IX Coordinator(s) could disclose such information for use in a future College Resolution Process or other College-specific processes, including an Investigation Resolution Process arising from the same or different allegations, as may be appropriate;
- Consequences should any Party fail to comply with the agreed upon terms applicable to them in the Resolution Agreement. This may include resuming or initiating the Investigation Resolution process, and/or referral to the Party's Student Conduct or Human Resource office for review, which may result in new or additional discipline or sanctions, including probation, suspension, or expulsion;
- The Resolution Agreement resulting from the ABR process is binding on the Parties and is not subject to appeal;
- Once the Resolution Agreement is finalized and signed by the Parties, the Parties cannot initiate or resume an investigation process arising from the same allegations, unless it is determined that there was failure to comply with the terms of the Resolution Agreement and the matter should be resolved under a different resolution option;
- A matter is considered resolved and concluded once the agreed upon terms have been sufficiently completed;
- The decision to participate in the ABR process does not presume that the alleged Prohibited Conduct at issue has occurred;
- A statement that the Respondent is presumed not responsible for violating this Policy, unless Respondent admits to violations of this Policy;
- An explanation that all Parties may be accompanied by a Support Person, and/or an Advisor, who may be a parent, colleague, friend, or may be, but is not required to be, an attorney;
- A statement that any Party has the right to withdraw from the ABR process and may initiate or resume the Investigation Resolution Process (if already begun), at any time before all Parties sign the Resolution Agreement. Should the Parties withdraw from the ABR process, information disclosed or obtained for purposes of the ABR process remains confidential as set forth above;
- A statement that the Title IX Coordinator has the discretion to terminate the ABR process upon determination that the Parties are not engaging in the process in good faith, or upon receipt of evidence or information that would make addressing the alleged conduct no longer appropriate;
- A statement that participating in ABR, the Parties understand that timelines for any stages of the Resolution Process, including any pending Investigation Resolution process, will be paused to allow the Parties full participation in the ABR Process and will only recommence if ABR is ended, by withdrawal by a Party, or termination by the Title IX Coordinator(s);

- Information regarding Supportive Measures, which are equitably available to the Parties; and
- Examples of potential resolution terms that may be requested or offered in a Resolution Agreement.

b. Facilitating Agreement-Based Resolution and the Resolution Agreement

Upon confirmation that the Parties still wish to proceed with ABR after issuance of the Notice of ABR, and an option has been selected by the Parties and approved by the Title IX Coordinator(s), the Parties will then meet with the designated Facilitator(s) pursuant to their selected ABR option (Facilitated Resolution Agreement, Mediation, or RJ) to resolve Complainant's report or Complaint and facilitate the Resolution Agreement.

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

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

- Disciplinary terms, such as agreement to serve conduct probation or suspension for a specified term(s), or to permanently separate from the College and ineligibility to re-enroll or apply for admission at any other TCC Institutions; and
- Agreement to have degree conferral delayed for specified term.

The Title IX Coordinator(s) may require certain resolution terms be included in the Resolution Agreement as a matter of practice, such as educational training and/or implementation or extension of a mutual or unilateral No Contact Order. Any agreed-upon remedies and disciplinary sanctions agreed to in ABR have the same effect as remedies given and disciplinary sanctions imposed following an investigation.

If a Resolution Agreement cannot be reached, either because the Parties do not agree, any Party withdraws from the process, or the Title IX Coordinator terminates the process for any reasons previously discussed, the Title IX Coordinator may decide that the reported Prohibited Conduct will instead be addressed through the Investigation Resolution process, and may include initiating the process, or continuing with any pending process paused for the ABR process. The Title IX Coordinator(s) (or TCC Title IX Administrator) will inform the Parties of such decision, in writing.

c. Finalizing the Resolution Agreement

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

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

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

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

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

C. Investigation Resolution

A Complainant may choose to engage in the Investigation Resolution process under this Policy. In summary, this process includes: the investigation of Complainant's allegations of Prohibited Conduct against Respondent by an impartial investigator, a draft Investigation Report circulated to the parties followed by a Final Investigation Report with findings of fact and determination as to whether there were any violations of Prohibited Conduct under this Policy, issuance of any remedies and sanctions by a Sanctions Decision maker, if applicable, and an appeal process, if applicable. The Investigation Resolution process and procedures are provided in Section XV.

XIV. Respondent's Acceptance of Responsibility

At any point prior to the Investigator issuing their Final Investigation Report, a Respondent may accept responsibility for some, or all of the alleged Prohibited Conduct outlined in the governing Notice of Allegations document issued to the Parties. When Respondent accepts responsibility for the alleged Prohibited Conduct, the fact-finding investigation on the issue of whether the alleged Prohibited Conduct occurred and whether there was a Policy violation(s) is waived, and instead, the matter is referred to a Sanctions Decisionmaker to provide a Remedies and Sanctions Determination for the conduct for which Respondent has accepted responsibility. If Respondent accepts responsibility for only some of the alleged Prohibited Conduct, at the discretion of the College, the matter may be forwarded to the Sanctions Decisionmaker to provide a Sanctions Determination for the accepted Prohibited Conduct, and the Investigation Process will continue for the remaining non-accepted allegations, unless otherwise resolved through an Agreement-Based Resolution, if eligible. The College may place any Sanctions Determination for the accepted Prohibited Conduct in abeyance until the conclusion of the Investigation Resolution Process. If there is a Policy violation found with regard to any of the remaining allegations of Prohibited Conduct, the Sanctions Decisionmaker may consider any previously issued remedies and sanctions for conduct for which Respondent accepted responsibility, but only after a finding of responsibility has been made.

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

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

In the event of a Cross-Campus Complaint, The Title IX Coordinator will provide a copy of Respondent's signed Acceptance of Responsibility to the Complainant's Home Institution Title IX Coordinator(s).

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

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

The Parties may submit a written statement, no longer than three (3) pages, related to suggested remedies or sanctions, and any other relevant information specific to remedies and sanctions for the Sanctions Decisionmaker to consider in making their Remedies and Sanctions Determination. Statements must be submitted in writing to the Title IX Coordinator, within five (5) business days from confirmation of the Sanctions Decisionmaker. The Title IX Coordinator will provide copies to the Sanctions Decisionmaker and the Complainant's Home Institution Title IX Coordinator(s). The Parties will not receive a copy of any other Party's statement regarding remedies and sanctions.

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

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

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

A. Appealing the Sanctions Determination

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

XV. Investigation Resolution Process

Throughout the Resolution Process, the Home Institution Title IX Coordinators will work closely and cooperatively together. They will maintain open communication during all phases of the Investigation Resolution process, including the investigation, and appeal stages.

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

A. General Information

1. Nature of Process

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

2. Burden of Evidence

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

3. Evidence Standard

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

4. Resolution Process Timeline and Extensions

Absent extensions for good cause, The College strives to complete the entire Investigation Resolution process as thoroughly, equitably, and as promptly as possible within 150 (one hundred fifty) business days from the issuance of the Notice of Investigation and Allegations to the Parties. This includes the initial assessment and evaluation of the allegations, issuance of notice letters initiating the process, investigation (interviews with the Parties and relevant witnesses), evidence review process, issuance of the final investigation report (and remedies and sanctions, if applicable), and any appeal process.

The College has provided the following estimated timelines for the major stages of the Investigation Resolution Process:

a. Initial Assessment and Evaluation of Allegations

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

b. Investigation

This phase is generally completed within 90 (ninety) to 115 (one hundred fifteen) business days. This includes investigative interviews with the Parties and witnesses, gathering and reviewing any submitted or collected evidence, drafting the Preliminary Investigation Report (PIR) and providing the Parties an opportunity to review and respond to the PIR (Evidence Review Process), and issuance of the Final Investigation Report (including Sanctions Decisionmaking, if applicable).

c. Investigation Decision and/or Sanctions Determination Appeal

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

A thorough and procedurally proper investigation and appeal may necessitate one or more extensions for good cause. The timeline for any part of the Resolution Process may be extended for good cause by the Title IX Coordinator. Good cause reasons for extension may include ensuring availability of the Parties, witnesses, or other participants in the process, ensuring that the Parties and witnesses have sufficient time to review and respond to materials, and ensuring the Investigator has sufficient opportunity to meet with the Parties and witnesses and gather evidence, as needed. The Title IX Coordinator will provide notice to all Parties of any timeline extensions. Failure to complete any specific stage, or the entirety of the Investigation Resolution process within the estimated time period does not, in and of itself, constitute a procedural error. Any such argument of procedural error (as set forth in Section XVII.) must also include an explanation as to how the delay(s) materially impacted the outcome of the process.

For pending matters that involve a graduating student Respondent, the College will determine degree issuance consistent with its processes.

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

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

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

6. Privacy and Confidentiality in the Resolution Process

Parties may share confidential information received through the Resolution Process under this Policy with their Support Person and/or Advisor consistent with the requirements of the College. The College will provide their Party a FERPA⁸ release form for their Support Person and Advisor that authorizes such sharing and participation. The Title IX Coordinator is unable to share information with a Support Person and/or Advisor under this Policy until the form is sufficiently completed by the Party. The form must also be completed prior to the Support Person and/or Advisor attending any meetings or proceedings under this Policy. The Title IX Coordinator shall not restrict the ability of any Party to discuss the allegations under investigation for the purpose of gathering and presenting relevant evidence, including by speaking to witnesses, consulting with their family members, Confidential Resources, Support Person or Advisor, or otherwise to prepare for or participate in the Resolution Process under this Policy.

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

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

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

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

7. Right to an Advisor

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

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

A Party is not required to have an Advisor during any part of the Resolution Process, including meetings, ABR, the investigation, or appeals process, and the College is not required to provide one for the Party.

⁸ Family Educational Rights and Privacy Act.

Upon a Party's request, however, the Title IX Coordinator may be able to connect a Party with a trained Advisor, if available, who may be an employee at the College.

8. Support Person

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

B. Initiation of The Investigation Resolution Process

1. Notice of Allegations (NOA)

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

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

The NOA shall include, at a minimum:

- A reminder that the date and time of the initial interview with the Investigator, will generally be scheduled with a minimum of five (5) business days' notice, unless otherwise agreed upon by the Party;
- The investigation procedures, including the applicable determination procedures that will be used in the Investigation Resolution process under this Policy, and a link to this Policy;
- Information about the ABR options, with a link to the full procedures;
- Sufficient information available at the time to allow the Parties to respond to the allegations, including the identities of the Parties involved in the incident(s), a description of the facts alleged to constitute Prohibited Conduct, the type of Prohibited Conduct, and the date(s) and location(s) of the alleged incident(s), if known;
- A statement that Retaliation is prohibited;
- A statement indicating whether the Investigator, or another individual, shall serve as the Decisionmaker;
- A statement indicating the expected length of the major stages of the resolution process, as well as any applicable deadlines;

- A statement informing the Parties that the Investigator will establish and communicate, in writing, all investigation deadlines, including the final deadlines for submitting names of witnesses and evidence. These deadlines may be extended by the TCC Title IX Administrator for good cause, and any changes will be provided, in writing, to the Parties, along with the rationale for the revised deadline(s);
- The deadline and process for identifying any conflicts of interest or bias with the Investigator. A statement that the Respondent is presumed not responsible for the alleged Prohibited Conduct until a determination is made at the conclusion of the Resolution Process. Prior to such a determination, the Parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial Investigator;
- A statement that the Parties may have an Advisor who may be a friend, parent, therapist, colleague, and who may be, but is not required to be, an attorney;
- A statement that the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any Party, and will receive an investigation report that accurately summarizes this evidence;
- A statement that the College's policies prohibit knowingly making false statements or knowingly submitting false information during the Resolution Process; and
- The identification of the Investigator.

2. Complaints Initiated by the College

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

3. Designation of the Investigator

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

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

C. Investigation Process

1. Evidence Gathering

a. Interviews

After the Parties have been notified in writing of the confirmed Investigator, the Investigator will contact

the Parties and identified witnesses to conduct their interviews. Interviews may be conducted in person, or via video conference. All investigative interviews will be electronically recorded. The College will maintain a copy of those recordings and will provide the parties will access to a copy of the transcript of those recordings as set forth below. Recording by any means of investigative interviews by any other individual is prohibited.

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

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

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

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

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

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

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

b. Investigator Determination of Evidence Relevance

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

The Investigator will determine what weight, if any, to give to the evidence gathered.

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

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

c. Impermissible Evidence

The following types of evidence, and questions seeking that evidence, are impermissible. This means this information will not be accessed or considered, except by the College or a Parties' TCC Home Institution(s) to determine whether one of the exceptions listed below applies. This information must not be disclosed and must not be otherwise used, regardless of relevance:

- Evidence that is protected under a privilege recognized by Federal or State law, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- Evidence provided to an employee designated by the College or another TCC institution as exempt from internal reporting under this Policy, unless the person who made the disclosure or otherwise provided evidence to that employee has voluntarily consented to re-disclosure;
- A Party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or witness, unless the College obtains that Party's or witness's voluntary, written consent for use in the Resolution Process under this Policy; and
- Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged Prohibited Conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to alleged Prohibited Conduct. The fact of prior consensual sexual conduct between the Parties does not by itself demonstrate or imply the Complainant's consent to other sexual activity or preclude a determination that Prohibited Conduct occurred.

Before allowing the consideration of any evidence proffered pursuant to this section, the Investigator shall provide a written explanation to the Parties as to why consideration of the evidence is consistent with this paragraph.

2. Evidence Review Process

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

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

The Preliminary Investigation Report will include the following:

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

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

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

- Submit additional relevant evidence or information;
- Provide a written response to any of the relevant evidence;
- Submit proposed questions for the Investigator to ask of the other Parties or any witnesses;
 - To the extent credibility is in dispute and relevant to one or more of the allegations, questions proposed by the Parties may also explore credibility.
 - All Party questions must be posed during this phase of the process. To the extent any question proposed by a Party is unclear or harassing, the Investigator will let the proposing

Party know and give them an opportunity to clarify or revise the question so that it will be posed if not otherwise impermissible.

- The Investigator will review all Party-proposed questions to ensure such questions are both relevant and permissible.
- Request additional interviews and information-gathering; and/or
- Suggest additional witnesses for the Investigator to interview.

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

The Evidence Review Process serves as the final opportunity to submit reasonably available evidence, or names of witnesses.

The Investigator has discretion to determine if the Parties' responses warrant additional information-gathering. The Investigator will review any proposed questions to determine relevance and permissibility. If deemed necessary, the Investigator will then meet individually with the Parties or witnesses for whom there are relevant, and not duplicative, follow-up questions. These follow-up meetings will also be recorded, and the Parties will receive the transcripts of these meetings. This final round of questioning is the last round permitted. If the Investigator determines it is unnecessary to ask individuals additional questions, interview new witnesses, and/or gather additional evidence, the Investigator will explain their decision in the Final Investigation Report. For example, for any question deemed not relevant or duplicative, the Investigator will provide a rationale for not asking the question in writing (typically as an appendix to the Final Investigation Report).

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

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

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

3. Final Investigation Report and Party Statements

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

- The identities of the Parties;

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

The Investigator will then provide the Final Investigation Report to the Title IX Coordinator. The Title IX Coordinator will review the report to determine if there are any questions that the Title IX Coordinator has concerning the report's contents or conclusions. After the Investigator successfully answers or resolves the Title IX Coordinator's questions or concerns, if any, and the Title IX Coordinator has completed their review, the Title IX Coordinator will notify the Parties that the Final Investigation Report has been completed and provide them with an opportunity to submit a written statement within five (5) business days, limited to three (3) pages, related to suggested remedies and sanctions, and any other relevant information specific to remedies and sanctions for the Sanctions Decisionmaker to consider in making their sanctions determination. If a Party chooses not to provide a written statement in accordance with this section, they will not be provided an additional opportunity to submit a written statement to the Sanctions Decisionmaker.

4. Post-Investigation Steps

If the Investigator determines there was a violation of Policy, the Title IX Coordinator will release the Party statements to the Sanctions Decisionmaker.

If the Investigator determines there was not a violation of Policy, the Title IX Coordinator will not release the Party statements.

In accordance with Section XVI below, the Title IX Coordinator will issue to the Parties the Notice of Investigation Outcome, which will include the Final Investigation Report, including all attachments.

If the Investigator finds a violation of Policy, the Title IX Coordinator will designate a Sanctions Decisionmaker in accordance with Section XVI below, and will prepare and issue a Remedies and Sanctions Determination which will be included as part of the Notice of Investigation Outcome.

If the Investigator does not find a violation of Policy, the Notice of Investigation Outcome will not include any sanctions.

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

XVI. Remedies and Sanctioning

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

If the Investigator determines the alleged conduct did occur (in whole or in part) and there was a Policy violation, prior to issuing the Final Investigation Report, the Investigator will promptly notify the Title IX Coordinator of this determination. The Title IX Coordinator will then designate a Sanctions Decisionmaker that will typically be selected in accordance with the following:

- the Vice President, Student Affairs/Dean of Students (or their designee) will conduct this review for student employee respondents;
- the relevant Vice President for the particular business unit/division of the College (or their designee) will conduct this review for staff/third-party respondents;
- the Vice President, Academic Affairs/Dean of the College (or their designee) will conduct this review for faculty respondents.

In addition, the Title IX Coordinator will take three steps:

- Final Investigation Report: They will forward the Final Investigation Report and any attachments;
- College Administrator's Written Recommendations: They will notify the appropriate administrator(s) at the College, including the College's Human Resources Department, if appropriate to ensure consistency of sanctions/discipline and will have access to the complete record of the case in order to determine any sanctions to be imposed or corrective action to be taken, as well as to obtain information about the Respondent's prior disciplinary conduct, which shall be taken into account when recommending a sanction.. The administrators may submit a written recommendation to the Title IX Coordinator related to remedies and sanctions, and any other relevant information that would be important for the Sanctions Decisionmaker to consider in making their Remedies and Sanctions Determination. The administrator's written recommendations will not be shared with the Parties; and
- Party Statements: Pursuant to Section XV.C.3, they will provide the Sanctions Decisionmaker with any submitted written Party statements. If a Party did not provide a written statement, the Party will not be provided an additional opportunity to submit a written statement to the Sanctions Decisionmaker. Any submitted Party statement(s) will not be shared with the other Parties.

The Sanctions Decisionmaker will normally send their written decision in a notice to the Title IX Coordinator within ten (10) business days of receipt so that it can be circulated to the Parties as part of the Notice of Investigation Outcome. The Sanctions Decisionmaker will make their Remedies and Sanctions Determination based on the factual and Policy findings, written Party statements, written Home Institution

recommendations, and other factors relevant to sanctioning as outlined below. The Sanctions Decisionmaker shall give significant weight to the College Administrator's written recommendations in issuing remedies and sanction(s). Expulsions and employment terminations are at the sole discretion of the College.

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

The factors a Sanctions Decisionmaker may consider in issuing sanctions include, but are not limited to:

- **Severity of the Violation:** The duration of the conduct; whether the conduct was repeated; the number of Policy violations; abuse of power; use of intimidation; use of force; level of endangerment to the Complainant; level of injury to the Complainant; presence of a weapon; deliberate embarrassment; exploitation of level of intoxication.
- **Aggravation:** Whether the Respondent used force, threat, violence, duress, or intentionally caused intoxication or impairment to engage in conduct without Complainant's consent.
- **Intent:** Whether Respondent intended to cause harm; whether Respondent premeditated the conduct; whether Respondent pressured others to engage in the conduct or similar conduct; whether Respondent was pressured by others to engage in the conduct.
- **Retaliation:** Whether Respondent complied with No Contact Orders, Supportive Measures, and other interim measures in place during the Investigation Resolution process; whether Respondent continued to engage in alleged Prohibited Conduct after commencement of the investigation process; whether Respondent engaged in conduct meant to intimidate or harass the Complainant or participants for their participation in the investigation; whether Respondent was forthcoming during the investigation process; whether Respondent engaged in any other conduct which would obstruct the investigation process, or impacted the fairness of the processes.
- **Impact:** The impact of Respondent's conduct and presence on the Complainant's safety and participation in any TCC Institution's education or employment programs and activities; the impact of Respondent's conduct on TCC's community; the impact of sanctions on Respondent's access to participation in TCC's programs, if applicable.

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

- **Warning:** Written notice that the Respondent's behavior was in violation of this Policy and that future violations will result in more severe sanctions.
- **Restitution:** Reimbursement by the Respondent(s) to the College, another TCC Institution, TCC, the Complainant(s), or a member of TCC's community to cover the cost of property damage or other loss.
- **Service Hours:** A set number of work hours the Respondent must complete. The Home Institution Title IX Coordinator(s) will determine the nature of the work to be performed. Generally, service hours are conducted within TCC.

- **Educational Program/Project:** Programs and activities designed to help the Respondent become more aware of the College's policies and help the Respondent understand the inappropriateness of their behavior to avoid repeat offense, including, but not limited to, participation in an educational program or completion of an online program.
- **Counseling and/or Coaching Sessions:** A set number of counseling and/or coaching sessions that the Respondent must complete, as well completion of any assigned reflection essay or other assignment(s) within a specified time. The counselor, facilitator, and/or the Home Institution Title IX Coordinator(s) will review the required assignments for sufficiency.
- **Referral for Assessment:** A referral for an assessment with an appropriately trained therapist who will recommend a process for treatment. Reinstatement is conditioned upon receiving proof of completion of the recommended treatment.
- **Loss of Privileges:** Denial of specific privilege(s) for a defined period of time. Privileges include, but are not limited to, participation in extracurricular activities and events such as on-campus, or campus-sponsored or affiliated social events, intercollegiate athletics, intramural programs, student organizations, and student government, eligibility to apply for and gain on campus employment within TCC, as well as the privilege of living on campus, living in a specific residence hall, participation in commencement ceremonies, or having a vehicle on campus.
- **Restricted Access:** Conditions which specifically dictate and limit the Respondent's presence on campus and/or participation in TCC Institution-sponsored or affiliated activities and events. The restrictions will be clearly defined and may include, but are not limited to, presence in certain buildings or locations on campus, including residential and dining halls, sports and recreation fields, buildings, and courts, and classrooms. This also includes a No Contact Order, which prohibits communication, by any means, with the Complainant, and/or any other specified individual who participated in the investigation or hearing process. In cases involving Parties from different TCC Institutions-restricted access may extend to exclusion from another TCC Institution's campus, programs, activities, and events.
- **Removal of Offending Cause:** Requirement to remove the item which was the subject of the Complaint.
- **Relocation or Removal from Residence Halls:** Requirement that the Respondent relocate to another residence hall, or off-campus residence, by a specified date.
- **Conduct Probation:** Formal, written notice that the Respondent's behavior is in violation of its TCC Institution's policies and an expectation that the Respondent exhibit good behavior for a defined period of time. Pursuant to the Respondent's Home Institution's policy regarding Conduct Probation, such probation may limit Respondent's on-campus privileges. Any violation during the probationary period will result in increased sanctioning, including academic suspension or expulsion. Notice of Conduct Probation is sent to the Respondent's academic advisor, as well as to the Respondent's parent(s)/guardian if the Respondent is a minor.
- **Employment Probation:** Formal, written notice that the employee's conduct is in violation of its Institution Policies and an expectation that the employee exhibit good behavior for a defined period of time. Any further violations during the probationary period will result in increased sanctioning and may result in employment suspension without pay or termination of employment.

- **Suspension Up to One, Two, Three, Four, Five, Six, Seven, or Eight Semesters:** Separation from the Institution for one, two, three, four, five, six, seven, or eight semesters. During the suspension period, the Respondent is not permitted on campus, is not permitted to participate in any Institution-sponsored or affiliated program or activity, or events, and is not permitted to enroll in any courses and earn any credits towards the Respondent's degree. The terms of the suspension may include the designation of special conditions affecting eligibility for re-enrollment or special conditions to be in effect upon re-enrollment, including a term of Conduct Probation. A term of suspension may also include delayed conferral of degree. Notice of Respondent's suspension will be communicated to the Registrar and other appropriate administrator(s) at the other TCC Institutions to ensure compliance.
- **Employment Suspension without Pay (staff and faculty, including student-employees):** Separation of employment for a defined period of time without pay for the time of separation.
- **Employment Termination:** Permanent separation of the employee from their position. If the Respondent is a student, they may be permanently separated from their student-employee position. A staff or faculty member who is terminated from their employment is not permitted to participate in any TCC Institution-sponsored or affiliated program or activity, or event. A staff, faculty, or student-employee terminated from their TCC Institution employment is not eligible for rehire at that TCC Institution.
- **Expulsion:** Permanent separation from their Home Institution and ineligibility to apply for admission at any other Institutions in the TCC. A Respondent who has been expelled is not permitted on any TCC Institution property and is not permitted to participate in any TCC Institution-sponsored or affiliated program, activity, or events.

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

- **Degree Non-Conferral, Delayed Degree Conferral, or Revocation of Degree: At the discretion of the College.**

XVII. Appeal Rights and Process

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

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

A. Appeal Grounds

Each Party has a right to appeal:

- The dismissal of a Complaint or any included allegations;
- The Investigator's Policy findings; and/or

- Any sanctions.

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

A Party may appeal based on one or more of the following grounds:⁹

- **Procedural Error:** There was a procedural error(s) that would change the outcome of the matter (i.e., failure to follow the process outlined in this Policy). The appealing party must describe in their appeal the procedural error and its impact on the decision outcome.
- **Conflict of Interest or Bias:** Any Party's Home Institution Title IX Coordinator, Investigator(s), and/or Sanctions Decisionmaker (for cases where the Respondent has accepted responsibility) has a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent, that would change the decision outcome. The appealing party must describe in their appeal the alleged conflict of interest or bias held by the individual and how this impacted the decision outcome.
- **New Evidence:** There is new evidence or information that would change the decision outcome that was not reasonably available or known (and could not have reasonably been known) during the investigation process or when the final investigation decision or dismissal of complaint or allegations was made. Information that was known to the party during the resolution process but which they did not to present is not considered new evidence or information. The appealing party must describe in their appeal how the new evidence would change the decision outcome and why the new evidence was not reasonably available or reasonably known prior to the appeal.
- **Disproportionate Sanctions:** The sanctions are disproportionate to conduct for which the Respondent accepted responsibility, or to the Sanctions Decisionmaker's findings.

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

B. Designation of Appeal Decisionmaker

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

The Appeal Decisionmaker will have had appropriate training as required by Title IX and California law, which includes but is not limited to training in the definitions of Prohibited Conduct, the scope of the

⁹ As explained in Section XIV, for cases where the Respondent has accepted responsibility, a Party may only appeal on the grounds that the Sanctions Decisionmaker had a conflict of interest or bias, and/or that the sanctions are disproportionate to the Prohibited Conduct for which Respondent accepted responsibility.

College's education programs and activities, the Investigation Resolution process under this Policy, bias, the ABR Process, and appeal process.

C. Appeal Response by Non-Appealing Party

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

D. Appeal Clarification

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

E. Appeal Record

The review of an appeal will not involve any additional investigation by the Appeal Decisionmaker. The review will be based upon evidence gathered during the investigation process and presented at the hearing, including access to the hearing recording, as well as the arguments made during the appeal process. The Appeal Decisionmaker will not consider new evidence for the purposes of upholding, overturning, or modifying the findings. Appeals submitted under the ground of new evidence will be considered only to determine whether the new evidence could likely change the determination of responsibility.

F. Appeal Decision Report

The Appeal Decisionmaker will issue an Appeal Decision Report which summarizes their decision regarding the appeal. The Appeal Decision Report will include a description of the ground(s) for the appeal, a summary of the issues raised on appeal, a statement regarding the evidence considered, a statement describing the decision was made based on the preponderance of the evidence standard, and the determination regarding the appeal.

The Appeal Decisionmaker may decide to do the following:

- Uphold the findings and sanctions;
- Overturn the findings and/or sanctions;
- Modify the findings and/or sanctions; or
- Remand the case, to the Investigator for additional fact-gathering, or for a new hearing based on new evidence which could change the outcome; or

- If the Appeal Decisionmaker finds that the Title IX Coordinator, Investigator(s), and/or Sanctions Decisionmaker had an actual conflict of interest or bias that changed the decision outcome, the Appeal Decisionmaker may, as appropriate, remand the case for a new sanction determination with a new Sanction Decisionmaker, or remand the case for a new investigation with a new investigator.

1. Notice of the Appeal Decision

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

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

2. Final Remedies and Sanctioning Determination

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

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

3. Failure to Complete or Comply with Imposed Sanctions

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

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

XVIII. Recordkeeping

Records of all reports and resolutions will be kept by the Title IX Coordinator(s) for a period of seven (7) years. All records will be afforded the confidentiality protections required by law, including but not limited to the Family Educational Rights and Privacy Act (FERPA) governing confidentiality of student information. This means that the Colleges will protect the Party's privacy consistent with this Policy but may disclose information to those who have a legitimate need to know and in order to process Complaints under this Policy. Documents related to this process include: Complaints, Supportive Measures provided to the Parties, remedies provided to the Complainant, any Agreement-Based Resolution Process documents, if applicable, the Final Investigation Report and attachments, the hearing record, including any audio recording or transcript of the hearing, the Hearing Decision Report, and any sanctioning determination and appeal-related documents, if applicable.

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

XIX. Crime and Incident Disclosure Obligations

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

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

The College require any report made by a victim or an employee pursuant to Section 67383 of a Part 1 violent crime, sexual assault, or hate crime, as described in Section 422.55 of the Penal Code, received by a campus security authority and made by the victim for purposes of notifying the College or law enforcement, to be immediately, or as soon as practicably possible, disclosed to the local law enforcement agency with which the College 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 College determines both of the following, in which case the College shall disclose the identity of the alleged assailant to the local law enforcement agency and shall immediately inform the victim of that disclosure:

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

XX. Policy Review and Revision

This Policy, effective August 1, 2024, supersedes previous policies addressing allegations of Title IX Sexual Harassment and Retaliation against the College's staff and faculty, and is maintained by Pomona College, and will be reviewed and updated regularly in a manner consistent with changes in federal and state law, regulations, and best practices that may require policy or procedural revisions.

XXI. Non-Discrimination Application and Additional Enforcement Information

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

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

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

Office for Civil Rights, San Francisco Office

U.S. Department of Education

50 United Nations Plaza

San Francisco, CA 94102

Telephone: (415) 486-5555

Facsimile: (415) 486-5570

Email: OCR.SanFrancisco@ed.gov

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

U.S. Equal Employment Opportunity Commission (EEOC)

Roybal Federal Building

255 East Temple St., 4th Floor

Los Angeles, CA 90012

(213) 785-3090

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

California Civil Rights Department (formerly DFEH)

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

Los Angeles, CA 90013

Monday to Friday: 8am to 5pm

Phone: (800) 884-1684

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

XXII. Important Definitions

Advisor of Choice: An Advisor of Choice (Advisor) is an individual who provides guidance to the Complainant or Respondent throughout the Resolution Process, including any Agreement-Based Resolution Process, if

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

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

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

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

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

Affirmative Consent: Affirmative Consent means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that they have the affirmative consent of the other or others to engage in the sexual activity. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time.

- Lack of protest or resistance does not mean consent.
- Silence does not mean consent.
- The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

It shall not be a valid excuse that the Respondent believed that the Complainant affirmatively consented to the sexual activity if the Respondent knew or reasonably should have known that the Complainant was unable to consent to the sexual activity under any of the following circumstances:

- The Complainant was asleep or unconscious.
- The Complainant was incapacitated, as defined below, due to the influence of drugs, alcohol, or medication, so that the Complainant could not understand the fact, nature, or extent of the sexual activity.
- The Complainant was unable to communicate due to a mental or physical condition.

In addition, it shall not be a valid excuse to alleged lack of affirmative consent that the Respondent believed that the Complainant consented to the sexual activity under either of the following circumstances:

- The Respondent's belief in affirmative consent arose from the intoxication or recklessness of the Respondent. A Respondent's own intoxication or incapacitation from drugs or alcohol does not

diminish that person's responsibility to obtain Affirmative Consent before engaging in sexual activity.

- The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented.

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

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

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

Complaint: A Complaint means an oral or written request to the Title IX Coordinator that objectively can be understood as a request for the College to investigate and make a determination about alleged Prohibited Conduct under this Policy. A Complaint may be filed with the Title IX Coordinator in person, by mail, by phone, by electronic means (email or by submitting an online report form via the Title IX Office website, if applicable), by using the contact information listed in Section II.A, or as otherwise described in this Policy. *(Individuals who would like more information about making a Complaint are encouraged to contact the Title IX Coordinator for additional information).*

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

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

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

Incapacitation: Consent cannot be given by someone who is incapacitated. Incapacitation occurs when someone cannot make rational decisions because they lack the capacity to give knowing and informed consent (e.g., to understand the “who, what, when, where, why, and how” of their sexual activity). Incapacitation is determined through consideration of all relevant indicators of a person’s state and is not synonymous with intoxication, impairment, or being under the influence of drugs, including prescription

drugs, or alcohol. This Policy also covers a person whose incapacity results from temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs, or who are sleeping.

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

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

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

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

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

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

Responsible Employee: A Responsible Employee is designated by the College as defined in Section VIII(C)..

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

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

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

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

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

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