TITLE IX | THE CLAREMONT COLLEGES SERVICES

The Claremont Colleges
Sexual Misconduct and Sex-Based Harassment
Interim Policy

Effective August 1, 2024

Revised November 6, 2024

Table of Contents

I. Introduction 1

A. Purpose of this Policy 2

B. Effective Date 2

C. Application of Section 504/Americans with Disabilities Act to this Policy 3

D. Revocation by Operation of Law 4

II. Home Institution Title IX Coordinator and the TCC Title IX Process Administrator 4

A. Title IX Coordinator 4

B. TCC Title IX Process Administrator 6

III. Scope and Jurisdiction 6

A. Which Institutions Have Adopted This Policy 6

B. Matters Involving a Third-Party Participant(s) 8

C. The Geographic Jurisdiction of This Policy 8

D. How This Policy Impacts Other Campus Disciplinary Policies 8

E. Policy Dissemination and Publication 8

IV. Prohibited Conduct – Sex-Based Harassment and Retaliation 9

A. Sex-Based Harassment 9

1. Quid Pro Quo 9

2. Sex-Based Hostile Environment Harassment in Programs and Activities 10

3. California Sex-Based Harassment in Employment 10

4. Sexual Assault under Title IX 11

5. Sexual Violence under California Education Code 12

6. Sexual Exploitation 12

7. Dating Violence 13

8. Domestic Violence 13

9. Stalking on the Basis of Sex 14

B. Retaliation 14

V. Conflict of Interest or Bias 14

VI. Supportive Measures 15

A. Specific Requirements for No Contact Orders 16

B. Challenges to Supportive Measures 16

VII. Resources 17

A. On-Campus Confidential Resources 17

1. Confidential Resources for Students 17

2. Confidential Resources for Staff and Faculty 18

Table of Contents
(Continued)

B. Off-Campus and Community-Based Confidential Resources 18
1. Services and Support for Dating and Domestic Violence 18
2. Services and Support for Dating and Domestic Violence 19
3. Medical Resources 19
VIII. Reporting Prohibited Conduct 19
A. Reporting Prohibited Conduct Directly to the Home Institution's Title IX Coordinator 19
B. Disclosing Prohibited Conduct to a Confidential Resource 20
1. Confidential Resources with the Legal Privilege of Confidentiality 20
2. Institution-Designated Confidential Resources 20
C. Reporting Prohibited Conduct to a TCC Institution Employee and Their Reporting Obligations 21
D. Amnesty for Student Conduct Charges when Reporting Prohibited Conduct Under this Policy 21
E. Reporting to Law Enforcement and Concurrent Criminal Investigations 21
IX. Response to a Report or Complaint of Prohibited Conduct 22
A. Initial Contact by the Complainant's Home Institution's Title IX Coordinator 22
B. Initial Intake Meeting and Assessment 23
C. Request for Confidentiality or No Further Action 24
D. Emergency Removal 26
E. Administrative Leave (Only Employees Covered by this Policy) 26
F. Student Withdrawal or Employee Resignation While Matters Are Pending 27
X. Closure or Dismissal of a Complaint 27
XI. Referrals for Other Misconduct Not Subject to this Policy 28
XII. Consolidation of Complaints and Allegations 29
XIII. Resolution Options (Support-Based, Agreement-Based, and Investigation and Hearing) 29
A. Support-Based Resolution 30
B. Agreement-Based Resolution 30
1. General Information and Requirements for Engaging in Agreement-Based Resolution 30
2. Determining Appropriateness of Agreement-Based Resolution 31
3. Right to Withdraw or Discretion to Terminate the Agreement-Based Resolution Process 32
4. Agreement-Based Resolution Options 32
a. Facilitated Resolution Agreement 32
b. Mediation 33
c. Restorative Justice 33
5. The Agreement-Based Resolution Process 34

Table of Contents
(Continued)

a. Initiating the Agreement-Based Resolution Process 34
b. Facilitating Agreement-Based Resolution and the Resolution Agreement 35
c. Finalizing the Resolution Agreement 36
C. Investigation and Hearing Resolution 37
XIV. Respondent's Acceptance of Responsibility 37
A. Appealing the Sanctions Determination 39
XV. Investigation and Hearing Resolution Process 39
A. General Information 39
a. Initial Assessment and Evaluation of Allegations 40
b. Investigation 40
c. Hearing and Hearing Decision Report (and Sanctioning, if applicable) 40
d. Hearing Decision and/or Sanctions Determination Appeal 41
B. Initiation of The Investigation and Hearing Resolution Process 43
C. Investigation Process 44
a. Interviews 44
b. Investigator Determination of Evidence Relevance 45
c. Impermissible Evidence 46
XVI. Hearing 49
A. Prior to the Hearing 49
B. During the Hearing 52
a. Opening Introductory Statements 53
b. Questions by the Hearing Decisionmaker 54
c. Closing Statements and Concluding the Hearing 54
C. After the Hearing 54
XVII. Remedies and Sanctioning 56
XVIII. Appeal Rights and Process 59
A. Appeal Grounds 59
B. Designation of Appeal Decisionmaker 60
C. Appeal Response by Non-Appealing Party 60
D. Appeal Clarification 61
E. Appeal Record 61
F. Appeal Decision Report 61
XIX. Recordkeeping 62

Table of Contents
(Continued)

XX. Crime and Incident Disclosure Obligations **63**

XXI. Policy Review and Revision **64**

XXII. Non-Discrimination Application and Additional Enforcement Information **64**

XXIII. Important Definitions **65**

Addendum A – 2020 Title IX Resolution Procedures …….. **A - 1**

Addendum B – 2020 Title IX Prohibited Conduct Defintiions .....…….. **B - 1**

I. Introduction

The purpose of this Policy (including its Addendum A and B (collectively "the Policy")) is to set forth how the Claremont Colleges (TCC) prevent and respond to Sex-Based Harassment (a form of sex-based discrimination), and related Retaliation (collectively, "Prohibited Conduct"), as defined within this Policy. Prohibited Conduct, as defined by this Policy, is prohibited within all of the programs and activities of the TCC Institutions, and as set forth in this Policy.

The Claremont Colleges is comprised of the following institutions:

- Pomona College
- Claremont Graduate University
- Scripps College
- Claremont McKenna College
- Harvey Mudd College
- Pitzer College
- Keck Graduate Institute

Collectively, the TCC Institutions are referred to as "TCC" throughout this Policy. Individually, they are referred to as "TCC Institution."[1]

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

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

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

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

[1] For purposes of Title IX, "Recipient" is reference to each TCC Institution.

A. Purpose of this Policy

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

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

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

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

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

B. Effective Date

This Policy is effective August 1, 2024, and only applies to Prohibited Conduct alleged to have occurred *on or after* August 1, 2024. (Note: some conduct may be covered by Addendum A to this Policy, as set forth in that addendum.)

Incidents alleged to have occurred *before* August 1, 2024 will be investigated and adjudicated according to the applicable definitions in place at the time the incident allegedly occurred. This may include allegations under:

- the definitions in the previous policy, *The Claremont Colleges Title IX Sexual Harassment Policy* (2020 TCC Title IX Policy), which addresses Title IX Sexual Harassment and Retaliation, alleged to have occurred between August 14, 2020 and July 31, 2024 (see Addendum B to this Policy for the 2020 Title IX Prohibited Conduct Definitions). The 2020 Title IX Resolution Procedures in Addendum A will be used.

- a TCC Institution-specific policy for conduct prohibited under California Education Code from January 1, 2022 – July 31, 2024 or for incidents of sexual harassment alleged to have occurred prior to August 14, 2020.

Type and Timing of Prohibited Conduct	Applicable Definitions of Prohibited Conduct	Applicable Resolution Procedures	Applicable Jurisdictional Test
On or After August 1, 2024 Title IX Prohibited Conduct under the 2020 Title IX Final Rule involving Covered Claremont McKenna Community Members	See Addendum A	2020 Title IX Resolution Procedures (Addendum A) + and any applicable 2024 TCC SM and SBH Interim Policy Principles that do not conflict with Addendum A	See Addendum A
August 14, 2020 – July 31, 2024 Allegations involving prohibited conduct under the 2020 Title IX Final Rule All other conduct addressed under applicable campus policy.	See Addendum B	2020 TIX Resolution Procedures (Addendum A) + and any applicable 2024 TCC SM and SBH Interim Policy Principles that do not conflict with Addendum A	See Addendum A (definition of Education Program and Activities)
On or After August 1, 2024 All other Prohibited Conduct	2024 TCC SM and SBH Interim Policy (Section IV. Prohibited Conduct)	2024 TCC SM and SBH Interim Policy Procedures (See Sections XIII - XVIII)	See Section III. Scope and Jurisdiction

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

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

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

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

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

D. Revocation by Operation of Law

Should any portion of the 2024 Title IX Final Rule, 89 Fed. Reg. 33474 (issued April 29, 2024 and effective August 1, 2024), be stayed or held invalid by a court of law, in whole or in part, or should the portions of this Policy in compliance with 2024 Title IX Final Rule be withdrawn or modified to not require specific requirements of this Policy, then this Policy, or the invalidated requirements of this Policy in compliance with the 2024 Title IX Final Rule, will be deemed modified or revoked as of the publication date of the opinion or order (or as otherwise ordered by the court) or as otherwise specified in any revisions to this Policy. In the event of a modification or revocation, TCC will provide the Parties with information regarding next steps. Should this Policy be revoked in this manner, any conduct covered under this Policy shall be investigated and adjudicated in compliance with Federal and California state law. (NOTE: this Policy was modified to address the August 28, 2024 court order staying the implementation of the 2024 Title IX Final Rule by Claremont McKenna College.)

II. Home Institution Title IX Coordinator and the TCC Title IX Process Administrator

A. Title IX Coordinator

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

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

Institution	Title IX Coordinator	Email/Phone	Address
Claremont Graduate University	Ann Knox, Title IX Coordinator Jalina Najera, Interim Director of Human Resources Michelle Bligh, Executive Vice President and Provost	Deanof.Students@cgu.edu (909) 607-1887 Jaline.najera@cgu.edu (909) 607-4404 Michelle.Bligh@cgu.edu (909) 607-3318	160 E. 10th Street Harper Hall East Claremont, CA 91711
Claremont McKenna College	Joanna Rosas, Title IX Coordinator	Joanna.Rosas@ClaremontMcKenna.edu (909) 607-8131	385 E. 8th Street Marian Miner Cook Athenaeum Second Floor Claremont, CA 91711
Harvey Mudd College	Danny Ledezma, Title IX Coordinator	Dledezma@hmc.edu (909) 607-3470	301 Platt Boulevard Platt Campus Center Claremont, CA 91711
Keck Graduate Institute	Shino Simons, Title IX Coordinator Cheryl Merritt, Deputy Title IX Coordinator, Assistant Vice President of Human Resources and Employee Engagement	Titleix@kgi.edu (909) 607-0101 Cheryl_merritt@kgi.edu (909) 607-7853	535 Watson Drive Claremont, CA 91711
Pitzer College	Christine R. Guzman, Title IX Coordinator	Christine_guzman@pitzer.edu (909) 607-2958	1050 N. Mills Avenue Broad Center, Room 212 Claremont, CA 91711
Pomona College	Destiny Marrufo, Title IX Coordinator	Destiny.Marrufo@pomona.edu (909) 621-8017	555 N. College Avenue, Alexander Hall: Suite 104 Claremont, CA 91711
Scripps College	Alyssa-Rae McGinn, Interim Title IX Coordinator	Titleix@scrippscollege.edu (909) 607-7142	919 North Columbia Avenue McAlister Center Lower Level Claremont, CA 91711

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

B. TCC Title IX Process Administrator

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

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

The TCC Title IX Administrator, Barbara Reguengo, can be reached at: TitleIXAdmin@claremont.edu.

III. Scope and Jurisdiction

A. Which Institutions Have Adopted This Policy

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

- All cases involving allegations occurring after August 1, 2024 and involving **only students** or participants (see below) in a TCC Institution's program or activity will be processed under the Resolution Options set forth in Section XIII unless the 2020 Title IX Resolution Procedures in Addendum A are required to be used for cases involving Claremont McKenna College students or participants in CMC's education programs and activities for Title IX Prohibited Conduct alleged to have occurred from August 14, 2020 to present.

This includes complaints made by a TCC student at one TCC Institution against a student at the same TCC Institution, as well as complaints made by a TCC student against a TCC student at a different TCC Institution ("Cross-Campus Complaints").

- Cases that involve an **employee**, including students in their capacity as a student-employee, of a TCC Institution, will be processed consistent with whether the TCC Institution that is the employer of the Respondent has adopted this Policy for its employees. If a TCC Institution has adopted this Policy for its employees, the 2020 Title IX Resolution Procedures in Addendum A shall be applied where the alleged conduct occurred in CMC's education programs and activities. [2]

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

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

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

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

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

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

C. The Geographic Jurisdiction of This Policy

This Policy applies to the programs and activities, including the working and learning environments of the TCC Institutions. It may also apply to instances in which the conduct occurred outside of the campus or any TCC Institution-sponsored activity if the Complainant's Home Institution's Title IX Coordinator determines that the off-campus conduct is within the jurisdiction of this Policy, within Respondent's Home Institution's disciplinary authority (in consultation with the Respondent's Home Institution Title IX Coordinator if Cross-Campus Complaint), or could interfere with access to any educational program or activity, safety and security, compliance with applicable law, or contribute to a hostile educational environment. Addendum A establishes additional geographic jurisdiction for the use of the 2020 Title IX Resolution Procedures.

D. How This Policy Impacts Other Campus Disciplinary Policies

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

E. Policy Dissemination and Publication

Each TCC institution shall disseminate this Policy to:

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

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

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. (2020 Title IX Prohibited Conduct is addressed under Addendum A and Addendum B.)

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

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

A. Sex-Based Harassment

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

Sex-Based Harassment includes the following:

1. Quid Pro Quo

Quid Pro Quo is defined as:

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

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

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

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

Conditions may involve academics and extracurricular activities within TCC.

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

Sex-Based Hostile Environment Harassment is defined as:

- Unwelcome sex-based conduct (where sex includes sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity and gender expression) that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from any TCC Institution's education program or activity; or

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

3. California Sex-Based Harassment in Employment

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

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

- Sufficiently offends, humiliates, distresses, or intrudes upon its victim, so as to disrupt the victim's emotional tranquility in the workplace, or,

- Affects the victim's ability to perform the job as usual, or,

- Otherwise interferes with and undermines the victim's personal sense of well-being.

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

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

- Unwanted physical touching;

- Telling sexually explicit jokes or stories;
- Making comments or gestures reasonably regarded as lewd or offensive;
- Displaying sexually suggestive objects, cartoons, or pictures;
- Sending sexually explicit messages by letter, notes, electronic mail, social media posting, or telephone;
- Making unwelcome comments reasonably regarded as offensive about a person's body, physical appearance, or clothing;
- Frequent use of unwelcome terms of endearment; or
- Repeatedly asking an individual for a date or meetings outside of working hours after they have indicated an unwillingness to go.

4. Sexual Assault under Title IX

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

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

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

prohibition. (This type of conduct is not eligible for mediation as a form of agreement-based resolution[4] in California).

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

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

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

- Statutory Rape—Sexual intercourse with a person who is under the statutory age of consent. In California the statutory age of consent is 18. (This type of conduct is not eligible for mediation as a form of agreement-based resolution in California).

5. Sexual Violence under California Education Code

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

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

- Rape, defined as penetration, no matter how slight, of the vagina or anus with any part or object, or oral copulation of a sex organ by another person, without the consent of the victim. (This type of conduct is not eligible for mediation as a form of agreement-based resolution in California).

- Sexual battery, defined as the intentional touching of another person's intimate parts without their Affirmative Consent, intentionally causing a person to touch the intimate parts of another without Affirmative Consent, or using a person's own intimate part to intentionally touch another person's body without Affirmative Consent. (This type of conduct is not eligible for mediation as a form of agreement-based resolution in California).

6. Sexual Exploitation

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

- The prostituting of another person.

- The trafficking of another person, defined as the inducement of a person to perform a commercial sex act, or labor or services, through force, fraud, or coercion.

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

- The recording of images, including video or photograph, or audio of another person's sexual activity or intimate parts, without that person's consent.

- The distribution of images, including video or photograph, or audio of another person's sexual activity or intimate parts, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to the disclosure.

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

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

7. Dating Violence

Dating Violence is violence committed by a person:

- Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

- Where the existence of such a relationship shall be determined based on a consideration of the following factors:

  - The length of the relationship;

  - The type of relationship; and

  - The frequency of interaction between the persons involved in the relationship.

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

8. Domestic Violence

Domestic violence is violence committed by a person who:

- Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the State of California or a person similarly situated to a spouse of the victim;

- Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;

- Shares a child in common with the victim; or

- Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the State of California.

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

9. Stalking on the Basis of Sex

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

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

B. Retaliation

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

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

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

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

V. Conflict of Interest or Bias

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

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

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

The TCC Title IX Administrator will consider and resolve any objections, except any objections to the TCC Title IX Administrator, which will be assigned to the appropriate official. If the objection is substantiated with regard to an Investigator or Decisionmaker, then a new Investigator or Decisionmaker will be

designated, and the Parties will be notified of this decision in writing. If the objection to a Home Institution Title IX Coordinator or the TCC Title IX Administrator is substantiated, the role will be reassigned to an appropriately designated official for purposes of completing and finalizing the matter at issue.

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

VI. Supportive Measures

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

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

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

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

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

- Counseling;
- Extensions of deadlines or other course-related adjustments, in coordination with the relevant Faculty member;
- Modifications of work or class schedules, in coordination with the relevant Faculty member and/or supervisor;
- Campus escort services;

- Restrictions on contact and communication applied to one or more parties, including no contact directives (which may be mutual or unilateral, and at the discretion of each Party's Home Institution's Title IX Coordinator as set forth below);

- Changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative;

- Training and education programs related to Prohibited Conduct;

- Leaves of absence;

- Increased security and monitoring of certain areas of campus; and,

- Other similar measures determined by the Parties' Home Institution's Title IX Coordinator(s) based on the specific facts of each case.

A. Specific Requirements for No Contact Orders

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

For cases of Prohibited Conduct involving only students:

- When requested by a Complainant or otherwise determined to be appropriate, the Respondent's Home Institution's Title IX Coordinator shall issue an interim, unilateral NCO prohibiting the Respondent from contacting the Complainant during the pendency of the Resolution Process under this Policy, including any appeal.

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

B. Challenges to Supportive Measures

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

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

Information regarding the process to challenge any Supportive Measure will be provided to the Party in writing by the individual providing, denying, modifying, or terminating the Supportive Measures.

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

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. Each TCC Institution may have additional resources available to its students and/or employees. Contact the Home Institution Title IX Coordinator for more information. More information, including disclosing Prohibited Conduct to a Confidential Resource, may be found in the following Section VIII. Reporting Prohibited Conduct.

A. On-Campus Confidential Resources

1. Confidential Resources for Students

EmPOWER Center
1030 Dartmouth Avenue
(909) 607-2689
www.7csupportandprevention.com
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 Home Institution's Title IX Coordinator

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

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

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

"Resolution Process" refers to the process initiated upon receipt of information regarding allegations of Prohibited Conduct. The resolution options available in the Resolution Process under this Policy are outlined in Section XIII.

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

B. Disclosing Prohibited Conduct to a Confidential Resource

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

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

There are two types of Confidential Resources at TCC.

1. Confidential Resources with the Legal Privilege of Confidentiality

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

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

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

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

2. Institution-Designated Confidential Resources

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

Institution-Designated Confidential Resources also have limited reporting responsibilities federally mandated by the Clery Act. Under the Clery Act, their reporting obligation arises when they become aware of information or allegations of criminal behavior and must report the information regarding an incident to the TCC Institution's Clery Coordinator. They do not report identifying information about the individuals involved in an incident.

Institution-Designated Confidential Resources are not obligated to inform the Home Institution Title IX Coordinator of a report/disclosure unless requested by the individual seeking their services.

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

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

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

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

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

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

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

E. Reporting to Law Enforcement and Concurrent Criminal Investigations

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

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

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

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

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

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

IX. Response to a Report or Complaint of Prohibited Conduct

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

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

- An invitation to meet with Complainant's Home Institution's Title IX Coordinator to offer assistance and explain their rights, resources, and options under this Policy;
- Access to this Policy via link or attachment;
- Information regarding available campus and community-based resources for counseling, health care, mental health, or victim advocacy. Upon request, information regarding legal assistance, visa and immigration assistance, student financial aid and other available services may be provided;
- The availability of Supportive Measures regardless of whether a Complaint is filed and/or any Resolution Process is initiated;
- Information regarding resolution options (Support-Based, Agreement-Based, and Investigation and Hearing Resolution) under this Policy, how to initiate such Resolution Processes; 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),[5] may meet with their Home Institution's Title IX Coordinator for the purposes of discussing their reporting options, Supportive Measures, and resolution options under this Policy. The primary concern during the intake meeting shall be safety, and a trauma-informed approach shall be used while meeting with the Complainant.

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

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

During this initial meeting, or in a separate follow-up meeting, the Complainant's Home Institution Title IX Coordinator will gather preliminary information about the nature of the circumstances or the report to determine appropriate next steps, including appropriate Supportive Measures, whether this Policy applies, and if so, which resolution option(s) may be appropriate based on the allegations and status of the Parties. Information gathered may include names of individuals involved, date of incident(s), location of incident(s), and a description of the alleged incident. The Complainant's Home Institution's Title IX Coordinator may also determine that the provision of only Supportive Measures is the appropriate response under the Policy based on the information provided. The intake meeting is not intended to serve as an exhaustive interview, but rather to provide the Complainant's Home Institution's Title IX Coordinator with sufficient contextual information to determine the appropriate next steps to support the Complainant and to guide the TCC Institution's response. The initial assessment is not a finding of fact or responsibility. If the individual bringing forward the report or Complaint is not the actual Complainant, the Complainant's Home Institution's Title IX Coordinator will limit communication to general information regarding this Policy.

Should the Complainant wish to initiate the Resolution Process, the Complainant's Home Institution's Title IX Coordinator will determine whether this Policy applies and, if so, the appropriate process under this

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

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

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

For conduct occurring in CMC's education programs and activities, please see Addendum A for the Formal Complaint process that is required under the 2020 Title IX Resolution Procedures.

C. Request for Confidentiality or No Further Action

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

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

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

- The Complainant's request not to proceed with initiation of a Complaint or investigation process;
- The Complainant's reasonable safety concerns if their identity is disclosed or an investigation process is initiated;
- The risk that additional acts of Prohibited Conduct would occur if a Complaint is not initiated;
- Whether there are multiple or prior reports of the same or similar Prohibited Conduct against the Respondent;
- The severity of the alleged Prohibited Conduct, including whether the Prohibited Conduct, if established, would require the removal of a Respondent from campus or imposition of

another disciplinary sanction to end the Prohibited Conduct and prevent its recurrence; or if Respondent reportedly used a weapon, physical restraints, or engaged in physical assault;

- The age and relationship of the Parties, including whether the Respondent is an employee of a TCC Institution, and whether there is an identifiable power differential between Complainant and Respondent (with regard to positional authority or employment);

- The scope of the alleged Prohibited Conduct, including information suggesting a pattern, ongoing Prohibited Conduct, or Prohibited Conduct alleged to have impacted multiple individuals;

- Whether the TCC Institution is able to conduct a thorough investigation under this Policy and obtain relevant evidence in the absence of Complainant's participation and cooperation;

- The availability of evidence to assist a Hearing Decisionmaker in determining whether Prohibited Conduct occurred;

- Whether the Parties' Home Institution's Title IX Coordinator(s) and Parties' TCC Home Institution could end the alleged Prohibited Conduct and prevent its recurrence without initiating its Investigation and Hearing Resolution procedures under this Policy; and,

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

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

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

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

D. Emergency Removal

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

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

1. **Completion of an individualized safety and risk analysis.** This analysis will focus on the specific Respondent and the specific circumstances arising from the allegations of Prohibited Conduct.

2. **Determination that the following three components are present**:

    a. An imminent and serious threat justifying emergency removal. This analysis should focus on the Respondent's propensity, opportunity, and/or ability to effectuate a stated or potential threat. This determination will be fact-specific.

    b. The threat is to the health or safety of a TCC Institution's students, employees, or other persons. This may be the Complainant, the Respondent, or any other individual.

    c. And it is a threat arising from the allegations of Prohibited Conduct. For purposes of emergency removal under this Policy, the emergency situation must specifically arise from the allegations of Prohibited Conduct.

3. **Consideration of the appropriateness of Supportive Measures in lieu of an emergency removal.** Emergency removals should only occur when there are genuine and demonstrated emergency situations.

4. **Respondent's Home Institution provides the Respondent with notice and an opportunity to appeal the decision immediately following the emergency removal.** The Respondent's Home Institution will provide the Respondent with a sufficiently detailed notice, notifying the Respondent of the identified imminent and serious threat of health or safety to any individuals. Pursuant to the process identified in the applicable student conduct code, employee handbook, or similar policy of the Respondent's Home Institution, Respondent's Home Institution will provide the Respondent with notice and the opportunity to appeal the emergency removal decision immediately following the removal. The Respondent may challenge the decision by notifying their Home Institution Title IX Coordinator in writing.

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

For TCC Institution employees subject to this Policy, a TCC Institution may place an employee Respondent on administrative leave in response to a reported concern while a resolution is pending under this Policy. At the discretion of the Respondent's Home Institution, the Respondent's Home Institution can place an employee Respondent on administrative leave regardless of whether a Complaint is filed, or before or after the filing

of a Complaint. A TCC student who is also an employee subject to this Policy can be placed on administrative leave with respect to their employment, but administrative leave cannot impact their educational access, removal from which must be pursuant to the emergency removal provisions outlined in Section IX.D.

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

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

F. Student Withdrawal or Employee Resignation While Matters Are Pending

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

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

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

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

X. Closure or Dismissal of a Complaint

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

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

- The Respondent is not participating in any TCC Institution education programs or activities and/or is not employed by a TCC Institution;

- The Complainant voluntarily withdraws their Complaint in writing, and the Complainant's Home Institution's Title IX Coordinator determines they will not continue with the Complaint process against Complainant's wishes;

- The Complainant voluntarily withdraws, in writing, some but not all allegations in a Complaint, and the Complainant's Home Institution's Title IX Coordinator determines that~~,~~ the conduct that remains alleged in the Complaint would not constitute Prohibited Conduct under this Policy; or,

- The Complainant's Home Institution Title IX Coordinator determines the conduct alleged in the Complaint, even if proven, would not constitute Prohibited Conduct under this Policy.

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

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

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

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

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

- Offer Supportive Measures to the Complainant, as appropriate;

- If the Respondent has been notified of the Complaint or allegations, the Respondent's Home Institution's Title IX Coordinator (if different) will offer Supportive Measures to the Respondent, as appropriate; and

- Take other prompt and effective steps, as appropriate, through the Home Institution Title IX Coordinator(s) to ensure that Prohibited Conduct does not continue or recur within the TCC Institution education programs or activities.

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

XI. Referrals for Other Misconduct Not Subject to this Policy

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

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

XII. Consolidation of Complaints and Allegations

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

- Where there is a Complaint involving more than one Complainant and/or more than one Respondent, that arises from the same facts or circumstances; or,

- Where a Cross Complaint has been filed by a Respondent against a Complainant, that arises from the same facts or circumstances.

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

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

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

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

TCC recognizes that the decision of whether to engage in the Resolution Process, and which resolution process option to pursue is an important decision. This Policy provides multiple ways to resolve a report or complaint of Prohibited Conduct, including Support-Based Resolution, Agreement-Based Resolution, Investigation and Hearing Resolution, and the 2020 Title IX Resolution Procedures options (collectively referred to as the "Resolution Process").

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

and resolution options require disclosing Complainant's identity to Respondent (for example, implementing an NCO with Respondent).

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

A. Support-Based Resolution

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

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

B. Agreement-Based Resolution[6]

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

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

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

The ABR process is generally expected to commence as soon as possible, and within 15 business days, after receipt of the Parties' agreement in writing to engage in the process. The process of facilitating and finalizing the Resolution Agreement will generally be completed within 30 business days, depending on

[6] Also referred to as Alternative Resolution Process.

the form of ABR, and may be extended by the TCC Title IX Administrator as appropriate. The length of time provided to complete the terms of the Resolution Agreement after the Agreement is finalized will vary depending on the terms and what the Parties have agreed upon. All Parties will be notified, in writing, of any extension and the reason for the extension. During the ABR process, all timeframes for any other stages under this Policy, including investigation, Evidence Review Process, or conducting the hearing will be paused to allow the Parties sufficient opportunity to engage in the ABR process.

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

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

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

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

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

2. Determining Appropriateness of Agreement-Based Resolution

It is important to note that there are circumstances where ABR, or a specific option under ABR, is not available or is determined not appropriate to resolve a report or Complaint of Prohibited Conduct. Under California law, mediation is not a permitted resolution option to resolve reports or Complaints involving allegations of Sexual Assault or Sexual Violence.[7] Instead, a Facilitated Resolution Agreement or Restorative Justice process are permitted options to resolve such allegations. Also, the Complainant's Home

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

Institution Title IX Coordinator has discretion to not offer ABR to resolve a particular matter, or to determine that the ABR process is not appropriate based on the circumstances of the report or Complaint, and that the matter must instead be resolved through an alternate resolution process option, such as the Investigation and Hearing Resolution process. In situations involving Cross-Campus Complaints when the Home Institution Title IX Coordinators do not agree on the appropriateness of ABR, they may consult with the TCC Title IX Administrator. The Complainant's Home Institution's Title IX Coordinator makes the final decision on whether ABR is appropriate. In making this determination, the Complainant's Home Institution's Title IX Coordinator may consider the following: The severity of the allegations, whether there is an ongoing threat of harm or safety, or risk of future harm, to others in the campus community, whether there is an identifiable power differential (with regard to positional authority or employment) between the Parties, and whether the Parties are participating in good faith. This determination is not subject to appeal.

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

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

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

4. Agreement-Based Resolution Options

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

a. Facilitated Resolution Agreement

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

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

b. Mediation

Under California law, mediation is not permitted, even on a voluntary basis, to resolve allegations involving Sexual Assault and Sexual Violence as defined in this Policy.[8] 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 preferrable 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.[9] Meetings may be held in person or via videoconference. In circumstances where the Parties do not wish to meet face to face, either Party can request that the Facilitator conduct separate meetings.

c. Restorative Justice

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

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

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

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

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

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

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 their Home Institution Title IX Coordinator in writing and if applicable, indicate the ABR option (*i.e.*, Facilitated Resolution Agreement, Mediation, or Restorative Justice).

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

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

- The decision to participate in the ABR process does not presume that the alleged Prohibited Conduct at issue has occurred;

- A statement that the Respondent is presumed not responsible for violating this Policy, unless Respondent admits to violations of this Policy;

- An explanation that all Parties may be accompanied by a Support Person, and/or an Advisor, who may be a parent, colleague, friend, or may be, but is not required to be, an attorney;

- A statement that any Party has the right to withdraw from the ABR process and may initiate or resume the Investigation and Hearing Resolution Process (if already begun), at any time before all Parties sign the Resolution Agreement. Should the Parties withdraw from the ABR process, information disclosed or obtained for purposes of the ABR process remains confidential as set forth above;

- A statement that the Home Institution Title IX Coordinator has the discretion to terminate the ABR process upon determination that the Parties are not engaging in the process in good faith, or upon receipt of evidence or information that would make addressing the alleged conduct no longer appropriate;

- A statement that participating in ABR, the Parties understand that timelines for any stages of the Resolution Process, including any pending Investigation and Hearing Resolution process, will be paused to allow the Parties full participation in the ABR Process and will only recommence if ABR is ended, by withdrawal by a Party, or termination by the Home Institution's Title IX Coordinator(s);

- Information regarding Supportive Measures, which are equitably available to the Parties; and

- Examples of potential resolution terms that may be requested or offered in a Resolution Agreement.

b. Facilitating Agreement-Based Resolution and the Resolution Agreement

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

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

- The Parties will not communicate or otherwise engage with one another, either directly or indirectly, by any means (Mutual No Contact Order) or agreement that Respondent will not communicate or otherwise engage with Complainant, either directly or indirectly, by any means (Unilateral No Contact Order);

- Class adjustments and/or restriction from enrolling in mutual classes with Complainant for a specified term(s);

- Housing relocation or removal, and/or restriction from living in specific residence halls for a specified term(s);

- Restriction from or limiting access to certain buildings on campus, including residence halls, dining halls, library, and recreational facilities;

- Changes in work schedules, locations, or assignments;

- Restrictions or limitations on participation in and/or presence at activities and events, such as extracurricular activities, athletics events, student organizations, social events, etc.;

- Sufficient completion of educational training or project by the Respondent, and sufficient completion of any assignments, such as a reflection paper or essay. Training or education topics may include, but are not limited to: affirmative consent, healthy relationships, bystander intervention, and drug or alcohol use (if related to the allegations);

- Sufficient completion of community service hours or project by the Respondent;

- Participation in and completion of mentoring, coaching, or counseling sessions within specified term(s), and sufficient completion of any assignments, such as a reflection paper or essay;

- An agreement to engage in a restorative justice process, such as a conference, circle, or facilitated dialogue;

- Sharing of Complainant's impact statement with Respondent, with optional reflection or response from Respondent;

- Disciplinary terms, such as agreement to serve conduct probation or suspension for a specified term(s), or to permanently separate from Respondent's Home Institution and ineligibility to re-enroll or apply for admission at any other TCC Institutions; and

- Agreement to have degree conferral delayed for specified term.

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

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

c. Finalizing the Resolution Agreement

If a Resolution Agreement is reached, the Home Institution's Title IX Coordinator(s) will review and approve the resolution terms. The Facilitator will draft the Resolution Agreement to include the resolution

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

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

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

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

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

C. Investigation and Hearing Resolution

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

XIV. Respondent's Acceptance of Responsibility

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

otherwise resolved through an Agreement-Based Resolution, if eligible. The Respondent's Home Institution may place any Sanctions Determination for the accepted Prohibited Conduct in abeyance until the conclusion of the Investigation and Hearing Resolution Process. If there is a Policy violation found with regard to any of the remaining allegations of Prohibited Conduct, the Sanctions Decisionmaker may consider any previously issued remedies and sanctions for conduct for which Respondent accepted responsibility, but only after a finding of responsibility has been made.

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

- Aware of the allegation(s) of Prohibited Conduct, including the factual allegations, and definitions of the Prohibited Conduct;

- Voluntarily accepting responsibility for all (or some, as explicitly specified) of the Prohibited Conduct;

- Acknowledging receipt of information regarding the implications of accepting responsibility, including a list of possible sanctions that can be imposed based on the nature of the Prohibited Conduct;

- Aware and agrees that by accepting responsibility, they have waived the fact-finding hearing, and any right to appeal the issue of their responsibility, and instead the matter will be referred to a Sanctions Decisionmaker to determine appropriate remedies and sanctions (Remedies and Sanctions Determination).

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

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

- Provide written notice to all Parties that Respondent has accepted responsibility for all (or specifically which conduct) and provide information regarding the next steps.

- In consultation with the Home Institution's Title IX Coordinator(s), designate a Sanctions Decisionmaker (internal or external to TCC), whose role will be to review the relevant documents, and issue a Remedies and Sanctions Determination. The Sanctions Decisionmaker's identity will be shared with the Parties, along with information regarding the process to object to the Sanctions Decisionmaker based on a conflict of interest or bias, pursuant Section V.

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

The Parties' Home Institution(s) will submit written recommendations related to remedies and sanctions, and any other relevant information that would be important for the Hearing Decisionmaker to consider in

making their Remedies and Sanctions Determination. The written recommendations must be submitted to the TCC Title IX Administrator within two (2) business days of receiving access to any Party statements. The TCC Title IX Administrator will provide the written recommendations to the Sanctions Decisionmaker. The Parties will not receive a copy of the Parties' Home Institutions' written recommendations regarding remedies and sanctions.

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

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

A. Appealing the Sanctions Determination

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

XV. Investigation and Hearing Resolution Process

This procedure is for all allegations of Prohibited Conduct where the Parties are TCC students and Addendum A does not apply. To determine whether this Policy applies to a case involving Parties other than only students, please refer to the chart in Section III.A.

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

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

A. General Information

1. Nature of Process

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

2. Burden of Evidence

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

3. Evidence Standard

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

4. Resolution Process Timeline and Extensions

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

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

a. Initial Assessment and Evaluation of Allegations

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

b. Investigation

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

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

This phase is generally completed within 30 (thirty) to 40 (forty) business days from issuance of Final Investigation Report. This process includes scheduling the hearing, pre-hearing conference meetings, conducting the hearing, and the 15 (fifteen) -business day deadline for the Hearing Decisionmaker to issue

their Hearing Decision Report. Unless the Parties agree, the hearing must be scheduled at least 10 (ten) business days from the date the Final Investigation Report was issued to the Parties. Scheduling the hearing will be completed as promptly as possible based on the Parties', any Advisors and/or Support Persons, and other participants' (Parties' Home Institution's Title IX Coordinator(s), Decisionmaker, TCC Title IX Administrator) availability and in consideration of campus closures, holidays, and exam periods.

d. Hearing Decision and/or Sanctions Determination Appeal

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

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

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

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

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

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

6. Privacy and Confidentiality in the Resolution Process

Parties may share confidential information received through the Resolution Process under this Policy with their Support Person and/or Advisor consistent with the requirements of their Home TCC Institution. Each Party's TCC Institution will provide their Party a FERPA[10] release form for their Support Person and Advisor that authorizes such sharing and participation. The Party's Home Institution's Title IX Coordinator and/or TCC is unable to share information with a Support Person and/or Advisor under this Policy until the form is sufficiently completed by the Party. The form must also be completed prior to the Support Person and/or Advisor attending any meetings or proceedings under this Policy. The Party's Home Institution's

[10] Family Educational Rights and Privacy Act.

Title IX Coordinator and TCC Institution shall not restrict the ability of any Party to discuss the allegations under investigation for the purpose of gathering and presenting relevant evidence, including by speaking to witnesses, consulting with their family members, Confidential Resources, Support Person or Advisor, or otherwise to prepare for or participate in the Resolution Process under this Policy.

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

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

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

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

7. Right to an Advisor

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

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

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

8. Support Person

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

B. Initiation of The Investigation and Hearing Resolution Process

1. Notice of Allegations (NOA)

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

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

The NOA shall include, at a minimum:

- A reminder that the date and time of the initial interview with the Investigator, will generally be scheduled with a minimum of five (5) business days' notice, unless otherwise agreed upon by the Party;

- The investigation procedures, including the applicable determination procedures that will be used in the Investigation and Hearing Resolution process under this Policy, and a link to this Policy;

- Information about the ABR options, with a link to the full procedures;

- Sufficient information available at the time to allow the Parties to respond to the allegations, including the identities of the Parties involved in the incident(s), a description of the facts alleged to constitute Prohibited Conduct, the type of Prohibited Conduct, and the date(s) and location(s) of the alleged incident(s), if known;

- A statement that Retaliation is prohibited;

- A statement indicating whether the Investigator, or another individual, shall serve as the Decisionmaker;

- A statement indicating the expected length of the major stages of the resolution process, as well as any applicable deadlines;

- A statement informing the Parties that the Investigator will establish and communicate, in writing, all investigation deadlines, including the final deadlines for submitting names of witnesses and evidence. These deadlines may be extended by the TCC Title IX Administrator for good cause, and any changes will be provided, in writing, to the Parties, along with the rationale for the revised deadline(s);

- The deadline and process for identifying any conflicts of interest or bias with the Investigator. A statement that the Respondent is presumed not responsible for the alleged Prohibited Conduct until a determination is made at the conclusion of the Resolution Process. Prior to such a determination, the Parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial Hearing Decisionmaker;

- A statement that the Parties may have an Advisor who may be a friend, parent, therapist, colleague, and who may be, but is not required to be, an attorney;

- A statement that the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any Party, and will receive an investigation report that accurately summarizes this evidence;

- A warning that the Decisionmaker may exclude evidence at the hearing that was not presented during the investigation process;

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

- The identification of the Investigator.

2. Complaints Initiated by the Institution

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

3. Designation of the Investigator

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

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

C. Investigation Process

1. Evidence Gathering

a. Interviews

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

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

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

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

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

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

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

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

b. Investigator Determination of Evidence Relevance

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

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

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

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

c. Impermissible Evidence

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

- Evidence that is protected under a privilege recognized by Federal or State law, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;

- Evidence provided to an employee designated by TCC as exempt from internal reporting under this Policy, unless the person who made the disclosure or otherwise provided evidence to that employee has voluntarily consented to re-disclosure;

- A Party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or witness, unless TCC obtains that Party's or witness's voluntary, written consent for use in the Resolution Process under this Policy; and

- Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged Prohibited Conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to alleged Prohibited Conduct. The fact of prior consensual sexual conduct between the Parties does not by itself demonstrate or imply the Complainant's consent to other sexual activity or preclude a determination that Prohibited Conduct occurred.

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

- Prior or subsequent sexual history between Complainant and anyone other than Respondent for any reason unless directly relevant to prove that physical injuries alleged to have been inflicted by Respondent were inflicted by another individual.

- The existence of a dating relationship or prior or subsequent consensual sexual relations between Complainant and Respondent unless the evidence is relevant to how the Parties communicated consent in prior or subsequent consensual sexual relations. Where the Investigator or Hearing Decisionmaker allows consideration of evidence about a dating relationship or prior or subsequent consensual sexual relations between Complainant and Respondent pursuant to this paragraph, the mere fact that Complainant and Respondent engaged in other consensual sexual relations with one another is never sufficient, by itself, to establish that the conduct in question was consensual.

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

2. Evidence Review Process

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

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

The Preliminary Investigation Report will include the following:

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

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

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

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

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

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

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

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

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

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

3. Final Investigation Report

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

- The identities of the Parties;
- The identities of the witnesses;
- A summary of the allegations of the Prohibited Conduct and the alleged Policy violation(s);
- Information about the policies and procedures used to evaluate the allegations;

- A description of the procedural steps and process taken from the receipt of the Complaint through the investigation process, including, any notifications to the Parties, interviews with Parties and witnesses, and methods used to gather other evidence;

- The relevant statements of the Parties and witnesses, and evidence gathered for each allegation;

- A summary of the relevant, and not otherwise impermissible, evidence gathered by the Investigator;

- A statement describing how and when the parties were given the opportunity to review the evidence; and

- Explanations for why evidence or witnesses submitted by the parties were not considered.

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

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

XVI. Hearing

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

A. Prior to the Hearing

1. Hearing Coordinator

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

2. Designation of the Hearing Decisionmaker

The TCC Title IX Administrator, in consultation with the Parties' Home Institution's Title IX Coordinator(s), will designate a Hearing Decisionmaker distinct from the Hearing Coordinator and any

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

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

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

3. Hearing Notice

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

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

4. Pre-Hearing Conferences

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

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

5. Witnesses Identified and Requested to Participate in the Hearing

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

Only witnesses who participated in the investigation will be permitted to participate in the hearing, unless the witness was otherwise unknown or not known to have relevant information during the course of the investigation. If the witness did not participate in the investigation, the Party must provide the reason the witness was not identified or was not interviewed by the Investigator, and what information the witness has that is relevant to the allegations. The Hearing Decisionmaker will then determine whether the witness has relevant information and if there is sufficient justification for permitting the witness to participate in the hearing after not having participated in the investigation. The Hearing Officer may instead send the case back to the Investigator to interview the newly proffered witness prior to the hearing taking place.

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

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

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

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

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

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

B. During the Hearing

1. Hearing Recording

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

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

2. Separation of Parties

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

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

3. Hearing Expectations and Rules of Decorum

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

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

4. Party and Witness Participation in the Hearing

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

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

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

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

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

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

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

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

6. Hearing Timeline

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

a. Opening Introductory Statements

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

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

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

b. Questions by the Hearing Decisionmaker

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

The Hearing Decisionmaker will pose questions to the Parties and witnesses, including the questions the Hearing Decisionmaker approved to be asked that were submitted by each Party prior to the hearing. Each Party will then be provided an opportunity to submit follow-up written questions to the Hearing Decisionmaker to be asked of the other Parties and any witnesses, including questions challenging credibility. The Parties will submit their proposed questions through the Hearing Coordinator. The questions must be relevant to the allegations and must not seek otherwise impermissible evidence, not be duplicative or repetitive of information already gathered, and/or not be harassing of any individual providing testimony. The Hearing Decisionmaker will evaluate each question submitted by the Parties. If the Hearing Decisionmaker determines the question should not be asked, the Hearing Decisionmaker will not ask the Party or witness the question will state their reasoning for this determination on the record, and offer the Party an opportunity to reframe or resubmit the question. The Hearing Decisionmaker also has the authority to ask additional follow-up questions, or as otherwise deemed necessary. All determinations made by the Hearing Decisionmaker at the hearing are final, including determinations on questioning.

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

c. Closing Statements and Concluding the Hearing

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

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

C. After the Hearing

1. Party Statements Regarding Remedies and Sanctions

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

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

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

2. Notice of Hearing Outcome and Hearing Decision Report

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

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

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

The Hearing Decision Report will include the following:

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

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

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

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

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

XVII. Remedies and Sanctioning

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

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

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

- Party Statements: Pursuant to Section XVI.C.1, they will provide the Hearing Decisionmaker with any submitted written Party statements. If a Party did not provide a written statement, the Party will not be provided an additional opportunity to submit a written statement to the Hearing Decisionmaker. Any submitted Party statement(s) will not be shared with the other Parties.

The Hearing Decisionmaker will make their Remedies and Sanctions Determination based on the factual and Policy findings, written Party statements, written Home Institution recommendations, and other factors relevant to sanctioning as outlined below. The Hearing Decisionmaker shall give significant weight to the written Home Institution recommendations in issuing remedies and sanction(s). Expulsions and employment terminations are at the sole discretion of the Respondent's Home Institution.

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

The factors a Hearing Decisionmaker (or Sanctions Decisionmaker)[12] may consider in issuing sanctions include, but are not limited to:

- **Severity of the Violation:** The duration of the conduct; whether the conduct was repeated; the number of Policy violations; abuse of power; use of intimidation; use of force; level of endangerment to the Complainant; level of injury to the Complainant; presence of a weapon; deliberate embarrassment; exploitation of level of intoxication.

- **Aggravation:** Whether the Respondent used force, threat, violence, duress, or intentionally caused intoxication or impairment to engage in conduct without Complainant's consent.

- **Intent:** Whether Respondent intended to cause harm; whether Respondent premeditated the conduct; whether Respondent pressured others to engage in the conduct or similar conduct; whether Respondent was pressured by others to engage in the conduct.

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

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

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

- **Warning:** Written notice that the Respondent's behavior was in violation of this Policy and that future violations will result in more severe sanctions.

- **Restitution:** Reimbursement by the Respondent(s) to the TCC Institution, another TCC Institution, TCC, the Complainant(s), or a member of TCC's community to cover the cost of property damage or other loss.

- **Service Hours:** A set number of work hours the Respondent must complete. The Home Institution Title IX Coordinator(s) will determine the nature of the work to be performed. Generally, service hours are conducted within TCC.

- **Educational Program/Project:** Programs and activities designed to help the Respondent become more aware of the TCC Institution's policies and help the Respondent understand the inappropriateness of their behavior to avoid repeat offense, including, but not limited to, participation in an educational program or completion of an online program.

- **Counseling and/or Coaching Sessions:** A set number of counseling and/or coaching sessions that the Respondent must complete, as well completion of any assigned reflection essay or other

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

assignment(s) within a specified time. The counselor, facilitator, and/or the Home Institution Title IX Coordinator(s) will review the required assignments for sufficiency.

- **Referral for Assessment:** A referral for an assessment with an appropriately trained therapist who will recommend a process for treatment. Reinstatement is conditioned upon receiving proof of completion of the recommended treatment.

- **Loss of Privileges:** Denial of specific privilege(s) for a defined period of time. Privileges include, but are not limited to, participation in extracurricular activities and events such as on-campus, or campus-sponsored or affiliated social events, intercollegiate athletics, intramural programs, student organizations, and student government, eligibility to apply for and gain on campus employment within TCC, as well as the privilege of living on campus, living in a specific residence hall, participation in commencement ceremonies, or having a vehicle on campus.

- **Restricted Access:** Conditions which specifically dictate and limit the Respondent's presence on campus and/or participation in TCC Institution-sponsored or affiliated activities and events. The restrictions will be clearly defined and may include, but are not limited to, presence in certain buildings or locations on campus, including residential and dining halls, sports and recreation fields, buildings, and courts, and classrooms. This also includes a No Contact Order, which prohibits communication, by any means, with the Complainant, and/or any other specified individual who participated in the investigation or hearing process. In cases involving Parties from different TCC Institutions-restricted access may extend to exclusion from another TCC Institution's campus, programs, activities, and events.

- **Removal of Offending Cause**: Requirement to remove the item which was the subject of the Complaint.

- **Relocation or Removal from Residence Halls**: Requirement that the Respondent relocate to another residence hall, or off-campus residence, by a specified date.

- **Conduct Probation:** Formal, written notice that the Respondent's behavior is in violation of its TCC Institution's policies and an expectation that the Respondent exhibit good behavior for a defined period of time. Pursuant to the Respondent's Home Institution's policy regarding Conduct Probation, such probation may limit Respondent's on-campus privileges. Any violation during the probationary period will result in increased sanctioning, including academic suspension or expulsion. Notice of Conduct Probation is sent to the Respondent's academic advisor, as well as to the Respondent's parent(s)/guardian if the Respondent is a minor.

- **Employment Probation:** Formal, written notice that the employee's conduct is in violation of its Institution Policies and an expectation that the employee exhibit good behavior for a defined period of time. Any further violations during the probationary period will result in increased sanctioning and may result in employment suspension without pay or termination of employment.

- **Suspension Up to One (1), Two (2), Three (3), Four (4), Five (5), Six (6), Seven (7), or Eight Semesters (8):** Separation from the Institution for one (1), two (2), three (3), four (4), five (5), six (6), seven (7), or eight (8) semesters. During the suspension period, the Respondent is not permitted on campus, is not permitted to participate in any Institution-sponsored or affiliated program or activity, or events, and is not permitted to enroll in any courses and earn any credits towards the Respondent's degree. The terms of the suspension may include the designation of special conditions affecting eligibility for re-enrollment or special conditions to be in effect upon re-enrollment, including a term of Conduct Probation. A term of suspension may also include delayed conferral

of degree. Notice of Respondent's suspension will be communicated to the Registrar and other appropriate administrator(s) at the other TCC Institutions to ensure compliance.

- **Employment Suspension without Pay (staff and faculty, including student-employees**): Separation of employment for a defined period of time without pay for the time of separation.

- **Employment Termination:** Permanent separation of the employee from their position. If the Respondent is a student, they may be permanently separated from their student-employee position. A staff or faculty member who is terminated from their employment is not permitted to participate in any TCC Institution-sponsored or affiliated program or activity, or event. A staff, faculty, or student-employee terminated from their TCC Institution employment is not eligible for rehire at that TCC Institution.

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

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

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

XVIII. Appeal Rights and Process

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

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

A. Appeal Grounds

Each Party has a right to appeal:

- The dismissal of a Complaint or any included allegations;

- The Hearing Decisionmaker's Policy findings; and/or

- Any sanctions.

Appeals must be submitted in writing to the TCC Title IX Administrator within five (5) business days following the issuance of the Notice of the Hearing Outcome and Hearing Decision Report (Notice of Case Dismissal, or Remedies and Sanctions Determination for Complaints where Respondent accepted

responsibility). The appeal must be no longer than 10 (ten) pages, and must specify which grounds the appeal is based upon and include any arguments the Party wishes to make in support of their appeal.

A Party may appeal based on one or more of the following grounds:[13]

- **Procedural Error:** There was a procedural error(s) that would change the outcome of the matter (i.e., failure to follow the process outlined in this Policy). The appealing party must describe in their appeal the procedural error and its impact on the decision outcome.

- **Conflict of Interest or Bias:** Any Party's Home Institution Title IX Coordinator, the TCC Title IX Administrator, Investigator(s), Hearing Decisionmaker, and/or Sanctions Decisionmaker (for cases where the Respondent has accepted responsibility) has a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent, that would change the decision outcome. The appealing party must describe in their appeal the alleged conflict of interest or bias held by the individual and how this impacted the decision outcome.

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

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

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

B. Designation of Appeal Decisionmaker

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

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

C. Appeal Response by Non-Appealing Party

The TCC Title IX Administrator will send a written notice of the appeal to the Non-Appealing Party or Parties and provide them with a copy of the appeal. A Non-Appealing Party or Parties may issue a response

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

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

D. Appeal Clarification

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

E. Appeal Record

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

F. Appeal Decision Report

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

The Appeal Decisionmaker may decide to do the following:

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

1. Notice of the Appeal Decision

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

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

2. Final Remedies and Sanctioning Determination

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

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

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

3. Failure to Complete or Comply with Imposed Sanctions

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

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

XIX. Recordkeeping

Records of all reports and resolutions will be kept by the Home Institution's Title IX Coordinator(s) for a period of seven (7) years. All records will be afforded the confidentiality protections required by law,

including but not limited to the Family Educational Rights and Privacy Act (FERPA) governing confidentiality of student information. This means that the TCC Institutions will protect the Party's privacy consistent with this Policy but may disclose information to those who have a legitimate need to know and in order to process Complaints under this Policy. Documents related to this process include: Complaints, Supportive Measures provided to the Parties, remedies provided to the Complainant, any Agreement-Based Resolution Process documents, if applicable, the Final Investigation Report and attachments, the hearing record, including any audio recording or transcript of the hearing, the Hearing Decision Report, and any sanctioning determination and appeal-related documents, if applicable.

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

XX. Crime and Incident Disclosure Obligations

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

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

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

XXI. Policy Review and Revision

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

XXII. 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 individua'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

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

U.S. Equal Employment Opportunity Commission (EEOC)
Roybal Federal Building
255 East Temple St., 4th Floor
Los Angeles, CA 90012
(213) 785-3090
https://www.eeoc.gov/contact-eeoc

California Civil Rights Department (formerly DFEH)
320 West 4th Street, Suite 1000, 10th Floor
Los Angeles, CA 90013
Monday to Friday: 8am to 5pm
Phone: (800) 884-1684
https://calcivilrights.ca.gov/

XXIII. Important Definitions

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

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

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

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

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

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

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

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

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

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

- The Respondent's belief in Affirmative Consent arose from the intoxication or recklessness of the Respondent. A Respondent's own intoxication or incapacitation from drugs or alcohol does not diminish that person's responsibility to obtain Affirmative Consent before engaging in sexual activity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- Restore or preserve that Party's access to any TCC Institution education program or activity, including measures that are designed to protect the safety of the Parties or the TCC Institution educational or working environment; or.

- Provide support during the TCC Resolution Process, including during an Agreement-Based Resolution process.

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

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

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

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

Addendum A

2020 Title IX Resolution Procedures

A. Scope and Jurisdiction

As of August 1, 2024, in accordance with the 2024 Title IX Final Rule, the Claremont Colleges Sexual Misconduct and Sex-Based Harassment Interim Policy ("2024 TCC SM and SBH Policy") establishes the following procedures for resolving Prohibited Conduct defined by that Policy:

- Support-Based Resolution (Section XIII. Resolution Options, page 28)
- Agreement-Based Resolution Process (Section XIII. Resolution Options, page 31)
- Acceptance of Responsibility (Section XIV. Respondent's Acceptance of Responsibility, page 36)
- Investigation and Hearing Resolution Process (Section XV. Investigation and Hearing Resolution Process, page 38)

In addition to the above-mentioned 2024 procedures, these 2020 Title IX Resolution Procedures will be used to address:

- Title IX Prohibited Conduct (as defined within Section B of this Addendum A) that is alleged to have occurred *on or after August 1, 2024*, and that falls within the jurisdiction identified in the section below; and
- 2020 Title IX Prohibited Conduct (as defined within Addendum B) that is alleged to have occurred between *August 14, 2020 – July 31, 2024* and occurred with the Education Program or Activities as defined below.

1. Title IX Injunction Impacting the 2024 TCC SM and SBH Interim Policy

As of August 28, 2024, Claremont McKenna College ("CMC") is subject to a federal court's ruling that it must operate under the 2020 Title IX Final Rule, which has specific procedural rules for resolving certain types of Prohibited Conduct. This means that the Investigation and Hearing Procedures in the 2024 TCC SM and SBH Interim Policy cannot be used for certain types of Prohibited Conduct and these procedures (and included definitions) will be used instead.

Therefore, as of the effective date of this Policy, for students, faculty and staff who are subject to the 2024 TCC SM and SBH Interim Policy, Prohibited Conduct (as defined in Section B below)

- Quid Pro Quo Sexual Harassment
- Sex-Based Hostile Environment Harassment
- Sexual Assault Under Title IX
- Dating Violence
- Domestic Violence
- Stalking on the Basis of Sex

(collectively "Title IX Prohibited Conduct"), alleged to have occurred on or after August 1, 2024, will be processed under these 2020 Title IX Resolution Procedures until further notice, provided that the Title IX Prohibited Conduct occurred on CMC's campus or in locations, events, or circumstances over which CMC exercised substantial control over both the Respondent and the context in which the Title IX Prohibited Conduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by CMC. The Respondent's Home Institution's Title IX Coordinator, in consultation with the Complainant's Home Institution's Title IX Coordinator (if different), and the Title IX Administrator will determine which set of procedures apply.

2. **Title IX Prohibited Conduct Occurring Between August 14, 2020 and July 31, 2024**

For Title IX Prohibited Conduct alleged to have occurred between August 14, 2020 and July 31, 2024 involving Complainants and Respondents from any TCC institutions, the 2020 Title IX Resolution Procedures outlined in this Addendum A will be followed using the definitions from the 2020 TCC Title IX Policy in effect at the time (see Addendum B, 2020 Title IX Prohibited Conduct Definitions.) The 2020 TCC Title IX Policy has been retired. Any conduct of concern that does not meet the definitions of Prohibited Conduct under Addendum B and/or falls outside the jurisdiction may be addressed through the appropriate campus policy.

Title IX Prohibited conduct is only covered under these procedures if the alleged conduct occurred within the TCC Institution's "Education Program or Activity." For purposes of these procedures, Education Program or Activity refers to all the operations of TCC, including, but not limited to: in-person and online educational instruction, employment, research activities, extracurricular activities, athletics, residence life, dining services, performances, and community engagement and outreach programs. The term applies to all activity that occurs on campus or on other property owned or occupied by TCC. It also includes off-campus locations, events, or circumstances over which TCC exercises substantial control over the Respondent and the context in which the Title IX Prohibited Conduct occurs, including Title IX Prohibited Conduct occurring in any building owned or controlled by a student organization that is officially recognized by TCC.

3. Conduct that does not occur within TCC's Education Programs or Activities, as defined above, including conduct that takes place off-campus or within a TCC study abroad program, may still be addressed through other policies and processes, such as those under the Institution's student codes of conduct, civil rights policies, discrimination and harassment policies, and/or any other applicable policy adopted by an individual Institution.General Principles

    - All other definitions in the 2024 TCC SM and SBH Policy) remain in effect and are applicable in these 2020 Title IX Procedures unless explicitly contradicted by these 2020 Title IX Procedures.

    - All principles stated in the 2024 TCC SM and SBH Policy remain in effect unless explicitly contradicted by the 2020 Title IX Resolution Procedures outlined in this Addendum. These principles apply to any conduct alleged to have occurred between August 14, 2020 and July 31, 2024 that requires the use of 2020 Title IX Prohibited Conduct definitions in Addendum B.

    - TCC reserves the right to use any of the provisions from the Formal Resolution Procedures in the 2024 TCC SM and SBH Policy that are necessary for processing a matter, provided that it does not conflict with the express requirements of these 2020 Title IX Resolution Procedures outlined in this Addendum A.

- TCC reserves the right to consolidate cases that arise from the same set of facts and circumstances but involve conduct that does not meet the definitions or geographic jurisdiction stated above and process the case using these procedures.

B. Definitions of Title IX Prohibited Conduct Occurring On or After August 1, 2024 Processed Under These 2020 Title IX Resolution Procedures

(*See Addendum B for the Definitions Used Prior to August 1, 2024*)

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

1. **Quid Pro Quo**

Quid Pro Quo is defined as:

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

- Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress;

- Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual; or,

- Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.

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

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

Conditions may involve academics and extracurricular activities within TCC.

Addendum A

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 resolution[2] in California).

[1] Affirmative Consent is defined in Section XXIII of the 2024 TCC SM and SBH Policy.
[2] Agreement-Based Resolution is discussed in Section XIII.B of the 2024 TCC SM and SBH Policy.

- 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. 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.

5. 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.

Addendum A

6. 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.

C. Formal Complaint to Initiate the 2020 Title IX Resolution Procedures

a. Formal Complaint

A Formal Complaint is a document filed by a Complainant, or signed by the Title IX Coordinator, alleging Prohibited Conduct, as defined in this Policy, against a Respondent that occurred within the scope and jurisdiction of this Policy. A Formal Complaint is required to be filed to initiate these 2020 Title IX Resolution Procedures for:

- Title IX Prohibited Conduct Occurring Prior to August 1, 2024 at any TCC Institution's Education Programs and Activities or within a TCC Institution's jurisdiction for Title IX;
- Title IX Prohibited Conduct Occurring after August 1, 2020 to present in CMC's Education Programs and Activities or within CMC's jurisdiction for Title IX.

b. Filing a Formal Complaint.

A Formal Complaint may be filed with the Complainant's Home Institution's Title IX Coordinator in person, by mail, by electronic means (email or by submitting an online report form via the Home Institution's Title IX Office website, if applicable), by using the contact information listed in Section # of the 2024 TCC SM and SBH Policy .

Where the Home Institution's Title IX Coordinator signs a Formal Complaint, the Home Institution Title IX Coordinator is not a Complainant or otherwise a Party. A Formal Complaint shall initiate the 2020 Title IX Resolution Procedures outlined in this document except as specified below. The Formal Complaint should include the date(s) of the alleged incident(s), the name of the Respondent, the location(s), and should describe the circumstances of the incident(s), where known.

c. Dismissal of a Formal Complaint.

i. Mandatory Dismissal

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

- the conduct alleged in the Formal Complaint would not constitute Prohibited Conduct as defined by this Addendum A, even if proved,
- the conduct did not occur in the TCC's education program or activity, and is not within the jurisdiction of this Addendum A,

- The Title IX Coordinator is unable to identify the Respondent after taking reasonable steps to do so;
- the conduct did not occur against a person in the United States; and/or
- at the time of filing the Formal Complaint, the Complainant was not participating in or attempting to participate in a TCC Institution's education program or activity.

This dismissal does not preclude action under another policy or procedure of the Respondent's Home Institution, if different.

ii. Discretionary Dismissal

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

- A Complainant notifies their Home Institution's Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any included allegations;
- The Respondent is no longer enrolled in or employed by CMC, or any TCC Institution;
- Specific circumstances prevent CMC or TCC from gathering evidence sufficient to reach a determination as to the Formal Complaint or included allegations; or
- It is determined that the Prohibited Conduct occurred prior to August 14, 2020, in which case, Respondent's Home Institution's policy prohibiting the alleged conduct then in effect shall be used.

The Title IX Coordinator whose Home Institution has jurisdiction over the education programs and activities where the incident is alleged to have occurred may dismiss a Formal Complaint at any time in the process if it becomes known that one of the foregoing reasons for dismissal applies. A decision to close or dismiss a matter on any of the above-listed factors is made at the discretion of the Title IX Coordinator whose Home Institution has jurisdiction over the education programs and activities where the incident is alleged to have occurred.

Upon a dismissal required or permitted under this section, the TCC Title IX Administrator will promptly send written notice of the dismissal and reason(s) simultaneously to the Parties. The Respondent's Home Institution may also refer the matter for further resolution under other policies and procedures.

iii. **Consolidation of Formal Complaints**

TCC may consolidate Formal Complaints as to allegations of Title IX Prohibited Conduct against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, where the allegations of Title IX Prohibited Conduct arise out of the same facts or circumstances. Where a grievance process involves more than one Complainant or more than one Respondent, references in this section to the singular "Party," "Complainant," or "Respondent" include the plural, as applicable.

Addendum A

D. Resolution Process and Principles

a. Notice of Allegations ("NOA")

Upon receipt of a Formal Complaint, prior to commencing the investigation or Agreement-Based Resolution Procedure, as defined in Section d. below, the TCC Title IX Administrator shall provide the following written notice to the Parties who are known. The NOA shall include:

- The Policy (as a link or attachment).
- Notice of the allegations potentially constituting Title IX Prohibited Conduct as defined in this policy, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the Parties involved in the incident, if known, the conduct allegedly constituting Title IX Prohibited Conduct under this policy, and the date and location of the alleged incident(s), if known.
- A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the 2020 Title IX Resolution Process.
- Notification to the Parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney.
- Notification to the Parties that they may inspect and review evidence, as set forth in the Policy.
- Any provision in the respective Party's Home Institution's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
- Notice that factual and policy findings will be based on a Preponderance of the Evidence standard of evidence.
- Information regarding all possible sanctions that may be imposed as a result of this resolution process (as set forth in the 2024 TCC SM and SBH Policy.

The NOA shall be amended any time during the investigation to include additional allegations of Title IX Prohibited Conduct and potential policy violations identified during the investigation that are not included in the initial Notice of Allegations. The TCC Title IX Administrator will provide the Amended Notice of Allegations to the Parties whose identities are known.

b. Resolution Process Options

i. Agreement-Based Resolution

Consistent with the requirements of this section, after the submission of a Formal Complaint and at any time prior to reaching a determination regarding responsibility, the Parties may voluntarily and mutually agree to engage in an Agreement-Based Resolution that, depending on when initiated, may not involve a full investigation, and no adjudication (hearing and policy findings), provided that the Parties' Home Institution Title IX Coordinator(s):

- Provide to the Parties a written notice disclosing:
    - The allegations,
    - The requirements of the Agreement-Based Resolution Process including the circumstances under which it precludes the Parties from resuming a Formal Complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the investigation and hearing resolution process with respect to the Formal Complaint, and
    - Any consequences resulting from participating in the Agreement-Based Resolution process, including the records that will be maintained or could be shared.
- Obtains the Parties' voluntary, written consent to the Agreement-Based Resolution process; and
- Does not offer or facilitate an Agreement-Based Resolution process to resolve allegations that an employee sexually harassed a student.
- In accordance with California state law, does not offer or facilitate mediation as an Agreement-Based Resolution process option for allegations involving sexual assault or sexual violence.
- Completes the facilitation of the Agreement-Based Resolution process and finalizing of the Resolution Agreement between the Parties within 60 days of receiving the Formal Complaint, unless unusual or complex circumstances exist.
- Complies with its legal obligations under Title VII and FEHA.

Agreement-Based Resolution cannot be offered in the 2020 Title IX Resolution Procedures unless a Formal Complaint is filed.

More information regarding the available options, and facilitation process for the Agreement-Based Resolution process are provided in Section XIII of the 2024 TCC SM and SBH Interim Policy.

ii. Investigation of Formal Complaint

The TCC Title IX Administrator, in consultation with the Parties' Home Institutions' Title IX Coordinator(s). will designate a trained Investigator to conduct an adequate, reliable and impartial investigation, in a reasonable timeframe. TCC reserves the right to utilize an internal or external investigator. The Parties will be provided with notice of the identity of the designated Investigator and will be informed that any objections to the designation of the Investigator on grounds of 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 of the Policy. The TCC Title IX Administrator will decide promptly whether the designated Investigator will or will not continue to conduct the investigation. Any materials collected or notes prepared by the Investigator during the objection period will be turned over to any replacement Investigator. The replacement Investigator will decide whether to use such materials or not.

When investigating a Formal Complaint, TCC shall, within 90 -120 business days of receiving the Formal Complaint, unless unusual or complex circumstances exist:

- Engage in fact-gathering (but not fact-finding) of all relevant facts. Provide all parties equal opportunity to meet with the Investigator, submit relevant evidence, and identify relevant witnesses. Credibility resolutions and fact-finding shall be conducted in the live hearing phase of the grievance process.

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

- Prior to completion of the investigation and issuance of the Final Investigation Report, , the TCC Title IX Administrator shall provide each Party and the Party's advisor, if any, access to the evidence subject to inspection and review in an electronic format or a hard copy (Preliminary Investigation Report), and the Parties must have at least 10 business days to submit a written response, which the Investigator will consider prior to completion of the Final Investigation Report. This process is called the Evidence Review Process.

- Make all such evidence subject to the Parties' inspection and review available at any hearing to give each Party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination; and

- Complete the Final Investigation Report that fairly summarizes relevant evidence and issue the Final Investigation Report at least 10 business days prior to a hearing. The Final Investigation Report will not include findings of fact, findings of policy, or credibility determinations for Parties or witnesses, as these will be the responsibility of the hearing officer at the hearing. The TCC Title IX Administrator shall provide each Party and the Party's advisor, if any, access to the Final Investigation Report in an electronic format or a hard copy, for their review and written response. Written responses are incorporated into the materials that can be reviewed and considered by the Hearing Officer. The TCC Title IX Administrator shall provide the Final Investigation Report and any attachments to the Hearing Officer.

iii. Principles for the 2020 Title IX Resolution Procedures

In addition to following the principles applicable to all Resolution Procedures and all Formal Resolution Procedures in the 2024 TCC SM and SBH Policy that do not conflict with these 2020 Title IX Resolution Procedures, when implementing these 2020 Title IX Resolution Procedures, TCC shall:

- Not restrict the ability of either Party to discuss the allegations of Title IX Prohibited Conduct under investigation or to gather and present relevant evidence.

- Provide the Parties with the same opportunities to have others present during any during any part of the Resolution Process, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the Complainant or Respondent in any meeting or part of the Resolution Process. However, TCC may establish restrictions regarding the extent to which the advisor may participate in the Resolution Process, as long as the restrictions apply equally to all Parties.

Addendum A

iv. Live Hearing and Adjudication Process Under the 2020 Title IX Resolution Procedures

a. Requirement of a Live Hearing for Fact-Finding and Determining Responsibility

Following the investigation, within 30 business days of sending the Final Investigation Report to the Parties, unless unusual or complex circumstances exist, a live hearing will be conducted, led by a designated individual Hearing Officer, who will make credibility determinations, findings of fact, and findings of policy regarding the allegations and relevant policy/policies Respondent is alleged to have violated.

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

The Hearing Coordinator will provide the Parties with written notice of the Hearing Decisionmaker's identity at the time of scheduling the hearing, as well as information regarding any Party's option to object to the Hearing Decisionmaker based on actual conflict of interest or bias pursuant to Section V of the Policy. The TCC Title IX Administrator will make the final decision whether to select an alternate upon a challenge from a Party.

The live hearing will be closed. In addition to any appropriate administrators from the Parties' Home Institutions, the only other individuals permitted to participate in the hearing are as follows: the Complainant(s) and Respondent(s), the Hearing Decisionmaker, the advisor for each Party, the support person for each Party, if any, any witnesses (only while being questioned), and any individual providing authorized accommodations or assistive services.

If a Party does not have an advisor for the live hearing, the Party's Home Institution shall provide without fee or charge to that Party, an advisor of that Home Institution's choice, who may be, but is not required to be, an attorney, to conduct cross examination on behalf of that Party of the other Party/ies and witnesses. Each Party's Home Institution is obligated to ensure each Party has an advisor, either of the Party's or the Home Institution's choice regardless of whether or not the Party is present at the hearing. To ensure timely proceedings, a Party shall alert their Home Institution's Title IX Coordinator as soon as practicable if the Party will need an advisor for the hearing.

At the discretion of the TCC Title IX Administrator, and in consultation with the Hearing Officer and Parties' Home Institutions' Title IX Coordinators, live hearings may be conducted with all Parties physically present in the same geographic location or, any or all Parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear the Parties and the witness answering questions. As standard practice, the Parties will be physically separated during the hearing and participate virtually unless all Parties request otherwise.

The Hearing Coordinator is responsible for ensuring there is an audio or audiovisual recording, or transcript, of any live hearing. Upon written request to the TCC Title IX Administrator, the recording or transcript will be made available to the Parties for inspection and review. Any other recording, by any means, is prohibited, and violations may result in discipline from the Party's Home Institution.

Addendum A

The Parties will be provided an opportunity to separately participate in a pre-hearing meeting with the Hearing Decisionmaker to go over the process and administration of the live hearing. Participation in this pre-hearing meeting is strongly encouraged in order to facilitate an efficient and fair administration of the live hearing process.

b. Questioning at the Live Hearing

- At the live hearing, the Hearing Decisionmaker must permit each Party's advisor to ask the other Party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.

- Only relevant questions may be asked of the other Party or witness (referred to as "cross-examination").

- The Hearing Decisionmaker also has the right to question any Party or witness who participates in the live hearing.

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

- Before the Complainant, Respondent, or witness answers a cross-examination or other question, the Hearing Decisionmaker must first determine whether the question is relevant and will instruct the Party or witness being asked the question whether they may answer. The Hearing Decisionmaker must explain to the Party proposing the question(s) any decision to exclude a question as not relevant.

- Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

c. Use of Party and Witness Statements

The Hearing Decisionmaker cannot draw an inference about the determination regarding responsibility based solely on a Party's or witness's absence from the live hearing or refusal to submit to questioning, although this decision may impact the information available to the Hearing Decisionmaker in reaching their decision. The Hearing Decisionmaker may draw inferences if a Party or witness selectively participates in the hearing (for example, answers some questions, but declines to answer others).

d. Party Statements Regarding Remedies and Sanctions

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

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

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

v. Hearing Decision Report from the Hearing Decisionmaker

Within fifteen (15) business days from the hearing, the TCC Title IX Administrator will issue to the Parties simultaneously the Notice of Hearing Outcome and Hearing Decision Report, which will include the Hearing Decisionmaker's policy, and sanctioning, determinations, as applicable. If the Hearing Decisionmaker determines there was a policy violation, the Hearing Decision Report will also include a remedies and sanctions determination. To reach this determination, the Hearing Decisionmaker will consider the investigation record, including the Final Investigation Report and attachments, and the evidence provided at the hearing in drafting their Hearing Decision Report. The Hearing Decisionmaker will apply the preponderance of evidence in making their determination, as required by the Policy. The Hearing Decision Report must include:

- Identification of the allegations potentially constituting Title IX Prohibited Conduct as defined by this policy;
- A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the Parties, interviews with Parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Policy findings;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, if applicable, and whether remedies designed to restore or preserve equal access to the relevant education program or activity will be provided to the Complainant; and
- The procedures and permissible bases for the Complainant and Respondent to appeal, as set forth in the following section.

If the Hearing Decisionmaker finds a Policy violation, the Hearing Decisionmaker and TCC shall follow the procedures set forth below and in Section XVII of the 2024 TCC SM and SBH Interim Policy, and the Hearing Decision Report will include a Remedies and Sanctions Determination.

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

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

The determination regarding responsibility becomes final either on the date that the TCC Title IX Administrator provides the Parties with the written determination of the result of the appeal (Appeal Decision), if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

E. Remedies and Sanctions

Section XVII. Remedies and Sanctions of the 2024 TCC SM and SBH Policy sets forth the procedures to be followed should the Hearing Decisionmaker find a Policy violation(s) occurred. A student or employee found responsible for a Policy violation will be subject to sanction(s) regardless of whether legal proceedings involving the same incident are pending or anticipated.

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

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

- Party Statements: Pursuant to Section XVI.C.1, they will provide the Hearing Decisionmaker with any submitted written Party statements. If a Party did not provide a written statement, the Party will not be provided with an additional opportunity to submit a written statement to the Hearing Decisionmaker. Any submitted Party statement(s) will not be shared with the other Parties.

The Hearing Decisionmaker will make their Remedies and Sanctions Determination based on the factual and Policy findings, written Party statements, written Home Institution recommendations, and other factors relevant to sanctioning as outlined below. The Hearing Decisionmaker shall give significant weight to the written Home Institution recommendations in issuing remedies and sanction(s). Expulsions and employment terminations are at the sole discretion of the Respondent's Home Institution. The Hearing Decisionmaker will decide if remedies are appropriate in order to restore or preserve the Party's equal access to TCC's education, activity, and/or employment. Such remedies may include Supportive Measures. However, unlike Supportive Measures, remedies need not be non-disciplinary or non-punitive and need not avoid unreasonably burdening the Respondent.

A list of factors a Hearing Decisionmaker may consider in issuing sanctions, as well as the list of potential sanctions that can be imposed are provided in the 2024 TCC SM and SBH Policy Section XVII. Remedies and Sanctions.

Addendum A

F. Appeal Rights and Appeal Decisions Issued Under the 2020 Title IX Resolution Procedures

a. Grounds for Appeal

Within five (5) business days of receiving the Notice of Hearing Outcome and Hearing Decision Report, , or notice of dismissal, either Party may appeal a determination regarding responsibility, or a decision to dismiss of a Formal Complaint or any included allegations , on the following grounds:

Ground 1: Procedural irregularity that affected the outcome of the matter. The appealing party must describe in their appeal the procedural error and its impact on the decision outcome.

Ground 2: New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter. Information that was known to the party during the resolution process but which they did not 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. and

Ground 3: Any Party's Home Institution Title IX Coordinator, the TCC Title IX Administrator, Investigator(s), or Hearing Decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter. The appealing party must describe in their appeal the alleged conflict of interest or bias held by the individual and how this impacted the decision outcome.

Ground 4: The sanctions are disproportionate to conduct for which the Respondent accepted responsibility, or to the Hearing Decisionmaker's findings.

Appeals must be sent to the TCC Title IX Administrator in writing at TitleIXAdmin@claremont.edu.

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. Response to Appeal

As to all appeals in the Title IX Resolution Procedures, the TCC Title IX Administrator shall:

- Notify the other Party in writing within two (2) business day when an appeal is filed and implement appeal procedures equally for all Parties;
- Designate an appropriately trained Appeal Decisionmaker to review the submitted appeal(s) and draft an Appeal Decision
- Ensure that the Appeal Decisionmaker is not the same person as the Hearing Decisionmaker or individual that reached the determination regarding responsibility or dismissal, the Investigator, or any Party's Home Institution's Title IX Coordinator;

- Ensure that the Appeal Decisionmaker complies with the process and standards set forth in this policy;

- Provide the non-appealing Party an opportunity to submit a written statement in response to the appeal within five (5) business days of receiving the appeal, which shall be transmitted within two (2) business days to the Appeal Decisionmaker for their review and consideration in their decision; and

- Any submitted appeal and response is limited to ten (10) pages. Requests to submit an appeal response of more than ten (10) pages must be sent to the TCC Title IX Administrator, along with an explanation as to why additional pages are needed.

c. Appeal Clarification

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

d. Notice of Appeal Decision and Appeal Decision Report

The TCC Title IX Administrator will send the Notice of 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 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.

In their Appeal Decision Report, the Appeal Decisionmaker may do the following:

- Uphold the findings and sanctions;

- Overturn the findings and/or sanctions;

- Modify the findings and/or sanctions; or

- Remand the case, to the Investigator for additional fact-gathering, or for a new hearing based on new evidence which could change the outcome; or

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

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.

e. Final Remedies and Sanctioning Determination

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

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

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

Addendum B

2020 Title IX Prohibited Conduct Definitions

As stated in the 2024 The Claremont Colleges Sexual Misconduct and Sex-Based Harassment Interim Policy ("2024 TCC SM and SBH Policy"), the 2020 TCC Title IX Policy has been retired and replaced by the 2024 TCC SM and SBH Policy. For conduct alleged to have occurred between August 14, 2020 and July 31, 2024, the 2020 Title IX Resolution Procedures outlined in Addendum A will be used, and the following 2020 Title IX Prohibited Conduct Definitions will be applied. Other conduct of concern that does not fall within the below definitions may be addressed by the appropriate campus policy.

1. **Sexual Harassment** is conduct on the basis of sex that satisfies one or more of the following:

   a) An employee of TCC conditioning the provision of an aid, benefit, or service of the Institution on an individual's participation in unwelcome sexual conduct (also known as quid pro quo Sexual Harassment).

      - Complainant's statement that they found the conduct to be unwelcome is sufficient to constitute "unwelcome conduct."

   b) Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to TCC's Education Programs or Activities.

      - "Unwelcome conduct" depends on a variety of factors and must be evaluated in light of the known circumstances.

      - "Severe, pervasive, and objectively offensive" must be evaluated in light of the known circumstances, and is dependent on the facts in each situation. However, this element must be determined from the perspective of a reasonable person standing in the shoes of the Complainant.

   c) Sexual assault (as defined in the Clery Act), or dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).

      - A single instance of any conduct as defined below is sufficient to constitute Sexual Harassment. Any instance of any of the conduct defined below does not need to demonstrate severity, pervasiveness, objective offensiveness, or denial of equal access to education or employment, because denial of equal access is assumed.

      Sexual Assault. As defined in the Clery Act (20 USC 1092(f)(6)(A)(v)), Sexual Assault is: an offense that meets the definition of rape, fondling, incest, or statutory rape, as used in the FBI's Uniform Crime Reporting (UCR) Program. The relevant FBI UCR definitions are as follows:

      - *Rape*. The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.

      - *Fondling*. The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of age or permanent mental incapacity.

- *Incest*. Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

- *Statutory Rape*. Sexual intercourse with a person who is under the statutory age of consent. In California, the statutory age of consent is 18.

d) **Dating Violence**. As defined in VAWA (34 USC 12291(a)(10)), Dating Violence is: violence committed by a person:

- Who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and,

- Where the existence of such a relationship shall be determined based on a consideration of the following factors:

    i. The length of the relationship;

    ii. The type of relationship; and,

    iii. The frequency of interactions between the persons involved in the relationship.

e) **Domestic Violence.** As defined in VAWA (34 USC 12291(a)(8)), Domestic Violence is: acts that include felony or misdemeanor crimes of violence committed by one of the following:

- A current or former spouse or intimate partner of the Complainant;

- A person with whom the Complainant shares a child in common;

- A person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner;

- A person similarly situated to a spouse of the Complainant under the domestic or family violence laws of the state of California; or,

- Any other person whose acts an adult or youth Complainant is protected from under the domestic or family violence laws of the state of California.

The following applies only for the purpose of these 2020 Title IX Prohibited Conduct definitions of dating violence and domestic violence:

Violence: For purposes of this Policy, violence can be physical violence or patterns of abusive behavior.

- Physical violence: Physical conduct that intentionally or recklessly threatens the health and safety of the recipient of the behavior.

- Patterns of Abusive Behavior: This may consist of, or include, non-physical tactics such as threats, isolation, property destruction, abuse of pets, economic control, displaying weapons, degradation, or exploitation of a power imbalance.

Conduct by an individual in defense of self or another is not violence under this policy. If either party asserts that they acted in defense of self or another, the Hearing Decisionmaker will use all available, relevant evidence to evaluate the assertion, including reasonableness of the defensive actions and which party is the predominant aggressor.

f) **Stalking**. As defined in VAWA (34 USC 12291(a)(30), Stalking is: engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for their safety or the safety of others; or,
- Suffer substantial emotional distress.

2. **Retaliation.** No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this Policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy.

   Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or Sexual Harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of Sexual Harassment, for the purpose of interfering with any right or privilege secured by Title IX or this Policy, constitutes Retaliation.

Associated Definitions

3. **Consent**: Consent is affirmative, clear, knowing, voluntary, conscious, and revocable permission. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in sexual activity, and the physical conditions of sexual activity (e.g., use of a condom).[1]

   Affirmative Consent must be ongoing and can be revoked at any time during sexual activity. It is the responsibility of each person to ensure they have the Affirmative Consent of the other to engage in the sexual activity. The existence of a dating relationship between the persons involved, or the fact of past or subsequent sexual relations between them, should never by itself be presumed to be an indicator of consent.

   - Consent to any one form of sexual activity does not automatically imply consent to any other forms of sexual activity.
   - Consent can be withdrawn at any time.
   - Previous relationships or prior consent does not imply consent to future sexual acts; this includes “blanket” consent (i.e., permission in advance for any/all actions at a later time/place).
   - It is the obligation of the person initiating the sexual activity to obtain consent.

[1] “Condom stealthing” refers to a person’s knowing or intentional removal of, or failure to use, a condom during sexual activity without the consent of the other person(s), when consent to the sexual activity was conditioned on the use of a condom.

- An individual cannot consent who has been coerced, including being compelled by force, threat of force, or deception; who is unaware that the act is being committed; or, who is coerced by a supervisory or disciplinary authority.
    - Force: violence, compulsion, or constraint physically exerted by any means upon or against a person.
    - Coercion: the application of pressure by the Respondent that unreasonably interferes with the Complainant's ability to exercise free will. Factors to be considered include, but are not limited to, the intensity and duration of the conduct.
- A person who does not want to engage in sexual activity is not required to resist or to verbally object.
- Withdrawal of consent can be manifested through conduct and need not be a verbal withdrawal of consent (e.g., crying, pulling away, not actively participating, uncomfortable or upset facial expressions).
- Consent may not be given by an individual who has not reached the legal age of consent under applicable law.

Affirmative Consent cannot be given by a person who is asleep, unconscious, or incapacitated. A person with a medical or mental disability may also lack the capacity to give consent. The definition of incapacitation follows.

4. **Incapacitation.** A person is unable to consent when incapacitated due to the influence of drugs, alcohol, or medication so that the person could not understand the fact, nature, or extent of the sexual activity.

   Incapacitation is a state where an individual cannot make an informed and rational decision to engage in sexual activity because the individual lacks conscious knowledge of the nature of the act (e.g., to understand the who, what, when, where, why or how of the sexual interaction) or is physically unable to consent (e.g., asleep or unconscious).

   Incapacitation may result from the use of alcohol or drugs. However, consumption of alcohol or other drugs alone is insufficient to establish incapacitation. Whether an intoxicated person (as a result of using alcohol or other drugs) is incapacitated depends on the extent to which the alcohol or other drugs impact the person's decision-making ability, awareness of consequences, and ability to make informed judgments. A person's own intoxication or incapacitation from drugs or alcohol does not diminish that person's responsibility to obtain Affirmative Consent before engaging in sexual activity.

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

Addendum B

Being intoxicated or impaired by drugs or alcohol is never an excuse for Sexual Harassment, sexual violence, stalking, or intimate partner violence, and does not diminish one's responsibility to obtain consent.

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

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

A Respondent must either have known, or reasonably should have known, that a Complainant was unable to consent to sexual activity under any of the following circumstances:

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

It shall not be a valid excuse that the Respondent believed the Complainant consented to sexual activity under either of the following circumstances:

- The Respondent's belief in Affirmative Consent arose from the intoxication or recklessness of the Respondent; and/or,
- The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented.