



**CALIFORNIA HEALTH SCIENCES UNIVERSITY  
UNLAWFUL DISCRIMINATION, HARASSMENT, SEXUAL MISCONDUCT AND  
TITLE IX  
POLICY AND PROCEEDURES**

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## **I. NON-DISCRIMINATION POLICY STATEMENT & PURPOSE**

California Health Sciences University (“CHSU”) is committed to creating and maintaining an inclusive environment, where all individuals can achieve their academic and professional aspirations free from Sex- Based Misconduct, and other forms of unlawful discrimination, harassment, or related retaliation. CHSU does not discriminate in the operation of or access to the University’s programs on the basis of the following protected classes: race (including natural hairstyle or hair texture related thereto); color, national origin (including possessing a driver’s license issued under Vehicle Code § 12801.9), or ancestry; age (40 and over); physical or mental disability, perceived disability or perceived potential disability; sex; gender; sexual orientation; gender identity, transgender status, gender expression, pregnancy or perceived pregnancy, childbirth, breastfeeding or medical conditions related to pregnancy, childbirth or breastfeeding; medical condition (including cancer-related physical or mental health impairment or history of same); citizenship; military and veteran status; genetic characteristics; political affiliation; religious belief or practice; marital status; or any other classifications protected by applicable federal, state, or local laws and ordinances (“Protected Class” or “Protected Classes”).

This Non-Discrimination Policy (“Policy”) prohibits the following conduct (“Prohibited Conduct”):

1. Harassment or discrimination, including, but not limited to, Sex-Based Misconduct against students, employees, and applicants for admission or employment based on membership in a Protected Class;
2. Harassment or discrimination based on the perception that a person is a member of a Protected Class or is associated with a person who has, or is perceived to have, membership in a Protected Class;
3. Any and all Retaliation against any person for submitting a report of violation of this Policy or for cooperating in the administration of this Policy, including participation in an investigation or adjudication process;
4. Knowingly submitting a complaint under this Policy based on false allegations or to knowingly provide false information in connection with an investigation or adjudication of a complaint processed under this Policy;
5. Any Responsible Employee who fails to report allegations of Prohibited Conduct, including, but not limited to, Sex-Based Misconduct or Title IX Sexual Harassment;
6. Any person in a position of power or influence that intentionally deters or hinders another person from reporting allegations of conduct which, if true, would violate this Policy; and
7. Any other violation of this Policy.

The intent of this Policy is to provide for the University to act consistently with its legal obligations under Title IX of the Education Amendments of 1972 (“Title IX”), Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, Uniformed Services Employment and Reemployment Rights Act of 1994 (“USERRA”), the Equal Pay Act of 1963, the Age Discrimination Act of 1975, Title I and Title IV of the Americans with Disabilities Act (“ADA”) of 1990 and as amended by ADA Amendments Act of 2008, the Immigration Reform and Control Act of 1986 (“IRCA”), the Rehabilitation Act of 1973, and other applicable federal



and state anti-discrimination laws. CHSU recognizes that the law in these areas may change. To the extent this policy conflicts with applicable federal or state law, CHSU will act in compliance with law.

The purpose of this policy is to:

1. Define Prohibited Conduct;
2. Ensure members of the University community respond appropriately when incidents of Prohibited Conduct occur;
3. Provide for methods of reporting Prohibited Conduct to appropriate University administrators;
4. Establish fair and equitable procedures for filing and handling complaints of Prohibited Conduct; and
5. Ensure that when Prohibited Conduct does occur the University takes appropriate action to stop, prevent and remedy the Prohibited Conduct;
6. Set forth grievance procedures for the handling of Formal Title IX Sexual Harassment complaints, as required by federal regulations set forth at 34 Code of Federal Regulations Section 106.45.

This policy shall be reviewed periodically to determine if modifications are appropriate.

## **II. APPLICATION AND SCOPE**

This policy applies to all members of the University community, including CHSU employees, students, applicants for admission or employment, third-party contractors and vendors, independent contractors, volunteers and any third party who enters CHSU facilities. Every member of the community is responsible for complying with this Policy.

This policy applies to prohibited conduct alleged to have occurred: (a) on CHSU property; (b) in connection with CHSU activities, programs, or events; (c) online or off-campus where the conduct affects the CHSU learning or working environment, would violate other University Policies had it occurred on campus, or where the University determines it has a substantial interest.

CHSU recognizes and promotes its commitment to academic freedom and freedom of speech, as described in applicable CHSU policies. However, freedom of speech and academic freedom are not limitless and do not protect speech or expressive conduct that violates federal or state anti-discrimination laws, such as the conduct prohibited by this Policy.

CHSU also recognizes that some students are also employed by the University (“Student-Employee”). Under this Policy, Student-Employees may be treated either as students or employees based on the circumstances of each situation, in compliance with the provisions set forth below.

Additionally, while this Policy comprehensively prohibits illegal harassment and discrimination, there will be some procedures which are only applicable to Title IX Sexual Harassment (defined below) because different legal requirements are applicable in such matters. Applicable distinctions in the processing of such complaints are addressed below.



This Policy has been approved by the Office of the President. It supersedes all other University policies regarding harassment, discrimination, Sex-Based Misconduct, or Title IX. The Title IX, Diversity and Equity Coordinator is responsible for the administration of this Policy.

### **III. ESTABLISHMENT OF THE OFFICE OF THE TITLE IX, EQUITY AND DIVERSITY COORDINATOR**

The President of the University shall designate and authorize an administrator to serve as CHSU's Title IX, Equity and Diversity Coordinator ("Title IX Coordinator") who has the training, experience, and resources necessary to perform the following duties:

- A. Coordinate the University's compliance with Title IX of the Education Amendments of 1972 and other California state and federal laws applicable to Sex-Based Misconduct, including with respect to issuance of notification of this Policy to members of the campus community, the conduct of investigations, preparation of required reports, and effective implementation of supportive measures, and Corrective Measures.
- B. Developing and maintaining the University's Title IX webpages which provide information regarding Title IX compliance, including methods for reporting Sex-Based Misconduct, applicable grievance processes and options regarding supportive measures whether or not a Formal Complaint of Title IX Sexual Harassment is filed.
- C. Ensure, that the University is providing mandatory Sex-Based Misconduct prevention education and training programs to all members of the University campus, including as follows:
  1. In accordance with applicable state and federal law, provide training to all students, faculty, other academic appointees, administrators, and non-academic staff regarding how Sex-Based Misconduct can be reported.
  2. Provide annual training for University employees who are responsible for reporting Sex-Based Misconduct, including Title IX Sexual Harassment.
  3. Provide annual training for University employees who are Confidential Resources, facilitators of informal resolution processes, investigators, Hearing Advisors, hearing officers and other decisions makers, appeal adjudicators, University officials with authority to institute corrective measures and others involved with a grievance process for complaints of Sex-Based misconduct regarding their roles and responsibilities with respect to Title IX compliance. This includes, but is not necessarily limited to, training regarding the following matters, as appropriate to the employee's role: technology to be used at a live hearing, issues of relevance of questions and evidence, and the rules applicable to questions and evidence regarding sexual predisposition or prior sexual behavior. Additionally, this annual training will also include topics related to dating violence, domestic violence, sexual assault, and stalking. Such training will also cover how to conduct an investigation and hearing process where there are allegations of dating violence, domestic violence, sexual assault and stalking, that protects the safety of both the Complainant and Respondent and promotes accountability for all Parties. Any materials used to train Title IX Coordinators, investigators, decision-makers, appeal adjudicator, and any person who facilitates an informal resolution process for a Formal Title IX Complaint of Sexual Harassment, must not rely on sex stereotypes and must promote impartial investigations and adjudications of



Formal Title IX Sexual Harassment Complaints of sexual harassment. Additionally, training with a trauma-informed perspective is required for any CHSU employee responsible for any part of an investigation, informal resolution, or grievance process for complaints of Sex-Based Misconduct.

4. Offer primary prevention programs and awareness campaigns to the University community to promote ongoing awareness of Sex-Based Misconduct, including preventing dating violence, domestic violence, sexual assault, and stalking. These campaigns may include, but are not limited to, education about the definition of consent, consensual relationships, options for bystander intervention, trauma-informed approaches, and risk reduction awareness information. These programs are to promote behaviors that foster healthy and respectful relationships while also encouraging a safe environment for bystanders to intervene in a potential case of dating violence, domestic violence, sexual assault, or stalking.
- D. Provide educational materials to promote compliance with the Policy and familiarity with reporting procedures, and post on the CHSU's website the names and contact information of the Title IX Coordinator and other information regarding preventing and reporting Sex-Based Misconduct, including Title IX Sexual Harassment, and compliance with this policy.
- E. Provide prompt and equitable response to reports of Sex-Based Misconduct, including authorizing and ensuring effective implementation of Supportive Measures and Title IX Supportive Measures for complainants and respondents, determining whether to file a Formal Title IX Sexual Harassment Complaint on behalf of the University, overseeing implementation of the University's Sex-Based Misconduct grievance processes, and effectively implementing Corrective Measures in cases of Sex-Based Misconduct.
- F. Maintain records of reports of Sex-Based Misconduct, including Title IX Sexual Harassment including: investigation records, any determination regarding responsibility, any audio or audiovisual recording or transcript related to the grievance process, any supportive measures implemented, any preventative or corrective measures imposed on the respondent, any remedies provided to the complainant, any appeal and result of such appeal, any informal resolution process and result from such process, all training materials used to train Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process, for seven (7) years and in accordance with University records management policies.
- G. Identify and address any patterns or systemic problems that arise during the review of reports of Title IX Sexual Harassment.
- H. Ensure procedures are in place to provide support for both complainants and respondents during the University's process for responding to allegations of Sex-Based Misconduct, including Title IX Sexual Harassment.

#### **IV. APPLICABLE DEFINITIONS**

Definitions applicable to this Policy are set forth below. Under federal regulation the definitions applicable in cases of Title IX Sexual Harassment are different from the definitions applicable to



other types of Prohibited Conduct as a matter of law. Accordingly, set forth below are three sections of definitions:

- A. Definitions Applicable in all Matters of Prohibited Conduct Covered by this Policy;
- B. Definitions Applicable in Matters of Prohibited Conduct Other than Title IX Sexual Harassment;
- C. Definitions Applicable Only in Cases of Title IX Sexual Harassment.

These sections are set forth below.

A. Definitions Applicable in all Matters of Prohibited Conduct Covered by this Policy

1. Responsible Employee: All employees of the University who receive, in the course of their employment, information that a violation of this Policy has occurred shall promptly report that information to the Title IX, Diversity and Equity Coordinator. This includes all students who are also employees of the University when the disclosure is made to them in their capacity as an employee. The online reporting form can be accessed at <https://chsu.edu/title-ix/>. Exceptions to the duty to report include:
  - a. University employees who are Confidential Resources (as defined below) who receive, in the course of employment, information that a student has or may have suffered Sex-Based Misconduct, including, but not limited to, Title IX Sexual Harassment.
  - b. Employees who learn of a report of Sex-Based Misconduct during the course of participation in a public awareness event such as a "Take Back the Night" or similar event.
2. Confidential Resources: CHSU's confidential Resources ("Confidential Resources") include only mental health counselors and other persons working pursuant to professional license requiring confidentiality while working on campus when working within the scope of their licensure. Physicians, pharmacists, and other health care professionals employed by CHSU as faculty and not employed to provide healthcare services to employees or students are not Confidential Resources. Confidential Resources are exempt from reporting Sex-Based Misconduct when working in the course and scope of their licensure. When Confidential Resources are not working in the course and scope of their licensure and they learn about allegations of Prohibited Conduct they are required to report that conduct as any other Responsible Employee. This exemption does not extend to other areas of mandated reporting obligations under federal, state or local laws, such as the California Child Abuse and Neglect Reporting Act (CANRA) or Cleary Act reporting requirement as a Campus Security Authority.
3. Preponderance of Evidence: A standard of proof that requires that a fact be found when its occurrence, based on evidence, is more likely than not to be true. This shall be the standard of proof applicable to all factfinding under this Policy.
4. Relevancy of Evidence: Throughout this policy, references are made to relevant evidence, both in the investigation phase or adjudication phase of a matter. Relevant evidence means evidence which has any tendency in reason to prove or disprove a disputed fact, including both inculpatory and exculpatory evidence, that is of consequence in determining whether the allegations of Prohibited Conduct are true or not true under the preponderance of the



evidence standard. Relevant evidence includes evidence regarding the credibility of a party or witness. However, notwithstanding the above, the following evidence must be excluded:

- a. Evidence which is disclosed to a Confidential Employee, operating within the scope of their work, unless the disclosing party and the Confidential Employee provide voluntary written consent to its use.
  - b. Evidence which is protected by a legally recognized privilege unless the appropriate party has provided voluntary written consent to its use. Legally recognized privileges including, but not limited to, the following: the attorney-client privilege, evidence maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional when acting in the professional's or paraprofessional's capacity or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party.
  - c. Evidence of a complainant's prior sexual history unless one of the following exceptions applies: (i) if such information is offered to prove that someone other than the respondent committed the conduct alleged by the Title IX Complainant; or (ii) 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.
5. Sex-Based Misconduct: Sex-based Misconduct includes:
- a. All forms of discrimination and harassment on the basis of sex, sex stereotyping, gender or gender expression; pregnancy or perceived pregnancy, childbirth, breastfeeding, or medical conditions related to pregnancy, childbirth, or breastfeeding.
  - b. California Sexual Harassment, as defined herein.
  - c. Title IX Sexual Harassment, as defined herein, and other conduct which violates Title IX of the Education Amendments of 1972.
  - d. Invasion of Sexual Privacy:
    - i. Without a person's consent, watching or enabling others to watch that person's nudity or sexual acts in a place where that person has a reasonable expectation of privacy;
    - ii. Without a person's consent, making photographs (including videos) or audio recordings, or posting, transmitting, or distributing such recorded material depicting that person's nudity or sexual acts in a place where that person has a reasonable expectation of privacy; or
    - iii. Using depictions of nudity or sexual activity to extort something of value from a person.
  - e. Exposing one's genitals in a public place for the purpose of sexual gratification.
  - f. Attempts to engage in any Sex-Based Misconduct, even if not completed.
6. Consent: Consent is affirmative, conscious, voluntary, and revocable. Consent to sexual activity requires of all persons involved an affirmative, conscious, and voluntary agreement to engage in 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. Lack of protest, lack of resistance, or silence does not alone constitute consent. Affirmative consent must be



ongoing and can be revoked at any time during sexual activity, even after penetration occurs. If confusion or ambiguity arises as to the willingness of the other individual to proceed, then consent should be re-obtained. The existence of a dating relationship or past sexual relations between the persons involved should never by itself be assumed to be an indicator of consent (nor will subsequent sexual relations or dating relationship alone suffice as evidence of consent to prior conduct). The following provisions apply to the definition of consent:

- a. **Incapacitation:** Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking, using drugs or taking medication.
  - b. The Respondent's belief that the alleged victim consented will not provide a valid defense unless the belief was actual and reasonable. In making this determination, the factfinder will consider all of the facts and circumstances the Respondent knew, or reasonably should have known, at the time. In particular, the Respondent's belief is not a valid defense where:
    - i. The Respondent's belief arose from the Respondent's own intoxication or recklessness;
    - ii. The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the alleged victim affirmatively consented; or
    - iii. The Respondent knew or a reasonable person should have known that the alleged victim was unable to consent because the alleged victim was incapacitated, in that the alleged victim was: asleep or unconscious; unable to understand the fact, nature or extent of the sexual activity due to the influence of drugs, alcohol or medication; unable to communicate due to a mental or physical condition. Anyone engaging in sexual activity should be aware of the other person's level of intoxication.
7. **Credibility:** The credibility of complainants, alleged victims, respondents and witnesses must be evaluated when there are conflicting versions of relevant events related to a matter under investigation required by this Policy. Credibility means whether or not a particular version of events should be believed. In assessing credibility of any person, factors to consider include, but are not necessarily limited to: inherent plausibility of the person's statement; their demeanor and attitude toward the matter; whether they have motivation to inaccurately state facts; whether or not other persons or evidence corroborate their version of events (such as an eye witness or someone who discussed the events with the person around the time the events took place); the character of the testimony; the extent of the person's capacity to perceive, remember or communicate regarding the matter; consistent or inconsistent statements made by the same person; admissions of untruthfulness. No one factor is necessarily determinative of credibility. The mere fact that there was no eye witness to an alleged event does not mean a person is not credible, and similarly whether a respondent had previously engaged in similar misconduct does not mean the respondent is not credible as to the current matter being investigated.



8. Corrective Measures: Services, accommodations, corrective actions, sanctions, remedies or other measures put in place as a result of final resolution of a complaint of conduct prohibited by this Policy. Possible Corrective Measures imposed under this Policy include:
- a. Participation in a voluntary, facilitated restorative process;
  - b. A written or verbal apology;
  - c. A written or verbal warning, letter of reprimand, performance improvement plan, or other document outlining expectations for future behavior and related consequences;
  - d. Training or other educational requirements, such as an assigned reading, a research or reflective paper, attendance at an educational seminar or program, or similar activity;
  - e. Assistance from or check-ins with campus safety or security personnel;
  - f. Mandatory or voluntary counseling;
  - g. Mentorship, accountability meetings or coaching assignments;
  - h. Community service or other volunteer activities;
  - i. Modifications to job position or work assignments (such as a transfer or modification of job duties), or delivery of curriculum or course requirements, such as independent study, adjusted deadlines or remote learning;
  - j. Disciplinary probation, which may include monitoring of progress, review of behavior, limitations on campus privileges, or other restrictions on participation in University events, extra-curricular or co-curricular activities over a set period of time;
  - k. Prohibition from utilizing certain campus facilities;
  - l. No-contact directives;
  - m. Drug testing and/or drug and alcohol counseling programs;
  - n. Temporary or permanent exclusion from attending University events or activities;
    - i. Suspension from employment or participation in an academic program, extra-curricular or co-curricular activities;
  - o. Dismissal from the University's academic programs or termination of employment;
  - p. Other actions which seek to make a victim whole or which seek to prevent a recurrence of Prohibited Conduct.

B. Definitions Applicable in Matters of Prohibited Conduct Other than Title IX Sexual Harassment

1. Discrimination: Discrimination means excluding from participation, denying the benefits of, or otherwise subjecting an individual or group of individuals to different treatment based on a Protected Class. For example, unlawful discrimination may consist of a decision, policy, or practice.
2. Harassment: Harassment is unwelcome verbal, visual or physical conduct based on a Protected Class which creates an intimidating, offensive, or hostile work or educational environment that interferes with a person's work or educational performance or creates an environment such that a reasonable person would find the conduct intimidating, hostile or offensive. Harassment can be verbal (including slurs, jokes, insults, epithets, gestures or



teasing), graphic (including offensive posters, symbols, cartoons, drawings, computer displays, or e-mails) or physical conduct (including physically threatening another, blocking someone's way, etc.) that denigrates or shows hostility or aversion towards an individual based on a Protected Class.

3. Complaint: A report of Prohibited Conduct prohibited by this Policy. A “formal” or written report or complaint is not required.
4. Complainant: A Complainant is any person who reports alleged Prohibited Conduct or an alleged victim of Prohibited Conduct, regardless of whether the alleged victim makes the report. Prohibited Conduct for purposes of this definition does not include Title IX Sexual Harassment.
5. Respondent: A Respondent is a person alleged to have engaged in Prohibited Conduct. Prohibited Conduct for purposes of this definition does not include Title IX Sexual Harassment.
6. California Sexual Harassment:
  - a. Sexual harassment is unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal, nonverbal or physical conduct of a sexual nature when:
    - i. Quid Pro Quo: A person’s submission to such conduct is implicitly or explicitly made the basis for employment decisions, academic evaluation, grades or advancement, or other decisions affecting participation in a University program, activity, or service; or
    - ii. Hostile Environment: Such conduct is sufficiently severe or pervasive that it unreasonably denies, adversely limits, or interferes with a person’s participation in or benefit from the education, employment or other programs, activities, or services of the University and creates an environment that a reasonable person would find to be intimidating or offensive.
  - b. Consideration is given to the totality of the circumstances in which the conduct occurred.
  - c. Sexual harassment need not be motivated by sexual desire. Examples of conduct that violates this policy include but are not limited to: Obscene or vulgar gestures, posters, or comments; Sexual jokes or comments about a person's body, sexual prowess, or sexual deficiencies; Propositions, or suggestive or insulting comments of a sexual nature; Derogatory cartoons, posters, and drawings; Sexually-explicit e-mails or voicemails; Uninvited touching of a sexual nature; Unwelcome sexually-related comments; Conversation about one’s own or someone else’s sex life; Conduct or comments consistently targeted at only one gender, even if the content is not sexual; or Teasing or other conduct directed toward a person because of the person's gender.
7. Retaliation: Retaliation is an adverse action against a person based on their report or other disclosure of conduct prohibited by this Policy to a University employee or their participation in the investigation, reporting, remedial or disciplinary processes provided for in this Policy. An adverse action is conduct that would intimidate or discourage a



reasonable person from reporting conduct prohibited by this Policy or participating in a process provided for in this Policy, such as threats, intimidation, harassment, or coercion. Retaliation does not include good faith actions lawfully pursued in response to a report of conduct prohibited by this Policy.

8. Supportive Measures: Supportive Measures are services, accommodations or other measures put in place temporarily following a complaint of conduct prohibited by this Policy to assist or protect either the Complainant, the Respondent or the University community. Supportive Measures may remain in place until the matter is resolved, changed, or ended depending on how the parties' needs evolve while the matter is being processed. Supportive measures may also become a permanent Preventative and Corrective Measure following resolution of the matter. Supportive Measures may include, but are not limited to: counseling, extensions of deadlines or other course related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures, or other measures determined to be reasonable by the Title IX Coordinator.

#### C. Definitions Applicable Only in Cases of Title IX Sexual Harassment

1. Formal Title IX Sexual Harassment Complaint: A document filed by a Title IX Sexual Harassment Complainant or signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a Title IX Sexual Harassment Respondent and requesting that the University investigate the allegation. A parent or guardian of a Title IX Sexual Harassment Complainant who is an unemancipated minor may also file a Formal Title IX Sexual Harassment Complaint on behalf of their child or ward. References to "Formal Title IX Sexual Harassment Complaint" throughout this Policy refer to Formal Title IX Sexual Harassment Complaint.
2. Title IX Sexual Harassment Complainant: An individual who is alleged to be the victim of conduct that could constitute Title IX Sexual Harassment irrespective of whether a Formal Title IX Sexual Harassment Complaint has been filed.
3. Title IX Sexual Harassment Respondent: An Individual who has been reported to be the perpetrator of conduct that could constitute Title IX Sexual Harassment. Any individual may be a respondent, whether such individual is a student, faculty member, administrator, or other employee of the University or other person with or without any affiliation to the University.
4. Officials with Authority – Actual Knowledge: For purposes of determining actual knowledge of Title IX Sexual Harassment the following positions have authority at CHSU to institute Corrective Measures for Title IX Sexual Harassment: (i) the President, (ii) the Provost, (iii) all Deans of colleges within the University, (iv) all Assistant/Associate Student Affairs Deans of colleges within the University; (v) the Title IX Coordinator; and (vi) all employees who serve as either hearing officers, hearing panel members, decision makers, or appeal adjudicators in cases of Title IX Sexual Harassment when serving in that role. In all cases, Corrective Measures must be imposed in compliance with the Grievance Process for Complaints of Title IX Sexual Harassment.



5. Title IX Supportive Measures: Title IX Supportive Measures are non-disciplinary, non-punitive, individualized services offered as appropriate, as reasonably available, and without fee or charge to the Title IX Sexual Harassment Complainant or Title IX Sexual Harassment Respondent before or after the filing of a Formal Title IX Sexual Harassment Complaint or where no Formal Title IX Sexual Harassment Complaint has been filed. Title IX Supportive Measures are designed to restore or preserve equal access to the University's education program, or activity, without punishing, disciplining or unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment, or deter Title IX Sexual Harassment. Title IX Supportive Measures may include, but are not limited to: counseling, extensions of deadlines or other course related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The determination of what Title IX Supportive Measures are appropriate in a given situation must be based on the facts and circumstances of that situation.
6. Title IX Sexual Harassment Informal Resolution: An informal resolution of Title IX Sexual Harassment which may encompass a broad range of conflict resolution strategies, including mediation or restorative justice.
7. Title IX Sexual Harassment: Sexual harassment for purposes of Title IX means conduct on the basis of sex that satisfies one or more of the following: (i) an employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct; (ii) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or (iii) Sexual Assault, Dating Violence, Domestic Violence, or Stalking. The following definitions further define Title IX Sexual Harassment:
  - a. Sexual Assault: The term Sexual Assault means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, including, but not necessarily limited to, fondling, rape, and statutory rape.
  - b. Dating Violence: The term Dating Violence means violence committed by a person (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) 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; (iii) The frequency of interaction between the persons involved in the relationship.
  - c. Domestic Violence: The term Domestic Violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic



or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

- d. **Stalking:** Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—(A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.

## **V. REPORTING TO POLICE FOR CRIMINAL CONDUCT; EFFECT OF CRIMINAL CHARGES OR CRIMINAL INVESTIGATION**

In an emergency situation, CHSU community members should call 9-1-1. CHSU encourages all members of its community who believe they are the victim of criminal behavior (including, but not limited to, criminal sexual violence) to report the conduct to the police even if significant time has passed since the incident. All members of the CHSU community may seek assistance in reporting a crime of sexual violence to law enforcement by contacting the Title IX Coordinator.

Complainants under this policy also may choose not to notify law enforcement. Regardless of whether a Complainant chooses to make a report to law enforcement, the Complainant may still file a Complaint under this policy. Additionally, regardless of whether the alleged misconduct rises to the level of a criminal offense, CHSU encourages all community members to report alleged discrimination, harassment, retaliation, or sexual violence to CHSU.

The procedures outlined in this Policy are separate from any criminal process or investigation. Because the requirements and standards for finding a violation of criminal law are different from the standard under this Policy, criminal investigations, reports or verdicts may be different from the outcomes under this Policy. The University may share information and coordinate investigation efforts with law enforcement when necessary or appropriate. A delay resulting from such coordination is good cause for extending the timelines to complete the process. Any such delay will be communicated and documented to the Complainant and Respondent.

State, federal, and local government agencies are responsible for criminal prosecution. The University has no authority or responsibility for the criminal prosecution of any matter, even if the University helps someone to file a report of criminal conduct or receives a report of a complaint under this policy that may rise to the level of criminal conduct.

## **VI. REPORTING PROHIBITED CONDUCT TO THE UNIVERSITY; AMNESTY FOR STUDENT COMPLAINANTS AND WITNESSES**

CHSU is committed to enforcing this Policy. The effectiveness of the University's efforts depends in part on employees and students telling the University about inappropriate conduct. Employees and students should not assume that CHSU has knowledge of any form of illegal discrimination, harassment, or retaliation. If employees or students do not report harassing or discriminatory conduct, CHSU may not become aware of a possible violation of this Policy and may not be able to take appropriate corrective action. Any Responsible Employee who believes that this Policy has been violated is mandated to report those concerns, and for concerns related to Sex-Based



Misconduct Responsible Employees must report those concerns to the Title IX Coordinator directly.

Any person can report Prohibited Conduct at any time (including during non-business hours), either verbally or in writing, in person, by mail, by telephone, email, or by any other means as follows:

1. Report to the Title IX Coordinator. As of the effective date of this policy, the University's Title IX Coordinator is Ms. Carlita Romero-Begley, PHR, SHRM-CP, Vice President of Human Resources and Title IX Coordinator, and may be contacted by phone at 559-282-8747 (direct line), via email at [cromerobegley@chsu.edu](mailto:cromerobegley@chsu.edu) or in person at Room 310B, 65 N. Clovis Avenue, Clovis, CA 93612.  
The CHSU website will be kept updated with any changes to the Title IX Coordinator's name and contact information.
2. Report to Another Responsible Employee. They can report verbally, via phone or via email to any Responsible Employee, such as to the Dean or the student affairs staff of any of the University's colleges, the Office of the Provost or Office of the President. Any person or office that receives a report (except for Confidential Resources) must forward it to the Title IX Coordinator. If the person to whom a report normally would be made to is the person accused of Prohibited Conduct, reports may be made to another Responsible Employee or office. If the person accused of Prohibited Conduct is the Title IX Coordinator, the report may be made to the President.
3. Online Through the University Website. They can report by submitting the online form, either with their name or anonymously. The online form is located on CHSU's website at <https://chsu.edu/title-ix/>. Forms submitted online will be delivered to the Title IX Coordinator.

While there is no time limit for submitting reports of Prohibited Conduct, such reports should be brought forward as soon as possible. Prompt reporting will better enable CHSU to respond, investigate, provide an appropriate remedy, and impose Corrective Measures, if appropriate. All incidents should be reported even if significant time has elapsed.

CHSU prefers the Complaint be made in writing and specifically identify the person(s) involved, names of witnesses and what occurred. However, if a Complaint is not filed in writing but CHSU receives notice of any allegation(s) that is subject to this Policy, CHSU shall take steps to address the allegation(s) in a manner appropriate to the circumstances.

The University will keep reports of Prohibited Conduct as confidential as possible but may be required to disclose information to comply with law or the University's policies and procedures, including (but not limited to) for the purposes of investigating and/or resolving the complaint.

The University encourages reporting of Prohibited Conduct. It is in the best interest of the CHSU community that individuals come forward to make reports of Prohibited Conduct, regardless of whether they have engaged in conduct in violation of university policy, such as using drugs or alcohol at or near the time of the incident. To encourage reporting in these types of situations, the University will not subject a complainant or witness of Prohibited Conduct who is a student or a



student-employee to Corrective Measures for a violation of the University’s code of conduct or other University policy (i.e., will grant the student amnesty) unless the University determines that the violation was egregious. Egregious violations include acts that: (1) place the health or safety of themselves or others at risk; or (2) involves plagiarism, cheating or academic dishonesty. Student-employees may still be subject to Corrective Measures as employees of CHSU for acts which put CHSU at significant risk of litigation or damage to reputation. The University reserves the right to require individuals who are granted amnesty under this section to participate in assessments, training, counseling, or educational programs, including (but limited to) topics such as health and safety, professionalism, or harassment/discrimination prevention.

The University will not pursue action against a person for a code of conduct violation that does not involve sex discrimination or sexual harassment, but arises out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or Formal Title IX Sexual Harassment Complaint, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations.

## **VII. UNIVERSITY GRIEVANCE PROCESSES**

The University has two separate grievance processes for handling reports of Prohibited Conduct, including Sex-Based Misconduct, under this Policy:

- A. Grievance Process One for Complaints of Unlawful Harassment, Discrimination, and Sex-Based Misconduct Except for Formal Title IX Sexual Harassment Complaints (“Grievance Process 1”), set forth in section X of this Policy; and
- B. Grievance Process Two for Formal Title IX Sexual Harassment Complaints (Grievance Process 2”), set forth in section XI of this Policy.

The following matters will be processed under Grievance Process 1:

- a. All reports of Sex-Based Misconduct which do not meet the requirements of a Formal Title IX Sexual Harassment Complaint which are determined by the Title IX Coordinator to fall within the Application and Scope of this Policy as set forth above (this includes, but is not necessarily limited to, reports regarding sex discrimination, failure to accommodate pregnant or parenting students, conduct which violates the Violence Against Women Act—i.e., sexual assault, domestic violence, dating violence and stalking - which occurs outside of the United States); and
- b. Formal Title IX Sexual Harassment Complaints which are dismissed under 34 Code of Federal Regulations Section 106.45; and
- c. All other reports of Prohibited Conduct which do not involve Sex-Based Misconduct.

For matters processed under Grievance Process 1, a “formal” or “written” complaint is not required but is encouraged. Responsible Employees are required to report any allegations regarding such matters as described in this Policy.



Grievance Process 2 is reserved only for Formal Title IX Sexual Harassment Complaints which are not otherwise dismissed under 34 Code of Federal Regulations Section 106.45.

During the course of processing a report of Sex-Based Misconduct, it is possible that the alleged conduct may become a Formal Title IX Sexual Harassment Complaint after initiation of Grievance Process 1. In that case, the Title IX Coordinator shall move the matter into Grievance Process 2.

It is also possible that a Formal Title IX Sexual Harassment Complaint may be dismissed during Grievance Process 2, including, but not limited to situations where it is determined that the alleged conduct no longer meets the definition of Title IX Sexual Harassment. In that case, the Title IX Coordinator shall move the matter into Grievance Process 1, as appropriate.

In all cases, the availability of Informal Resolution procedures is governed by section IX, below.

Additionally, the University may require the Parties, Advisory Support Persons, Advisors, witnesses, third-party professionals or others involved in the grievance process to execute non-disclosure agreements, FERPA waivers or similar documents under either Grievance Process 1, Grievance Process 2 or Informal Resolution procedures.

## **VIII. INITIAL REVIEW OF REPORTS OF SEX-BASED MISCONDUCT; DISMISSAL OF FORMAL TITLE IX SEXUAL HARASSMENT COMPLAINT AND APPEAL FROM DISMISSAL**

For reports regarding Sex-Based Misconduct, the Title IX Coordinator shall conduct an initial review of the report and determine the appropriate grievance process for the matter, as set forth in this section.

### **A. Requirements for Formal Title IX Sexual Harassment Complaint**

In order for a complaint to be subject to the Grievance Process for Complaints of Title IX Sexual Harassment, a Formal Title IX Sexual Harassment Complaint must be filed either by an alleged victim, the parent or guardian of a minor alleged to be a victim, or the Title IX Coordinator.

A Formal Title IX Sexual Harassment Complaint is considered “filed” when either of the following occurs:

1. An alleged victim files a report alleging another person has subjected them to Title IX Sexual Harassment and the report contains a physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Title IX Sexual Harassment Complaint. If the identity of the Respondent is not known to the Complainant, the Complainant does not need to include the Respondent’s identity in the Complaint, as this may be determined during the investigation process.
2. The Title IX Coordinator files and signs a Formal Title IX Sexual Harassment Complaint.

Additionally, at the time of filing a Formal Title IX Sexual Harassment Complaint, the following three requirements must be met:



1. The alleged victim must be participating in or attempting to participate in the education program or activity of the University;
2. The alleged misconduct must have occurred against a person in the United States either (a) on CHSU property; (b) in connection with CHSU activities, programs, or events where the University exercises substantial control over the respondent and the context in which the incident occurred; (c) buildings owned or controlled by officially recognized University student organizations, regardless whether the building is located on or off-campus and irrespective of whether the University exercised substantial control over the respondent and the context of the harassment; (d) cyber harassment conducted over computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operation of, the University; or (e) off-campus conduct that has effects in the education program; and
3. The conduct alleged in the Formal Title IX Sexual Harassment Complaint must, if proven by a preponderance of the evidence, constitute Title IX Sexual Harassment.

Participation or Attempted Participation in an Educational Program or Activity: An alleged victim must be participating in or attempting to participate in the education program or activity of the University. This includes, but is not limited to:

1. Applicants for or students enrolled in a University academic programs;
2. Applicants for employment or those employed by the University;
3. Alumni of the University if they graduated from a program of the University and intend to either (a) apply to a different program offered by the University or (b) to remain involved with University's alumni programs and activities; or
4. A student who is on a leave of absence if they are still enrolled as a student of the University or if they intend to re-apply to the University after the leave of absence is concluded; or
5. A student who has left the University because of Title IX Sexual Harassment, but who wants to re-enroll if the University responds appropriately to the Title IX Sexual Harassment;

Substantial Control: When determining whether the University exercises substantial control over the respondent and the context in which the incident occurred, factors to be considered include, but are not limited to, whether the University funded, promoted, or sponsored the event.

Off-Campus Conduct: Off-Campus Conduct effects an education program when the alleged victim has to interact with the respondent in a University's education program or activity, or when the effects of the underlying Title IX Sexual Harassment creates a hostile environment in the alleged victim's workplace or educational environment

#### B. Title IX Coordinator's Decision to File a Formal Title IX Sexual Harassment Complaint

The Title IX Coordinator should file a Formal Title IX Sexual Harassment Complaint if doing so is necessary to avoid being deliberately indifferent to known Title IX Sexual Harassment, with or without the participation of the alleged victim. In determining whether to file a Formal Title IX Sexual Harassment Complaint, the Title IX Coordinator may consider a variety of factors including, but not limited to, a pattern of alleged misconduct by a particular respondent, and/or



whether the allegations involve violence, weapons, whether filing a Formal Title IX Sexual Harassment Complaint is the best mechanism to protect the campus community, or similar factors.

To the extent possible, the Title IX Coordinator will respect the alleged victim's autonomy and wishes with respect to the filing of a Formal Title IX Sexual Harassment Complaint and grievance process. As such, the Title IX Coordinator's decision to file a Formal Title IX Sexual Harassment Complaint may occur only after the Title IX Coordinator has promptly contacted the alleged victim of Title IX Sexual Harassment to discuss availability of supportive measures, explain to the process for filing a Formal Title IX Sexual Harassment Complaint and consider the alleged victim's wishes with respect to supportive measures and the Formal Title IX Sexual Harassment Complaint process.

Where the Title IX Coordinator files a Formal Title IX Sexual Harassment Complaint, the Title IX Coordinator is not considered a Complainant or otherwise a Party to the grievance process.

### C. Dismissal of Formal Title IX Sexual Harassment Complaint; Appeal of Dismissal

The University is required to dismiss a Formal Title IX Sexual Harassment Complaint if: (1) the conduct alleged, if true, does not constitute Title IX Sexual Harassment; (2) the conduct alleged did not occur in the University's education program or activity; or (3) did not occur against a person in the United States.

The University may, but is not required to, dismiss a Formal Title IX Sexual Harassment Complaint at any time during the grievance process if:

1. An alleged victim notifies the Title IX Coordinator in writing that the alleged victim would like to withdraw the Formal Title IX Sexual Harassment Complaint or allegations therein;
2. The respondent is no longer enrolled or employed by the University; or
3. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Title IX Sexual Harassment Complaint or allegations therein.

Circumstances preventing University from gathering sufficient evidence to reach a determination includes, but are not limited to, the following: the report of Sex-Based Misconduct does not identify an alleged victim; the report of Sex-Based Misconduct includes precisely the same allegations that the University has already processed through this Policy; the length of time between an alleged incident of Sex-Based Misconduct and the filing of a Formal Title IX Sexual Harassment Complaint prevents the University from collecting enough evidence to reach a conclusion; or when the alleged victim has stopped participating in the investigation but has not sent a written withdrawal request and the only inculpatory evidence available is the alleged victim's statement in the Formal Title IX Sexual Harassment Complaint or as told to the Title IX Coordinator or a University investigator.

In all cases of dismissal of a Formal Title IX Sexual Harassment Complaint, regardless of whether the dismissal was mandatory or permissive, such dismissal does not preclude the University, in its



sole discretion, from processing a report of Sex-Based Misconduct under the University's Grievance Process 1, or another appropriate University policy or procedure.

If the University dismisses a Formal Title IX Sexual Harassment Complaint, the Title IX Coordinator will promptly send written notice of the dismissal and reasons for such dismissal simultaneously to the Parties ("Notice of Dismissal of Formal Title IX Sexual Harassment Complaint"). Such notice shall include an option to appeal the determination regarding dismissal.

Either party may appeal the dismissal of a Formal Title IX Sexual Harassment Complaint on any of the following bases: (1) a procedural irregularity that affected the outcome of the matter; (2) new evidence not reasonably available at the time the determination of dismissal was made that could affect the outcome of the matter; or (3) the Title IX Coordinator had a conflict of interest or bias against a party generally or individually that affected the outcome of the matter.

Any appeal of a dismissal of a Formal Title IX Sexual Harassment Complaint must be made in writing to the Title IX Coordinator within five (5) business days of the date of the Notice of Dismissal of Formal Title IX Sexual Harassment Complaint and must set forth all grounds for the bases of such appeal. If an appeal does not set forth sufficient grounds for appeal, the appeal will be dismissed. If an appeal does set forth sufficient grounds for appeal the appeal will be reviewed by an appeal adjudicator for final decision regarding dismissal on or around five (5) business days of the date of the appeal.

#### D. Option to Consolidate Formal Title IX Sexual Harassment Complaints

The Title IX Coordinator may consolidate multiple Formal Title IX Sexual Harassment Complaints against more than one Title IX Sexual Harassment Respondent, or by more than one Title IX Sexual Harassment Complainant against one or more Title IX Sexual Harassment Respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. The requirement for the same facts or circumstances means that the multiple Title IX Sexual Harassment Complainants' allegations are so intertwined that their allegations directly relate to all parties.

#### E. Offer of Title IX Supportive Measures

The Title IX Coordinator is responsible for offering and coordinating the effective implementation of Title IX Supportive Measures. In cases of alleged Title IX Sexual Harassment, regardless of whether or not a Formal Title IX Sexual Harassment Complaint has or will be filed, the Title IX Coordinator will promptly contact the alleged victim to discuss the availability of Title IX Supportive Measures and consider the person's wishes with respect to such measures. The Title IX Coordinator will engage in a meaningful dialogue with the alleged victim to determine which supportive measures may restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment, or deter sexual harassment. If a complainant desires supportive measures, the recipient can, and should, keep the complainant's identity confidential (including from the respondent), unless disclosing the complainant's identity is necessary to provide supportive measures for the complainant (e.g., where a no-contact order is



appropriate and the respondent would need to know the identity of the complainant in order to comply with the no-contact order, or campus security is informed about the no-contact order in order to help enforce its terms).

When supportive measures are not provided to the alleged victim, the Title IX Coordinator shall document the reason why such measures were not provided and not clearly unreasonable in light of the known circumstances.

The Title IX Coordinator may also provide Title IX Supportive Measures to the person accused of Title IX Sexual Harassment, as appropriate.

#### F. Emergency Removal of Student Title IX Respondent; Appeal of Emergency Removal

The Title IX Coordinator may remove a student Title IX Respondent from the education program or activity on an emergency basis only if:

1. Before such removal, the University will undertake an individualized safety and risk analysis, determine that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal; and
2. The Title IX Respondent is provided with notice and an opportunity to appeal the decision immediately following the removal (“Notice of Emergency Removal”).

To appeal a decision for emergency removal, a student Title IX Respondent must submit their appeal (“Emergency Removal Appeal”) to the Title IX Coordinator in writing within seventy-two (72) hours of receiving the Notice of Emergency Removal. The Emergency Removal Appeal must describe the reasons why emergency removal is not appropriate.

The Emergency Removal Appeal will be reviewed by the appeal adjudicator which will issue of a final decision on emergency removal, generally within forty-eight (48) hours of the Title IX Coordinator’s receipt of the Emergency Removal Appeal. A Title IX Respondent is subject to the requirements of the emergency removal while the appeal is pending.

Nothing in this section precludes the University from placing an employee Title IX Respondent on paid administrative leave.

## **IX. INFORMAL RESOLUTION OF COMPLAINTS INVOLVING STUDENT RESPONDENTS**

Prior to the initiation of the appropriate grievance process or at any time prior to conclusion of a grievance process, a report of Prohibited Conduct (including Sex-Based Misconduct and Formal Title IX Sexual Harassment Complaints) may be resolved by an informal resolution process under the following circumstances:

1. Title IX Coordinator chooses to offer an informal resolution process;
2. In matters of Title IX Sexual Harassment, a Formal Title IX Sexual Harassment Complaint has been filed, or a Formal Title IX Sexual Harassment Complaint has been filed and then dismissed;



3. The respondent is a student, who is not also an employee, and the student is willing to accept the Corrective Measures resulting from the informal process;
4. All parties have received a written notice disclosing the allegations, the requirements of the informal process, a statement that during the informal process either party has a right to withdraw and resume the applicable grievance process, and any consequences resulting from participating in the informal process including what records will be maintained or shared from the informal process (“Notice of Informal Resolution Procedures”);
5. The parties wish to resolve the matter without completion of an investigation or adjudication, or where the respondent desires to admit responsibility for the alleged Prohibited Conduct; and
6. The complainant and respondent both voluntarily provide written consent to participate in the informal process (“Participation Agreement”).

The Title IX Coordinator has authority to: (1) require the University to be included as a party to an informal process; and/or (2) terminate the informal process at any time prior to its completion and re-initiate the

applicable grievance process if facts or circumstances emerge that indicate the matter is not appropriate for an informal process. The Title IX Coordinator’s decision whether to offer an informal resolution process and whether to terminate such process prior to completion is final and not subject to appeal.

Informal resolution processes should generally be completed within thirty (30) business days from the initiation of the process. The documented agreement resulting from the informal resolution process is final and not subject to appeal. Following completion of an informal resolution process, the Title IX Coordinator (or designee) shall ensure the parties adhere to the outcome.

Information shared with a facilitator or mediator during the informal resolution process will not be used in a separate student conduct or grievance process if the informal process is not completed and the facilitator or mediator shall not become a witness to any subsequent grievance process. However, facts disclosed to a facilitator may otherwise be uncovered in the normal course of investigation if the applicable grievance process is re-initiated. Information shared between a complainant and respondent during an informal resolution process may be used in the applicable grievance process if the informal resolution process is not completed, in accordance with law and University policy.

Options which the Title IX Coordinator may offer for informal resolution of Prohibited Conduct include: (1) a facilitated restorative justice process (“RJ Process”); and (2) a facilitated mediation (“Mediation”), as described below.

#### A. Restorative Justice Process.

A facilitated restorative justice process is philosophy of justice as well as a set of practices and seeks to: (a) eliminate Prohibited Conduct; (b) prevent recurrence of Prohibited Conduct; and (c) address harm caused by Prohibited Conduct through active accountability in a manner that meets the needs of both complainant and the campus community. A RJ Process is facilitated by someone



trained in trauma-informed restorative justice practices who is impartial, and free from conflicts of interest or bias (“Facilitator”).

Disputes of fact are permitted in a RJ Process; however, in all cases the student respondent must be willing to admit and take responsibility for the Prohibited Conduct as generally described in the report of Prohibited Conduct.

At the end of a RJ Process, an agreement is required to document the outcome that must be in writing signed by the parties. The Facilitator shall deliver the agreement to the Title IX Coordinator.

Aside from the requirements described above, the restorative justice facilitator has discretion in how best to conduct the process, including, but not limited to, whether face-to-face interaction between the parties occurs.

#### B. Mediation.

Mediation is a process that seeks to help the parties resolve a dispute. Mediation is facilitated by an impartial facilitator who is free from conflicts of interest or bias (“Mediator”). The Mediator must be familiar with negotiation and dispute resolution protocols and may be, but is not required to be, an attorney. The Mediator does not have the authority to unilaterally impose Corrective Measures – the parties must agree to Corrective Measures to resolve the matter.

Disputes of fact are permitted in a mediation process; however, in all cases the student respondent must be willing to negotiate regarding the appropriate imposition of Corrective Measures to resolve the allegations generally set forth in the Formal Title IX Sexual Harassment Complaint.

At the end of a Mediation, the negotiated agreement must be in writing signed by the parties, and the Mediator shall forward a copy of the agreement to the Title IX Coordinator.

Aside from the requirements described above, the Mediator has discretion in how best to conduct the process, including, but not limited to, whether face-to-face interaction between the parties occurs.

## **X. GRIEVANCE PROCESS 1 FOR COMPLAINTS OF UNLAWFUL HARASSMENT, DISCRIMINATION, AND SEX-BASED MISCONDUCT EXCEPT FOR FORMAL TITLE IX SEXUAL HARASSMENT COMPLAINTS**

The procedures set forth in this section X apply to all reports of Prohibited Conduct, including reports of unlawful harassment, discrimination and Sex-Based Misconduct, except those which meet the parameters of a Formal Title IX Complaint of Sexual Harassment and the Formal Title IX Sexual Harassment Complaint has not otherwise been dismissed.

#### A. Initial Review of the Complaint; Supportive Measures.

The Title IX Coordinator shall conduct an initial review of the Complaint to determine whether an investigation is required and whether Supportive Measures are appropriate. An investigation is



required when there is a dispute of fact which impacts the determination of whether conduct violating this Policy has occurred or it is otherwise in the best interest of the campus community to do so. Supportive Measures may include (but are not limited to): separating the parties; requiring the parties to abstain from communication with each other; modification to work assignments; campus security escorts; making alternative working or academic arrangements; assistance with reporting allegations of criminal misconduct to police; options for seeking mental health counseling or other support during the processing of a Complaint. In instances of allegations of Sex-Based Misconduct where an investigation is not conducted, the Title IX Coordinator shall provide to the alleged victim information regarding Supportive Measures, on-campus and off-campus resources and supportive services, the importance of preserving evidence and identification/location of witnesses, and the availability of assistance to file a report with law enforcement and contact information to do so.

**B. Assignment of Neutral Investigator; Notice of Complaint Procedures.**

If an investigation is required, then the Title IX Coordinator shall either directly investigate the matter or may assign a qualified neutral investigator to investigate the alleged misconduct (“Investigator”). In some cases, an investigative team may be utilized. The Title IX Coordinator shall have broad discretion in selection of a neutral investigator, provided that the assigned Investigator has both the skills and resources necessary to conduct a complete investigation. The Investigator may be a University employee or a third-party investigator. All Investigators will carry out their roles in an impartial manner. Before the investigation begins, the Title IX Coordinator will provide the Complainant and the Respondent with a Notice of Complaint & Investigation Procedures (“Notice of Complaint Procedures”) that, generally, includes the following information:

1. The general nature of the alleged violations;
2. A summary of the grievance process, including a copy of the relevant portions of this Policy (including in matters of Sex-Based Misconduct information regarding the importance of preserving evidence and the identification and location of witnesses, and that such evidence may assist in proving a criminal offense or in obtaining a protection order);
3. The purpose of the investigation, including a statement that the investigation is when all known and/or available evidence or information must be introduced;
4. A statement that knowingly making false statements or knowingly submitting false information to the University as part of the grievance process is a violation of this Policy and the codes of conduct applicable to employees and the student code of conduct, and may subject the person doing so to corrective measures, up to and including expulsion from the University’s academic program and/or termination from employment;
5. The identity and contact information of the Investigator;
6. A statement that the findings of fact will be based on a Preponderance of Evidence standard;
7. A statement warning against interference with the integrity of the investigation, including, but not limited to, discussions with witnesses which may be perceived as threatening or coercive;



8. Any Supportive Measures that have been imposed (including, in matters of Sex-Based Misconduct, information regarding the availability of both on-campus and off-campus resources and other supportive services);
9. The option for a Support Person; and
10. An admonition against Retaliation.

C. Investigation Timeline and Process; Standard of Proof.

Generally, the investigation shall be complete within ninety (90) business days from the issuance of the Notice of Complaint. This deadline and all deadlines contained in this Policy may be extended by the University for good cause. The Complainant and Respondent will be notified in writing of any such extensions, the reasons for the extension and the projected new timeline. During the investigation, the Investigator will meet separately with the Complainant, Respondent, and witnesses who may have relevant information, will gather other available and relevant evidence and information. The Investigator will make findings of fact based on a preponderance of the evidence. The interviews may be electronically recorded at the discretion of the Investigator and will be maintained by the Title IX Coordinator. It will be the sole electronic recording permitted; the parties and witnesses are not permitted to make their own recording of their interview. No recording devices, including cell phones, will be permitted in the room where the interview is taking place other than the Investigator's recording device. To the extent a student who is a Respondent declines to participate in the investigation, non-participation may not be used as a basis for appeal and the Investigator will make findings of fact without the input of the Respondent. Employees of the University are required to participate in the investigation process. The Investigator may bring support staff to investigative interviews or other proceedings to assist in the process. Parties and witnesses may bring an Advisory Support Person, as described below. No other persons are permitted at an investigatory interview or other proceeding unless granted permission by the Title IX Coordinator.

D. Consent Required for Privileged Information.

The Investigator cannot access, consider, disclose, or otherwise use a Party's records which are protected by a legally recognized privilege, including, but not limited to, the following: the attorney-client privilege, questions and evidence made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the Investigator obtains that party's voluntary, written consent to do so.

E. Sexual History.

The Investigator may not consider a Complainant's prior sexual history with the following two exceptions: if such information is 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.



#### F. Investigation Documentation.

The Investigator shall prepare a written summary to the Title IX Coordinator that includes a statement of the allegations and issues, the perspectives of the parties (e.g., admissions or denials), a summary of the evidence, findings of fact and information supporting such findings, credibility determinations for all witnesses, including the Complainant and Respondent, without basing such determination on the person's status as a Complainant, Respondent or witness. At the request of the Title IX Coordinator, the Investigator may also make a recommendation regarding whether any University policy violations occurred.

#### G. Investigation File.

The investigation file, including the final report, interview recordings and any documentary evidence relied upon by the Investigator, shall be maintained by the Title IX Coordinator and shall not be made available to the Complainant, Respondent or any witness unless otherwise required by law, (including, but not limited to, requirements under the Violence Against Women Act). The Title IX Coordinator may share the investigation file with others as needed to carry out their obligations under this policy.

#### H. Corrective Measures.

If no investigation is required, or following the completion of an investigation, the Title IX Coordinator shall:

(a) forward the investigation file and/or other appropriate documentation for all matters involving employees (including student-employees) to the Office of Human Resources; and (b) forward the investigation file and/or other appropriate documentation for all matters involving students to the appropriate college-level student affairs administrator for the purpose of determining whether a policy violation has occurred and Corrective Measures should be implemented. The Office of Human Resources of the appropriate Student Affairs office may issue Corrective Measures or may refer the matter for further adjudication or resolution under other applicable University policies, and shall provide the Parties notice of the decision in writing ("Notice of Decision"), as appropriate. The Notice of Decision shall set forth the findings of fact and all Corrective Measures imposed. In cases of Sex-Based Misconduct involving a student Respondent, the Notice of Decision shall also set forth credibility assessments if such assessments determined the outcome of the matter. Corrective Measures may include, but are not limited to: training and education, counseling, suspension, participation in a voluntary restorative process, separation from employment, or expulsion from the University's academic programs, or as otherwise defined in this Policy. Except as otherwise provided below, the Notice of Decision shall be final.

#### I. Right to Request a Student Hearing in Cases of Sex-Based Misconduct where the Corrective Measures Include Student Suspension or Expulsion from An Academic or Extracurricular Program.

Following receipt of a Notice of Decision, a student Respondent may request a hearing in writing submitted to the Title IX Coordinator within five (5) business days only in situations where the



Corrective Measures to be imposed include suspension or expulsion from the University's academic program or University-controlled extracurricular programs. The Title IX Coordinator shall establish procedures for the conducting of such hearings which shall, at a minimum, include the following: (a) an external hearing officer may be, but is not required to be, utilized as part of the Student hearing process; (b) at hearing the Respondent may indirectly question the Complainant and/or witnesses before a neutral decision-maker with the power to independently find facts and make credibility assessments; (c) the hearing shall be informal, and rules of evidence shall not apply; (d) questions for each person must be submitted to the Title IX Coordinator by the Respondent at least three (3) days in advance of the hearing; and (e) only questions that are relevant will be permitted at the hearing; (f) only the Parties, witnesses, Advisory Support Persons, the Title IX Coordinator, University support staff, and support staff of external professionals involved in the proceeding may attend the hearing. Following the hearing, the Title IX Coordinator will communicate the outcome to the Respondent with a Notice of Student Hearing Decision, which shall include the decision as to findings of fact and credibility. If the Respondent wishes, they may appeal the outcome of the student hearing.

#### J. Appeal Rights.

Either the Complainant or the Respondent may appeal the Notice of Decision or Notice of Student Hearing Decision in writing submitted to the Title IX Coordinator within five (5) business days from the date of the notice based on one or both of the following criteria: (1) new evidence has come to light that was not available at the time of the investigation; or (2) procedural errors or unfairness, including, but not limited to, bias of an investigator, Title IX Coordinator, hearing officer or decision-maker. Only appeals which raise new evidence or procedural issues that may alter the findings of fact or decision regarding Corrective Measures will be considered. Upon receipt of an appeal, the Title IX Coordinator will review the appeal to determine if it meets the required criteria and, if so, forward the appeal to an appeal adjudicator. The appeal adjudicator may affirm the finding, affirm but modify the Corrective Measures, or remand the matter back for further investigation and/or other proceedings. All appeals adjudicator decisions are final.

#### K. Notices.

All notices and communications to CHSU faculty, staff, administration, and students will be delivered via the University's email system. All such parties have a responsibility to promptly read all University emails. For individuals outside of the CHSU community (including former employees and former/withdrawn students), notices and communications will be sent to the most recent email and physical home address on file with the Title IX Coordinator.

#### L. Advisory Support Person.

The Complainant and/or Respondent may choose anyone (including legal counsel, a colleague, friend, family member or other representative) to voluntarily serve as an advisory support person ("Support Person"). The Complainant and Respondent may be accompanied by their advisory support person to any meeting or proceeding under this Policy; however, the advisory support person may not speak on their behalf, advise them on how to answer a question of the Investigator,



or otherwise engage with the Investigator or others participating in any part of the process under this Policy. The Complainant and Respondent must notify the Title IX Coordinator at least three business days in advance if they wish to bring an advisory support person and must disclose their name and contact information to the Title IX Coordinator. In all cases except those involving allegations of dating violence, domestic violence, sexual assault or stalking, the Title IX Coordinator may require the Complainant and/or Respondent to select a different advisory support person if the person selected is a witness to the matters contained in the Complaint.

## **XI. GRIEVANCE PROCESS 2 FOR FORMAL TITLE IX SEXUAL HARASSMENT COMPLAINTS**

The grievance process set forth in this Section XI applies only to Formal Title IX Sexual Harassment Complaints which are not otherwise dismissed pursuant to 34 Code of Federal Regulations Section 106.45.

### **A. Formal Title IX Sexual Harassment Complaint Investigation Procedures**

Formal Title IX Sexual Harassment Complaints shall be investigated as follows:

1. Initial Review of the Complaint. The Title IX Coordinator shall conduct an initial review of the Complaint to determine whether an investigation is required. An investigation is required when there is a dispute of fact which impacts the determination of whether Title IX Sexual Harassment has occurred, or it is otherwise in the best interest of the campus community to do so. During the entirety of this grievance process, there will be a presumption that a Title IX Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
2. Assignment of Neutral Investigator. If an investigation is required, then the Title IX Coordinator shall assign a qualified neutral investigator to investigate the alleged misconduct (“Investigator”). In some cases, an investigative team may be utilized. The Investigator shall have no conflict of interest and be free of bias for or against a Title IX Complainant or Title IX Respondent generally or individually with respect to the people involved. Such determinations regarding bias shall be made by an objective evaluation of the circumstances without relying on stereotypes (e.g., assuming that all self-described feminists or survivors are biased against men, or that a man is incapable of being sensitive to women, or that prior work as a victim advocate or as a defense attorney renders the person biased for or against complainants or respondents). The Title IX Coordinator shall have broad discretion in selection of an Investigator, provided that the person assigned has both the skills, training and resources necessary to conduct a complete investigation. The Investigator may be a University employee or a third-party investigator.
3. Notice of Formal Title IX Sexual Harassment Complaint Procedures. Before the investigation begins, the Title IX Coordinator will simultaneously provide the Title IX Complainant and Title IX Respondent with a Notice of Formal Title IX Complaint & Investigation Procedures (“Notice of Formal Title IX Sexual Harassment Complaint”). If a party has already elected an Advisor and submitted the required documentation for their



Advisor, the Notice of Formal Title IX Sexual Harassment Complaint shall also be delivered to the Advisor. Additionally, in the case of unemancipated minors, the Title IX Coordinator shall send a copy of such notice to the unemancipated minor's parent or guardian and is permitted to communicate with the parent or guardian regarding the grievance process. If the alleged victim's identity is unknown and the Formal Title IX Sexual Harassment Complaint is filed by the Title IX Coordinator, the Notice of Formal Title IX Sexual Harassment Complaint is not required to be provided to the alleged victim or a third party who may have filed the initial report of Title IX Sexual Harassment. The Notice of Formal Title IX Sexual Harassment Complaint shall include the following information, as applicable:

- a. The alleged conduct that, if true, constitutes Title IX Sexual Harassment, including, if known, the identities of the Parties involved in, and the date, time, and location of, the alleged incident;
  - b. 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 grievance process;
  - c. A summary of the grievance process, including information regarding informal resolution procedures, each party's entitlement to inspect and review evidence, rights regarding an Advisor and a copy of this Policy;
  - d. Information regarding the importance of preserving evidence and the identification and location of witnesses, and that such evidence may assist in proving a criminal offense or in obtaining a protection order in a court of law;
  - e. The purpose of the investigation and a statement that the investigation is when all known and/or available evidence or information must be introduced;
  - f. A statement that knowingly making false statements or knowingly submitting false information to the University as part of the grievance process is a violation of this Policy and the codes of conduct applicable to employees and the student code of conduct, and may subject the person doing so to corrective measures, up to and including expulsion from the University's academic program and/or termination from employment;
  - g. The identity and contact information for the Investigator;
  - h. A statement that the standard of evidence is a Preponderance of Evidence;
  - i. A statement warning against interference with the integrity of the investigation, including, but not limited to, discussions with witnesses which may be perceived as threatening or coercive;
  - j. Any Title IX Supportive Measures that have been imposed (including information regarding the availability of both on-campus and off-campus resources and other supportive services); and
  - k. An admonition against Retaliation.
4. Amended Notice of Formal Title IX Sexual Harassment Complaint. If during the course of the investigation, the Investigator will be investigating new allegations about the Parties that are not originally included in the Notice of Formal Title IX Sexual Harassment Complaint, then a subsequent notice containing these new allegations ("Amended Notice



of Formal Title IX Sexual Harassment Complaint”) will be issued to both Parties. Additionally, if the new allegations do not constitute Title IX Sexual Harassment then the University may elect to process those allegations under other applicable grievance or dispute resolution processes, including, but not limited to, Grievance Process 1 or those contained in student or employee handbooks.

5. Investigation Process.

- a. Timeline. Generally, the investigation shall be complete within ninety (90) business days from the issuance of the Notice of Formal Title IX Sexual Harassment Complaint to the Parties. This deadline and all deadlines contained in this Policy may be extended by the University for good cause. The Complainant and Respondent will be notified in writing of any such extensions, the reasons for the extension and the projected new timeline.
- b. Standard of Proof. The applicable standard of proof shall be a Preponderance of the Evidence.
- c. Interviews, Participation of the Parties & Gathering of Evidence. The Investigator is the person primarily responsible for gathering evidence sufficient to reach a determination regarding responsibility (e.g., such burden shall not rest on the Parties). During the investigation, the investigator will meet separately with the parties and witnesses who may have relevant information and will also gather other available and relevant evidence and information. The Investigator will provide an equal opportunity for the Parties to present witnesses, including fact and expert witnesses, and will objectively review other inculpatory and exculpatory evidence. The Investigator will also consider relevant circumstances such as the ages of the Complainant and Respondent, disability status, position of authority of involved parties and other factors. The Parties are permitted to discuss the allegations under investigation with others or to gather and present relevant evidence; however, the Parties are precluded from intimidating or otherwise tampering with Parties or witnesses or otherwise interfering with the investigation, such as by attempting to alter or prevent a Party or witnesses’ testimony involved in the investigation. To the extent a student who is a Respondent declines to participate in the investigation, non-participation may not be used as a basis for appeal of the process and the Investigator will complete the investigation without the input of the Respondent. The interviews may be electronically recorded at the discretion of the Investigator and will be maintained by the Title IX Coordinator. It will be the sole electronic recording permitted; the Parties are not permitted to make their own recording of their interview. No recording devices, including cell phones, will be permitted in the room where the interview is taking place other than the Investigator’s recording device. The University reserves all rights with regard to requiring employee participation in the investigation process provided by law and University policy. The Investigator may bring support staff to investigative interviews or other proceedings to assist in the process. Parties and witnesses may bring an Advisor, as described below. No other persons are permitted at an investigatory interview or other proceeding unless granted permission by the Title IX Coordinator.



- d. Consent Required for Privileged Information. The Investigator cannot access, consider, disclose, or otherwise use a Party's records which are protected by a legally recognized privilege, including, but not limited to, the following: the attorney-client privilege, questions and evidence made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the Investigator obtains that party's voluntary, written consent to do so.
  - e. Sexual History. The Investigator may not consider a Title IX Complainant's prior sexual history with the following two exceptions: if such information is offered to prove that someone other than the respondent committed the conduct alleged by the Title IX Complainant, or if the questions and evidence concern specific incidents of the Title IX Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
6. Opportunity to Review Documentation and Information During Investigation Process. During the investigation process, the Investigator shall provide both 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 a Formal Title IX Sexual Harassment Complaint. This includes evidence upon which the University does not intend to rely on in reaching a determination regarding responsibility, and includes inculpatory or exculpatory evidence whether obtained from a Party or other source, such that each Party should be able to meaningfully respond to the evidence prior to conclusion of the investigation. All Parties should submit any evidence that they would like the Investigator to consider prior to when the Parties' time to inspect and review evidence begins.
- a. Redactions. The Investigator may redact information provided to either Party that is not directly related to the allegations or that is otherwise barred by a legally recognized privilege, or a Party's treatment records if the Party has not provided written consent. The Title IX Coordinator shall keep a log of all information not directly related or that is otherwise withheld from the Parties.
  - b. Procedures for Review of Documentation. The University will send to each Party and the Party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy. The Parties will have ten (10) calendar days after receiving this information to submit a written response which the Investigator will consider prior to completion of the investigative report. During this ten (10) calendar day period, both Parties may provide additional evidence in response to their inspection and review of the evidence that had been provided to them. The additional evidence provided by both parties will be shared with the other party and each party shall have an additional opportunity to respond to the other party's additional evidence during a five (5) calendar day period following the end of the ten (10) calendar day period. Following this process, the Investigator may also follow up with the Parties regarding any outstanding evidence either Party has not



had a chance to speak to. No further review, exchange or submissions will be permitted at this stage.

7. Investigation Report; Parties' Review of Report. The Investigator shall prepare a written investigation report that fairly summarizes relevant evidence and includes copies of relevant documents as enclosures to the report ("Investigation Report"). The Investigation Report will include a statement summarizing the alleged misconduct, the perspectives of the parties (e.g., admissions or denials), a summary of the evidence including a list of witnesses interviewed and documents reviewed, preliminary credibility assessments for all witnesses if made, including the Complainant and Respondent (without basing such determination on the person's status as a Complainant, Respondent or witness). In a case where there are multiple Title IX Sexual Harassment Complainants and/or multiple Title IX Sexual Harassment Respondents, a single investigative report is permitted. At least ten (10) calendar days prior to the live hearing, the Investigator will send to each Party and each Party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response. At the same time as the Investigator sends the Investigation Report to the Parties, the Investigator shall also send a copy of the Investigation Report to the Title IX Coordinator. During this ten (10) calendar day period the Parties may provide a written response to the Investigation Report to the Investigator.
8. Title IX Sexual Harassment Case File. The Title IX Sexual Harassment Case File shall include: (a) the initial report of Sex-Based Misconduct; (b) the Formal Complaint; (c) all notices delivered to the parties; (d) copies of all documents and information provided to the parties for review and inspection (either included as part of the Investigation Report or as separate documents); (e) the Parties written responses to the Investigator regarding their inspection and review documents and information during the investigation; (f) the Investigation Report including all exhibits; and (g) the Parties written responses to the Investigation Report, if available.
9. Notices. All notices and communications to CHSU faculty, staff, administration, and students will be delivered via the University's email system. All such parties have a responsibility to promptly read all University emails. For individuals outside of the CHSU community (including former employees and former/withdrawn students), notices and communications will be sent to the most recent email and physical home address on file with the Title IX Coordinator.
10. Advisor. The Title IX Complainant and/or Title IX Respondent may choose anyone (including legal counsel, a colleague, friend, family member or other representative) to voluntarily serve as an advisory support person ("Advisor") but in all cases the parties must participate directly in all meetings or process prior to the live hearing. The Complainant and Respondent may be accompanied by their Advisor to any meeting or investigation process; however, the Advisor may not speak on their behalf, advise them on how to answer a question of the Investigator, or engage with the Investigator or others participating in any part of the investigation, (excluding the live hearing) or otherwise interfere with the investigation in any way—other than to take reasonable breaks during the meeting or proceeding to confer with the respective Party. The Complainant and Respondent must notify the Investigator at least three business days in advance if they wish to bring an



Advisor and must disclose their name and contact information to the Investigator. The University may require the Parties and Party advisors to enter into non-disclosure agreements.

## B. Live Hearing Procedures

Formal Title IX Sexual Harassment Complaints shall be adjudicated at a live hearing (“Hearing”) as set forth below. References to the “Parties” include the Title IX Complainant(s), Title IX Respondent(s).

1. Hearing Officer Appointment and Purpose. The Title IX Coordinator shall appoint a Hearing Officer to conduct a live hearing as required under Title IX procedures. The Hearing Officer shall be the decision maker and shall: (a) evaluate all relevant evidence, both inculpatory and exculpatory, and independently reach determinations regarding findings of fact and whether the Title IX Respondent is responsible for Title IX Sexual Harassment; and (b) determine the appropriate Preventative and Corrective Measures, consistent with the University’s past practice and this Policy.
2. Hearing Officer Qualifications. The Hearing Officer may be a University employee or external third-party, such as an attorney, so long as the person:
  - a. Is not the Title IX Coordinator or Investigator;
  - b. Is free from conflict of interest or bias, including bias for or against complainants or respondents generally or with respect to the individual parties;
  - c. Has reviewed this Policy and understands the regulations applicable to the live hearing process pursuant to 34 Code of Federal Regulations Section 106.45; and
  - d. Is qualified by experience, education and/or training to effectively implement the requirements: (i) to serve impartially; (ii) understand issues of relevance of evidence (including how to apply the sexual history evidentiary rules); (iii) the preponderance of the evidence standard; and (iv) any technology to be used at the hearing.
3. Delivery of Notice, Documents, and Information. All notices to CHSU faculty, staff, administration, and students will be delivered via the University’s email system. All such parties have a responsibility to promptly read all University emails. For individuals outside of the CHSU community, notices and communications will be sent to the most recent email address on file with the Title IX Coordinator or, if no email address is on file then to their last known physical address. Copies of all documents provided to the Parties will also be provided to each Party’s advisor if known at the time the documents are delivered to the Parties. If a Party is an unemancipated minor, copies of all documents will be provided to the Party and a parent or guardian of the minor upon request of either the parent/guardian or Party. The Title IX Sexual Harassment Case File and other relevant documents and information will be provided electronically unless otherwise requested by a hearing participant.
4. Virtual Hearing; Participants. Generally, all hearings will be virtual. A virtual hearing means that the Parties are located in separate locations such that the parties never come



face-to-face with each other, the Hearing Officer, or witnesses. This may be done through the use of technology whereby all participants are still able to simultaneously see and hear the proceedings. At a virtual hearing, the Parties have the right to be present to observe and hear (or, if deaf or hard of hearing or blind or visually impaired, to access through auxiliary aids) testimony of all individuals who testify and to propose questions to be asked of all individuals who testify at the hearing through their Advisor. The University may, in its discretion, designate that the hearing will be in-person and, if so, either Party may request a virtual hearing instead. Such request must be made in writing submitted to the Title IX Coordinator at least five (5) calendar days prior to the Hearing. Only the Parties, witnesses, Advisors, the Title IX Coordinator, University support staff, and support staff of external professionals involved in the proceeding may attend the Hearing.

5. Pre-Hearing Procedures.

- a. Notice of Hearing. The Title IX Coordinator will send a written Notice of Title IX Sexual Harassment Hearing to the Title IX Complainant and the Title IX Respondent at least fifteen (15) calendar days before the hearing. The Notice of Title IX Sexual Harassment Hearing shall include the following information: (a) the date, time, location; (b) purpose of the hearing; (c) the name of the Hearing Officer; (d) other applicable pre-hearing, hearing and post-hearing procedures; (e) an electronic or hard-copy of the Title IX Sexual Harassment Case File; and (f) notification of whether the University had elected to hold the hearing in-person and, if so, information regarding how to request a virtual hearing. The Hearing Officer shall also receive a copy of the Notice of Title IX Sexual Harassment Hearing.
- b. Summary of Information. At least ten (10) calendar days before the hearing, the Title IX Complainant and the Title IX Respondent will submit to the Title IX Coordinator a written summary of the information they intend to present at the hearing, including a list of documents to be presented, the names of all requested witnesses, a brief summary of such witnesses' expected testimony ("Summary of Information"). The Parties must provide the Title IX Coordinator with electronic or hard-copies of any documents not already in the Title IX Sexual Harassment Case File.
- c. Notice to Witnesses. The Title IX Coordinator shall contact each requested witness and to notify them of the date, time, location of the Hearing and procedures relevant to their appearance ("Notice to Witness of Hearing Appearance").
- d. Deadline for Response to Investigation Report. The last day for the Parties to submit their response to the Investigation Report is five (5) calendar days before the hearing.
- e. Cross-Examination or Other Questions. The University encourages that the Parties submit their questions in advance of the hearing to the Title IX Coordinator to allow for a more efficient hearing process, although this does not preclude either Party from asking questions at the Hearing which were not previously submitted. If a Party chooses to submit questions in advance, they are encouraged to do so at least three (3) calendar days prior to the Hearing.



- f. Pre-Hearing Packet. At least three (3) calendar days prior to the Hearing, the Title IX Coordinator will provide to each Party and the Hearing Officer, either a hard-copy or an electronic copy of the Pre-Hearing Packet, which shall include: (i) the Summary of Information provided by the Parties; (ii) any new documents not already provided; and (iii) a list of witnesses who are expected to appear at the Hearing.
        - g. Request for Disability Accommodations. If a Party, witness, Hearing Officer or Decision- Maker Panel member requires reasonable accommodation for a disability, they shall submit such request in writing to the Title IX Coordinator along with supporting information from a healthcare provider as soon as possible and at least three (3) calendar days prior to the hearing.
6. Hearing Procedures.
  - a. Hearing Officer Guidelines; Standard of Evidence. Prior to and during the live hearing the Hearing Officer shall approach each case without any preconceived ideas of the responsibility of the Parties involved and thoroughly review the Title IX Sexual Harassment Case File, Summaries of Information and any other relevant documents and information submitted by the Parties prior to hearing. To arrive at findings of fact and determination of responsibility the Hearing Officer must objectively evaluate relevant evidence (both inculpatory and exculpatory) and analyze whether that evidence warrants a high or low level of weight or credibility, including the credibility of each Party and witness. The Hearing Officer has discretion to accept or exclude additional information presented at the live hearing, however, the Hearing Officer may not exclude any evidence relevant to the allegations of Title IX Sexual Harassment. The standard of evidence at the Hearing shall be a Preponderance of the Evidence. The Hearing Officer may determine that an extension or continuance of the hearing is necessary and, if so, shall coordinate with the Title IX Coordinator to issue simultaneous notices to all Parties and witnesses.
  - b. Recording. The University will create an audio or audiovisual recording, or transcript, of any live hearing and will make it available to the parties for inspection and review, within a reasonable time period following the hearing. The type of recording shall be at the Title IX Coordinator's discretion. The University's recording shall be the only recording permitted at Hearing, and the Parties will receive a copy of it with the Hearing Officer's Decision.
  - c. Hearing Advisor. Each Party is given the opportunity to choose their own advisor, who may but is not required to be an attorney, to attend the Hearing ("Hearing Advisor") to ask relevant questions of the other Party at the Hearing. If a Party does not select their own Hearing Advisor, the University will assign such Party their own Hearing Advisor selected by the University at no cost to the Party. The Hearing Advisor may be, but is not required to be, the Advisor who supported the Party during the investigation phase. The Parties are prohibited from being accompanied at the Hearing by anyone other than their Hearing Advisor except as follows: (i) a parent or guardian of a Party who is an unemancipated minor may attend; and (ii)



additional parties required as part of a reasonable accommodation for a disability (e.g., a sign language interpreter) may attend.

- d. Availability of Evidence; Presentation of Evidence. The University will make all such evidence that has been shared with the Parties subject to the other Party's inspection and review available at the live hearing to give each Party equal opportunity to refer to such evidence during the hearing, including, but not limited to for purposes of cross-examination. The Title IX Coordinator (or designee), Investigator (or designee) or other University representative may, but is not required to, present evidence to the Hearing Officer at the Hearing. If the University presents evidence to the Hearing Officer, that shall not make the University a party to the proceeding. A designee or other University representative may be another University employee or an external third-party, such as an attorney or other qualified representative. The Complainant and Respondent will each have the opportunity to present the information they submitted (unless excluded by the Hearing Officer).
- e. Rules of Procedure and Decorum. The Hearing Officer shall decide on any procedural issues as they may come up during the Hearing. The Hearing Officer will also make any determinations necessary to ensure an orderly, productive, and procedurally proper hearing. The Hearing Officer may pause or continue the proceeding as needed in order to make appropriate decisions on procedural issues, including issues of relevance of evidence. Complaint(s), respondent(s), witnesses, and Hearing Advisors are prohibited from interrupting or disturbing the hearing process. Additionally, Hearing Advisors are prohibited from questioning witnesses or the other Party in an abusive, intimidating, harassing, unduly time consuming, repetitive, or disrespectful manner. If a Party's Hearing Advisor refuses to comply with the rules of decorum they may be removed from the Hearing and, if so, the University shall provide that Party a different Hearing Advisor to conduct the cross examination on behalf of that Party.
- f. Questions During Hearing.
  1. Questions by Parties' Hearing Advisors. All questioning on behalf of a Party shall be done by the Parties' Hearing Advisors. The Hearing Advisor may only ask relevant cross-examination and other questions of a party or witness. After each question is asked by the Hearing Advisor, and before the Party or witness answers the question, the Hearing Officer will determine whether the question is relevant and, if it is not relevant, explain the decision to exclude the question. If a Party or witness is present at the Hearing, but disagrees with a relevance determination, they may either: (1) abide by the hearing-officer determination and answering the question; or (2) refuse to answer the question. A Party or witness may not answer a question that the Hearing Officer has determined to be irrelevant. Unless the Hearing Officer reconsiders the relevance determination, the Hearing Officer cannot rely on any statement made by a Party or witness which that



Party or witness has declined to answer regarding cross-examination questions.

2. Questions by the Hearing Officer. Additionally, the Hearing Officer has the right and responsibility to ask questions and elicit information from Parties and witnesses on the Hearing officer's own initiative to aid the Hearing Officer in obtaining relevant evidence, both inculpatory and exculpatory.
3. Failure to Appear for Cross-Examination. If a Party or witness does not submit to cross-examination at the live hearing, the Hearing Officer may still rely on any relevant statement of that Party or witness previously made in reaching a determination regarding responsibility, including, for example, those statements made by the parties and witnesses during the investigation, emails or text exchanges between the parties, statements about the alleged misconduct, statements in police reports, sexual assault examination reports, medical reports, and other documents even if those documents contain statements of a party or witness who is not cross-examined. However, that the Hearing Officer 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 answer cross-examination or other questions. Statements that a Party or witness made to a third party when that witness or Party are unavailable themselves to be cross-examined at the live hearing (e.g., statements that a party made to a family member or friend), including statements made against a Party's own interests, may still be relied on when the Party having made those statements fails to submit to cross-examination.<sup>1</sup>
4. Irrelevant Questions. Questions regarding the below information are deemed not relevant and will be excluded at the Hearing unless the question(s) falls into an exception described below.
  - a. Consent Required for Privileged Information. The Hearing Officer cannot access, consider, disclose, or otherwise use a Party's records which are protected by a legally recognized privilege, including, but not limited to, the following: the attorney-client privilege, questions and evidence made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the Party has provided voluntary, written consent to do so.

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<sup>1</sup> This Section XI(B)(6)(f)(3) was revised by CHSU on September 3, 2021 in order to comply with Victim Rights Law Center et al. v. Cardona, United States District Court, District of Massachusetts orders filed July 28, 2021 and August 10, 2021, and the United States Department of Education Letter to Students, Educators and other Stakeholders dated August 24, 2021 regarding Victim Rights Law Center et al. v. Cardona. This revision shall be effective for all Grievance Process 2 hearings held on or after September 3, 2021 regardless of whether the facts giving rise to the alleged misconduct occurred before that date.



- b. Sexual History. The Hearing Officer may not consider a Title IX Complainant's prior sexual history with the following two exceptions: if such information is offered to prove that someone other than the respondent committed the conduct alleged by the Title IX 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. Duplicative or Repetitive Questions. Once a question has been asked, duplicative or repetitive questions are irrelevant.
  - d. Questions of Witnesses Without Relevant Information. Questions of witnesses who do not have any relevant information regarding the allegations of Title IX Sexual Harassment.
5. Hearing Officer Decision. The Hearing Officer shall issue a written decision ("Hearing Officer Decision") to the Title IX Coordinator within five (5) business days following the end of the Hearing. Additionally, where not enough information exists for the Hearing Officer to issue a decision, the Hearing Officer may remand the case for further investigation or consideration by the Investigator. The Title IX Coordinator shall simultaneously deliver the Hearing Officer Decision to the Parties within two (2) business days following receipt of it from the Hearing Officer. The Title IX Coordinator is responsible for the effective implementation of Preventative and Corrective Measures determined by the Hearing Officer. The Hearing Officer Decision becomes final when: (a) the appeal deadline has passed; or (b) the appeal process has concluded and the Parties receive notification of the appeal decision. Specifically, the Hearing Officer Decision shall include the following information:
- a. Identification of the allegations of Title IX Sexual Harassment;
  - b. A description of the procedural steps taken from the receipt of the Formal Title IX Sexual Harassment Complaint through the determination, including, but not limited to any notices to the Parties, interviews with Parties and witnesses, site visits, methods used to gather other evidence, and Hearing;
  - c. Findings of fact supporting the determination of whether the Title IX Respondent is responsible for Title IX Sexual Harassment;
  - d. Conclusions regarding the application of this Policy;
  - e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any Preventative and Corrective Measures to be imposed on the Title IX Respondent and/or provided to the Title IX Complainant in order to restore or preserve equal access to the University's education program or activity;
  - f. A summary of matters not addressed under the grievance process that may be separately addressed pursuant to another University



policy including, but not necessarily limited to, codes of conduct applicable to employees and the student code of conduct;

- g. A statement that the Title IX Coordinator is responsible for effective implementation of the Preventative and Corrective Measures;
- h. The University's procedures and grounds for appeal, and the name and contact information for the appeal adjudicator; and
- i. A copy of the recording of the Hearing.

6. Preventative and Corrective Measures – Guidelines for the Hearing Officer.

Preventative and Corrective Measures should serve the purpose of stopping Title IX Sexual Harassment, and preventing its recurrence, and restoring or preserving equal access to the University's education program or activity. Such measures need not avoid burdening a Title IX Respondent who has been found responsible for Title IX Sexual Harassment. Importantly, Preventative and Corrective Measures should appropriately reflect the University's commitment to education, personal growth, accountability, and ethical behavior. The Hearing Officer shall ensure they are consistent and proportionate responses to conduct that violates this Policy, taking into consideration the context and seriousness of the violation, and based on a fact-specific, case-by- case inquiry.

C. Appeal of Hearing Officers Decision Regarding Title IX Sexual Harassment

An appeal by either Party may be made in writing to the appeal adjudicator within five (5) calendar days after such Party has received the Hearing Officer Decision. An appeal must state the ground on which the appeal is made. Grounds for appeal are limited to:

- 1. Procedural irregularity that affected the outcome of the matter; or
- 2. New evidence that was not reasonably available at the time the determination regarding responsibility was made, that could affect the outcome of the matter; or
- 3. The Title IX Coordinator, investigator, hearing officer, or Decision-Maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complaint or respondent that affected the outcome of the matter.

Upon receipt of an appeal, the appeal adjudicator shall forward the appeal to the other Party. The non- appealing Party will have five (5) calendar days to submit a written statement in support of or against the appeal to the Appeal Adjudicator.

Supportive measures will continue to remain in place during the appeal process. However, no Corrective or Preventative Measures will be implemented prior to the appeal process ending.

The appeal adjudicator will issue a written decision regarding the appeal and the rationale for appeal decision within ten (10) business days from the end of the five (5) calendar day period for the non-appealing Party's statement deadline. This decision will be provided to both Parties simultaneously and will be a final determination regarding the Title IX Respondent's responsibility and cannot be further appealed.



## **XII. OUTSIDE AGENCIES**

CHSU encourages all students and employees who believe they have been subjected to unlawful discrimination or harassment to bring their concerns to the University so that appropriate action can be taken. While it is not required that you exhaust the CHSU's internal investigation process before contacting a governmental agency, CHSU encourages all members of the CHSU community to take advantage of the CHSU's process for resolving harassment, discrimination and retaliation concerns and complaints. CHSU cannot remedy claimed discrimination, harassment, or retaliation unless such complaints are brought to its attention. Failure to report these claims prevents CHSU from taking steps to address the problem. If an CHSU community member observes a violation of this policy or believes someone has violated this policy, the member is strongly encouraged to report the incident, irrespective of whether the alleged victim files a complaint themselves. Responsible Employees who learn of such a complaint are required to bring it to the University's attention as described above.

The U.S. Equal Employment Opportunity Commission ("EEOC") and the California Department of Fair Employment and Housing ("DFEH") investigate reports of unlawful harassment, and sexual violence in employment. The U.S. Department of Education Office for Civil Rights ("OCR") investigates reports of unlawful harassment and sexual violence by students in educational programs or activities. These agencies may serve as fact finders and attempt to facilitate the voluntary resolution of disputes. For more information students/employee may contact these agencies as described below:

An employee of CHSU may file a complaint with the Department of Fair Employment and Housing (1-800- 884-1684; <http://www.dfeh.ca.gov>) or the U.S. Equal Employment Opportunity Commission (1-800-669- 4000; <http://www.eeoc.gov>). Students may file complaints regarding protected-class discrimination or harassment, including but not limited to Sex-Based Misconduct to the Office for Civil Rights (OCR) with the

U.S. Department of Education at 800-421-3481 or as otherwise provided at [ocr@ed.gov](mailto:ocr@ed.gov).

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- Policy Owner: VP of Human Resources
  - Effective Date: 8/14/2020 with the exception of the revision to Section XI(B)(6)(f)(3) which is effective as stated in footnote 1 of this Policy.
  - Revised Date: 09/03/2021
  - Approval by Dean of COM: 9/8/2021
  - Approval by Dean of COP: 9/8/2021
  - Approval by the President: 9/9/2021