

Cerritos Community College District
2020 INTERIM TITLE IX SEXUAL HARASSMENT PROCEDURE
implemented to comply with:
Title IX of the Education Amendments of 1972 and 34 CFR Part 106 of the Code of Federal Regulations
Chapter 3
General Institution

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I. RATIONALE

Cerritos Community College District (“the District”) is dedicated to creating and fostering a campus environment free of discrimination based on sex, including Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking (“Prohibited Conduct”). The District has internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of sexual harassment or retaliation. The District values and upholds the equal dignity of all members of its community and strives to balance the rights of the Parties in the Formal Complaint Process during what is often a difficult time for all those involved.

The District hereby implements this interim administrative procedure in response to the Department of Education’s new Title IX regulations, pending revision and adoption of final Board Policies (BP) and Administrative Procedures (AP). This interim administrative procedure supersedes all administrative procedures with respect to cases that fall under the jurisdiction of Title IX Sexual Harassment.

Under the District’s interim administrative procedure, any individual may file a report of sexual harassment.

The District will respond to reports of sexual harassment and sexual misconduct regardless of whether a Complainant chooses to file a Formal Complaint. Allegations that fall outside the scope of Title IX regulations will be evaluated under California law and applicable District policies and procedures.

In implementing the District’s interim procedure, the District will provide supportive measures, training, and resources in compliance with California law, unless they preempted by Title IX regulations.

II. JURISDICTION

This Title IX sexual harassment procedure protect students, employees, volunteers, interns, visitors, applicants for employment, and applicants for admission. This administrative procedure applies to allegations of misconduct on the basis of sex that took place on after August 14, 2020, and if the conduct reported satisfies all of the following four conditions:

- The alleged conduct took place in the United States; and
- The alleged conduct took place in a District “education program or activity.” This includes locations, events, or circumstances over which the District exercised substantial control over both the Respondent and the context in which the harassment occurred, including on-campus and off-campus property and buildings the District owns or controls or student organizations officially recognized by and owned or controlled by the District; and
- The alleged conduct meets the definition of Title IX “sexual harassment” as defined in this procedure and
- The Respondent is a member of District’s community (as described on page 12).

This administrative procedure can also be applicable to address the effects of off-campus misconduct that effectively deprives someone of access to District’s educational program, activity or service.

The District may extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial District interest. A substantial District interest includes:

- Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;
- Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
- Any situation that is detrimental to the educational interests or mission of the District.

Regardless of where the conduct occurred, the District will address complaints or notice to determine whether the conduct occurred in the context of employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program, activity or service.

If the Respondent is unknown or is not a member of the District community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

In addition, the District may take other actions as appropriate to address behavior towards Complainant from third parties, such as barring individuals from District property and/or events.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution’s policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences sexual harassment or retaliation in an externship or other environment external to the District where sexual harassment policies and procedures of the facilitating or host organization may give recourse to the Complainant.

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All vendors serving the District through third-party contracts are subject to the policies and procedures of their employers or to these policies and procedures to which their employer has agreed to be bound by their contracts.

III. TITLE IX COORDINATOR

The Title IX Coordinator is charged with primary oversight of the District's compliance with Title IX including education, monitoring, and addressing reports of sexual harassment or misconduct. The Title IX Coordinator will handle information received with the utmost discretion and will share information with others on a need-to-know basis. For example, Title IX Coordinator may need to address public safety concerns on campus, comply with state and federal legal requirements or share information to implement supportive measures. The District reserves the right to determine which District officials have a legitimate educational interest in being informed about incidents that fall within this procedure, pursuant to the Family Educational Rights and Privacy Act (FERPA).

A report of sexual harassment to the Title IX Coordinator will not necessarily lead to a formal investigation, however, the Title IX Coordinator will make an assessment to determine if there is a safety risk to the campus and proceed as appropriate to address the risk. If the Title IX Coordinator finds there is a continued risk, the Title IX Coordinator may sign and initiate a Formal Complaint without the Complainant's consent or cooperation.

The District's Title IX Coordinator is:

Dr. Adriana Flores-Church
Vice President of Human Resources and
Title IX Coordinator
11110 Alondra Blvd.,
Norwalk, CA 90650
Human Resource Services MP 100
Email: TitleIXCoordinator@cerritos.edu
Phone: (562) 860-2451 ext. 2282 Web: <https://www.cerritos.edu/title-ix>

The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator may designate a Deputy Title IX Coordinator to assist with coordinating the District's responsibilities under Title IX and this interim administrative procedure. All Title IX Deputies report to the Title IX Coordinator in their capacity. All members of the Title IX team, which include the Title IX Coordinator and Title IX Deputies, Investigators, Facilitators of informal resolution, Advisors, the Decision Makers as described herein, are selected and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally. The District will ensure that all personnel responsible for processing Formal Complaints filed under this procedure shall receive training on:

- The definition of Title IX sexual harassment under this procedure;
- The scope of the District's education program or activity;
- How to conduct an investigation, including how to fairly assess the relevance of evidence;
- The complaint process including conducting hearings, appeals, and informal resolution processes; and
- How to serve impartially, including avoiding: prejudice of the facts at issue; conflicts of interest; and bias.

Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator. To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the Vice President of Student Services:

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Dr. Dilcie D. Perez
Vice President of Student Services
11110 Alondra Blvd.
Norwalk, CA 90650
Administrative Building
Email: dilcieperez@cerritos.edu
Phone: (562) 860-2451 ext. 2237

Complaints or inquiries may be made externally to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov

Or

Office for Civil Rights,
San Francisco Office
U.S. Department of Education
50 United Nations Plaza
San Francisco, CA 94102
Telephone: (415) 486-5555
Facsimile: (415) 486-5570
Email: OCR.SanFrancisco@ed.gov

Web: <http://www.ed.gov/ocr>

Employment-related complaints or inquiries may be made externally to:

U.S. Equal Employment Opportunity Commission (EEOC)
Royal Federal Building, 255 East Temple Street, 4th Floor
Los Angeles, CA 90012
Facsimile: 213-894-1118
TTY: (800)-669-6820
ASL Video Phone: (844)-234-5122

California Department of Fair Employment and Housing (DFEH)
2218 Kausen Drive, Suite 100
Elk Grove, CA 95758

Or

California Department of Fair Employment and Housing (DFEH)
320 West 4th Street, 10th Floor
Los Angeles, CA 90013
Telephone: (213) 439-6799; (800)-884-1684
TTY: (800)-700-2320
Web: <https://www.dfeh.ca.gov>

IV. DEFINITIONS

The District has adopted the following definitions so as to address the unique environment of an academic community.

Advisor: Throughout the complaint process, both the Complainant and Respondent have a right to an Advisor of their choice. Both Parties have the right to have an Advisor present at every meeting described in this procedure. If a Party does not have an Advisor at the time of the hearing, the District must provide the Party an Advisor of its choice, free of charge. The District may establish restrictions regarding the extent to which the Advisor may participate in the proceedings as long as the restrictions apply equally to both Parties. The Advisor must be free from conflicts of interest (e.g. the Advisor cannot also be a witness in this case).

Affirmative Consent means an affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in sexual activity to ensure that they have the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent. In California, a minor (meaning a person under the age of 18) cannot consent to sexual activity.

It shall not be a valid response to alleged lack of affirmative consent that the Respondent believed that the Complainant consented to the sexual activity under either of the following circumstances:

- The Respondent's belief in affirmative consent arose from the intoxication or recklessness of the Complainant. Any allegation that alcohol or other drugs were involved in an incident will be reviewed.
- The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the complainant affirmatively consented.

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

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

Appeal Officer Decision Maker with authority to render a decision on an appeal

Complainant means an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment, as defined herein, whether the notice/complaint is presented by the individual or someone on the individual's behalf, such as a report by one who learned of the conduct in his, her, or their official capacity as a faculty member or administrator.

Decision Maker: The person who will oversee the live hearing and makes a determination of responsibility. The District may have one Decision Maker determine whether the Respondent is responsible, and another Decision Maker determine the appropriate level of penalty for the conduct. The Decision Maker cannot be the Title IX Coordinator or the Investigator.

District means the Cerritos Community College District and other properties that it owns or otherwise controls.

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Education Program, Activity, or Service means locations, events, or circumstances where the District exercises substantial control over both the Respondent and the context in which the Prohibited Conduct occurs and also includes any building owned or controlled by a student organization that is officially recognized by the District.

Evidence: Testimony, writings, material objects, or other things offered to prove the existence or nonexistence of a fact.

- **Exculpatory Evidence:** Any evidence that is favorable to the Respondent that shows or tends to show the Respondent is not responsible for the allegation of sexual harassment.
- **Inculpatory Evidence:** Any evidence that shows or tends to show that the Respondent engaged in the allegation of sexual harassment.

False Allegations and Evidence Deliberately false and/or malicious accusations under this procedure are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination. Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an investigator, or decision maker can be subject to discipline under District policy.

Formal Complaint means a document submitted or signed by a Complainant (otherwise indicates that the Complainant is the person filing the Formal Complaint) or signed by the Title IX Coordinator alleging Prohibited Conduct against a Respondent and requesting that the District investigate the allegation(s). Here, “document submitted by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the District). Here, “signature” means physical or digital signature. When the Title IX Coordinator executes the written complaint, they do not become the Complainant.

Formal Complaint Process means the process for adjudicating Formal Complaints of Prohibited Conduct through investigation, live hearing, determination of responsibility, and appeals.

Investigator means the person tasked by the District with investigating a Complaint. All Investigators shall receive training regarding such issues as the laws governing Title IX and VAWA/Campus SaVE Act; as well as other related state and federal laws prohibiting discrimination, harassment and retaliation based on gender or sex, including sex discrimination, sexual harassment, sexual misconduct, dating and domestic violence, and stalking; complainant, respondent, employee, and witness privacy rights; and the Family Educational Rights and Privacy Act of 1974 (FERPA).

Notice means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.

Official with Authority (OWA) means an employee of the District explicitly vested with the responsibility to implement corrective measures for sexual harassment and/or retaliation on behalf of the District. District Officials with Authority are not confidential resources and are required to promptly report to the Title IX Coordinator any allegations of sexual harassment and all relevant information they know concerning sexual harassment (including the name of the Respondent, the Complainant, any other witnesses, and the date, time, and location of the alleged incident). The District has designated the employees holding the following positions as Officials with Authority: Board of Trustees, President/Superintendent, Vice Presidents/Assistant Superintendent, and Managers, including the Title IX Coordinator. All other employees are encouraged to report allegations to the Title IX Coordinator but are not required to do so.

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Parties include the Complainant(s) and Respondent(s), collectively.

Prohibited Conduct means any sexual misconduct, gender or sex-based discrimination or harassment, dating violence, domestic violence, stalking, and retaliation.

Remedies are actions taken to address safety, prevent recurrence of Prohibited Conduct, and restore equal access to the District’s educational program, activities, services or employment.

Resolution Process refers broadly to the process for addressing Formal Complaints either by informal resolution or through a Formal Complaint Process that includes investigation, live hearing, and appeal.

Respondent means an individual who has been reported to be the perpetrator of Prohibited Conduct, as defined herein. The District presumes the Respondent is not responsible for the alleged conduct unless or until the District makes a finding regarding responsibility at the conclusion of the complaint process.

Retaliation intimidation, harassment, or reprisal against a person who has reported a problem, filed a complaint, or participated in any manner in an investigation, hearing or other District resolution process.

Sanction means a consequence or other corrective action imposed by the District on a Respondent who is found to have engaged in Prohibited Conduct under this interim administrative procedure.

Title IX Sexual Harassment means conduct on the basis of sex that satisfies one or more of the following:

- A. **Quid Pro Quo Sexual Harassment:** When an employee of the District conditions (implicitly or explicitly) the provision of an aid, benefit, or service of the District on an individual’s participation in unwelcome sexual conduct; or
- B. **Hostile Environment Sexual Harassment:** Unwelcome conduct determined by a reasonable person standing in the shoes of the Complainant to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District’s education program or activity; or
- C. **Sexual assault, dating violence, domestic violence, or stalking, as defined herein.**
 - 1. **Sexual assault** means any sexual act (forcible or non-forcible), directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Sexual acts include the following:
 - (a) Rape, which is defined as the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.
 - (b) Sodomy, which is defined as oral or anal sexual intercourse with another person, forcibly committed and/or against that person’s will (non-consensually), or not forcibly or against the person’s will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - (c) Sexual Assault with an Object, which is defined as the use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person’s will (non-consensually), or not forcibly or against the person’s will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

(d) Fondling, which is defined as the touching of the private parts of another person for the purposes of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Sex Offenses, Non-Forcible Unlawful, Non-Forcible Sexual Intercourse

(e) Incest – non-forceable sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

(f) Statutory Rape – non-forceable sexual intercourse with a person who is under the statutory age of consent.

2. **Dating violence** means violence committed, on the basis of sex, by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.
3. **Domestic violence** means conduct, on the basis of sex, that includes the requisite components of felony or misdemeanor crimes of violence committed by:
 - (a) a current or former spouse or intimate partner of the victim;
 - (b) a person with whom the victim shares a child in common;
 - (c) a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner;
 - (d) a person similarly situated to a spouse of the Complainant under California law; or
 - (e) any other person against an adult or youth victim who is protected from that person's acts under California law.
4. **Stalking** means a course of conduct directed at a specific person on the basis of sex that would cause a reasonable person to fear for the person's safety or the safety of others, or to suffer substantial emotional distress. For the purposes of this definition:
 - (a) *A course of conduct* is two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property;
 - (b) *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the Complainant; and
 - (c) *Substantial emotional distress* means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Student(s) means any individual(s) who has applied for admission, accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with the District.

Third Party means a person other than the Complainant and the Respondent.

V. REPORTING

Any person may report sex discrimination, including sexual harassment and other Prohibited Conduct, as defined in this interim administrative procedure (whether or not the person reporting is the person alleged to be the victim of conduct that could be prohibited), at any time, in person, by mail, by telephone, or by electronic mail, using the contact information listed above for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. This interim Title IX administrative procedure also applies to allegations of sexual harassment that are made to any official with authority. The District encourages those impacted by Prohibited Conduct to speak with someone in order to obtain resources and support.

There is no time limitation on submitting notice/complaints to the Title IX Coordinator(s). The District strongly encourages prompt reporting of sexual harassment. Prompt reporting allows for the collection and preservation of evidence, including physical evidence, digital media, and witness statements. However, if the Respondent is no longer subject to the District's jurisdiction and/or significant time has passed, the ability to investigate, respond and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate. When notice/complaint is affected by significant time delay, the District will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint.

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a Formal Complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether the District proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a Formal Complaint to initiate a complaint process upon completion of an appropriate violence risk assessment.

The Title IX Coordinator's decision should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires the District to pursue formal action to protect the community.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. Recipients may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the District's ability to pursue a Formal Complaint Process fairly and effectively.

Individuals have the opportunity to decide whether they want to pursue a formal Title IX complaint. Reporting prohibited conduct to the Title IX Coordinator does not automatically initiate an investigation under these procedures. A report allows the District to provide a wide variety of support and resources to impacted individuals and to prevent the reoccurrence of the conduct. A Complainant or the Title IX Coordinator filing a Formal Complaint will initiate an investigation.

If there are parallel criminal and Title IX investigations, the District will cooperate with the external law enforcement agency and will coordinate to ensure that the Title IX process does not hinder legal process or proceedings.

The District will document reports of prohibited conduct in compliance with the Clery Act, a federal law requiring data collection of crime within the campus geography. Under the Clery Act, the District does not document personal information; the District reports the type of conduct, and the time, date, and location. (Also see BP 3540 Sexual and Other Assaults on Campus and 3540 Sexual and Other Assaults.) Page 9 of 24

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Complainant and others reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, the District must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community. The District will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger. (Also see BP/AP 3515 Reporting of Crimes.)

VI. STANDARD OF PROOF

The District will use the "preponderance of the evidence" standard of proof throughout the process of reaching factual findings, conclusions and determinations of responsibility for policy violations pursuant to this Administrative Procedure. A preponderance of the evidence means that the evidence on one side outweighs, preponderates over, or is more than, the evidence on the other side (e.g. more likely than not). This is a qualitative, not quantitative, standard.

VII. SUPPORTIVE MEASURES

The District will offer and implement appropriate and reasonable supportive measures to the Parties upon notice of alleged sexual harassment and/or retaliation. Supportive measures are non-disciplinary, non-punitive individualized services, offered as appropriate, as reasonably available and without fee or charge to the Parties, which are intended to restore or preserve equal access to the District's education program or activity, to protect the safety of all Parties or the District's educational environment, and/or deter sexual harassment and/or retaliation.

The Title IX Coordinator will promptly make supportive measures available to the Parties upon receiving notice or a complaint, and will coordinate the effective implementation of such measures. At the time that supportive measures are offered, the District will inform the Complainant, in writing, that they may file a Formal Complaint with the District either at that time or in the future, if they have not done so already.

The District will maintain the privacy of the supportive measures, provided that privacy does not impair the District's ability to provide the supportive measures. The District will act to ensure as minimal an academic/occupational impact on the Parties as possible. The District will implement measures in a way that does not unreasonably burden the other party. Supportive measures may include, but are not limited to:

- Counseling and referral to medical and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Student financial aid counseling
- Altered work arrangements for employees or student-employees
- Safety planning
- Campus safety escorts
- Implementing mutual contact limitations (no contact directives) between the Parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass orders
- Class or work schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact directives will be referred to appropriate student or employee conduct processes for enforcement.

VIII. EMERGENCY REMOVAL

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The District can act to remove a student Respondent entirely or partially from an education program or activity on an emergency basis when the District has completed an individualized safety and risk analysis and determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with the District's Office of Student Conduct and Grievances and or the District's Crisis Assessment Intervention Response (CAIR) Team using its standard objective violence risk assessment procedures. In all cases in which an emergency removal is imposed, the student Respondent will be given notice of the action and the opportunity to challenge the removal decision consistent with to [AP 5520 Student Discipline Procedures](#) (beginning at line 126 Immediate Interim Suspension) and Education Code Section 66017.

In such cases when the challenge occurs, the Respondent will meet with the Vice President of Student Services / Assistant Superintendent or designee who has not been previously involved in the District's individualized threat assessment of the Respondent. This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. A Respondent may be accompanied by an Advisor of their choice. This meeting must be requested within three (3) calendar days or objections to the emergency removal will be deemed waived.

Violation of an emergency removal under this procedure will be grounds for discipline, which may include expulsion. While an emergency removal is in effect, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the Parties. Lesser restrictive emergency actions may be implemented as an alternative emergency removal where appropriate.

Where the Respondent is a non-student employee, the District may place the employee on administrative leave during the Resolution Process and provide the Respondent with an opportunity to respond. The District will conform to all relevant statutes, procedures, and District personnel policies and procedures, including the provisions of any applicable collective bargaining agreement.

IX. GENERAL PROVISIONS

Making deliberately false and/or malicious accusations under this interim administrative procedure is a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

The District community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to District officials or participate in Resolution Processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Accordingly, to foster participation in Resolution Processes, an individual who participates as a Complainant or witness in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to disciplinary sanctions for a violation of the District's student conduct policy at or near the time of the incident, unless the District determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

X. RESOLUTION PROCESS FOR ALLEGED PROHIBITED CONDUCT

A. Overview

The procedures below apply only to qualifying allegations of Prohibited Conduct under this administrative procedure involving students, staff, administrator, or faculty members. The procedures below may be used to address collateral misconduct arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another).

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Complaints or allegations that are dismissed or not within the jurisdiction of this administrative procedure may be referred for action under another provision of the District's board policy and administrative procedures, such as BP 5500, AP3435, or an applicable collective bargaining agreement, as determined by the Title IX Coordinator.

B. Notice/Formal Complaint

Within five business days of receipt of a Formal Complaint or notice to a Title IX Coordinator of alleged Prohibited Conduct under this interim administrative procedure, the Title IX Coordinator or Title IX Deputy shall initiate a prompt initial assessment by contacting the Complainant to determine the next steps the District needs to take, which shall include one or more of the following:

- Offer supportive measures; and/or
- An Informal Resolution; and/or
- A Formal Complaint Process including an investigation and a hearing (upon submission of a Formal Complaint).

1. **Formal Complaint** — Formal complaints may be filed as follows:

a) **Who May File a Formal Complaint**

A Formal Complaint may be filed by an individual who is alleged to be the victim of conduct that could constitute sexual harassment, as defined herein. At the time of filing a Formal Complaint, the Complainant must be participating in or attempting to participate in a program or activity of the District. Nothing in this section may be read in derogation of any legal right of a parent or guardian to act on behalf of a "complainant," "respondent," "party," or other individual, including but not limited to filing a Formal Complaint.

If the Complainant does not file a Formal Complaint, the Title IX Coordinator may file and sign a Formal Complaint requesting that the District investigate the allegation(s) of Prohibited Conduct if it is clearly not unreasonable in light of the known circumstances.

b) **How to File a Formal Complaint**

A Formal Complaint may be submitted in person, by mail, or by electronic transmission, on a document filed by a Complainant or signed by the Title IX Coordinator alleging Prohibited Conduct against a Respondent and requesting that the District investigate the allegation(s) (per Formal Complaint definition above). The complaint form may be accessed on the District's web site here: <https://www.cerritos.edu/title-ix/default.htm>

The complainant can also submit a complaint using the form prescribed by the Chancellor of the California Community Colleges. A copy of the form will be available from the Title IX Coordinator, at the California Community Colleges Chancellor's website, and at the following URL: https://www.cccco.edu/-/media/CCCCO-Website/Files/General-Counsel/x_discrimcomplaintform-ada.pdf?la=en&hash=CEA65F34EEAE900CB00E68281A3907726B48CF08.

c) **When to File a Complaint**

The District does not impose a time limit or statute of limitations on a Complainant's decision to file a Formal Complaint of Sexual Harassment for purposes of this interim administrative procedure. Since failure to report Sexual Harassment impedes the District's ability to stop the behavior, the District strongly encourages anyone who believes they are being sexually harassed to file a complaint.

d) **Where to File a Complaint**

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A Formal Complaint must be filed with The Title IX Coordinator whose contact information appears in Section III, above.

2. Dismissal of Formal Complaints

A Formal Complaint must be dismissed by the District for purposes of this interim administrative procedure based on one or more of the following factors:

- a) The allegations in the Formal Complaint do not meet the definition of Prohibited Conduct under this interim administrative procedure even if proved; and/or;
- b) The alleged conduct did not occur in an educational program or activity controlled by the District; and/or
- c) The conduct did not occur against a person in the United States; and/or
- d) At the time of filing a Formal Complaint, a complainant is not participating in or attempting to participate in the education program or activity of the District; and/or
- e) The complaint does not contain allegations which, if true, would constitute a possible Title IX sexual harassment, as defined in this procedure.

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

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

3. Notice of Dismissal of Formal Complaints

The District must promptly send written notice of the dismissal and reasons for the dismissal simultaneously to the Parties. This written notification must also include the Parties right to appeal the District’s dismissal of a Formal Complaint based only on one or more of the appeal issues as identified in Section X(N), below.

A dismissal of a Formal Complaint under this interim administrative procedure does not preclude action under another provision of the District’s board policy and administrative procedure, as applicable.

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

C. Consolidation of Formal Complaints and Counterclaims

The District may, but is not required to, consolidate Formal Complaints as to allegations of Sexual Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, where the allegations of Prohibited Conduct arise out of the same facts or circumstances.

The District is obligated to ensure that the complaint process is not abused for retaliatory purposes. The District permits the filing of counterclaims but uses an initial assessment, described above, to assess whether

the allegations in the counterclaim are made in good faith. Counterclaims made for the purposes of retaliation will not be permitted and may constitute a violation of this procedure.

Counterclaims determined to have been reported in good faith will be processed using the complaint procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur. Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator.

D. Resolution Timeline

The District will make a good faith effort to complete the Investigation Process within one hundred eighty (180) calendar days of the date of the Notice of Investigation and Allegations. The District will also make a good faith effort to complete the Formal Complaint Process within one hundred eighty (180) days of the completion of the Final Investigation Report. These timelines may be extended as necessary for appropriate cause, such as to accommodate an investigation by law enforcement, to accommodate the unavailability of witnesses or delays by the Parties, to account for District breaks or vacations, due to the complexity of the investigation or as otherwise determined by the Title IX Coordinator. The Parties will receive written notice of and the rationale for any extensions or delays as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

E. Right to an Advisor

The Parties may each have an Advisor of their choice present with them for all meetings, interviews, and hearings within the Resolution Process, if they so choose. The role of the Advisor is to provide support and assistance in understanding and navigating the Resolution Process. The Advisor may not testify in or obstruct an interview or disrupt the process. The District has the right to determine what constitutes appropriate behavior of an Advisor and take reasonable steps to ensure compliance with this procedure. A Party does not have a right to self-representation at the hearing; the Advisor must conduct any cross-examination. The District must provide an Advisor of its choice, free of charge to any Party without an Advisor, in order to conduct cross-examination. If a Party's Advisor fails to appear at the hearing, the District will provide an Advisor to appear on behalf of the non-appearing Advisor.

F. Informal Resolution

After a Formal Complaint has been received, the District may offer an Informal Resolution process, which can include, but not be limited to mediation, rearrangement of work/academic schedules, providing informal counseling or training, etc. The Informal Resolution process is intended to resolve a Formal Complaint without a full investigation and adjudication process. The Informal Resolution process must not be used to resolve allegations that a District employee sexually harassed a student.

Informal Resolution may be viable when (1) the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation; (2) the Parties agree to resolve the matter through an alternate resolution mechanism, including mediation, usually before a formal investigation takes place; or (3) the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the Resolution Process (similar to above, but usually occurs post-investigation).

To initiate Informal Resolution, a Complainant needs to submit a Formal Complaint, as defined above. A Respondent who wishes to initiate Informal Resolution should contact the Title IX Coordinator.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Complaint Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Complaint Process.

Prior to implementing Informal Resolution, the District will provide the Parties with written Notice of

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Allegations and Request of Informal Resolution, which will include the allegations within the Formal Complaint; the right to withdraw from the Informal Resolution process at any time prior to agreeing to a resolution; the sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the District; and that an agreed-upon resolution will preclude the Parties from resuming the Formal Complaint Process on the same allegations identified in the Formal Complaint.

The District must obtain voluntary, written consent to the Informal Resolution process from all Parties before proceeding and will not pressure the Parties to participate in Informal Resolution, such as making informal resolution a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right.

G. Formal Complaint Process: Notice of Investigation and Allegations

Upon receipt of a Formal Complaint, the Title IX Coordinator or Deputy Title IX Coordinator will provide written Notice of Investigation and Allegations to the Parties of the District's receipt of the Formal Complaint, and include the information listed below:

- A summary of the allegations;
- The identity of the involved Parties (if known);
- The misconduct being alleged;
- The date and location of the alleged incident(s) (if known);
- A statement about the District's Title IX complaint process, including the Informal Resolution Process, and the District's policy on retaliation;
- 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 complaint process;
- A statement that determinations of responsibility are made at the conclusion of the process and that the Parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period;
- Information about the privacy of the process;
- Information on the need for each party to have an Advisor of their choosing, who may, but is not required to be an attorney, and suggestions for ways to identify an Advisor;
- A statement informing the Parties that the District's procedure prohibits knowingly making false statements, including knowingly submitting false information during the Resolution Process;
- Detail on how the party may request disability accommodations during the interview process;
- A link to the District's Project Safe Brochure, if appropriate based on the allegations;
- The name(s) of the Investigator(s);
- An instruction to preserve any evidence that is directly related to the allegations; and
- That the Parties are prohibited from disseminating any of the evidence subject to inspection and review or use of this evidence for any purpose unrelated to the Title IX complaint process. This confidentiality provision will not restrict the ability of either Party to discuss the allegations under investigation (this is not a "gag order.")

Amendments and updates to the notice of allegations may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges. Notice will be made in writing and may be delivered by one or more of the following methods: in person, by mail to the last known address on file, or by email to the Parties' listed email address or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

H. Student Withdrawal or Employee Resignation While Allegations Pending

- a. **Students:** If a student has an allegation pending for violation of the District's Interim Title IX Sexual Harassment Policy, the District may place a hold on a

student's ability to graduate and/or to receive an official transcript/diploma.

Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from the District, the resolution process ends, as the District no longer has disciplinary jurisdiction over the withdrawn student.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely and that student is not permitted to return to the District unless and until all sanctions have been satisfied.

- b. **Employees:** Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as the District no longer has disciplinary jurisdiction over the resigned employee. However, the District will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination.

The employee who resigns with unresolved allegations pending is not eligible for rehire with the District, and the records retained by the Title IX Coordinator will reflect that status.

I. Investigation

1. Timeline

The District will normally complete its investigation within one hundred eighty (180) calendar days from the date of the Notice of Investigation and Allegations, unless extended by the Title IX Coordinator for good cause. For example, some investigations may require more time due to the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, the need for language assistance, the absence of Parties and/or witnesses, and/or accommodations for disabilities or health conditions, etc. The Title IX Coordinator will communicate regularly with the Parties to update them on the progress and timing of the investigation and will notify them in writing of the reason for any extension and the projected new timeline.

District action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

2. The Investigation Process

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with the Parties and relevant witnesses, as available; obtaining available, relevant evidence; and identifying sources of expert information, as necessary. The Parties will have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

The District must gather evidence sufficient to create an investigative report that fairly summarizes the relevant witness statements and other evidence. Throughout the investigation, the Investigator(s) shall:

- Gather evidence sufficient to reach a determination, if available;
- Provide all Parties and equal opportunity to present all relevant evidence, including expert witnesses, and other inculpatory and exculpatory evidence;

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- Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
- Provide to the Parties, invited or expected to participate, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate; and,
- Decline a party's request to gather information if the request seeks access to privileged information, or information about the Complainant's sexual history with anyone other than the Respondent, unless offered to prove that someone other than the Respondent committed the alleged misconduct, or if the evidence is offered to prove consent.

The District must send the Parties and their Advisors, a preliminary investigative report with evidence directly related to the allegations, in electronic format or a hard copy. Parties shall have at least 10 calendar days to inspect, review, and submit a written response to the evidence. Any evidence the District does not intend to rely on in reaching a determination regarding responsibility must also be provided to each party, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. The Investigator must consider the Parties' response to the evidence prior to the completion of the investigative report.

The District must make all such evidence subject to the Parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

The District must send the Parties, and their Advisors, a final investigative report that fairly summarizes relevant evidence, in electronic format or hard copy, at least **10 calendar days** prior to the hearing, for their review and written response.

Although in-person interviews for the Parties and potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing. The District will take appropriate steps to reasonably ensure the security/privacy of remote interviews. No unauthorized audio or video recording of any kind is permitted during investigation meetings.

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the Parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Provided that the Formal Complaint is not resolved through Informal Resolution, once the final investigation report is shared with the Parties, the Title IX Coordinator will refer the matter for a hearing.

J. Hearing

The District will designate a Decision Maker at the discretion of the Title IX Coordinator. The Decision Maker must not have had any previous involvement in the matter, and therefore, cannot be the Title IX Coordinator or investigator(s) in the case.

1. Roles and Responsibilities

The Title IX Coordinator, or designee shall be responsible for managing the hearing process and the necessary logistics (scheduling, notifying witnesses, providing the Parties and Decision Maker with appropriate documentation and evidence, coordinating the location of the hearing, and any other support

that is necessary for the hearing to run smoothly), provided their previous role(s) in the matter do not create a conflict of interest.

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

The Parties' Advisor of choice may be, but is not required to be, an attorney. The Parties' Advisors may be present for meetings and proceedings throughout the complaint process, subject to equal restrictions on Advisors' participation, in the District's discretion. If the party does not have an Advisor at the hearing, the District must provide an Advisor of the District's choice, without fee or charge, solely for the purpose of conducting cross-examination.

2. Location

Live hearings may be conducted with all Parties physically present in the same geographic location, in separate rooms, or, at the District's discretion, any or all Parties, witnesses, and other participants may appear at the live hearing virtually. The District shall create an audio or audiovisual recording, or transcript, of any live hearing.

At the request of either party, the District must also provide for the entire live hearing (including cross-examination) to occur with the Parties located in separate rooms with technology enabling the Parties to see and hear each other.

K. Notice of Hearing

The Title IX Coordinator will send notice of the hearing to the Parties no less than **ten (10) business days** prior to the hearing, unless the Parties agree to an expedited schedule. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the Parties located in separate rooms using technology that enables the Decision Maker and Parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Decision Maker on the basis of demonstrated bias. This must be raised with the Title IX Coordinator at least two (2) business days prior to the hearing.
- Information on how the hearing will be recorded and on access to the recording for the Parties after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Decision Maker. For compelling reasons, the Decision Maker or Title IX Coordinator may reschedule the hearing.
- Notification that the Parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and the District will appoint one. Each party must have an Advisor present. There are no exceptions.
- A copy of all the materials provided to the Decision Maker about the matter, unless they have been provided already.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven

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- (7) business days prior to the hearing.
- A statement that Parties cannot bring mobile phones/devices into the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this procedure) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the District and remain within the one hundred eighty (180) calendar day goal for resolution.

In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal). A student facing charges under this procedure is not in good standing to graduate.

If a party or Parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator at least five (5) business days prior to the hearing. Similarly, any witness who cannot attend in person should let the Title IX Coordinator or the Decision Maker know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

L. Testimony and Questioning

At the live hearing, the parties will have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. Only relevant evidence will be admissible during the hearing. Relevant evidence means evidence, including evidence relevant to the credibility of a Party or witness, having any tendency in reason to prove or disprove any disputed fact material to the allegations under investigation.

The Decision Maker must permit each party's Advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination must be conducted directly, orally, and in real time by the party's Advisor and never by a party personally.

The Title IX Coordinator may be present at live hearings, however, the Title IX Coordinator will not present evidence nor be subject to cross examination by either party. The Title IX Coordinator may assist with the procedural process and may answer questions regarding the District's Formal Complaint Process.

The order of testimony will typically be:

- The Complainant or Complainant's Advisor may provide an opening statement.
- The Respondent or Respondent's Advisor may provide an opening statement.
- The Investigator(s) will present a summary of the final investigation report and will be subject to questioning by the Decision Maker and the Parties (through their Advisors). The Investigator(s) will be present during the entire hearing process, but not during deliberations. Neither the Parties nor the Decision Maker should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, Advisors, and Parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Decision Maker shall disregard it.
- After the Investigator(s) has/have testified, the Parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Decision Maker.
- The Parties/witnesses will submit to questioning by the Decision Maker and then by the Parties through their Advisors (referred to herein as "cross-examination").

All questions are subject to a relevance determination by the Decision Maker. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (electronically is the default, but other means of submission may be permitted by the Decision Maker upon

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request if agreed to by the Parties and the Decision Maker), the proceeding will pause to allow the Decision Maker to consider it (and state it if it has not been stated aloud), and the Decision Maker will determine whether the question will be permitted, disallowed, or rephrased.

The Decision Maker will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Decision Maker has final say on all questions and determinations of relevance. The Decision Maker may consult with legal counsel on any questions of admissibility of evidence. The Decision Maker may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the Decision Maker has ruled on a question.

If the Parties raise an issue of bias or conflict of interest of an Investigator or Decision Maker at the hearing, the Decision Maker may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not in issue at the hearing, the Decision Maker should not permit irrelevant questions that probe for bias.

The Decision Maker may not rely on the statement of a party or witness who does not submit to cross-examination or otherwise draw any inference about the determination regarding responsibility under this interim administrative procedures based solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

Any evidence deemed relevant and credible by the Decision Maker may be considered. However, hearsay alone should not ordinarily be relied upon as sole evidence to establish any fact. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the Parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

If charges of policy violations other than Prohibited Conduct under this interim administrative procedure are considered at the same hearing, the Decision Maker may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all Parties through their Advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions in rendering a decision as to those other policy violations.

Hearings (but not deliberations) are recorded by the District for purposes of review in the event of an appeal. The Parties may not record the proceedings and no other unauthorized recordings are permitted. The Decision Maker, the Parties, their Advisors, and appropriate administrators of the District will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

M. Deliberation, Decision-making, and Standard of Proof

The Decision Maker will deliberate in closed session to determine whether, based on the preponderance of the evidence, the Respondent is responsible or not responsible for the violation(s) of this interim administrative procedure.

The Decision Maker will prepare a written determination regarding responsibility to the Parties and deliver it to the Title IX Coordinator. The written determination shall include:

- Identification of the allegations potentially constituting Prohibited Conduct;
- A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the Parties, interviews with Parties and witnesses, site

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- visits, methods used to gather other evidence, and hearings held;
- The findings of fact supporting the determination (which includes analysis of the evidence and credibility assessments, as relevant);
- Conclusions regarding the application of the District's code of conduct to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, information about the disciplinary sanctions that the District may initiate against the Respondent, and whether remedies designed to restore or preserve equal access to the District's education program or activity will be provided by the District to the Complainant; and,
- The Parties' right to appeal the determination as set forth in Article X(N).

The Title IX Coordinator will provide the determination to the Parties simultaneously within seven (7) business days of receipt of the written determination through a Notice of Outcome, including their right to appeal.

N. Remedies and Sanctions

Should a violation of the interim administrative procedure be substantiated, the Decision Maker will also determine the appropriate sanction or disciplinary action against the Respondent(s), in addition to any remedies to be afforded to the Complainant(s), designed to restore or preserve the Complainant's equal educational access, such as long-term supportive measures. The District will ensure these remedies and sanctions conform with all relevant statutes, procedures, and District personnel policies and procedures, including the provisions of any applicable collective bargaining agreement. Factors considered when determining a sanction/recommendation may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the Prohibited Conduct
- The need for sanctions/responsive actions to prevent the future recurrence of the Prohibited Conduct
- The need to remedy the effects of the Prohibited Conduct on the Complainant and the community
- The impact on the Parties
- Any other information deemed relevant by the Decision Maker

1. Student Sanctions

The following are examples possible sanctions that may be imposed upon students or organizations singly or in combination (and may be imposed in consultation with the Dean of Students or designee):

- Educational Sanctions
- Warning or Verbal Reprimand
- Disciplinary Probation
- Removal from class
- Reprimand
- Required Consultation
- Probation
- Short-term or Long-term Suspension
- Expulsion
- Transcript Notation
- Withdrawal of Consent to Remain on Campus
- Withholding Diploma
- Revocation of Degree
- Student Organizational Sanctions
- Other Actions (as deemed appropriate)

2. Employee Sanctions

Examples of responsive actions for an employee who is found to have engaged in Prohibited Conduct, as defined herein, may be imposed singly or in combination (and may be imposed in consultation with the Vice President of Human Resources or designee):

- Warning – Verbal or Written
- Performance Improvement Plan
- Enhanced supervision, observation, or review
- Required Counseling or Consultation
- Required Training or Education
- Denial of Pay Increase/Pay Grade
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Transfer
- Reassignment
- Assignment to new supervisor
- Restriction of stipends, research, and/or professional development resources
- Suspension with pay
- Suspension without pay
- Termination
- Other Actions: In addition to or in place of the above sanctions/responsive actions, the District may assign any other responsive actions as deemed appropriate.

Employee sanctions will consider relevant disciplinary policy and procedures, collective bargaining agreement provisions (if applicable) and Ed Code Sections (including but not limited to: §§ 87732, 87734, § 87675, 87682).

O. Appeals

Any party who is not satisfied with the determination of responsibility, or the dismissal of a Formal Complaint or any allegations of Prohibited Conduct in the Formal Complaint, may submit a written Request for Appeal to the Title IX Coordinator within 15 calendar days of the delivery of the Notice of Outcome. Appeals are limited to the following grounds:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
3. The Title IX Coordinator, Investigator(s), or Decision Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

The Title IX Coordinator will notify the other party in writing that an appeal was filed and forward the Request for Appeal to an assigned decision maker with authority to render a decision on an appeal (Appeal Officer) to consider the appeal. The Appeal Officer cannot be the same person as the Title IX Coordinator, Investigator(s), or Decision Maker that reached the determination regarding responsibility or dismissal of the Formal Complaint.

If any of the grounds in the Request for Appeal do not meet the grounds listed above, the Appeal Officer will deny request and notify the Parties and their Advisors in writing of the denial and the rationale in a Notice of Appeal Outcome. Alternatively, if appropriate grounds have been identified, the Appeal Officer

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will (a) give both Parties a reasonable, equal opportunity to submit a written statement in support of, or challenging the outcome; and (b) prepare and issue simultaneously to the Parties a Notice of Appeal Outcome, describing the result of the appeal on each approved ground and the rationale for the result(s).

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the Parties as indicated in official institutional records, or emailed to the Parties' District-issued email or otherwise approved account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

P. Retaliation

The District prohibits retaliation against any individual who has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this procedure. Retaliatory acts may include (1) intimidation; (2) threats; (3) coercion, (4) discrimination for the purpose of interfering with any right or privilege secured by Title IX or this interim administrative procedure, or (5) charges for code of conduct violations that arise out of the same facts or circumstances as the report or complaint of sex discrimination are specifically prohibited by the District. The exercise of rights protected under the First Amendment or principles of academic freedom does not constitute retaliation.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator to be addressed promptly. The District will take reasonable steps to support individuals who express fears or concerns about retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a Formal Complaint proceeding does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

Q. Confidentiality

The District will maintain as confidential the identity of any Complainant, any Respondent, or any witness, except as may be permitted by FERPA, as required by law, or as necessary to carry out a Formal Complaint process under this interim administrative procedure.

State law requires confidential resources on campus not to disclose information they receive without the express written permission of the individual seeking their services or as provided by law (where there is a continuing threat of serious harm to the individual or others; where there is suspected abuse or neglect of a minor; or where disclosure to a third party is otherwise legally required).

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with the Employee Assistance Program (if employee) or:

Campus-based confidential District resources available to students include:

- Student Health Services Mental Health Resources (Only available to students)
- YWCA Campus Victim Advocate

Off-Campus (non-employee) resources available to students include:

- Licensed professional counselors and other medical providers
- Local rape crisis counselors
- Domestic violence resources
- Local or state assistance agencies

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- Clergy/Chaplains
- Attorneys

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

Confidentiality Expectations of the Parties

To protect the privacy of those involved, the Parties and Advisors will be notified prior to attending an interview or otherwise participating in and multiple times throughout the District's complaint process that they are prohibited from disseminating any of the evidence subject to inspection and review or use of this evidence for any purpose unrelated to the Title IX complaint process. This confidentiality expectation will not restrict the ability of either Party to discuss the allegations under investigation (meaning this expectation is not intended to be a "gag order").

Use of Privileged Information

The District's formal complaint procedure does not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally-recognized privilege (e.g., attorney-client privilege, doctor-patient privilege, spousal privilege, etc.), unless the person holding the privilege provides voluntary, written consent to waive the privilege.

XII. FILE RETENTION

The District will retain on file for a period of at least seven years after closing the case copies of:

- The original report or complaint;
- Any actions taken in response to the complaint, including supportive measures;
- The investigative report including all evidence gathered and any responses from the Parties;
- The District's determination regarding responsibility;
- Audio or audiovisual recording or transcript from a hearing;
- Records of any disciplinary sanctions imposed on the Respondent;
- Records of any remedies provided to the Complainant;
- Any appeal and the result;
- Any informal resolution and the result; and
- All materials used to train Title IX Coordinators, investigators, Decision Makers, and any person who facilitates an informal resolution process. The District will make these training materials publicly available on its website.

The District will make these documents available to the U.S. Department of Education Office for Civil Rights upon request.

References:

Title IX of the Education Amendments of 1972
34 CFR Part 106 of the Code of Federal Regulations
ATIXA 2020 Interim Model Sexual Harassment
Policies and Procedures use and adaptation of this
model with citation to ATIXA is permitted through
a limited license to Cerritos Community College
District

Implemented August 14, 2020

Office of Primary Responsibility: Vice President, Human Resources