



Reference: *Title IX Education Amendments of 1972; Title 5 Sections 59300-59362 et seq.*; California Education Code § 67386(a)(1); *Title VII of the Civil Rights Act of 1964, 42 U.S. Code Annotated Section 2000e* 20 US Code Sections 1681 et seq.; 34 Code of Federal Regulations Parts 106.1 et seq.; 34 C.F.R. § 668.46; California Penal Code § 240 for Assault; § 242 for Battery; §§ 261-263.1 for Rape, and 34 C.F.R. § 668.46 7 Sexual Offenses, Forcible; California Penal Code § 646.9 and 34 C.F.R. § 668.46 for stalking; California Education Code § 212.6 and § 66262.7 for sexual orientation; California Education Code § 67386(b)(10) for amnesty; California Education Code Sections 212.5, 66262.5, 66281.8, and 67380 et seq.

Table of Contents

<u>Overview</u>	3
<u>Prohibited Conduct</u>	3
<u>Confidentiality</u>	3
<u>Jurisdictional Requirements</u>	3
<u>Oversight of the Title IX Process and Contact Information</u>	4
<u>Independence and Conflict-of-Interest</u>	5
<u>Reasonable Accommodations/Interpreters</u>	6
<u>Grievance Procedures for Complaints of Sex Discrimination under Title IX</u>	6
<u>Who May File a Complaint</u>	6
<u>Consolidation of Complaints</u>	7
<u>Removal of Respondent Pending Final Determination</u>	7
<u>Emergency Removal</u>	7
<u>Administrative Leave</u>	8
<u>Basic Requirements of Title IX Grievance Procedures for Complaints of Sex Discrimination</u>	8
<u>Timeframes and Extensions</u>	9
<u>Privacy</u>	10
<u>Evidence</u>	10
<u>Written Notice of Allegations</u>	11
<u>Dismissal of a Complaint</u>	11
<u>Appeal of Dismissal Complaint</u>	12
<u>Standard of Proof</u>	13
<u>Correspondence to Participating Parties</u>	13
<u>Law Enforcement</u>	13
<u>Amnesty</u>	13
<u>The Role of the Advisor</u>	14
<u>Confidentiality Agreements</u>	14
<u>Formal Complaint Grievance Process</u>	14
<u>When a Complainant Does Not Wish to Proceed</u>	15
<u>Notice to Parties</u>	15

<u>Investigation</u>	15
<u>Evidence of Past Sexual History</u>	16
<u>Role of the Title IX Investigator</u>	17
<u>Investigative Report</u>	17
<u>Questioning the Parties and Witnesses</u>	18
<u>Determinations of Whether Sex Discrimination Occurred</u>	18
<u>Appeal of Determinations</u>	19
<u>Grounds for Appeal</u>	19
<u>Appeal Procedure</u>	19
<u>Informal Resolution</u>	20
<u>Supportive Measures</u>	20
<u>Disciplinary Sanctions and Remedies</u>	21
STUDENTS	
<u>Grievance Procedures for Complaints of Sex-Based Harassment Involving Student Parties</u>	22
<u>Who May File a Complaint</u>	22
<u>Employee Obligations</u>	23
<u>Support Person or Advisor</u>	23
<u>Sexual Assault and Domestic Violence Counselors</u>	23
<u>Consolidation of Complaints</u>	23
<u>Emergency Removal</u>	23
<u>Administrative Leave</u>	24
<u>Student Complainant Requests for Confidentiality</u>	24
<u>Basic Requirements of Title IX Grievance Procedures for Complaints of Sex-Based Harassment Involving Student Parties</u>	25
<u>Timeframes and Extensions</u>	25
<u>Privacy</u>	26
<u>Evidence</u>	27
<u>Written Notice of Allegations</u>	28
<u>Dismissal of a Complaint</u>	28
<u>Investigation</u>	29
<u>Questioning the Parties and Witnesses</u>	30
<u>Procedures for the Decision-Maker to Evaluate Questions and Limitations on Questions</u>	31
<u>Procedures for a Live Hearing</u>	31
<u>Determination Whether Sex-Based Harassment Occurred</u>	32
<u>Appeal</u>	34
<u>Informal Resolution</u>	34
<u>Supportive Measures</u>	35
<u>Disciplinary Sanctions and Remedies</u>	35
<u>Dissemination of Policies and Procedures</u>	36
<u>File Retention</u>	36
<u>Training</u>	37
<u>Title IX Team Duties and Responsibilities</u>	37
<u>Complaint Reporting</u>	39
<u>Definitions</u>	39

Overview

The District is committed to equal opportunity in educational programs, employment, and access to institutional programs and activities. The District embraces the principle of diversity and values community differences in age, disability (physical or mental), Gender (or sex), gender identity (including transgender status), gender expression, genetic information, marital status, medical condition, national origin, race or ethnicity (including color or ancestry), religion or religious creed, sexual orientation, veteran or military status, and other characteristics that make our communities unique. Students, staff, administrators, and faculty are entitled to an educational and working environment free from gender or sex-based discrimination and harassment. Sexual harassment, including sexual assault, dating violence, domestic violence, and stalking, is unlawful sex discrimination. These Title IX sex discrimination procedures and the related policy protect students, employees, applicants for employment, and applicants for admission.

In implementing these procedures below, the District shall also provide supportive measures, training, and resources in compliance with California law, unless they are preempted by the Title IX regulations.

Prohibited Conduct

In accordance with BP/AP 3433, The District prohibits:

- Gender-based (or sex-based) Discrimination or Harassment;
- Retaliation for filing a complaint, reporting misconduct, or for participating in any related investigation or proceeding;
- Dating and Domestic Violence, and Stalking; and
- Sexual Assault

The term Sex Discrimination is used throughout this Title IX procedure as an umbrella category, to include offenses of Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking (see definitions outlined in this procedure).

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

Confidentiality

The District must keep confidential the identity of any Complainant, any Respondent, or any witness(es) except as may be permitted by FERPA, as required by law, or as necessary to carry out a Title IX proceeding under this Title IX procedure.

Jurisdictional Requirements

This procedure applies to the education programs and activities of the District/College. Education programs or activities refers to locations, events, or circumstances over

which the District exercised substantial control over the context in which the sex discrimination occurred, including, but not limited to the District, the Colleges, its property (including offsite locations owned, rented, leased, or operated by the District or the Colleges), on-campus student housing facilities, through online services, and at District-sponsored/College-sponsored programs, activities, and travel. The Respondent must be a participant in the education program or activity of the District/College in order for this Title IX procedure to apply. This procedure only applies to conduct defined sex discrimination under Title IX and applicable federal regulations and that meets Title IX jurisdictional requirements. If the Respondent is unknown or is not a member of the District community, the Title IX Coordinator or Title IX Deputy Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local law enforcement if the individual would like to file a police report. This Title IX procedure can also be applicable to the effect of off-campus misconduct that effectively deprives someone of access to the District's educational program.

These procedures apply if the conduct meets the following jurisdictional requirements:

- The conduct took place in the United States;
- The conduct meets the definition of Title IX "sex" discrimination; and
- The conduct took place in a District educational program or activity or office setting. This includes virtual and physical 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 the District; or
- The conduct contributes to a hostile environment in the District's education program or activity in the United States.

Oversight of the Title IX Process and Contact Information

Questions concerning Title IX may be referred to the District or College Title IX Coordinator or Title IX Deputy Coordinators whose contact information is below.

West Hills Community College District
Associate Vice Chancellor of Human Resources, Title IX Coordinator
275 Phelps Avenue, Coalinga, CA 93210
(559) 934-2159
Email: humanresources@whccd.edu

Coalinga College/Firebaugh Center
Vice President of Student Services, Title IX Deputy Coordinator
300 Cherry Lane, Coalinga, CA 93210
(559) 934-2334
Email: angelatos@whccd.edu

Lemoore College
Vice President of Student Services, Title IX Deputy Coordinator
555 College Avenue, Lemoore, CA 93245
(559) 925-3127
Email: elmeraguilar@whccd.edu

A report of sex discrimination including sex-based harassment to the Title IX Coordinator or Title IX Deputy Coordinators does not necessarily lead to a full investigation, as discussed below. However, the Title IX Coordinator or Title IX Deputy Coordinator will evaluate a Complaint to determine whether to investigate a Complaint pursuant to these procedures.

The Title IX Coordinator or Title IX Deputy Coordinator is required to respond to reports of sex discrimination, including sex-based harassment. The Title IX Coordinator or Title IX Deputy Coordinator will manage information received with the utmost discretion and will share information with others on a need-to-know basis. For example, the Title IX Coordinator or Title IX Deputy Coordinator may need to address public safety concerns on campus, comply with state and federal legal requirements, or share information to implement supportive measures.

Independence and Conflict-of-Interest

The District's Title IX Coordinator, Title IX Deputy Coordinator(s), Title IX Investigators, the Hearing Chair (Decision-Maker), or any person designated by the District to facilitate an informal resolution process, will not have potential actual bias or conflict of interest in the investigatory, hearing, sanctioning, or appeal process or bias for or against Complainants or Respondents generally. Actual bias is an articulated prejudice in favor of or against one Party or position; it is not generalized concern about the personal or professional backgrounds, positions, beliefs, or interests of the Decision-Maker in the process. The District will ensure that the Title IX Team, and facilitator receive training on:

- The definition of sex discrimination in this procedure;
- The scope of the District's education program or activity;
- How to conduct an investigation;
- The grievance process including conducting hearings, appeals, and informal resolution processes; and
- How to serve impartially, including avoiding: prejudgment of the facts at issue; conflicts of interest; and bias.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator or Title IX Deputy Coordinator or report misconduct or discrimination committed by the Title IX Team, contact the District Chancellor or College Presidents.

Reasonable Accommodations of Disabilities

Accommodation requests are facilitated by Disabled Student Programs and Services (“DSPS”). A Student must be registered with DSPS to request accommodations, including but not limited to sign language or the use of assistive technology. Any student not currently registered with DSPS requesting any accommodation should first contact the College’s respective DSPS which coordinates services for Students with disabilities.

Interpreters

An interpreter may be used to improve communications for Parties with limited language proficiency. The Parties may have an interpreter present during any meeting or proceeding at their own expense; the District/College is not obligated to provide one. An interpreter shall not be considered the Parties’ Advisor. An interpreter may explain the meaning of words only to the Parties who requested them. An interpreter shall not expand or enhance the Parties’ statements. If the Parties choose to have an interpreter present, the Parties must notify the Title IX Coordinator or Title IX Deputy Coordinator no later than five (5) days prior to any meeting and proceeding.

Grievance Procedures for Complaints of Sex Discrimination under Title IX

(For Complaints of sex-based harassment involving students, see the section entitled, “Grievance Procedures for Complaints of Sex-Based Harassment Involving Student Parties.”)

Who May File a Complaint

The following people have the right to make a Complaint of sex discrimination, including Complaints of sex-based harassment, requesting that the District investigate and make a determination about alleged discrimination under Title IX:

- A ‘complainant”, which includes:
 - A student or employee or employee of the District who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
 - A person other than a student or employee of the District who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in the District’s education program or activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- The District Title IX Coordinator or Title IX Deputy Coordinator.

With respect to Complaints of sex discrimination other than sex-based harassment, in addition to the people listed above, the following persons have a right to make a Complaint:

- A student or employee of the District; or
- Any person other than a student or employee who was participating or attempting to participate in the District's education program or activity at the time of the alleged sex discrimination.

Note that a person is entitled to make a Complaint of sex-based harassment only if he/she/they are alleged to have been subjected to the sex-based harassment, if he/she/they has a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a Complaint consistent with the Title IX regulations.

Regardless of whether a Complaint has been filed under this procedure, if the District knows, or reasonably should know, about a possible sexual harassment involving individuals subject to the District's policies at the time, the District shall promptly investigate to determine whether the alleged conduct more likely than not occurred, or otherwise respond if the District determines that an investigation is not required.

Consolidation of Complaints

The District may consolidate Complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

Removal of Respondent Pending Final Determination

Upon receiving a report of sex discrimination, the Title IX Coordinator or Title IX Deputy Coordinator will make an immediate assessment concerning the health and safety of the Complainant and campus community as a whole. The District has the right to order emergency removal of a Respondent, or if the Respondent is an employee, place the employee on administrative leave.

Emergency Removal

The District may act to remove a Respondent who is a non-employee entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an imminent and serious threat to the health and safety of a complainant or any students, employees, or other individual arising from the allegations of sex discrimination justifies removal. The individualized safety and risk analysis is performed by the Title IX Coordinator or Title IX Deputy Coordinator in conjunction with the College's Behavioral Assessment Team using its standard violence risk assessment procedures.

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

This meeting is not a hearing on the merits of the allegations, but rather an administrative process intended to determine solely whether the emergency removal was appropriate. When this meeting is not requested (in a timely manner), objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator or Title IX Deputy Coordinator determines it is equitable to do so. Likewise, a Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator or Title IX Deputy Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal two (2) Business Days prior to the meeting to allow for adequate preparation. This Section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX. There is no appeal process for emergency removal decisions.

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

Administrative Leave

The District may place a Respondent who is a non-student employee on administrative leave during the pendency of a grievance process described in the formal complaint process below. The District shall follow any relevant policies, procedures, collective bargaining agreements, or state law in placing an employee on administrative leave.

Basic Requirements of Title IX Grievance Procedures for Complaints of Sex Discrimination

The District will treat complainants and respondents equitably. The District requires that any Title IX Coordinator, investigator, or decision-maker not have a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent. As long as there is no conflict in interest or bias, a decision-maker may be the same person as the Title IX Coordinator or investigator. The District presumes that the Respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

Timeframes and Extensions

Complaint Evaluation: The District will determine whether to dismiss or investigate a Complaint within at least ten (10) business days.

Complaint Investigation: The District will complete an adequate, reliable, and impartial investigation of Complaints within 180 calendar days.

Questioning the Parties and Witnesses: The District will complete the process that enables the Decision-Maker to question the Parties and Witnesses no later than thirty (30) calendar days of the date that the investigation concludes.

Determination Whether Sex Discrimination Occurred: The District will issue a written determination whether sex discrimination occurred no later than twenty (20) business days after the date that the Decision-Maker completes the process that enables the Decision-Maker to question the Parties and Witnesses.

Appeal (if any): A Complainant or Respondent may submit a written appeal no later than ten (10) days from the date of the notice of determination whether sex discrimination occurred or from the date of the District's notice of dismissal of a Complaint or any allegations. If a Complainant or Respondent submits an appeal to the District, the District will notify the other Party in writing within five (5) business days of receiving a Party's appeal and allow the non-appealing Parties at least ten (10) business days from the date of receipt of the appeal to submit a written statement in support of, or challenging, the outcome. The appeal Decision-Maker will issue a written decision on whether to grant or deny the appeal, and the rationale for the decision, within 45 calendar days after the Decision-Maker on appeal receives the response to the appeal or the last day to provide a response.

The District may designate reasonably prompt timeframes for additional major stages of grievance process as desired.

When appropriate, the Title IX Coordinator may determine that good cause exists to extend the timeline(s) identified in the preceding paragraph to conduct a fair and complete investigation, 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, or due to the complexity of the investigation. The District will provide notice of this extension to the Parties in writing and include the reason for the delay and anticipated timing of completion.

A Party may request an extension from the Title IX Coordinator in writing by explaining the reason for the delay and the length of the continuance requested. The Title IX Coordinator will notify the Parties and document the grant or denial of a request for extension or delay as part of the case recordkeeping. The District shall grant a student

Party's reasonable request for an extension of a deadline related to a Complaint during periods of examinations or school closures.

Privacy

The District will take reasonable steps to protect the privacy of the Parties and Witnesses during its grievance procedures. These steps will not restrict the ability of the Parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The Parties cannot engage in retaliation, including against Witnesses.

Evidence

The District will objectively evaluate all evidence that is relevant and otherwise permissible – including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by the District to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether the evidence or question is relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A Party's or Witness' records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or Witness, unless the District obtains that Party's or Witness' voluntary, written consent for use in its grievance procedures; and
- Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

Written Notice of Allegations

Upon initiation of these grievance procedures, the District will notify the Parties of the following with sufficient time for the Parties to prepare a response before any initial interview:

- The District's Title IX grievance process and any informal resolution process;
- Sufficient information available at the time to allow the Parties to respond to the allegations, including the identities of the Parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited;
- For student Parties, notice regarding appropriate counseling resources the District has developed and maintains.
- The Parties are entitled to an equal opportunity to access the relevant and otherwise permissible evidence or an accurate description of this evidence.

If, in the course of an investigation, the District decides to investigate allegations of sex discrimination by the Respondent towards the Complainant that are not included in the written notice provided or that are included in a consolidated Complaint, the District will provide notice in writing of the additional allegations to the Parties.

Dismissal of a Complaint

The District may dismiss a Complaint of sex discrimination if:

- The District is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in the District's education program or activity and is not employed by the District;
- The Complainant voluntarily withdraws in writing any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a Complaint, and the District determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- The District determines the conduct alleged in the Complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the Complaint, the District will make reasonable efforts to clarify the allegations with the Complainant.

If the District dismissed the Complaint or any allegations, the Title IX Coordinator or Title IX Deputy Coordinator shall simultaneously provide the Parties with written notice of the dismissal and reason. The District will also notify the Parties of their right to appeal. Upon dismissal, the District will promptly notify the Complainant in writing of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then the District will notify the Parties of the dismissal and the basis for the

dismissal simultaneously in writing. The District may commence proceedings under other policies and procedures after dismissing a Complaint.

The District will notify the Complainant that a dismissal may be appealed and will provide the Complainant with an opportunity to appeal the dismissal of the Complaint. If the dismissal occurs after the Respondent has been notified of the allegations, then the District will also notify the Respondent that the dismissal may be appealed.

Appeal of Dismissal Complaint

A Complainant may appeal the dismissal of a Complaint or any allegations on the following basis no later than ten (10) days from the date of the District's notice of dismissal of a Complaint or any allegations:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the District dismissed the Complaint; and
- The Title IX Coordinator, Investigator, or Decision-Maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.

If the Complainant appeals the dismissal of the Complaint or any allegations, the District will:

- Notify the Parties of any appeal within five (5) business days of receiving the Complainant's appeal, including notice of the allegations, if notice was not previously provided to the Respondent;
- Allow the Respondent at least ten (10) business days from the date of receipt of the appeal to submit a written statement in support of, or challenging, the outcome;
- Implement appeal procedures equally for the Parties;
- Ensure that the Decision-Maker for the appeal did not take part in an investigation of the allegations or dismissal of the Complaint;
- Ensure that the Decision-Maker for the appeal has been trained consistent with the Title IX regulations; and
- Notify the Parties of the result of the appeal and the rationale for the result within 45 calendar days after the Decision-Maker on appeal receives the response to the appeal or the last day to provide a response.

If a Complaint is dismissed, the District will:

- Offer supportive measures to the Complainant as appropriate;
- If the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within the District's education program or activity.

Standard of Proof

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

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

Correspondence to Participating Parties

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

Law Enforcement

Any person has the right to file a civil or criminal complaint based on the same facts that constitute an alleged violation of this Title IX procedure. It is important to take steps to preserve and collect evidence; doing so preserves the full range of options available through the criminal process.

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

Amnesty

The District/College will not initiate student disciplinary proceedings with a Complainant or witness for violations of the Student Code of Conduct (e.g., underage drinking) that occur at or near the time of the incident. However, if the alleged violations of the Student Conduct Code were egregious, the District/College may initiate student disciplinary proceedings and impose sanctions pursuant to District BP/AP 5500.

The Role of the Advisor

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

The role of the Advisor is to provide support and assistance in understanding and navigating the grievance process. The Advisor may inspect and review all evidence directly related to the allegations and the investigative report that summarizes relevant evidence.

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

The Advisor may not obstruct an interview or disrupt the process. The Title IX Coordinator or Title IX Deputy Coordinator has the right to determine what constitutes appropriate behavior of an Advisor and take reasonable steps to ensure compliance with this procedure.

The Parties must notify the Title IX Coordinator or Title IX Deputy Coordinator of their advisor seven (7) Business Days prior to any hearing so that the necessary arrangements can be made. If the Parties choose an attorney as their Advisor, notification of the attorney's name, address, phone number, and state bar number should be given to the Title IX Coordinator or Title IX Deputy Coordinator.

Confidentiality Agreements

To protect the privacy of those involved, the Parties and Advisors are required to sign a confidentiality agreement prior to attending an interview or otherwise participating in the District's grievance process. The confidentiality agreement restricts unauthorized disclosure of information and evidence obtained solely through the grievance procedure. The confidentiality agreement will not restrict the ability of either Party to discuss the allegations under investigation.

Formal Complaint Grievance Process

A formal complaint is a document filed by the Complainant or signed by the Title IX Coordinator or Title IX Deputy Coordinator, alleging Sexual Harassment against a Respondent and requesting that the District/College investigate the allegations. A formal complaint may be filed with the Title IX Coordinator or Title IX Deputy Coordinator in person, by mail, or by email using the contact information listed in this procedure or through the electronic reporting form on the District's/College's website.

When a Complainant Does Not Wish to Proceed

If a Complainant does not wish for their name to be disclosed, 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 District Title IX Coordinator or Title IX Deputy Coordinator.

Notice to Parties

Upon receipt of a formal complaint, the Title IX Coordinator or Title IX Deputy Coordinator will provide the following notice in writing, to the Parties:

- Notice of the District's Title IX grievance process;
- Notice of the allegations of alleged sexual harassment with sufficient details known at the time and with sufficient time to prepare a response before any initial interview;
- 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;
- Notice that the Parties may have Advisor of their choice, who may be, but is not required to be, an attorney;
- Notice that the Parties may inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence whether obtained from a Party or other source; and
- Inform the Parties of any provision in the District's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, the District decides to investigate allegations about the Complainant or Respondent that are not included in the notice provided above, the Title IX Coordinator or Title IX Deputy Coordinator will provide notice in writing of the additional allegations to the Parties.

Investigation

The District will provide for adequate, reliable, and impartial investigation of Complaints.

Burden of Gathering Evidence - The burden is on the District – not the Parties – to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

Opportunity to Present Witnesses and Evidence - The District will provide an equal opportunity for the Parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and otherwise permissible.

Evidence – The District will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

The District will provide each Party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and otherwise permissible, in the following manner:

- The District will provide an equal opportunity to access either the relevant and otherwise permissible evidence, or an accurate description of this evidence.
- The District will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and
- The District will take reasonable steps to prevent and address the Parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the Complaint of sex discrimination are authorized.

Student Complainants should be aware that any evidence available but not disclosed during the investigation might not be considered at a subsequent hearing, if a hearing is required under this procedure. Written evidence submitted by a Party is limited to ten thousand (10,000) words.

Evidence of Past Sexual History

An investigator or Decision-Maker shall not consider the past sexual history of a Party except in the limited circumstances described below:

- The investigator or Decision-Maker shall not consider the prior or subsequent sexual history between the Complainant and anyone other than the Respondent for any reason unless directly relevant to prove that physical injuries alleged to have been inflicted by the Respondent were inflicted by another individual; or
- The investigator or Decision-Maker shall not consider the existence of a dating relationship or prior or subsequent consensual sexual relations between the Complainant and the Respondent unless the evidence is relevant to how the Parties communicated consent in prior or subsequent consensual sexual relations.
 - Where the investigator or Decision-Maker allows consideration of questions or evidence about a dating relationship or prior or subsequent consensual sexual relations between the Complainant and the Respondent, the mere fact that the Complainant and Respondent engaged in other consensual sexual relations with one another is never sufficient, by itself, to establish that the conduct in question was consensual.

Before allowing the consideration of any evidence proffered pursuant to this section, the investigator or Decision-Maker shall provide a written explanation to the Parties as to why consideration of the evidence is consistent with this procedure.

The Role of the Title IX Investigator

The Title IX Investigator(s) gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their investigative report. Prior to the completion of the investigative report, the Investigator(s) shall send the Parties and their respective Advisors (if so desired by the Parties) an electronic or hard copy of the evidence directly related to the allegations, including evidence upon which the Investigator(s) do not intend to rely in reaching a determination regarding responsibility, for a ten (10) Business Day review and written comment period so that each Party may meaningfully respond to the evidence. The Parties may elect to waive the full ten (10) Business Days.

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

Investigative Report

The finalized investigative report that fairly summarizes relevant evidence shall be disclosed to the Parties and their respective Advisors (if so desired by the Parties) at least ten (10) Business Days prior to a Hearing for a review and written comment period so that each Party may meaningfully respond prior to the Hearing determining responsibility. The Title IX Coordinator or Title IX Deputy Coordinator shall review all investigative draft reports before they are final and disseminated to participating Parties.

The results of the investigation of a complaint will be set forth in a written report that will include at least all of the following information:

- A description of the circumstances giving rise to the Complaint;
- A description of the procedural steps taken during the investigation, including all individuals contacted and interviewed;
- A summary of the testimony of each witness the investigator interviewed;
- A description of all evidence gathered through the investigation;
- A specific finding as to whether the allegations occurred using a preponderance of the evidence standard;
- A table of contents if the report exceeds ten pages; and
- Any other information deemed appropriate by the District.

The Title IX Investigator will not make a determination regarding responsibility.

Questioning the Parties and Witnesses

The District will provide a process that enables the Decision-Maker to question Parties and Witnesses to adequately assess a Party's or Witness' credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination.

The District will use the following steps to complete this process:

- The Decision-Maker will request the parties participation in meetings to question the Party and invite the Parties to submit questions for the Decision-Maker's consideration when meeting with the Parties.
- The Decision-Maker will schedule and conduct separate meetings with the Parties.
- The meetings will be in-person or with technology enabling the Party and Decision-Maker to see and hear each other in real time.
- During each meeting, the Decision-Maker will ask questions of the Party and allow the Party to comment on the evidence collected during the investigation.
- The Decision-Maker may meet with a Party more than once, based on the Decision-Maker's judgment.
- The Decision-Maker will meet with other witnesses, if needed based on the Decision-Maker's judgment.

Determinations Whether Sex Discrimination Occurred

Following an investigation and evaluation of all relevant and otherwise permissible evidence, the District will:

- Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. The standard of proof requires the Decision-Maker to evaluate relevant and otherwise permissible evidence for its persuasiveness. If the Decision-Maker is not persuaded by a preponderance of the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the Decision-Maker will not determine that sex discrimination occurred.
- Notify the Parties simultaneously in writing of the determination whether sex discrimination occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the Complainant and Respondent to appeal;
- Not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the Respondent engaged in prohibited sex discrimination.
- If there is a determination that sex discrimination occurred, the Title IX Coordinator will as appropriate:
 - Coordinate the provision and implementation of remedies to the Complainant and other people the District identifies as having had equal access to the District's education program or activity limited or denied by sex discrimination;

- Coordinate the imposition of any disciplinary sanctions on the Respondent, including notification to the Complainant of any such disciplinary sanctions; and
- Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue to recur within the District's education program or activity.
- Comply with the grievance procedures before the imposition of any disciplinary sanctions against the Respondent; and
- Not discipline a Party, Witness, or others participating in the Title IX grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

Appeal of Determinations

A Complainant or Respondent may appeal the District's determination regarding responsibility or the dismissal of a formal complaint or any allegations. A Complainant or Respondent must submit a written appeal within ten (10) days from the date of the notice of determination regarding responsibility or from the date of the District's notice of dismissal of a formal complaint or any allegations. Opposing the dismissal of a formal complaint or the determination of responsibility is not, by itself, grounds for appeal.

Grounds for Appeal

In filing an appeal of the District's determination regarding responsibility or the District's dismissal of a formal complaint, the Party must state the grounds for appeal and a statement of facts supporting those grounds. The grounds for appeal are as follows:

- A procedural irregularity affected the outcome;
- New evidence was not reasonably available at the time the District's determination regarding responsibility or dismissal was made, and this new evidence could affect the outcome; or
- The District's Title IX Team had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome.

Appeal Procedure

If the Complainant or Respondent submits an appeal to the District, the District will:

- Notify the other Party in writing within five (5) days of receiving a Party's appeal;
- Allow the non-appealing Parties at least ten (10) days from the date of receipt of the appeal to submit a written statement in support of, or challenging, the outcome.

The College President or designee will serve as the Decision-Maker on an appeal for cases that involve students exclusively. The Vice Chancellor of Business and Fiscal

Services or designee will serve as Decision-Maker on an appeal in cases that involved employees exclusively. The appeal Decision-Maker will issue a written decision on whether to grant or deny the appeal, and the rationale for the decision, within forty-five (45) business days after the Decision-Maker on appeal receives the response to the appeal or the last day to provide a response. The District will provide the written decision simultaneously to both Parties.

The Decision-Maker on appeal may extend or otherwise modify the deadlines provided above. Either Party may seek an extension by submitting a written request to the appeal Decision-Maker explaining the need for the extension and the proposed length of the extension. The Decision-Maker will respond to the request within two (2) business days in writing and will inform the Parties simultaneously whether the extension is granted.

Informal Resolution

In lieu of resolving a Complaint through the District's Title IX grievance procedures, the Parties may instead elect to participate in an informal resolution process. The District does not offer informal resolution to resolve a Complaint when such a process would conflict with Federal, State, or local law. The District will inform the Parties in writing of any informal resolution process it offers and determines is appropriate, if any. Before the initiation of an informal resolution process, the District will explain in writing to the Parties:

- The allegations;
- The requirements of the informal resolution process;
- That any Party has the right to withdraw from the informal resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;
- That if the Parties agree to a resolution at the end of the informal resolution process, the Parties cannot initiate or resume grievance procedures arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the Parties; and
- What information the District will maintain and whether and how the District could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed.

Supportive Measures

The District will offer and coordinate supportive measures as appropriate for the Complainant and Respondent to restore or preserve that person's access to the District's education program or activity or provide support during the District's Title IX grievance procedures or during the informal resolution process. For complaints of sex-based harassment, these supportive measures may include but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more Parties; leaves of absence; changes in

class, work, District-provided housing, or extracurricular or any other activity, regardless of whether there is a comparable alternative; and training and education programs related to sex-based harassment.

Disciplinary Sanctions and Remedies

Following a determination that sex discrimination occurred, the District may impose disciplinary sanctions or any other actions that are not supportive measures against the Respondent.

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

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

For Respondents that are a Student, the possible Sanctions are described in District BP/AP 5500. For Respondents who are an Employee, the Sanctions will conform to all relevant statutes, regulations, personnel policies, and procedures, including the provisions of any applicable collective bargaining agreement.

The District may also provide remedies, which may include, but are not limited to:

- Providing an escort to ensure that the Complainant can move safely between classes and activities;
- Ensuring that the Complainant and Respondent do not attend the same classes or work in the same work area;
- Providing counseling services or a referral to counseling services;
- Providing medical services or a referral to medical services;
- Providing academic support services, such as tutoring;
- Arranging for a Complainant, if a student, to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the Complainant's academic record; and
- Reviewing any disciplinary actions taken against the Complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the Complainant's discipline.

STUDENTS

Grievance Procedures for Complaints of Sex-Based Harassment Involving Student Parties

(For complaints of sex discrimination not including sex-based harassment involving students or complaints of sex-based harassment not involving students, see the preceding section entitled, "Grievance Procedures for Complaints of Sex Discrimination under Title IX".)

The District has adopted the following Title IX grievance procedures that provide for the prompt and equitable resolution of complaints of sex-based harassment involving a student complainant(s) or a student respondent(s). These procedures ensure trauma-informed and impartial investigation of complaints of sex-based harassment.

Any individual may report sexual harassment to the District's Title IX Coordinator.

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. A delay may limit the District's ability to effectively investigate and respond.

Who May File a Complaint

The following people have a right to make a Complaint of sex-based harassment, requesting that the District investigate and make a determination about alleged sex-based harassment under Title IX:

- A "complainant", which includes:
 - A student or employee of the District who is alleged to have been subjected to conduct that could constitute sex-based harassment under Title IX; or
 - A person other than a student or employee of the District who is alleged to have been subjected to conduct that could constitute sex-based harassment under Title IX at a time when that individual was participating or attempting to participate in the District's education program or activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant; or
- The District's Title IX Coordinator.

Note that a person is entitled to make a Complaint of sex-based harassment only if he/she/they is alleged to have been subjected to the sex-based harassment, if he/she/they has a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a Complaint consistent with the Title IX regulations.

Regardless of whether a Complaint has been filed under this procedure, if the District knows, or reasonably should know, about possible sexual harassment involving individuals subject to the District's policies at the time, the District shall promptly

investigate to determine whether the alleged conduct more likely than not occurred, or otherwise respond if the District determines that an investigation is not required.

Employee Obligations

All district employees are mandatory reporters and are not confidential resources and are required to report allegations of sex discrimination including sex-based harassment to the Title IX Coordinator or Title IX Deputy Coordinator promptly.

All employees are required to report actual, suspected, and all relevant information they know about sexual harassment including the name of the Respondent, the Complainant, any other witnesses, and the date, time, and location of the alleged incident.

Support Person or Advisor

A student party has the opportunity to have a support person or advisor accompany the student party during any stage of the grievance process described below. A student party has a right to consult with an attorney, at the party's own expense, at any stage of the grievance process if they wish to do so. An attorney may serve as a support person or advisor.

Sexual Assault and Domestic Violence Counselors

For further information about services provided by sexual assault and domestic violence counselors on campus, see AP 3540 Sexual and Other Assaults on District Property.

Consolidation of Complaints

The District may consolidate Complaints of sex-based harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex-based harassment arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

Emergency Removal

The District may remove a non-employee Respondent from the District's education program or activity on an emergency basis after it conducts an individualized safety and risk analysis and determines that an imminent and serious threat to the health or safety of a complainant or any students, employees, or other individual arising from the allegations of sex-based harassment justifies removal.

The District's Title IX Coordinator or Title IX Deputy Coordinator will conduct the individualized safety and risk analysis.

If the District's Title IX Coordinator or Title IX Deputy Coordinator determines an emergency removal is appropriate, he/she/they will provide the person the District is removing from campus on an emergency basis with a notice and opportunity to attend a meeting and challenge the basis of his/her/their removal. The District's Title IX Coordinator or Title IX Deputy Coordinator will determine whether the emergency removal from campus order is warranted after considering information provided by the Respondent challenging the emergency removal.

Administrative Leave

The District may place a non-student employee Respondent on administrative leave during the pendency of the grievance process described below. The District will follow any relevant policies, procedures, collective bargaining agreements, or state law in placing an employee on administrative leave.

Student Complainant Requests for Confidentiality

If a student Complainant requests confidentiality when reporting sexual harassment, which could preclude a meaningful investigation or potential discipline of the Respondent, if found responsible, or that no investigation or disciplinary action be pursued to address alleged sexual harassment, the District shall take the request seriously, while at the same time considering its responsibility to provide a safe and nondiscriminatory environment for all students, including for the Complainant. The District shall normally grant the request when possible. In determining whether to disclose a Complainant's identity or proceed to an investigation over the objection of the Complainant, the District may consider whether any of the following apply:

- There are multiple or prior reports of sexual misconduct against the Respondent;
- The Respondent reportedly used a weapon, physical restraints, or engaged in battery;
- The Respondent is faculty or staff member with oversight of students;
- There is a power imbalance between the Complainant and Respondent;
- The Complainant believes that the Complainant will be less safe if the Complainant's name is disclosed, or an investigation is conducted; and
- The District is able to conduct a thorough investigation and obtain relevant evidence in the absence of the Complainant's cooperation.

If the District determines that it can honor the student-Complainant's request for confidentiality, it shall still take reasonable steps to respond to the Complaint, consistent with the request, to limit the effects of the alleged sexual harassment and prevent its recurrence without initiating an investigation or revealing the identity of the Complainant. The District shall also take immediate steps to provide for the safety of the Complainant while keeping the Complainant's identity confidential as appropriate. The District shall notify the Complainant that the request for confidentiality will limit the steps the District will take to respond to the report of sexual harassment.

If the District determines that it must disclose the student-Complainant's identity to the Respondent or proceed with a Complaint, it shall inform the Complainant prior to

making this disclosure or initiating the investigation. The District shall also take immediate steps to provide for the safety of the Complainant where appropriate. In the event the Complainant requests that the District inform the Respondent that the Complainant asked the District not to investigate or seek discipline, the District shall honor this request.

Basic Requirements of Title IX Grievance Procedures for Complaints of Sex-Based Harassment Involving Student Parties

The District will treat complainants and respondents equitably. The District requires that any Title IX Coordinator, investigator, or decision-maker not have a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent. As long as there is not conflict of interest or bias, a decision-maker may be the same person as the Title IX Coordinator or investigator.

The District presumes that the Respondent is not responsible for the alleged sex-based harassment until a determination is made at the conclusion of its grievance procedures.

The investigation and adjudication of alleged sex-based harassment under this procedure is not an adversarial process between the Complainant, the Respondent, and the Witnesses, but rather a process for the District to comply with its obligations under existing law. The Complainant does not have the burden to prove, nor does the Respondent have the burden to disprove, the underlying allegation or allegations of misconduct.

Because individuals may be deterred from reporting incidents of sex-based harassment if alcohol, drugs, or other violations of District of campus rules were involved, the District will inform individuals that the primary concern is for student safety and that use of alcohol or drugs never makes a Complainant at fault for sex-based harassment. An individual who participates as a Complainant or Witness in an investigation under this procedure 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.

Timeframes and Extensions

The District has established the following timeframes for the major stages of the grievance procedures:

Complaint Evaluation: The District will determine whether to dismiss or investigate a Complaint within ten (10) business days.

Complaint Investigation: The District will complete an adequate, reliable, and impartial investigation of Complaints within 180 calendar days.

Questioning the Parties and Witnesses: The District will complete the process that enables the Decision-Maker to question the Parties and Witnesses no later than thirty (30) calendar days the date that the investigation concludes.

Live Hearing (if any): The District will conduct a live hearing no later than thirty (30) calendar days after the date that the Decision-Maker completes the process that enables the Decision-Maker to question the Parties and Witnesses.

Determination Whether Sex Discrimination Occurred: The District will issue a written determination whether sex discrimination occurred no later than twenty (20) business days after the date that the Decision-Maker completes the process that enables the Decision-Maker to question the Parties and Witnesses or the date that the live hearing (if any) concludes, whichever occurs later.

Appeal (if any): A Complainant or Respondent may submit a written appeal no later than ten (10) days from the date of the notice of determination whether sex discrimination occurred or from the date of the District's notice of dismissal of a Complaint or any allegations. If a Complainant or Respondent submits an appeal to the District, the District will notify the other Party in writing within five (5) business days of receiving a Party's appeal and allow the non-appealing Parties at least ten (10) business days from the date of receipt of the appeal to submit a written statement in support of, or challenging, the outcome. The appeal Decision-Maker will issue a written decision on whether to grant or deny the appeal, and the rationale for the decision, within 45 calendar days after the Decision-Maker on appeal receives the response to the appeal or the last day to provide a response.

When appropriate, the Title IX Coordinator may determine that good cause exists to extend the timeline(s) identified in the preceding paragraph to conduct a fair and complete investigation, 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, or due to the complexity of the investigation. The District will provide notice of this extension to the Parties in writing and include the reason for the delay and anticipated timing of completion.

A Party may request an extension from the Title IX Coordinator in writing by explaining the reason for the delay and the length of the continuance requested. The Title IX Coordinator will notify the Parties and document the grant or denial of a request for extension or delay as part of the case recordkeeping.

Privacy

The District will take reasonable steps to protect the privacy of the Parties and Witnesses during its grievance procedures. These steps will not restrict the ability of the Parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or

participate in the grievance procedures. The Parties cannot engage in retaliation, including against Witnesses.

Evidence

The District will objectively evaluate all evidence that is relevant and otherwise permissible – including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

Student Complainants should be aware that any evidence available but not disclosed during the investigation might not be considered later in the grievance process. Written evidence submitted by a Party is limited to 10,000 words.

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by the District to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether the evidence or question is relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A Party's or Witness' records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or Witness, unless the District obtains that Party's or Witness' voluntary, written consent for use in its grievance procedures; and
- Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.
- Evidence that relates to the existence of a dating relationship or prior or subsequent consensual sexual relations between the Complainant and the Respondent unless the evidence is relevant to how the Parties communicated consent in prior or subsequent consensual sexual relations. Before allowing the consideration of any evidence that relates to the Complainant's sexual interests or prior sexual conduct, the investigator or Decision-Maker shall provide a written explanation to the Parties as to why consideration of the evidence is consistent with this procedure.

Written Notice of Allegations

Upon initiation of these Title IX grievance procedures, District will notify the Parties in writing of the following with sufficient time for the parties to prepare a response before any initial interview:

- The District's Title IX grievance procedures and any informal resolution process;
- Sufficient information available at the time to allow the Parties to respond to the allegations, including the identities of the Parties involved in the incident(s), the conduct alleged to constitute sex-based harassment, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited;
- The Respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance procedures. Prior to such a determination, the Parties will have an opportunity to present relevant and otherwise permissible evidence to a trained, impartial decision-maker;
- The Parties may have an Advisor of their choice who may be, but is not required to be, an attorney;
- The Parties are entitled to an equal opportunity to access the relevant and otherwise permissible evidence or an investigative report that accurately summarizes this evidence. The Parties are entitled to an equal opportunity to access the relevant and permissible evidence upon the request of any Party; and
- The District's BP 5500, Standards of Student Conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance procedures.
- For a student Party, notice regarding appropriate counseling resources the District developed and maintains.

If, in the course of an investigation, the District decides to investigate additional allegations of sex-based harassment by the Respondent toward the Complainant that are not included in the written notice or that are included in a consolidated Complaint, the District will provide written notice of the additional allegations to the Parties.

Dismissal of a Complaint

The District may dismiss a Complaint of sex discrimination if:

- The District is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in the District's education program or activity and is not employed by the District;
- The Complainant voluntarily withdraws in writing any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a Complaint, and the District determines that, without the Complainant's withdrawn allegations, the

conduct that remains alleged in the Complaint, if any, would not constitute sex discrimination under Title IX even if proven; or

- The District determines the conduct alleged in the Complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the Complaint, the District will make reasonable efforts to clarify the allegations with the Complainant.

Upon dismissal, the District will promptly notify the Complainant in writing of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then the District will notify the Parties of the dismissal and the basis for the dismissal simultaneously in writing.

The District will notify the Complainant that a dismissal may be appealed and will provide the Complainant with an opportunity to appeal the dismissal of the Complaint. If the dismissal occurs after the Respondent has been notified of the allegations, then the District will also notify the Respondent that the dismissal may be appealed. For more information on the right to appeal, see the Appeals section below.

If a Complaint is dismissed, the District will:

- Offer supportive measures to the Complainant as appropriate;
- If the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within the District's education program or activity.

Investigation

The District will provide for adequate, reliable, and impartial investigation of Complaints.

Burden of Gathering Evidence - The burden is on the District – not the Parties – to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

Participation – The District will provide to a Party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the Party to prepare to participate. The District will provide the Parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney.

- The District will not limit the choice or presence of the advisor for the Complainant or Respondent in any meeting or proceeding.
- The District may establish restrictions regarding the extent to which the advisor may participate in these grievance procedures, as long as the restrictions apply equally to the Parties.

The District will provide the Parties with the same opportunities, if any, to have people other than the advisor of the Party's choice present during any meeting or proceeding involving the Party.

Opportunity to Present Witnesses and Evidence - The District will provide an equal opportunity for the Parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and otherwise permissible. The District has discretion to determine whether the Parties may present expert witnesses as long as the determination applies equally to the Parties.

Evidence – The District will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

The District will provide each Party and the Party's advisor, if any, with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and otherwise permissible, in the following manner:

- The District will provide an equal opportunity to access either the relevant and otherwise permissible evidence, or the same written investigative report that accurately summarizes this evidence. The District will further provide the Parties with an equal opportunity to access the relevant and otherwise permissible evidence upon the request of any Party.
- The District will provide the Parties with a reasonable opportunity to review and respond to the evidence or the investigative report. If the District conducts a live hearing as part of its grievance procedures, it will provide this opportunity to review the evidence in advance of the live hearing. The District may decide whether to provide this opportunity to respond prior to the live hearing, during the live hearing, or both prior to and during the live hearing; and
- The District will take reasonable steps to prevent and address the Parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the sex-based grievance procedures.

Questioning the Parties and Witnesses

The District will provide a process that enables the Decision-Maker to question Parties and Witnesses to adequately assess a Party's or Witness' credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment.

If the District chooses not to conduct a live hearing, the District's process for proposing and asking relevant and otherwise permissible questions and follow-up questions of the Parties and Witnesses, including questions challenging credibility, will:

- Allow the Investigator or Decision-Maker to ask such questions during individual meetings with a Party or Witness;
- Allow each Party to propose such questions that the Party wants asked of any Party or Witness and have those questions asked by the Investigator or

Decision-Maker during one or more individual meetings, including follow-up meetings, with a Party or Witness, subject to the procedures for evaluating and limiting questions discussed below; and

- Provide each Party with an audio or audiovisual recording or transcript with enough time for the Party to have a reasonable opportunity to propose follow-up questions.

If the District chooses to conduct a live hearing, the District's process for proposing and asking relevant and otherwise permissible questions and follow-up questions of Parties and Witnesses, including questions challenging credibility, will allow the Decision-Maker to ask such questions, and either:

- Allow each Party to propose such questions that the Party wants asked of any Party or Witness and have those questions asked by the Decision-Maker, subject to the procedures for evaluating and limiting questions discussed below; or
- Allow each Party's advisor to ask any Party or Witness such questions, subject to the procedures for evaluating and limiting questions discussed below. Such questioning will never be conducted by a Party personally. If the District permits advisor-conducted questioning and a Party does not have an advisor to ask questions on their behalf, the District will provide the Party with an advisor of the District's choice, without charge to the Party, for the purpose of advisor-conducted questioning. In those instances, the District will not appoint a confidential employee and may appoint, but is not required to appoint, an attorney to serve as an advisor.

Procedures for the Decision-Maker to Evaluate Questions and Limitations on Questions

The Decision-Maker will determine whether a proposed question is relevant and otherwise permissible before the question is posed and will explain any decision to exclude a question as not relevant or otherwise impermissible. Questions that are repetitive, unclear, or harassing of the Party or Witness being questioned will not be permitted. The Decision-Maker will give a Party an opportunity to clarify or revise a question that the Decision-Maker determines is unclear or harassing. If the Party sufficiently clarifies or revises the question, the question will be asked.

Refusal to Respond to Questions and Interferences Based on Refusal to Respond to Questions

The Decision-Maker may choose to place less or no weight upon statements by a Party or Witness who refuses to respond to questions deemed relevant and permissible. The Decision-Maker will not draw an inference about whether sex-based harassment occurred based solely on a Party's or Witness' refusal to respond to such questions.

Procedures for a Live Hearing

The District will decide whether a live hearing is necessary to determine whether any sex-based harassment occurred. In making this decision, the District may consider whether the Parties elected to participate in the investigation and whether each Party

had the opportunity to suggest questions to be asked of the other Party or witnesses, or both, during the investigation.

The District will conduct a live hearing with the Parties physically present in the same geographic location or, at the District's discretion or upon the request of either party, will conduct the live hearing with the Parties physically present in separate locations with technology enabling the Decision-Maker and Parties to simultaneously see and hear the Party or Witness while that person is speaking.

Any cross-examination of a Party or a Witness shall not be conducted directly by a Party or a Party's advisor.

Student parties shall have the opportunity to submit written questions to the Decision-Maker in advance of the hearing. At the hearing, the other Party shall have an opportunity to note an objection to the questions posed. The District may limit such objections to written form, and neither the Decision-Maker nor the District are obligated to respond, other than to include any objection in the record. The Decision-Maker shall have the authority and obligation to discard or rephrase any question that the Decision-Maker deems to be repetitive, irrelevant, or harassing. In making these determinations, the Decision-Maker is not bound by, but may take guidance from, the formal rules of evidence.

Generally, the Parties may not introduce evidence, including witness testimony, at the hearing that the Party did not identify during the investigation and that was available at the time of the investigation. However, the Decision-Maker has discretion to accept for good cause, or exclude, such new evidence offered at the hearing.

The District will create an audio or audiovisual recording or transcript of any live hearing and make it available to the parties for inspection and review.

The Decision-Maker shall provide an explanation of the meaning of the preponderance of the evidence standard and affirm that it shall apply to determinations under this procedure. The preponderance of the evidence standard is met if the District determines that it is more likely than not that the alleged sex-based harassment occurred, based on the facts available at the time of the decision.

Determination Whether Sex-Based Harassment Occurred

Following an investigation and evaluation of all relevant and otherwise permissible evidence, the District will:

- Use the preponderance of the evidence standard of proof to determine whether sex-based harassment occurred. The standard of proof requires the Decision-Maker to evaluate relevant and otherwise permissible evidence for its persuasiveness. If the Decision-Maker is not persuaded by a preponderance of the evidence that sex-based harassment occurred, whatever the quantity of the

evidence is, the Decision-Maker will not determine that sex-based harassment occurred.

- Notify the Parties simultaneously in writing of the determination whether sex-based harassment occurred under Title IX including:
 - A description of the alleged sex-based harassment;
 - Information about the policies and procedures that the District used to evaluate the allegations;
 - The Decision-Maker's evaluation of the relevant and otherwise permissible evidence and determination whether sex-based harassment occurred;
 - When the Decision-Maker finds that sex-based harassment occurred, any disciplinary sanctions the District will impose on the Respondent, whether remedies other than the imposition of the disciplinary sanctions will be provided by the District to the Complainant, and, to the extent appropriate, other students identified by the District to be experiencing the effects of the sex-based harassment; and
 - The District's procedures and permissible bases for the Complainant and Respondent to appeal.
- The District will not impose discipline on a Respondent for sex-based harassment prohibited by Title IX unless there is a determination at the conclusion of the Title IX grievance procedures that the Respondent engaged in prohibited sex-based harassment.
- If there is a determination that sex-based harassment occurred, as appropriate, the Title IX Coordinator will:
 - Coordinate the provision and implementation of remedies to the Complainant and other people the District identifies as having had equal access to the District's education program or activity limited or denied by sex-based harassment;
 - Coordinate the imposition of any disciplinary sanctions on the Respondent, including notification to the Complainant of any such disciplinary sanctions; and
 - Take other appropriate prompt and effective steps to ensure that sex-based harassment discrimination does not continue to recur within the District's education program or activity.
- Comply with the Title IX grievance procedures before the imposition of any disciplinary sanctions against the Respondent; and
- Not discipline a Party, Witness, or others participating in the Title IX grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex-based harassment occurred.

The determination regarding responsibility becomes final either on the date that the District provides the Parties with the written determination of the result of any appeal, or, if no Party appeals, the date on which an appeal would no longer be considered timely.

Appeals

A Party may appeal the dismissal of a Complaint or any allegations or the determination whether sex-based harassment occurred on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; and
- The Title IX Coordinator, Investigator, or Decision-Maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.

If a Party appeals a dismissal or determination whether sex-based harassment occurred, the District will:

- Notify the Parties in writing of any appeal, including notice of the allegations, if notice was not previously provided to the Respondent;
- Implement appeal procedures equally for the Parties;
- Ensure that the Decision-Maker for the appeal did not take part in an investigation of the allegations or dismissal of the Complaint;
- Ensure that the Decision-Maker for the appeal has been trained consistent with the Title IX regulations;
- Communicate to the Parties in writing that the District will provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the Parties in writing of the result of the appeal and the rationale for the result.

Any additional procedures or bases for appeal the District offers will be equally available to all Parties

Informal Resolution

In lieu of resolving a Complaint through the District's Title IX grievance procedures, the Parties may instead elect to participate in an informal resolution process. The District will not offer informal resolution to resolve a Complaint when such a process would conflict with Federal, State, or local law. The District will inform the Parties in writing of any informal resolution process it offers and determines appropriate, if any. Before the initiation of an informal resolution process, the District will explain in writing to the Parties:

- The allegations;
- The requirements of the informal resolution process;
- That any Party has the right to withdraw from the informal resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;
- That if the Parties agree to a resolution at the end of the informal resolution process, the Parties cannot initiate or resume grievance procedures arising from the same allegations;

- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the Parties; and
- What information the District will maintain and whether and how the District could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed.

Supportive Measures

The District will offer and coordinate supportive measures as appropriate for the Complainant and Respondent to restore or preserve that person's access to the District's education program or activity or provide support during the District's Title IX grievance procedures or during the informal resolution process. For complaints of sex-based harassment, these supportive measures may include but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more Parties; leaves of absence; changes in class, work, District-provided housing, or extracurricular or any other activity, regardless of whether there is a comparable alternative; and training and education programs related to sex-based harassment.

When requested by a Complainant or otherwise determined to be appropriate, the District shall issue an interim no-contact directive prohibiting the Respondent from contacting the Complainant during the pendency of the investigation. The District shall not issue an interim mutual no-contact directive automatically, but instead shall consider the specific circumstances of each case to determine whether a mutual no-contact directive is necessary or justifiable to protect a Party's safety or well-being, or to respond to interference with an investigation. If the District issues any no-contact directive, the District shall provide the Parties with an explanation of the terms of the directive, including the circumstances, if any, under which violation could be subject to disciplinary action. If the District issues a mutual no-contact directive, the District shall also provide the Parties with a written justification for the directive.

Disciplinary Sanctions and Remedies

Following a determination that sex-based harassment occurred, the District may impose disciplinary sanctions on a student respondent.

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

- The nature, severity of, and circumstances surrounding the violation(s);
- The Respondent's disciplinary history in which they were found responsible;
- Previous allegations or allegations involving similar conduct;
- Consistency among the College's disposition of similar cases;

- The need to bring an end to the behavior, prevent future recurrences, and remedy the effects;
- The impact on the Parties; and
- Any other information deemed relevant by the Hearing Chair.

For Respondents that are a Student, the possible Sanctions are described in District BP/AP 5500. For Respondents who are an Employee, the Sanctions will conform to all relevant statutes, regulations, personnel policies, and procedures, including the provisions of any applicable collective bargaining agreement. The District may also issue a no-contact directive against the Respondent following a determination that sex-based harassment occurred.

The District may also provide remedies, which may include, but are not limited to:

- Providing an escort to ensure that the Complainant can move safely between classes and activities;
- Ensuring that the Complainant and Respondent do not attend the same classes or work in the same work area;
- Providing counseling services or a referral to counseling services;
- Providing medical services or a referral to medical services;
- Providing academic support services, such as tutoring;
- Arranging for a Complainant, if a student, to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the Complainant's academic record; and
- Reviewing any disciplinary actions taken against the Complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the Complainant's discipline.

Dissemination of Policies and Procedures

The District will provide its policies and procedures related to Title IX on its website and in each handbook, or catalog, announcement, bulletin, and application form that it makes available to applicants for admission and employment, students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the District.

When hired, employees are required to sign acknowledging that they have received the policy and procedures. The District will place the signed acknowledgment of receipt in each employee's personnel file.

File Retention

The District will retain on file for a period of at least seven (7) years after closing the case copies of:

- For each complaint of sex discrimination: records documenting the informal resolution process (if any) or the grievance procedures, and the resulting outcome.
- For each notification the Title IX Coordinator received of information about conduct that reasonably may constitute sex discrimination under Title IX or this part, including notifications under 106.44(c)(1) or (2), records documenting the actions the District took to meet its obligations under Title IX regulations.
- All materials used to provide training pursuant to Title IX regulations.

Training

The District will provide a comprehensive trauma-informed training program to all employees on the District's obligation to address sex discrimination in its education program or activity, the scope of the conduct that constitutes sex discrimination including sex-based harassment under Title IX, and all applicable notification and information requirements under Title IX regulations. The District will ensure that its Title IX Coordinator(s), investigators, Decision-Makers, facilitators of an information resolution process, and other persons who are responsible for implementing the District's grievance procedures or have the authority to modify or terminate supportive measures, have training on topics required by Title IX regulations and State law and regulations. Materials for this training must include statistics on the prevalence of sexual harassment and sexual violence in the educational setting, and the differing rates at which students experience sexual harassment and sexual assault in the educational setting based on their race, sexual orientation, disability, gender, and gender identity. The District will make these training materials available upon request for inspection by members of the public.

The District shall ensure that residential life student and nonstudent staff, or their equivalent, annually receive training on how to handle, in a trauma-informed manner, reports made to them of sexual harassment and situations in which they are aware of sexual harassment in student residential facilities.

Title IX Team Duties and Responsibilities

Title IX Coordinator provides oversight and authority for district-wide implementation and compliance of Title IX and the West Hills Community College District Sexual Harassment policies and procedures. This includes coordination and monitoring of training, education, communications, investigations, and complaint procedures for employees, students, and third parties. The Title IX Coordinator advises the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this Title IX procedure. The members of the Title IX Team are trained to ensure they are not biased for or against any Party in a specific case, or for or against complainants and/or respondents, generally. The Title IX Coordinator prepares reports and makes recommendations related to applicable laws and legal precedence; ensures investigations are timely,

impartial, and thorough and conducted in a trauma-informed manner and appears in court as necessary.

The Title IX Coordinator's duties include:

- Coordinate training, education, and preventive programs in the areas of Gender-based (or sex-based) Discrimination or Harassment, including Sexual Harassment, Retaliation, Sexual Assault, Dating Violence, Domestic Violence, and Stalking.
- Provide annual training for Title IX Team, including the Investigators, District-appointed Advisors, Hearing Chair, and Appeal designees.
- Monitor, supervise, and oversee all complaints of Gender-based (or sex-based) Discrimination or Harassment, including Sexual Harassment, Retaliation, Sexual Assault, Dating Violence, Domestic Violence, and Stalking, including related investigations, reports, Supportive Measures, resolution, and appeals.
- Oversight and Coordination of prompt and equitable grievance procedures to stop the behavior, prevent future recurrence and remedy the effects.
- Review all investigation reports before they are final to ensure that they are prompt, adequate, reliable, and impartial and in compliance with this Title IX procedure.
- Provide reasonable Supportive Measures, if requested and available.
- Notify students, employees, applicants for admission and employment, all unions or professional organizing holding collective bargaining or professional agreements of the following:
 - Notice of the District's nondiscrimination policies that the District does not discriminate on the basis of sex in its education program or activity.
 - Notice of the Title IX Coordinator's contact information and prominently display on the website.
- Recommend appropriate revisions of policies and procedures.
- Recommend appropriate memoranda of understanding or other agreements with community-based organizations to make services and assistance available to students.
- Assist the College in developing a method to survey the school climate, coordinate the collection and analysis of information from that survey, and identify and address any systemic or other patterns and implement corrective measures, as appropriate.
- Maintain a website, publications, and other resources related to Title IX.
- Oversee gender equity in athletics in consultation with Athletic Director, or appropriate administrator, to measure participation compared to enrollment data in three distinct areas: (1) participation; (2) scholarships; and (3) other benefits, including the provision of equipment and supplies, scheduling, travel, tutoring, coaching, locker rooms, facilities, medical and training facilities, and services, publicity, recruiting, and support services.
- Serve as the point of contact for government inquiries regarding Gender-based (or sex-based) Discrimination and Harassment, including Sexual

Harassment, Retaliation, Sexual Assault, Dating Violence, Domestic Violence, and Stalking.

Title IX Deputy Coordinator collaborates with college and the District Title IX coordinator and District Human Resources to develop and implement goals, objectives, and priorities for Title IX. Under the direction of the District Title IX Coordinator, the Title IX Deputy Coordinator oversees, coordinates, and conducts investigations of allegations and complaints of alleged unlawful discrimination, sexual harassment, and other violations of rights and forwards complaint that involve employees to District Human Resources. The Title IX Deputy Coordinator prepares reports and makes findings and recommendations related to applicable laws and legal precedence; ensures investigations are timely, impartial, and thorough and conducted in a trauma-informed manner.

Title IX Investigator is the college-designated person to investigate a formal complaint of Sexual Harassment. Referred as the Investigator(s) throughout this Title IX procedure, the Investigator shall not be within the administrative control or authority of the Parties.

Complaint Reporting

The Title IX Coordinator or Title IX Deputy Coordinator will report the following annually to the District Chancellor, without disclosing any information that would reveal the identities of the Parties:

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

The Chancellor shall provide the Board of Trustees, upon request, a report of complaints filed pursuant to this procedure. This report must disaggregate the complaints by complaint type (Student Complainant and Student Respondent, Student Complainant and Employee Respondent, Employee Complainant and Student Respondent, Employee Complainant and Employee Respondent, etc.) This report must also disaggregate the complaints by the Complainant's race, age, gender, religion, or any other characteristic identified by the Board.

Definitions

Advisor: Throughout the grievance process, the parties have a right to an Advisor of their choice to participate in any meetings or proceedings regarding the allegations. The

Advisor's role is to provide consultation and support to the Parties, inspect and review evidence, and pose questions on behalf of the Parties during any hearing. 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. Parties have the right to consult with an attorney, at his/her/their own expense, at any stage of the grievance process if he/she/they wishes to do so. An attorney may serve as an advisor.

Affirmative Consent: Affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure they have the Affirmative Consent of the other participant(s) to engage in the sexual activity. Lack of protest, resistance, or silence does not mean Affirmative Consent.

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

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

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

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

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

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

- The Respondent's belief in Affirmative Consent arose from the intoxication or recklessness of the Respondent. A person's own intoxication or incapacitation from drugs, alcohol, or medication does not diminish that person's responsibility to obtain Affirmative Consent before engaging in sexual activity.
- The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented.

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

This Title IX procedure is applicable regardless of the sexual orientation and/or gender identity of the participants engaging in the sexual activity.

Business Day: A day that the District or College are open for business to the public and excludes holidays and weekends.

Calendar Day: A timespan of exactly 24 hours, measured from one midnight to the next.

Complainant: (1) A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or (2) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in the District's education program or activity at the time of the alleged sex discrimination.

Complaint: An oral or written request to the recipient that objectively can be understood as a request for the District to investigate and make a determination about alleged discrimination under Title IX or its regulations.

College: Refers to any of the two colleges (i.e., Coalinga College, Lemoore College, Firebaugh Center) or other facilities owned and operated within the District.

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant, and where the existence of a romantic or intimate relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Disciplinary Sanctions: Consequences imposed on a respondent following a determination under Title IX or its regulations that the Respondent violated the District's prohibition on sex discrimination.

District: Refers to the West Hills Community College District and each of its colleges or other facilities owned and operated within the District.

Domestic Violence: A felony or misdemeanor crime of violence committed by:

- A current or former spouse or intimate partner of the Complainant;
- A person with whom the Complainant shares a child in common;
- A person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
- A person similarly situated to a spouse of the Complainant under California law; or
- Any other person against an adult or youth Complainant who is protected from that person's acts under California law.

To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

Employee: A person hired by the District, under supervision, to perform work for a prescribed rate of pay.

Gender: Means sex, and includes a person's gender identity, gender expression, and transgender status. It also includes sex stereotyping.

- Sex: includes, but is not limited to pregnancy, childbirth, breastfeeding, or any related medical conditions.
- Gender identity: A person's identification as a man, woman, genderqueer, two-spirit, a gender different from the person's assigned sex at birth, or transgender.
- Gender expression: A person's gender-related appearance or behavior whether or not stereotypically associated with the person's assigned sex at birth.
- Sex stereotyping: An assumption about a person's appearance or behavior or about a person's ability or inability to perform certain kinds of work based on a myth, social expectation, or generalization about the person's sex.
- Transgender: A general term that refers to a person whose gender identity differs from the person's sex assigned at birth. A transgender person may or may not have a gender expression that is different from the social expectation of the sex assigned at birth.

Gender and sex are a protected status.

Hearing Chair: referred to as the decision-maker (or designee), this person or group of people will question the parties and witnesses, conduct a live hearing (if offered), and make a determination of whether sex discrimination occurred. 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.

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

Party or Parties: As used in this procedure, this means the Complainant and Respondent. The term Parties means both the Complainant and Respondent collectively.

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

Protected Status: Includes age, disability (physical or mental), Gender (or sex), gender identity (including transgender), gender expression, genetic information, marital status, medical condition, national origin, race or ethnicity (including color or ancestry), religion or religious creed, Sexual Orientation, and veteran or military status.

Relevant: Related to the allegations of sex discrimination under investigation as part of these grievance procedures. Questions are relevant when the question seeks evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decision-maker in determining whether the alleged sex discrimination occurred.

Remedies: Measures provided, as appropriate, to a complainant or any other person the District identifies as having had their equal access to the District's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the District's education program or activity after the District determines that sex discrimination occurred.

Reporter: Any person(s), other than the Complainant, who reports alleged violation(s) of this Title IX procedure.

Respondent: A person who is alleged to have violated the District's prohibition on sex discrimination. The Respondent must be a participant in the education program or activity of the District/College. The District recognizes the legal rights of parents or guardians to act on behalf of the Respondent.

Responsible: Based upon the Preponderance of Evidence standard, that the Respondent violated this Title IX procedure.

Retaliation: The District strictly prohibits Intimidation, threats, coercion, or discrimination against any person by the District, a student, or an employee or other person authorized by the District to provide aid, benefit, or service under the District's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information,

made a Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.

Sanctions: The Decision-Maker or designee may impose on the Respondent following the determination of responsibility for violating this Title IX procedure.

Sex-Based Harassment under Title IX: A form of sex discrimination. Sex-based harassment includes sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity that satisfies one or more of the following:

- Quid Pro Quo: Criteria must include:
 - An employee, agent, or other person authorized by the District,
 - Conditions the provision of an aid, benefit, or service of the District,
 - On an individual's participation in unwelcome sexual conduct; and/or

- Hostile Environment: Criteria must include:
 - Unwelcome sex-based conduct,
 - Based on the totality of the circumstances, is subjectively and objectively offensive, and
 - Is so severe, or
 - Pervasive,
 - That it limits or denies a person's ability to participate in or benefit from the District's education program or activity (i.e., creates a hostile environment).

Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- The degree to which the conduct affected the Complainant's ability to access the District's education program or activity;
- The type, frequency, and duration of the conduct;
- The parties' ages, roles within the District's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- The location of the conduct and the context in which the conduct occurred; and
- Other sex-based harassment in the District's education program or activity.

Sexual assault: Any sexual act directed against another person, without consent of the Complainant, including instances where the Complainant is incapable of giving consent. Sex offenses and misconduct include forcible sex offenses and non-forcible sexual

intercourse Under Title IX, and the California Penal Code, satisfying one or more of the following:

- Sex Offenses: Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Sex offenses include sexual exploitation.
- Forcible Rape: 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;
- Forcible Sodomy: Forcible Sodomy: oral or anal sexual intercourse with 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;
- Sexual Assault with an Object: The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body or 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.
- Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity.
- Incest: Non-Forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape: Sexual intercourse, with a person who is under the statutory age of consent of 18 years old. There is no force or coercion used in Statutory Rape; the act is not an attack.

Sexual Exploitation: In addition to the forms of Sexual Harassment (i.e., Sexual Assault, Dating Violence, Domestic Violence, and Stalking), which fall within the coverage of Title IX, the District additionally prohibits Sexual Exploitation, outside of Title IX, when the act is based upon the Complainant's actual or perceived membership in a protected status.

Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another person for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other Sexual Misconduct offenses. Examples of Sexual Exploitation include, but are not limited to the following:

- Invasion of sexual privacy;
- Non-consensual digital, video, or audio recording of nudity or sexual activity;
- Unauthorized sharing or distribution of digital, video, or audio recording of nudity or sexual activity;

- Prostituting another person;
- Engaging in voyeurism;
- Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent;
- Knowingly exposing someone to or transmitting a sexually transmitted infection, sexually transmitted disease, or human immunodeficiency virus to another person;
- Intentionally or recklessly exposing one's genitals in non-consensual circumstances or inducing another to expose their genitals;
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

Sexual Orientation: A person's preference in sexual partners and includes heterosexuality, homosexuality, or bisexuality. Sexual Orientation is a protected status.

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. For purposes of this definition:

- Course of conduct means two or more acts, including but not limited to, acts in which the stalker 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.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.

Student: Any person who has applied for admission, who is or has been enrolled, or who has expressed their intent to enroll for any program within the District, for the period in which the Sexual Harassment occurred.

Supportive Measures: Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Parties to:

- Restore or preserve access to the District's education program or activity, including measures designed to protect the safety of the Parties or the District's educational environment; or
- Provide support during the District's grievance procedures or during an informal resolution process.

Title IX Coordinator: The College designated person or designee who is responsible for oversight and coordination of Title IX, Board Policies and Administrative Procedures regarding Title IX, and other related state and federal laws prohibiting Discrimination, Harassment, and Retaliation based on Gender or sex. If the Title IX Coordinator delegates an investigation, they shall monitor, supervise, and oversee the investigation

to ensure that it is conducted in accordance with the standards, procedures, and timelines set forth in this Title IX procedure.

Title IX Deputy Coordinator: The College designated person or designee who is responsible for oversight and coordination at the respective Colleges and supports the Title IX Coordinator with their associated job duties and responsibilities.

Title IX Investigator: The college designated person to investigate a formal complaint of Sexual Harassment. Referred as the Investigator(s) throughout this Title IX procedure, the Investigator shall not be within the administrative control or authority of the Parties.

Title IX Team: Includes (but not limited to) the Title IX Coordinator, Title IX Deputy Coordinators, Title IX Investigator(s), Decision-Maker, Appeal Designees, and District-appointed Advisors.

Board Approval Date: 12/15/2020
Reviewed/Revised: 4/22/24; 8/27/24