

COLORADO CHRISTIAN

UNIVERSITY

Title IX
Policies & Procedures

Scope

Colorado Christian University affirms its commitment to promote the goal of nondiscrimination and environment free from sexual harassment, sex discrimination, and sexual misconduct. We expect this to be carried out in all aspects of our educational mission through traditional Christian expectations. These expectations may be carried out through this policy, the CCU Lifestyle Expectations, by the CCU Employee Handbook, and as identified by the University President.

Title IX Coordinator

The Director of Human Resources serves as the Title IX Coordinator and ADA/504 Coordinator and oversees implementation of the University's disability compliance and the University's policy on equal opportunity, harassment, and nondiscrimination. The Title IX Coordinator oversees the Title IX team and acts with independence and authority free of conflicts of interest.

Inquiries about and reports regarding this policy and procedure may be made internally to:

Rick Garris, Assistant Vice President of Human Resources
Title IX Coordinator
Human Resource Department
225 Union, Lakewood, CO 80228
(303) 963-3290
rgarris@ccu.edu

Lauren Williams, Assistant Director of Human Resources
Assistant Title IX Coordinator
Human Resource Department
225 Union, Lakewood, CO 80228
(303) 963-3211
lbwilliams@ccu.edu

Sharon Felker, Dean of Students/AVP of Student Programs
College of Undergraduate Studies
Assistant Title IX Coordinator
Student Life
8787 W. Alameda, Lakewood, CO 80226
(303) 963-3369
sfelker@ccu.edu

David Bechtold, Dean of Student Services
College of Adult & Graduate Studies
Assistant Title IX Coordinator
Student Success
225 Union, Lakewood, CO 80228
(303) 963-3277
dbechtold@ccu.edu

Inquiries may be made externally to:

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

Equal Employment Opportunity Commission (EEOC)
Contact: <http://www.eeoc.gov/contact/>

Reporting Discrimination

Reports of discrimination, harassment and/or retaliation may be made using any of the following options. There is no time limitation on the filing of allegations. However, if the responding party is no longer subject to the University's jurisdiction, the ability to investigate, respond and provide remedies may be more limited. Please report directly to the Title IX Coordinator or Assistant Coordinator(s).

All reports are acted upon promptly while every effort is made by the University to preserve the privacy of reports. Such reports may also be anonymous. Anonymous reports will be investigated to determine if remedies can be provided. Additionally, all employees (unless otherwise named) of the University are designated as mandated reporters and will share a report with the Title IX Coordinator promptly.

Jurisdiction

This policy applies to behaviors that take place on the campus, at University-sponsored events and may apply off-campus and to actions online when the Title IX Coordinator determines that the off-campus conduct affects a substantial University interest. A substantial University interest is defined to include:

- a) Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state or federal law;
- b) Any situation where it appears that the responding party may present a danger or threat to the health or safety of self or others;
- c) Any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or
- d) Any situation that is detrimental to the educational interests of the University.

Non-Discrimination Policy

Colorado Christian University adheres to all federal and state civil rights laws prohibiting discrimination in private institutions of higher education. Colorado Christian University will not discriminate against any employee, applicant for employment, student or applicant for admission on the basis of race, hearing status, personal appearance, color, sex, pregnancy, political affiliation, source of income, place of business, residence, creed, ethnicity, national origin (including ancestry), physical or mental disability, age, marital status, family responsibilities, veteran or military status (including special disabled veteran, Vietnam-era veteran, or recently separated veteran), predisposing genetic characteristics, and domestic violence victim status.

This policy covers nondiscrimination in employment and in access to educational opportunities. Therefore, any member of the campus community who acts to deny, deprive or limit the educational, employment, residential access, benefits and/or opportunities of any member of the campus community, guest or visitor on the basis of their actual or perceived membership in the protected classes listed above is in violation of the University policy on nondiscrimination. When brought to the attention of the University, any such discrimination will be appropriately addressed and remedied by the University. Non-members of the campus community who engage in discriminatory actions within University programs or on University property are not under the jurisdiction of this policy, but can be subject to actions that limit their access and/or involvement with University programs as the result of their misconduct. All vendors serving the University through third-party contracts are subject by those contracts to the policies and procedures of their employers.

Accommodation of Disabilities

Colorado Christian University is committed to full compliance with the Americans With Disabilities Act of 1990 (ADA and ADAAA) and Section 504 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified persons with disabilities, as well as other federal and state laws pertaining to individuals with disabilities. Under the ADA and its amendments, a person has a disability if they have a physical or mental impairment that substantially limits a major life activity. The Title IX Coordinator has been designated as the ADA/504 Coordinator responsible for coordinating efforts to comply with these disability laws, including investigation of any allegation of noncompliance.

Students with Disabilities

Colorado Christian University is committed to providing qualified students with disabilities with reasonable accommodations and support to ensure equal access to the academic programs and activities of the University.

All accommodations are made on a case-by-case basis. A student requesting any accommodation should first contact the Director of Disability Services who coordinates services for students with disabilities. The Director of Disability Services reviews documentation provided by the student and, in consultation with the student, determines which accommodations are appropriate to the student's particular needs and academic programs.

Employees with Disabilities

Pursuant to the ADA, Colorado Christian University will provide reasonable accommodation(s) to all qualified employees with known disabilities, where their disability affects the performance of their essential job functions, except where doing so would be unduly disruptive or would result in undue hardship.

An employee with a disability is responsible for requesting an accommodation in writing to the Assistant Vice President of Human Resources and provide appropriate documentation. The Assistant Vice President of Human Resources will work with the employee's supervisor to identify which essential functions of the position are affected by the employee's disability and what reasonable accommodations could enable the employee to perform those duties.

Discriminatory Harassment

Students, staff, and faculty are entitled to a working environment and educational environment free of discriminatory harassment. Colorado Christian University's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive subject matters protected by academic freedom. The sections below describe the specific forms of legally prohibited harassment that are also prohibited under University policy.

Discriminatory and Bias-Related Harassment

Harassment constitutes a form of discrimination that is prohibited by University policy as well as the law. Colorado Christian University condemns and will not tolerate discriminatory harassment against any employee, student, visitor or guest on the basis of any status protected by policy or law. Colorado Christian University will remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a hostile environment.

When harassment rises to the level of creating a hostile environment, Colorado Christian University may impose sanctions on the harasser. Colorado Christian University's harassment policy explicitly prohibits any form of harassment, defined as unwelcome conduct on the basis of actual or perceived membership in a protected class, by any member or group of the community.

A hostile environment may be created by harassing verbal, written, graphic, or physical conduct that is severe or persistent/pervasive, and objectively offensive such that it interferes with, limits, or denies the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits or opportunities.

The University reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature not on the basis of a protected status, and 3) inconsistent with our traditional Christian values or lifestyle expectations.

Addressing such behaviors may not result in the imposition of discipline under University policy, but will be addressed through respectful confrontation, remedial actions, education and/or effective conflict resolution mechanisms.

Sexual Harassment

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC) and the State of Colorado regard sexual harassment as a form of sex/gender discrimination and, therefore, as an unlawful discriminatory practice. Colorado Christian University has adopted the following definition of sexual harassment, in order to address the special environment of an academic community, which consists not only of employer and employees, but of students as well.

Sexual harassment is unwelcome, sexual, sex-based, verbal, written, online and/or physical conduct.

Anyone experiencing sexual harassment in any University program is encouraged to report it immediately to the Title IX Coordinator or an Assistant Coordinator.

Sexual harassment may be disciplined when it takes the form of *quid pro quo* harassment, retaliatory harassment and/or creates a hostile environment.

A hostile environment is created when sexual harassment is severe, or persistent or pervasive, and objectively offensive, such that it unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the University's/College's educational, employment, or residential program.

Quid Pro Quo Sexual Harassment

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by a person having power or authority over another constitutes sexual harassment when submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational development or performance.

CONSENSUAL RELATIONSHIPS

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as faculty and student, supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome.

Even when both parties have consented at the outset to a romantic involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of this policy. The University does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the Lifestyle Expectations, Strategic Objectives, and policies of the University.

For the personal protection of members of this community, relationships in which power differentials are inherent (faculty-student, staff-student, administrator-student) are prohibited.

Consensual romantic relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor, and will likely result in the

necessity to remove the employee from the supervisory or evaluative responsibilities, or shift a party out of being supervised or evaluated by someone with whom they have established a romantic relationship. This includes RAs and students over whom they have direct responsibility. Failure to timely self-report such relationships to a supervisor as required can result in disciplinary action for an employee.

Sexual Misconduct

State law defines various violent and/or non-consensual sexual acts as crimes. While some of these acts may have parallels in criminal law, Colorado Christian University has defined categories of sex/gender discrimination as sexual misconduct, as stated below, for which action under this policy may be imposed. Colorado Christian University considers Non-Consensual Sexual Intercourse violations to be the most serious of these offenses, and therefore typically imposes the most severe sanctions, including suspension or expulsion for students and termination for employees.

However, Colorado Christian University reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any act of sexual misconduct or other sex/gender-based offenses, including intimate partner (dating and/or domestic) violence, non-consensual sexual contact and/or stalking based on the facts and circumstances of the particular allegation. Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex.

Violations include:

- Sexual Harassment
- Non-Consensual Sexual Intercourse
Defined as:
 - Any sexual intercourse however slight with any object by a person upon another person that is without consent and/or by force.

Sexual intercourse includes:

- Vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation (mouth to genital contact) no matter how slight the penetration or contact.

- **Non-Consensual Sexual Contact**

Defined as:

- any intentional sexual touching however slight with any object by a person upon another person that is without consent and/or by force.

Sexual touching includes:

- Intentional contact with the breasts, groin, or genitals, mouth or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or
- Any other bodily contact in a sexual manner.

Sexual Exploitation

Sexual Exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and that behavior does not otherwise fall within the definitions of Sexual Harassment, Non-Consensual Sexual Intercourse or Non-Consensual Sexual Contact.

Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as watching a person undressing, using the bathroom or engaged in sexual acts without the consent of the person observed).
- Invasion of sexual privacy.
- Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent).
- Administering alcohol or drugs to another person without his or her knowledge or consent.
- Exposing one's genitals in non-consensual circumstances.
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

Force and Consent

Force: Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent.

Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent

from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

NOTE: Silence or the absence of resistance alone is not consent. There is no requirement on a party to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of consent is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.

Consent: Consent is knowing, voluntary, and clear permission by word or action to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Consent can be withdrawn once given, as long as the withdrawal is clearly communicated.

Consent to some sexual contact cannot be presumed to be consent for other sexual activity. A current or previous dating relationship is not sufficient to constitute consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced.

Incapacitation: A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy.

It is not an excuse that the responding party was intoxicated and, therefore, did not realize the incapacity of the reporting party.

Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction). This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint and/or from the taking of incapacitating drugs.

Other Civil Rights Offenses

In addition to the forms of sexual misconduct described above, the following behaviors are also prohibited as forms of discrimination when the act is based upon the reporting party's actual or perceived membership in a protected class.

- Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;
- Discrimination, defined as actions that deprive, limit or deny other members of the community of educational or employment access, benefits or opportunities;
- Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the university community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity;
- Bullying, defined as
 - Repeated and/or severe
 - Aggressive behavior
 - Likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally
 - That is not speech or conduct otherwise protected by the 1st Amendment.
- Intimate Partner Violence, defined as violence or abuse between those in an intimate relationship to each other;
- Stalking
 - Stalking 1:
 - A course of conduct
 - Directed at a specific person
 - On the basis of actual or perceived membership in a protected class
 - That is unwelcome, AND
 - Would cause a reasonable person to feel fear
 - Stalking 2:
 - Repetitive and Menacing
 - Pursuit, following, harassing and/or interfering with the peace and/or safety of another

Sanctions for the above-listed "Other Civil Rights Behaviors" behaviors range from reprimand through expulsion (students) or termination of employment.

Retaliation

Retaliation is defined as any adverse action taken against a person participating in a protected activity because of their participation in that protected activity. Retaliation against an individual for alleging harassment, supporting a party bringing an allegation or for assisting in providing information relevant to a claim of harassment is a serious violation of University policy and will be treated as another possible instance of harassment or discrimination. Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. Colorado Christian University is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

Remedial Action

Upon notice of alleged discrimination, Colorado Christian University will implement initial remedial, responsive and/or protective actions upon notice of alleged harassment, retaliation and/or discrimination.

Such actions could include but are not limited to: no contact orders, providing counseling and/or medial services, academic support, living arrangement adjustments, transportation accommodations, visa and immigration assistance, student financial aid counseling, providing a campus escort, academic or work schedule and assignment accommodations, safety planning, referral to campus and community support resources.

Colorado Christian University will take additional prompt remedial and/or disciplinary action with respect to any member of the community, guest or visitor upon a finding that they have engaged in harassing or discriminatory behavior or retaliation.

The University will maintain as confidential any accommodations or protective measures, provided confidentiality does not impair the University's ability to provide the accommodations or protective measures.

Confidentiality and Reporting of Offenses Under This Policy

All University employees (faculty, staff, administrators) are expected to report actual or suspected discrimination or harassment to appropriate officials immediately, though there are some limited exceptions – University Chaplain, Nurse, and assigned Counseling staff. It is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources.

On campus, some resources (Chaplain, Nurse, Counselors within the Counseling Center) may maintain confidentiality – meaning they are not required to report actual or suspected discrimination or harassment to appropriate university officials – thereby offering options

and advice without any obligation to inform an outside agency or campus official unless a reporting party has requested information to be shared.

Confidential Reporting

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with:

- On-campus licensed professional counselors
- On-campus health service providers
- A chosen Victim Advocate
- The Campus Chaplain
- Off-campus (non-employees):
 - Licensed professional counselors
 - Local rape crisis counselors
 - Domestic violence resources
 - Local or state assistance agencies
 - Clergy/Chaplains

All of the above-listed individuals will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor.

University employees listed above will submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client, patient or parishioner.

Formal Reporting Options

All University employees have a duty to report, unless they fall under the “Confidential Reporting” section above. Reporting parties may want to consider carefully whether they share personally identifiable details with non-confidential employees, as those details must be shared with the Title IX Coordinator. Employees must promptly share all details of the reports they receive.

Generally, climate surveys, classroom writing assignments or discussions, human subjects research, or events do not provide notice that must be reported to the Coordinator by employees, unless the reporting party clearly indicates that they wish a report to be made. Remedial actions may result from such disclosures without formal University action.

If a reporting party does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the reporting party may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law. Note that the University’s ability to remedy and respond to a reported incident may be

limited if the reporting party does not want the institution to proceed with an investigation and/or the Equity Resolution Process.

In cases indicating pattern, predation, threat, weapons and/or violence, the University will likely be unable to honor a request for confidentiality. In cases where the reporting party requests confidentiality and the circumstances allow the University to honor that request, the University will offer interim supports and remedies to the reporting party and the community, but will not otherwise pursue formal action. A reporting party has the right, and can expect, to have allegations taken seriously by Colorado Christian University when formally reported, and to have those incidents investigated and properly resolved through these procedures.

Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told. Information will be shared as necessary with investigators, witnesses, and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a reporting party's rights and privacy.

Failure of a non-confidential employee, as described in this section, to report an incident or incidents of sex/gender harassment or discrimination of which they become aware is a violation of University policy and can be subject to disciplinary action for failure to comply.

Federal Timely Warning Obligations

Parties reporting sexual misconduct should be aware that under the Clery Act, University administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. The University will ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

False Allegations

Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action.

Federal Statistical Reporting Obligations

Certain campus officials, Campus Security, have a duty to report sexual assault, domestic violence, dating violence and stalking for federal statistical reporting purposes (Clery Act).

All personally identifiable information is kept confidential, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in the Annual Security Report.

This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. Mandated federal reporters include: student affairs/student conduct, campus law enforcement, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.

The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category. This reporting protects the identity of the victim and may be done anonymously.

EQUITY RESOLUTION PROCESS

Colorado Christian University will act on any allegation or notice of violation of the policy on Equal Opportunity, Harassment, and Nondiscrimination, that is received by the Title IX Coordinator or a member of the administration, faculty, or other employee. The purpose of this Equity Resolution Process is for allegations of harassment, sexual misconduct, and other forms of discrimination.

The procedures apply to all allegations of harassment or discrimination on the basis of a protected class involving students, staff or faculty members. These procedures may also be used to address collateral misconduct occurring in conjunction with harassing or discriminatory conduct (e.g.: vandalism, physical abuse of another, etc.). All other allegations of misconduct unrelated to incidents covered by this policy will be addressed through the procedures elaborated in the respective student, faculty, and employee handbooks.

Overview

Upon notice to the Title IX Coordinator, this resolution process involves a prompt preliminary inquiry to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. If so, the University will initiate a confidential investigation that is thorough, reliable, impartial, prompt and fair. The investigation and the subsequent resolution process determines whether the nondiscrimination policy has been violated. If so, the University will promptly implement effective remedies designed to end the discrimination, prevent its recurrence and address its effects.

Reporting Misconduct

Any member of the community, guest or visitor who believes that the policy on Equal Opportunity, Harassment, and Nondiscrimination has been violated should contact the Title IX Coordinator.

It is also possible for employees to notify a supervisor, or for students to notify an administrative advisor or faculty member. Any member of the community, including visitors, may contact Campus Police/Public Safety to make a report. These individuals will notify the Title IX Coordinator.

All employees receiving reports of a potential violation of University policy are expected to promptly contact the Title IX Coordinator, within 24 hours of becoming aware of a report or incident. All initial contacts will be treated with privacy: specific information on any allegations received by any party will be reported to the Title IX Coordinator, but, subject to the University's obligation to redress violations, every effort will be made to maintain the privacy of those initiating an allegation. In all cases, Colorado Christian University will give consideration to the reporting party with respect to how the reported misconduct is pursued, but reserves the right, when necessary to protect the community, to investigate and pursue a resolution even when a reporting party chooses not to initiate or participate in the resolution process.

Intent of the Procedure

Colorado Christian University is committed to maintaining the university environment as a Christian community which provides a place for spiritual growth, work, and study free of all forms of unlawful discrimination, sexual harassment, and workplace retaliation. The intent of this procedure is to abide by a traditional biblical standard, implement all appropriate civil rights legislation, and to make a good faith effort to ensure that no person, on the basis of race, ethnic group identification, national origin, age, sex, color or physical or mental disability, be unlawfully subjected to discrimination under any program or activity offered by CCU. Complaints of sexual harassment are included in the discrimination complaint procedures described below.

General Provisions

These procedures apply to the processing of complaints arising from alleged unlawful discriminatory actions including sexual harassment. Any student or employee who believes that he or she is a victim of discriminatory action may file a complaint under these procedures.

Complaints based on grounds other than discrimination (which includes harassment) should be pursued under the grievance and appeal procedure contained in the student

handbook, faculty handbook, employee handbook, or other applicable mechanism.

Responsible Officer: The designated individuals to receive and process complaints under this procedure are:

- Student complaints:
 - Vice President of Student Life (College of Undergraduate Studies)
 - Dean of Students (College of Adult and Graduate Studies)
 - Designee of President
- Academic/faculty complaints:
 - Vice President of Academic Affairs (College of Undergraduate Studies)
 - Vice President for CAGS Academic Administration (College of Adult and Graduate Studies)
 - Director of Human Resources
- Faculty/staff/job applicant complaints:
 - Director of Human Resources

If the Reporting Party does not meet requirements of the procedure, the Responsible Officer will notify the complainant of the specific deficiencies of the complaint.

Definitions

Reporting Party: The Reporting Party is an individual or group of individuals who believe that unlawful discrimination or sexual harassment may have or has occurred.

Respondent: The respondent is an individual or group of individuals against whom an allegation of unlawful discrimination or sexual harassment is made.

Complaint: A complaint is an allegation that a student, employee, or applicant for admission or employment has been subjected to unlawful discrimination or sexual harassment.

Retaliation: Any workplace retaliation of any kind by an employee or student of the University against any other employee or student of the University as a result of that person's seeking redress under these procedures, cooperating with an investigation, or other participation in these procedures is prohibited, and may be regarded as the basis for disciplinary action.

Privacy: The privacy and confidentiality of the parties will be maintained to the extent practicable during the processing of a complaint and without hindering the investigation.

Processing of a Complaint

Any person who believes they have been discriminated against or sexually harassed may file a complaint with the Responsible Officer.

Review Procedure

The University has established the following process to resolve charges of unlawful discrimination or sexual harassment:

- The reporting party, or person who would like assistance in determining whether unlawful discrimination or sexual harassment has occurred, should contact the appropriate Responsible Officer.
- The Responsible Officer will meet with the concerned individual to understand and document the nature of the concern.

The purpose of the informal resolution will be to resolve the complaint. If deemed appropriate, the Responsible Officer will meet with the Respondent.

If the parties agree to a proposed resolution that does not include disciplinary action, the resolution will be implemented and the informal process will be concluded.

The Responsible Officer will take all complaints seriously and review each based on the merits of the complaint. The Responsible Officer will determine the investigative steps necessary based on the information presented.

The Reporting Party will be asked to describe in detail the alleged unlawful discrimination or sexual harassment and the action the complainant requests to resolve the matter. This may include a written statement.

Complaints will be signed and dated by the Reporting Party, the name(s) of the individual(s) involved, the date(s) of the event(s) at issue, and a detailed description of the actions constituting the alleged unlawful discrimination or sexual harassment.

Names, addresses, and phone numbers of witnesses or potential witnesses will be included.

The investigator(s) will thoroughly investigate the complaint. Prior to completing the investigation, the investigator(s) may meet again with the Reporting Party and the Respondent separately to give an overview of the steps taken during the investigation, to ask the complainant and the respondent for the names of any others the investigator(s) should speak with, and to request any additional information.

After completion of the investigation, the investigator(s) will meet with those parties they deem pertinent to the investigation.

The findings will be reviewed with the applicable management representative. The Reporting Party and Respondent will be notified of the actions taken and will be given his/her options including appeal rights.

Interim Remedies/Actions

The Title IX Coordinator may provide interim remedies intended to address the short-term effects of harassment, discrimination, and/or retaliation, i.e., to redress harm to the reporting party and the community and to prevent further violations.

These remedies may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the community
- Altering the housing situation of an the responding party (resident student or resident employee, or the reporting party, if desired)
- Altering work arrangements for employees
- Providing campus escorts
- Providing transportation accommodations
- Implementing contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.

The University may suspend a student, employee, or organization pending the completion of investigation and procedures, particularly when in the judgment of the Title IX Coordinator the safety or well-being of any member(s) of the campus community may be jeopardized by the presence on-campus of the responding party or the ongoing activity of a student organization whose behavior is in question.

During an interim suspension or administrative leave, a student or employee may be denied access to University housing and/or the University campus/facilities/events. As determined by the Title IX Coordinator, this restriction can include classes and/or all other University activities or privileges for which the student might otherwise be eligible. At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an impact as possible on the responding party.

The institution will maintain as confidential any interim actions or protective measures, provided confidentiality does not impair the institution's ability to provide the interim actions or protective measures.

Investigation

Once the decision is made to commence an investigation, the Title IX Coordinator may appoint an Assistant Coordinator(s) or may also conduct the investigation (typically using a team of two investigators). It is our goal that investigations are completed expeditiously, though some investigations take weeks or even months, depending on the nature, extent and complexity of the allegations, availability of witnesses, police involvement, etc.

The University may undertake a delay in its investigation (to allow evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. The University will promptly resume its investigation and resolution processes once notified by law enforcement that the initial evidence collection process is complete. University action will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

All investigations will be thorough, reliable, impartial, prompt and fair. Investigations entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, as necessary.

The investigators will typically take the following steps, if not already completed (not necessarily in order):

- In coordination with campus partners (e.g., the Title IX Coordinator), initiate or assist with any necessary remedial actions;
- Determine the identity and contact information of the reporting party;
- Identify all policies allegedly violated;
- Assist the Title IX Coordinator with an immediate preliminary inquiry to determine if there is reasonable cause to believe the responding party/respondent has violated policy.
 - If there is insufficient evidence to support reasonable cause, the inquiry should be closed with no further action;
- Meet with the reporting party and respondent to finalize their statement;
- Prepare the notice of allegations on the basis of the preliminary inquiry;
- Commence a thorough, reliable and impartial investigation, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding party, who may be given notice prior to or at the time of the interview;
- Prepare the notice of allegations on the basis of the preliminary inquiry;
- Meet with the reporting party or respondent to finalize their statement, if necessary;
- Provide the parties with a written description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures and a statement of the potential sanctions/responsive actions that could result;
- Allow each party the opportunity to suggest questions they wish the investigators to ask of the other party and witnesses.

- Provide the parties with all relevant evidence to be used in rendering a determination and provide each with a full and fair opportunity to address that evidence prior to a finding being rendered;
- Provide regular updates to the reporting party throughout the investigation, and to the responding party, as appropriate;
- Once the report is complete, the report is shared with the parties for their review and comment. The investigators may incorporate feedback from the parties as appropriate;
- Make or recommend to the Title IX Coordinator a finding, based on a preponderance of the evidence whether a policy violation is more likely than not;
- Investigators and/or the Title IX Coordinator finalize and present the findings to the responding party and respondent.

At any point during the investigation, if it is determined there is no reasonable cause to believe that University policy has been violated, the Title IX Coordinator has authority to terminate the investigation and end resolution proceedings.

Witnesses are expected to cooperate with and participate in the University's investigation. Any witness who declines to participate in or cooperate with an investigation will not be permitted to offer evidence or testimony later. Failure of a witness to cooperate with and/or participate in the investigation constitutes a violation of policy and may be subject to discipline and/or discharge from employment.

Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone, Skype (or similar technology), if they cannot be interviewed in person or if the investigators determine that timeliness or efficiency dictate a need for remote interviewing. Parties who elect not to participate in the investigation or to withhold information from the investigation will not have the opportunity to offer evidence during the appeal stages of the process, if it could have been offered during the investigation. Failure to offer evidence prior to an appeal does not constitute grounds for appeal on the basis of new evidence.

No unauthorized audio or video recording of any kind is permitted during investigation meetings or other Equity Resolution/Grievance Process proceedings.

Any evidence that the investigator believes is relevant and credible may be considered, including history and pattern evidence. The investigator may exclude irrelevant or immaterial evidence and may choose to disregard evidence lacking in credibility or that is improperly prejudicial.

Unless the investigator determines it is appropriate, the investigation and the finding will not consider: (1) incidents not directly related to the possible violation, unless they show a pattern, (2) the sexual history of the reporting party (though there may be a limited exception made in regards to the sexual history between the parties), (3) or the character of the reporting party. While previous conduct violations by the responding party are not generally admissible as information about the present allegation, the investigators may consider information about previous good faith allegations and/or findings to consider as evidence of pattern and/or predatory conduct.

The investigator(s) will not meet with character witnesses, but investigators will accept up to two (2) letters supporting the character of each of the parties.

The investigator(s) will base the determination(s) on the preponderance of the evidence, whether it is more likely than not that the responding party violated policy as alleged.

The Title IX Coordinator or the investigator(s), or both, will meet with the responding party and the respondent in separate meetings to explain the finding(s) of the investigation.

Notification may be made in writing, at a meeting, and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official University records; or emailed to the parties' University-issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered. The notification of outcome will specify the finding on each alleged policy violation, any sanctions that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the University is permitted to share under state or federal law.

Advocates

The parties may choose their advisor or proceed without an advisor. Each party is allowed to have an advocate of their choice present with them for meetings and proceedings, from intake through to final determination. The parties may select whomever they wish to serve as their advisor as long as the advocate is eligible and available, and usually not otherwise involved in the resolution process, such as serving as a witness. The advisor may be a friend, mentor, family member, attorney, or any other supporter a party chooses to advise them who is available and eligible. Witnesses cannot also serve as advisors. The parties may choose advisors from inside or outside the campus community.

The parties may be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help

their advisees prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. The University cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not, or cannot afford an attorney, the University is not obligated to provide one.

Reporting parties may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>), or the
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association.

All advocates are subject to the same campus rules, whether they are attorneys or not. Advocates may not address campus officials in a meeting or interview unless invited to. The advisor may not make a presentation or represent the reporting party or the responding party during any meeting or proceeding and may not speak on behalf of the advisee to the investigators or hearing panelists. The parties are expected to ask and respond to questions on their own behalf, without representation by their advisor. Advisors may confer quietly with their advisees or in writing as necessary, as long as they do not disrupt the process.

For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation. Advisors will typically be given an opportunity to meet in advance of any interview or meeting with the administrative officials conducting that interview or meeting. This pre-meeting will allow advisors to clarify any questions they may have, and allows the University an opportunity to clarify the role the advisor is expected to take.

Advisors are expected to refrain from interference with the investigation and resolution. Any advisor who steps out of their role will be warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from a meeting, that meeting will typically continue without the advisor present. Subsequently, the Title IX Coordinator will determine whether the advisor may be reinstated, may be replaced by a different advisor, or whether the party will forfeit the right to an advisor for the remainder of the process.

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with 3rd parties, disclosed publicly, or used for purposes not explicitly authorized by the University. The University may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the University's privacy expectations.

The University expects an advisor to adjust their schedule to allow them to attend University meetings when scheduled. The University does not typically change scheduled meetings to accommodate an advisor's inability to attend. The University will, however, make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available.

A party may elect to change advisors during the process, and is not locked into using the same advisor throughout.

The parties must advise the investigators of the identity of their advisor at least one (1) day before the date of their first meeting with investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The parties must provide timely notice to investigators if they change advisors at any time.

Sanctions

The Title IX Coordinator will recommend sanctions or responsive actions to the President.

Factors considered when determining a sanction/responsive action may include:

- The nature, severity of, and circumstances surrounding the violation
- An individual's disciplinary history
- Previous allegations or allegations involving similar conduct
- Any other information deemed relevant by the hearing panel
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment and/or retaliation
- The need to remedy the effects of the discrimination, harassment and/or retaliation on the reporting party and the community

Appeal Rights

If the Reporting Party or Respondent is not satisfied with the results of the administrative decision, the Reporting Party or Respondent may ask for an internal appeal with CCU based on the determination by submitting written objections to the University President within ten (10) calendar days of the receipt of the determination. The President of the University will determine proper action required to review the internal appeal.

Any party may appeal, but appeals are limited to the following grounds:

- A procedural error or omission occurred that significantly impacted the outcome.
- To consider new evidence, unknown or unavailable during the original investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.

The President, or individual(s), appointed will review the appeal request(s). The original finding and sanction will stand if the appeal is not timely or is not based on the grounds listed above, and such a decision is final.

The party requesting appeal must show that the grounds for an appeal request have been met, and the other party or parties may show the grounds have not been met, or that additional grounds are met.

Where the appeals grounds is met by at least one party, additional principles governing the hearing of appeals will include the following:

- Decisions by the appeals representative are to be deferential to the original decision, making changes to the finding only where there is clear error and to the sanction/responsive action only if there is a compelling justification to do so.
- Appeals are not intended to be full re-hearings (de novo) of the allegation. In most cases, appeals are confined to a review of the written documentation and pertinent documentation regarding the grounds for appeal.
- An appeal is not an opportunity for appeals representatives to substitute their judgment for that of the original hearing panel merely because they disagree with its finding and/or sanctions.
- Appeals granted based on new evidence should normally be remanded to the investigators for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or President.
- Sanctions imposed are implemented immediately unless the Title IX Coordinator or President stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand.
- All parties will be informed in writing of the outcome.

In cases where the appeal results in reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the responding party to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

Rights of Reporting Party & Respondent:

- The right to investigation and appropriate resolution of all credible allegations of sexual misconduct or discrimination made in good faith to University officials;
- The right to be treated with respect by University officials;
- The right to have University policies and procedures followed without material deviation;
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct;
- The right not to be discouraged by University officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities;
- The right to be informed by University officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the reporting party so chooses. This also includes the right not to be pressured to report, as well;
- The right to have reports of sexual misconduct responded to promptly and with sensitivity by campus law enforcement and other campus officials;
- The right to be notified of available counseling, mental health, victim advocacy, health, legal assistance, student financial aid, visa and immigration assistance, or other student services, both on campus and in the community;
- The right to a campus no contact order (or a trespass order against a non-affiliated third party) when someone has engaged in or threatens to engage in stalking, threatening, harassing, or other improper behavior that presents a danger to the welfare of the reporting party or others;
- The right to notification of and options for, and available assistance in, changing academic and living situations after an alleged sexual misconduct incident, if so requested by the reporting party and if such changes are reasonably available (no formal report, or investigation, campus or criminal, need occur before this option is available).
- Accommodations may include:
 - Change of an on-campus student's housing to a different on-campus location;
 - Assistance from University support staff in completing the relocation;
 - Transportation accommodations;
 - Arranging to dissolve a housing contract and pro-rating a refund;
 - Exam (paper, assignment) rescheduling;
 - Taking an incomplete in a class;
 - Transferring class sections;
 - Temporary withdrawal;

- Alternative course completion options.
- The right to have the University maintain such accommodations for as long as is necessary, and for protective measures to remain confidential, provided confidentiality does not impair the institution's ability to provide the accommodations or protective measures;
- The right to be fully informed of campus policies and procedures as well as the nature and extent of all alleged violations contained within the report;
- The right to review the final report, subject to the privacy limitations imposed by state and federal law;
- The right not to have irrelevant prior sexual history admitted as evidence;
- The right to regular updates on the status of the investigation and/or resolution.
- The right to preservation of privacy, to the extent possible and permitted by law;
- The right to bring a victim advocate or advisor of the reporting party's choosing to all phases of the investigation and resolution proceeding;
- The right to provide evidence by means other than being in the same room with the responding party;
- The right to have the university compel the participation of student, faculty and staff witnesses;
- The right to be promptly informed of the outcome and potential sanction;

Revision

These policies and procedures will be reviewed and updated by the Title IX Coordinator. The University reserves the right to make changes to this document as necessary and once those changes are posted online or in the Employee Handbook or other approved method of communication, they are in effect. The Title IX Coordinator may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules, etc.

The Title IX Coordinator may also vary procedures materially upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure.

Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred. Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution, unless the parties consent to be bound by the current policy. If government regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such codes generally.

This policy and procedure was implemented in July 2016.

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