

STUDENT SEXUAL MISCONDUCT AND RELATIONSHIP VIOLENCE POLICY

I. POLICY STATEMENT

It is the policy of California College of ASU to prohibit all forms of discrimination on the basis of sex in any education program or activity pursuant to Title IX of the Education Amendments of 1972. Title IX states, "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." California College of ASU expressly prohibits discrimination, harassment, and retaliation by employees, students, contractors, or agents of the college based on any protected status: race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation, gender identity, and genetic information. This prohibition also includes Title IX sex discrimination, including sex-based harassment, and retaliation by any individual over whom California College of ASU can exercise administrative or disciplinary authority.

In addition to prohibiting discrimination on the basis of sex, it is the policy of the college to prohibit the crimes of sexual harassment, dating violence, domestic violence, and stalking as they are defined for purposes of this policy and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). Inappropriate conduct need not rise to the level of a violation of federal or state law to constitute a violation of this policy and to warrant disciplinary action/sanctions.

Intentionally providing false or misleading information or failure to cooperate may result in disciplinary action.

II. TITLE IX COORDINATOR

The college has designated a Title IX Coordinator who assists with various Title IX implementation activities that involve faculty, staff, and students, including monitoring the Student Sexual Misconduct and Relationship Policy outlined herein.

The Title IX Coordinator is responsible for coordinating and implementing a Title IX Complaint Process that is prompt (begins and proceeds in a timely manner), fair, impartial, and equitable from the time a report is made, or when the college knows about prohibited behavior, until the final result. The college also works in partnership with ASU through a shared services agreement.

California College of ASU Academic Operations Manager & Student Advisor Kristina Mackey serves as the college's Title IX Coordinator. The Title IX Coordinator's office address is 1111 South Broadway, Los Angeles, CA 90015. The Title IX Coordinator can be contacted by phone at (818) 401-1177 or by email at kmackey6@californiacollege.asu.edu.

III. VIOLATIONS OF POLICY

A. PARTIES

For purposes of this Student Sexual Misconduct and Relationship Violence Policy and the Title IX Complaint Process, a "Complainant" means a student who files a complaint reporting a violation of this policy. A "Respondent" means a student who has been reported to have violated this policy.

B. RIGHTS OF PARTIES

This policy outlines the rights of the Complainant and the Respondent when a violation(s) of this policy is alleged. This policy applies only to complaints made by and against students enrolled in or staff employed by the college.

This policy applies to all forms of sexual misconduct and relationship violence, including complaints of sexual and gender-based harassment, sexual assault, non-consensual sexual contact, sexual exploitation, dating and domestic violence, and stalking, whether they occur on or off campus. For information on the Title IX Complaint Process for Title IX complaints made by or against employees, please contact the Title IX Coordinator.

C. PRIVACY AND CONFIDENTIALITY

The college will make all reasonable efforts to protect the confidentiality of the Complainant, Respondent, and other involved parties by keeping all complaints and investigations private to the highest extent possible and will only disclose information on a need-to-know basis. It is the expectation of the college that all individuals involved in a Title IX Complaint Process, investigation, and/or adjudication of a violation under this policy or individuals who otherwise gain knowledge thereof shall treat all information acquired, whether written or oral, as confidential, provided however, that the Complainant and Respondent may share such information for support and guidance, if applicable.

The college will make all reasonable efforts to honor requests for confidentiality, to the extent permitted by law. However, in certain circumstances, the college may not be able to grant the confidentiality request(s) due to various factors, including when there is a risk of imminent harm to an individual or others or a threat to the health and safety of the college community.

In cases where a request for confidentiality is granted, the college will continue to complete publicly available recordkeeping in accordance with relevant laws, including the Clery Act reporting and disclosures, without the inclusion of personally identifying information. Further, individuals who are directly accused of violations of this policy and who, as a result, may be subject to sanctions, are entitled to a summary of the charges against them so that they may effectively respond.

The college will maintain, as confidential, any accommodations or protective measures provided, to the extent that maintaining such confidentiality does not impair the ability of the college to provide the accommodations and/or protective measures.

D. EMPLOYEES' RESPONSIBILITY TO REPORT POLICY VIOLATIONS

All employees of the college, with the exception of those designated as confidential resources, are obligated to report all actual, suspected or alleged violations of this policy which are reported to them, or of which they become aware, to the Title IX Coordinator or designee.

IV. REQUIRED NOTIFICATION RELATED TO PREGNANCY OR RELATED CONDITIONS

Responsibility to provide the Student Accessibility and Inclusive Learning Service (SAILS) contact and other information.

When a student, or a person who has a legal right to act on behalf of the student, informs any employee of the student's pregnancy or related conditions, unless the employee reasonably believes that SAILS has been notified, the employee shall promptly provide that student/person with SAILS contact information and inform that person that SAILS can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to California College of ASU's education programs or activities.

V. TYPES OF SEXUAL MISCONDUCT AND RELATIONSHIP VIOLENCE

The types of sexual misconduct and relationship violence prohibited by this policy are sexual harassment, sexual assault, sex-based discrimination, dating and domestic violence, and stalking as defined below:

E. SEXUAL HARASSMENT

i. Sexual Harassment-Environment

Sexual harassment is also unwelcome behavior or conduct of a sexual nature (including unwelcome sexual advances or activity), which is sufficiently severe or pervasive as to create an intimidating, hostile, or offensive environment for academic pursuits, employment, or participation in university-sponsored programs or activities.

ii. Sexual Harassment-Quid Pro Quo

Sexual harassment is harassment, whether between individuals of the same or different sex, which includes unwelcome behavior or conduct of a sexual nature (including unwelcome sexual activity) that is made, either explicitly or implicitly, a condition of an individual's education, employment, or participation in university-sponsored programs or activities or the submission to or rejection of such behavior or conduct is a factor in decisions affecting that individual's education, employment, or participation in university sponsored programs or activities.

iii. Sexual Exploitation

Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for the advantage or benefit of themselves or any other person that is not the person being exploited by the behaviors.

Examples include but are not limited to invasion of sexual privacy; prostitution; non-consensual recording of nudity or sexual activity; voyeurism; knowingly exposing someone to an STI, STD or HIV; intentional exposure of genitals in non-consensual circumstances; and sex-based stalking or bullying.

F. TITLE IX SEX-BASED HARASSMENT

Title IX Sex-based harassment means a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, that is:

- (1) Quid pro quo harassment. An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under ASU's education program or activity explicitly or impliedly conditions the provision of such aid, benefit, or service on a person's participation in unwelcome sexual conduct;
- (2) Hostile environment harassment. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from ASU's education programs or activities; or
- (3) Sexual Violence. This includes sexual assault, dating violence, domestic violence, or stalking.

G. SEXUAL ASSAULT

Sexual Assault means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, which includes rape, sodomy, sexual assault with an object, fondling, incest and statutory rape.

H. TITLE IX SEX DISCRIMINATION

Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Title IX sex discrimination includes sex-based harassment and retaliation.

I. DATING AND DOMESTIC VIOLENCE

i. Dating Violence

Dating violence means violence committed by a person: (A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) Where the existence of such a relationship shall be determined based on a consideration of the following factors: (1) The length of the relationship; (2) The type of relationship; and (3) The frequency of interaction between the persons involved in the relationship.

ii. Domestic Violence

Domestic violence means felony or misdemeanor crimes committed by a person who: (A) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim; (B) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (C) Shares a child in common with the victim; or (D) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.

J. STALKING

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) Fear for the person's safety or the safety of others; or (B) Suffer substantial emotional distress.

K. UNWELCOME SEXUAL ACTIVITY

Engaging in sexual activity with a person whom you reasonably should know or do know, has not consented or is incapable of giving consent.

- consent in the context of sexual activity means informed and freely given words or actions that indicate a willingness to participate in mutually agreed upon sexual activity
- consent may not be inferred from:
 1. silence, passivity or lack of resistance
 2. a current or previous dating or sexual relationship,
 3. acceptance or provision of gifts, meals, drinks, or other itemsor
 4. previous consent to sexual activity
- consent may be withdrawn during sexual activity, consent to one form of consensual sexual activity does not imply consent to any other form of sexual activity
- consent must not be obtained through physical force, violence, duress, intimidation, coercion, or an express or implied threat of injury
- consent may never be given by a person who is: incapacitated (by drugs, alcohol or otherwise), unconscious, asleep, or otherwise physically or mentally unable to make informed, rational judgments. The use of alcohol or drugs does not diminish one's responsibility to obtain consent and does not excuse conduct that violates this policy and
- consent cannot be given by someone who, by virtue of age, circumstances or other factors, is deemed by law to be incapable of giving consent.

VI. RELEVANT DEFINITIONS

L. DISCRIMINATION

Discrimination is defined under applicable federal and state law. In general, unlawful discrimination means failing to treat people equally based, at least in part, on status that is protected under applicable law or policy. Protected status includes race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation, gender identity, and genetic information.

M. HARASSMENT

Harassment is a specific form of discrimination. It is unwelcome behavior, based on a protected status, which is sufficiently severe or pervasive as to create an intimidating, hostile, or offensive environment for academic pursuits, employment, or participation in university-sponsored programs or activities.

N. RETALIATION

Retaliation occurs when an adverse action (e.g., termination, denial of promotion, refusal to hire, unjustified discipline or evaluation, etc.) is taken against an individual for complying with this policy, opposing conduct reasonably believed to constitute a violation of this policy, filing a report under this policy, seeking an accommodation under this policy, or participating in any manner in an investigation or proceedings related to this policy. Adverse actions that are reasonably likely to deter a complaining individual or others from engaging in protected activity are prohibited.

O. TITLE IX RETALIATION

means intimidation, threats, coercion, or discrimination against any person by the recipient, a student, or an employee or other person authorized by ASU to provide aid, benefit, or service under ASU's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or this policy, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.

VII. VIOLATION REPORTING PROCEDURES

To report violations of this policy, individuals should follow the procedures outlined below:

P. WRITTEN & VERBAL REPORTING

Violations of this policy may be reported verbally or in writing to the Title IX Coordinator. Any person may report a violation,

including third parties and bystanders. The Title IX Coordinator or designee will review the report(s) in accordance with the Title IX Complaint Process. If an individual wishes to file a complaint alleging violation of this policy, the complaint must be submitted in writing to the Title IX Coordinator.

Q. CONFIDENTIAL REPORTING

Confidential reports can be made by calling the college's anonymous hotline, which is available 24 hours a day, at 877-786-3385.

R. REPORTING TO LAW ENFORCEMENT

While not required, the college strongly encourages anyone who becomes aware of behavior that may constitute a violation of federal, state, or local law to report the incident to local law enforcement. The college can provide support, resources, and assistance to those who do so.

Regarding the involvement of law enforcement, the Complainant has the option to (1) notify law enforcement authorities, including local police; (2) request assistance from campus authorities in notifying law enforcement authorities; or (3) decline to notify such authorities. The college will comply with the Complainant's request for assistance in notifying law enforcement. The Complainant's choice to report to law enforcement will not impact the implementation of accommodations and/or protective measures, if applicable.

Information about the Campus Safety & Security departments and local law enforcement agencies and about how to make a police report can be found at <https://californiacollege.asu.edu/current-students/student-life/campus-safety>.

The Complainant has the right to file a criminal complaint and a complaint under the Title IX Complaint Process simultaneously.

S. TIME LIMITS

There is no time limit on reporting violations of this policy, although the college's ability to respond fully may be limited with the passage of time.

T. WRITTEN EXPLANATION OF RIGHTS AND OPTIONS

When an individual reports a violation of this policy, whether the offense occurred on or off campus, the college will provide the individual with a written explanation of rights and options. If the college proceeds with an investigation, the Complainant (if not the reporting party) and the Respondent will be provided with a written explanation of rights and options. See the Title IX Complaint Process for details.

U. PRESERVING EVIDENCE

In cases of sexual misconduct and relationship violence, including sexual assault, dating violence, domestic violence, and stalking, as defined herein, it is critical that the Complainant preserve evidence because doing so may assist in proving that the alleged behavior occurred and/or may be helpful in obtaining a protective order. Also, individuals may be entitled to medical forensic exams at no charge. See the Resources section of this policy for more information.

VIII. AMNESTY

Any individual who participates in an investigation of a violation(s) of this policy will not be subject to disciplinary sanctions for a violation of the college's student conduct policies at or near the time of the incident, unless the college 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.

IX. RESOURCES

The college will provide written notification to the Complainant and Respondent about existing resources and other services that may be available on each campus and in the community.

The written information may include options for available assistance and how to request protective measures and/or changes to academic, living, transportation, and/or working situations. The college will make such accommodations and protective measures available if they are reasonably available, regardless of whether the Complainant chooses to report the crime to the Campus Safety & Security department or local law enforcement.

RESOURCES AVAILABLE NEAR THE LOS ANGELES CAMPUSES:

Emergency 9-1-1

End Rape on Campus (EROC)
<http://endrapeoncampus.org/>

Rape, Abuse & Incest National (RAINN) Hotline
<https://centers.rainn.org/>
1-800-656-HOPE (4673)

National Domestic Violence Hotline
<http://www.thehotline.org/>
1-800-799-SAFE (7233)

Support for Men
<http://www.malesurvivor.org/index.php>

Off Limits Sexual Harassment Hotline 1-844-
OFF-LIMITS (633-5464)

California Coalition Against Sexual Assault
<http://www.calcasa.org/>

UCLA's Free Rape Treatment
<http://www.911rape.org/about-us/who-we-are>

Los Angeles County Domestic Violence
Hotline 800-978-3600

Peace Over Violence-Rape & Battery Hotline 213-626-
3393 (Central Los Angeles)
310-392-8381 (South Los Angeles)
626-793-3386 (West San Gabriel Valley)
877-633-0044 (Stalking Hotline)

Los Angeles District Attorney's Office
<http://da.co.ia.ca.us/sexual-assault> 213-974-
1611

X. PREVENTION AND AWARENESS PROGRAMS

The college is committed to preventing sexual misconduct and relationship violence, including sexual assault, dating violence, domestic violence, and stalking as they are defined in this policy as well as in the Clery Act. The college conducts ongoing programs for all faculty, staff, employees, and students, including incoming students and new employees, to remind the college community of the college's prohibition against sexual misconduct and relationship violence.

Awareness programming includes institutional action designed to communicate the prevalence of sexual violence. Primary prevention programming includes institutional action and strategies intended to prevent sexual violence before it occurs by means of changing social norms and other approaches.

All forms of programming may include, without limitation, training, poster and flyer campaigns, electronic communications, films, guest speakers, symposia, conferences, seminars, or panel discussions.

XI. BYSTANDER INTERVENTION

Bystander intervention includes, without limitation, the act of challenging the social norms that support, condone, or permit sexual violence. Bystander intervention includes safe and positive options that may be carried out by an individual(s) to prevent harm or intervene when there is a risk of sexual misconduct and relationship violence, including sexual assault, dating violence, domestic violence, or stalking, against a person(s) other than the bystander. Safe and positive options for bystander intervention include recognizing prohibited conduct and situations of potential harm; understanding institutional structures and cultural conditions that facilitate violence; overcoming barriers to intervening; and identifying effective ways to intervene and take action provided that the intervention or action can be undertaken in a way that ensures the safety of the bystander.

XII. RISK REDUCTION

Risk reductions are designed as options designed to decrease perpetration and bystander inaction and increase empowerment in order to promote safety and help individuals and communities address conditions that facilitate violence.

XIII. VIOLATIONS OF STATE LAW

Violations of this policy will be determined in accordance with this policy; however, individuals may also wish to pursue criminal charges through local law enforcement.

XIV. COMPLAINTS AND INQUIRIES

Complaints regarding the application or enforcement of this policy should be made to the college's Title IX Coordinator. Inquiries regarding the application of Title IX and its implementing regulations may be referred to the Title IX Coordinator or designee, or to the United States Department of Education, Office for Civil Rights, at OCR@ed.gov or (800) 421-3481. This policy is in compliance with applicable legal requirements including Title IX of the Education Amendments of 1972; relevant

provisions of the Violence Against Women Reauthorization Act of 2013; the Clery Act; and other applicable federal and state laws.

TITLE IX COMPLAINT PROCESS

California College of ASU has jurisdiction over all Title IX policies, including the Student Sexual Misconduct and Relationship Violence Policy. The college has established the Title IX Complaint Process outlined below to promptly, fairly, and impartially adjudicate violations of the Student Sexual Misconduct and Relationship Violence Policy.

The Title IX Complaint Process constitutes the formal resolution process and disciplinary proceeding used by the college to respond to complaints concerning student sexual misconduct and relationship violence, including sexual harassment, dating violence, domestic violence, and stalking.

The Title IX Complaint Process will be implemented by officials who, at a minimum, receive annual training on relevant issues and on how to conduct the Title IX Complaint Process in a way that protects safety and promotes accountability.

For purposes of this Title IX Complaint Process, the "Complainant" means a student who files a complaint reporting a violation of this policy. The "Respondent" means a student involved in the Title IX Complaint Process who has been reported to have violated this policy.

Certain complaints may be resolved informally in limited situations where the Complainant and the Respondent have been fully informed of all available options for resolution of the Complaint and have both voluntarily chosen to resolve the Complaint through an informal resolution process. Once a complaint has been resolved through an informal resolution process, the matter will be closed. For some limited types of complaints alleging violations of the Sexual Misconduct and Relationship Violence Policy, an informal resolution may include mediation.

The college will take steps to prevent recurrence of any sexual misconduct and/or relationship violence and remedy discriminatory effects as necessary.

I. INITIATION OF GRIEVANCE PROCEDURE

1. Purpose and Application

This grievance procedure is intended to provide fair and reliable resolutions to reports and complaints of Title IX sex discrimination occurring in a California College of ASU education program or activity.

- a. This procedure describes the exclusive procedure that will be followed by California College of ASU to resolve reports and complaints of Title IX sex discrimination that occur on or after August 1, 2024.
- b. If the facts or occurrences forming the basis of a complaint of Title IX sex discrimination would also constitute a violation of other college policies such as the institutional code of conduct, or other college policies governing employee conduct, those potential policy violations will be addressed outside of this grievance procedure. When appropriate, this grievance procedure may proceed concurrently with any other university process.
- c. The college may amend this process as necessary from time to time. Amendments may apply to grievances ongoing at the time the amendment is made, unless the effect of the amendment is to reduce the rights of either complainants or respondents, in which case the version of this process in effect at the time the formal complaint was made will be followed.

II. EVALUATION OF REPORTS

Reports are oral or written information, from any individual, that raises concerns about potential violations of Title IX sex discrimination.

1. Reports should be made as soon as possible after the alleged violation. Prompt reporting enables the university to investigate the facts, determine the issues and provide an appropriate remedy or sanction. The ability to investigate complaints could be impacted (e.g. availability of witnesses, preservation of evidence) if a report is not filed promptly.
2. All information received by California College of ASU will be considered a report until an evaluation takes place to determine whether a complaint is desired. The evaluation of a report involves the review of the report, including a discussion with the complainant (or the reporting party if the complainant is unknown) to verify what is being alleged and whether there is an intention to request that California College of ASU investigate and reach a determination regarding responsibility through a complaint under this procedure. The evaluation of any report is intended to ensure that the complainant is making an informed decision regarding what next steps will be taken.

The sharing of information with a California College of ASU confidential employee about conduct that could reasonably constitute Title IX sex discrimination, sex-based harassment, or retaliation does not constitute a report. However, any California College of ASU confidential employee who receives such information will explain to the person sharing that information:

- a. The circumstances in which the employee is not required to notify the college about conduct that reasonably may constitute Title IX sex discrimination;
- b. How to contact either ASU's Office of University Rights and Responsibilities, the Dean of Students' Office, or the Title IX Coordinator; and

- c. That those offices may be able to offer and coordinate supportive measures, as well as initiating an informal resolution process or an investigation under these grievance procedures.
3. Upon receiving a report, the following will take place:
 - a. Notify the complainant or, if the complainant is unknown, the individual who reported the conduct, of this grievance procedure;
 - b. Notify the complainant of the availability of supportive measures. California College of ASU will request an opportunity to engage in an interactive process with the complainant to determine what supportive measures to implement.
 - c. Complainant or if not known, the individual who reported the conduct, will be contacted to verify what is being alleged as well as whether or not there is an intention to initiate a complaint and request that California College of ASU investigate and make a determination regarding responsibility.

After evaluation, California College of ASU will confirm the initiation of either the proactive measure process or the complaint process of this grievance procedure.

III. AVAILABILITY OF SUPPORTIVE MEASURES

The initiation of a Title IX complaint is not required to obtain supportive measures from the college. Once informed of a report, California College of ASU will take steps to proactively engage with the complainant to discuss available supportive measures. When appropriate under this procedure, California College of ASU will likewise take steps to proactively engage with the respondent to discuss available supportive measures if a complaint is made.

1. Supportive measures are individualized measures offered as appropriate and as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to: (1) Restore or preserve that party's access to California College of ASU's education program or activity, including measures that are designed to protect the safety of the parties or California College of ASU's educational environment; or (2) Provide support during this grievance procedure.

2. Supportive measures include providing individuals with copies of university policies, procedures, and processes for handling allegations of Title IX discrimination, including Title IX sexual harassment.

3. Supportive measures may include 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, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs. The wishes of the party requesting supportive measures will be considered.

4. Supportive measures may also include administrative and educational actions that do not unreasonably burden another party and are designed to protect the safety of the parties or the educational environment. Administrative and educational actions are not disciplinary and cannot be imposed for punitive reasons.

5. For allegations of sex discrimination other than sex-based harassment or retaliation, altering the alleged discriminatory conduct for the purpose of providing a supportive measure is not required.

6. Supportive measures can be modified or terminated as appropriate.

7. A party who wishes to add, modify or reverse a supportive measure applicable to that party may request supportive measure supervisor review at any time. The supportive measure supervisor must issue their decision on supportive measures in writing to any affected party.

8. California College of ASU will not disclose information about any supportive measures to persons other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure or restore or preserve a party's access to the education program or activity, or when required by this grievance procedure.

IV. WHO CAN MAKE A COMPLAINT

1. Sex-based Harassment: The following persons have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that California College of ASU investigate and make a determination regarding responsibility about alleged discrimination:

- a. A complainant;
- b. A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant;

2. With respect to complaints of sex discrimination, other than sex-based harassment, in addition to the persons listed above,

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

3. Title IX Coordinator. In the absence of a complaint, or the withdrawal of any or all of the allegations in a complaint, the Title IX Coordinator will respect the autonomy of the complainant and will take that into strong consideration as the Title IX Coordinator determines whether the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other persons or that the conduct as alleged prevents California College of ASU from ensuring equal access on the basis of sex to California College of ASU's education programs and activities.

- a. If the Title IX Coordinator makes the decision to move forward with a complaint, the Title IX Coordinator shall notify complainant of the decision in order to address reasonable concerns about the complainant's safety or the safety of others, including providing supportive measures.
- b. The Title IX Coordinator shall notify the complainant of any requirement to participate in the grievance process.

4. Multiple Complaints:

- a. If, in the course of an investigation additional allegations about the complainant or respondent are determined, that were not included in the notice of allegations already provided to the parties, an additional notice of allegations to the parties whose identities are known will be provided.
- b. 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, may be consolidated. Where a grievance process involves more than one complainant or more than one respondent, references in this procedure to the singular "party," "complainant," or "respondent" the plural, as applicable.

V. PROACTIVE MEASURES

If a complaint is not initiated, or any or all of the allegations in a complaint are withdrawn and dismissed, and the Title IX Coordinator does not initiate a complaint, or if a complaint is resolved through informal resolution, the Title IX Coordinator will take appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within California College of ASU's education programs or activities. Proactive measures can include, but are not limited to: educational conversations, education programming enhancement, training, awareness measures, continued supportive measures and policy or practice reviews.

VI. PRIVACY IN THE GRIEVANCE PROCEDURE

1. Requests for Anonymity.

- a. Unless a person is restricted by law from doing so, any employee who is informed of or has a reasonable basis to believe that sexual harassment has occurred, shall immediately report all information regarding the occurrence(s) to the Title IX Coordinator. Failure to report and/or inaction may be cause for disciplinary action. If an individual wishes to have a confidential conversation about an allegation of sexual harassment, that person can do so by seeking an appointment with a licensed counselor or health care professional. In partnership with ASU, the college provides such services through the Office of Educational Outreach and Student Services. Additionally, any individual has the right to contact local law enforcement to file a criminal report. A supervisor, manager, or administrator who is informed of or has a reasonable basis to believe that violations of this policy have occurred shall promptly report it to the Title IX Coordinator. Failure to report or supervisory inaction may be cause for disciplinary action. Anyone who believes that he or she has been subjected to discrimination, harassment, or retaliation in violation of this policy, or who believes that this policy has been violated, should report the matter immediately to the Title IX Coordinator. Anonymous reports do not satisfy the duty to report. An individual who does not have a duty to report may make a voluntary report. If they wish to do so anonymously, they can make a report to the California College of ASU Anonymous Hotline at 877-786-3385.
- b. If an individual requests anonymity after a report is filed, the Title IX Coordinator will at a minimum consider the rights of all parties involved, the severity of the alleged conduct, and the potential risk of a continued environment of sex discrimination for others in the community in order to determine whether the request can be honored. The requesting party will be advised of the determination.

VII. LIMITATION ON CONFIDENTIALITY

1. Information gathered within this procedure will be shared only with those who have a need to know the information. Reasonable steps will be taken to protect the privacy of the parties and witnesses during the pendency of the grievance procedure.

2. Non-Disclosure Agreements: In order to prevent and address unauthorized disclosure of information and evidence obtained solely through the grievance procedures, each party, and their advisor, who wishes access to inspect and review all relevant and not otherwise impermissible evidence will be required to sign a non-disclosure agreement that outlines the permissible disclosures of information and evidence obtained solely through the grievance procedures. Limitations on the

non-disclosure agreement will include:

- a. The non-disclosure agreement 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.
- b. The ability of either party to discuss the allegations under investigation or their own knowledge of facts to gather and present relevant evidence throughout the grievance procedure will not be restricted;
- c. Disclosures of information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination will not be restricted.

VIII. RELEASE OF INFORMATION BY CALIFORNIA COLLEGE OF ASU

California College of ASU will only release personally identifiable information in the following circumstances:

1. Prior written consent is given to California College of ASU from a person with the legal right to consent to the disclosure;
2. When the information is disclosed to a parent, guardian, or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
3. To carry out the purposes of this part, including action taken to address conduct that reasonably may constitute sex discrimination under Title IX in the California College of ASU's education program or activity;
4. As required by Federal law, Federal regulations, or the terms and conditions of a Federal award, including a grant award or other funding agreement; or
5. When required by State or local law, unless doing so would otherwise conflict with Title IX or its implementing regulations;
6. As necessary in the prosecution, defense, or resolution of any hearing or dispute to which California College of ASU is a party or to comply with a legally sufficient court order or subpoena; or
7. For other purposes authorized by the Chief Executive Officer of the institution or the Chief Executive Officer's designee, to the extent such disclosures are not otherwise in conflict with Title IX, its implementing regulations, or other applicable law or policy.

IX. ATTENDANCE AT MEETINGS OR HEARINGS

Requests can be made to have other individuals other than the advisor of the parties' choice present during any meeting or hearing. As concerns for privacy are ever present, only when the following conditions exist may this request be granted:

1. The request is made in conjunction with a request for a disability accommodation or language assistance; or
2. The party has obtained and produces written consent from all other parties and witnesses that will be referenced in the meeting/proceeding.

X. EXCLUSION OF EVIDENCE THAT IS OTHERWISE IMPERMISSIBLE

The following evidence will be deemed relevant but otherwise impermissible throughout this grievance procedure and will not be used to make any determination regarding responsibility or for any other purpose:

1. 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;
2. The Decision Maker will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless that party gives voluntary, written consent to do so for this grievance procedure. A party who sends their own medical records to the investigator or Decision Maker will be excluded as otherwise impermissible unless there is specific written consent for the records to be used in this grievance process; and
3. Questions and evidence that is protected under a privilege as recognized by Federal or State law or
4. Evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality.

XI. COMPLAINT PROCESS

1. Participation in the Complaint Process

- a. Employees and students are required to attend any meeting scheduled under this procedure. While attendance is required, students are not required to participate in meetings under this procedure.
- b. Individuals are not required to attend a live hearing, however, when credibility is at issue, unless the complaint is dismissed, the live hearing will take place and an objective evaluation of available relevant and not otherwise impermissible evidence will take place and a determination regarding responsibility will be made.

2. Emergency Removal

- a. An emergency removal of a student can occur after an individualized safety risk analysis, if it is determined
 - b. that an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies an emergency removal.
 - c. Respondent will be given notice of the emergency removal and an opportunity to challenge the decision immediately following the removal.
 - d. A challenge to an emergency removal must occur no later than three (3) days following the effective date of the removal.
- i. Each party will be notified of any challenge and given three (3) days to submit any written response to the challenge.
 - ii. The college will determine whether the removal should remain in place or be lifted within five (5) days.
 - iii. If upheld, the emergency removal will remain in effect until either a final determination regarding responsibility has been made or the reasons for imposing the emergency removal no longer exist.
 - e. An emergency removal will not be part of a factual finding used by the decision maker when making a determination regarding responsibility.

3. Administrative Leave

- a. An employee/appointee respondent may be placed on administrative leave during this grievance procedure.
- b. If the action of administrative leave is being taken out of concern for an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex discrimination an individualized safety risk analysis will take place.
- c. Administrative leave will not be part of a factual finding used by the decision maker when making a determination regarding responsibility.

XII. INVESTIGATIVE PROCESS FOR COMPLAINTS OF ALLEGED TITLE IX SEX DISCRIMINATION

1. Notice of Allegations:

- a. Upon confirmation of initiation of a complaint, and before an interview with Respondent, the investigator shall issue a notice of allegations. The notice shall be sent simultaneously to both complainant and respondent at least three (3) days prior to the initial scheduled interview in order to allow complainant and respondent sufficient time to prepare a response and attend the meeting.
- b. The Notice of Allegations shall contain:
 - i. Copy of pertinent college policies;
 - ii. Notification to both parties of the availability of supportive measures. If not already done, California College of ASU will request an opportunity to engage in an interactive process with each party individually to determine what, if any, supportive measures to implement;
 - iii. Sufficient information, available at the time, to allow the parties to respond to the allegations. Sufficient information includes the identities of the parties involved in the incident(s), the conduct alleged to constitute Title IX sex discrimination, and the date(s) and location(s) of the alleged incident(s), to the extent that information is available;
 - iv. Statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made only at the conclusion of the grievance procedure;
 - v. Statement that the standard of review throughout the grievance procedure is one of preponderance of evidence and that the college has the burden of proof;
 - vi. Statement that retaliation is prohibited;
 - vii. Statement that each party may have an advisor of their choice, who may be, but is not required to be, an attorney who may inspect and review relevant evidence that is not otherwise impermissible under this procedure as well as attend any meeting or proceeding, but such advisor may not participate in meetings;
 - viii. Prior to a determination regarding responsibility, parties have an opportunity to present relevant evidence that is not otherwise impermissible to a trained and impartial decision maker;
 - ix. Statement that at the end of the investigation, with an execution of a non-disclosure agreement, both parties are entitled to equal access to all evidence that is relevant and not otherwise impermissible, including but not limited to auto generated transcripts of witness statements;
 - x. A statement that credibility decisions will not be made based on a person's status as a complainant, respondent, or witness; and
 - xi. If an individual chooses to participate in the grievance procedure, they must do so by providing truthful information. Intentionally providing false or misleading information in this process may result in disciplinary action under other university policies. A finding of a false statement must not be based solely on the determination of whether a violation of Title IX sex discrimination exists.

XIII. OPPORTUNITY TO PRESENT EVIDENCE

1. Each individual whose participation is invited or expected will receive written notice of the date, time, location, participants, and purpose of any meeting, investigative interviews, or hearing with sufficient time for the individual to prepare to participate;
2. Each party shall be given an equal opportunity to present relevant and not otherwise impermissible fact and expert witnesses, including to provide relevant not otherwise impermissible inculpatory and exculpatory evidence to the investigator.

XIV. ABILITY TO ACCESS AND REVIEW RELEVANT AND NOT OTHERWISE IMPERMISSIBLE EVIDENCE

1. At the end of the investigation, the investigator will allow both parties equal access to inspect and review all relevant and not otherwise impermissible evidence. If the investigator determines that access must take place with onsite inspection, the investigator shall notify both parties of the reasoning and procedures that will be used to arrange onsite access.
2. Each party will be given five (5) days to respond to the evidence. Any submitted response will be shared with both parties.

XV. INVESTIGATIVE REPORT OF EVIDENCE

1. After review of all evidence received, the investigator will create an Investigative Record of Evidence that includes:
 - a. Dates and transcripts of relevant and not otherwise impermissible portions of any meetings with parties or witnesses;
 - b. List of attached relevant and not otherwise impermissible evidence; and
 - c. List of otherwise impermissible evidence.
2. The investigator will send a copy of the final Investigative Report of Evidence along with all evidence to the Decision Maker who will conduct the live hearing.

XVI. DECISION MAKER DETERMINATION REGARDING RESPONSIBILITY WHEN CREDIBILITY IS NOT IN DISPUTE AND IS NOT RELEVANT

1. Credibility. If credibility is not in dispute and is not relevant, the decision maker shall notify the parties that a determination regarding responsibility will be made upon the evidence gathered.
2. Additional evidence. The decision maker can request that the investigator gather additional evidence. The decision maker shall give access to any newly gathered evidence that is not otherwise impermissible to all parties. If at any point credibility is in dispute and is relevant to a determination regarding responsibility, the decision maker shall convene a live hearing.
3. The decision maker will follow the process noted below for issuing a Determination Regarding Responsibility.

XVII. DECISION MAKER AND LIVE HEARING

1. If credibility is in dispute and is relevant to a determination regarding responsibility, the decision maker shall issue a notice of hearing. The decision maker shall prepare and send a written notice of hearing to the parties no less than five (5) days before the date set for the hearing. The notice will be directed to the complainant and respondent's California College of ASU e-mail address and the email address of record for any party advisor, and will include:
 - a. Scheduling information:
 - i. Statement of the date, time, location, and nature of the hearing, including a statement that Title IX regulations and university process constitute the authority to hold such a hearing;
 - ii. Name and title of the decision maker who will preside over the hearing;
 - iii. Statement of the length of time set for the hearing and the time limitation for the presentation of relevant and not otherwise impermissible evidence;
 - b. Materials: Copy of the following items that form the initial record of the live hearing:
 - i. notice of allegations
 - ii. The investigative report of evidence with attached relevant not otherwise impermissible evidence
 - iii. Links to relevant policy and procedures
 - iv. Any hearing specific procedural rules, including rules of decorum, that will be applicable to the proceeding, that do not contradict this procedure;
 - c. Notice of the right to be assisted by an advisor who may be an attorney at the option of the party and at the party's sole expense;
 - d. Notice that a university representative may attend the hearing and present relevant and not otherwise impermissible witnesses and evidence;
 - e. Statement that each party shall be given an equal opportunity to present relevant and not otherwise impermissible witnesses and evidence, including fact and expert witnesses and identify or provide inculpatory and exculpatory relevant and not otherwise impermissible evidence;
 - f. Notice of the applicable range of discipline that may be issued by a decision maker;
 - g. Notice that at the end of the hearing the decision maker will objectively evaluate relevant and not otherwise impermissible evidence to make a determination regarding responsibility; and
 - h. Statement that credibility determinations that are not based on a person's status as a complainant, respondent, or

witness will be made when appropriate.

XVIII. LOGISTICS OF LIVE HEARING

1. Parties cannot waive the right to a live hearing.
2. Live hearings will be conducted with all parties physically present in the same geographic location or virtually, with technology enabling participants simultaneously to see and hear each other.
 - a. At the request of either party, the live hearing will occur with the parties located in separate rooms with technology enabling the decision maker and parties to simultaneously see and hear the party or the witness answering questions.
 - b. Advisors are expected to adjust their schedules to allow them to attend the live hearing. Technology is available should an advisor need to appear virtually.
3. The investigator will have all relevant and not otherwise impermissible evidence available at the live hearing for the parties' inspection, review, use and an opportunity to refer to such evidence during the hearing, including for purposes of cross-examination, provided each party and their advisor have signed a non-disclosure agreement.
4. An audio or audiovisual recording of the live hearing will be available for any party to inspect and review on site. Any party can request a transcript of the live hearing be produced to both parties. Due to the length of time required to acquire an official transcription of a live hearing, an unofficial transcript will be provided. The unofficial transcript will be auto generated from the audio recording and parties will be advised to conduct an onsite review of the audio recording to ensure accuracy of the transcript.

XIX. TESTIMONY

1. Cross Examination:
 - a. The decision maker and each party's advisor will be permitted to ask the other party and any witnesses all relevant and not otherwise impermissible questions and follow-up questions, including questions challenging credibility.
 - b. If a party does not have an advisor present at the live hearing, or if the party would prefer to use the university provided hearing attendant for cross examination, the hearing attendant will be assigned without fee or charge to that party. The hearing attendant is not a confidential advisor. The hearing attendant is present for the sole purpose to conduct cross-examination on behalf of that party. The party is responsible for providing the hearing attendant with questions to ask a party or witness. If a party does not appear or does appear but does not provide cross examination questions, the hearing attendant will only ask the witness specific pre-designated questions.
 - c. Cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice or by a university provided hearing attendant but never by a party personally.
 - d. Pause Provision. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision maker must first determine whether the question is relevant and not otherwise impermissible and explain any decision to exclude a question.
 - e. The decision maker must allow a party an opportunity to clarify or revise a question that the decision maker excludes.
2. The decision maker cannot draw an inference about the factual determinations based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions. The decision maker may admit statements made by witnesses, including the parties, who do not appear or submit to cross-examination at the live hearing, subject to objections and arguments about the reliability, relevance, and weight of those statements. The decision maker is responsible for determining what weight, if any, to give such statements.
3. The decision maker may request that additional evidence be gathered or evaluated, which may require that the live hearing re-convene. The decision maker will simultaneously notify the parties of this extension in writing within ten (10) days of the last day of the live hearing.

XX. DETERMINATION REGARDING RESPONSIBILITY

1. After review of all evidence received, the decision maker will determine what evidence is relevant and not otherwise impermissible.
2. The decision maker shall review all relevant and not otherwise impermissible evidence using a preponderance of evidence standard of proof to determine whether a violation has occurred.
3. The decision maker shall simultaneously notify the parties in writing of the determination regarding responsibility and rationale for whether or not a violation has occurred. The determination shall include:
 - a. A description of the procedural steps taken from the receipt of the report and complaint through the determination of responsibility, interviews with parties and witnesses, and live hearing dates;
 - b. A list of relevant and not otherwise impermissible evidence;
 - c. Reference to the policies and procedures used to evaluate the allegations;
 - d. A statement of the standard of evidence being used (preponderance of evidence) and that the burden of proof and of gathering and presenting sufficient evidence to reach a determination regarding responsibility rests with California

- College of ASU;
- e. A description of the allegations potentially constituting Title IX sex discrimination;
- f. The decision maker's objective evaluation, including credibility assessments, of the relevant and not otherwise impermissible evidence.
- g. Conclusions regarding the applications of the alleged violations to the facts;
- h. A statement of, and rationale for a determination of responsibility, including a rationale for Title IX disciplinary sanctions;
- i. A request that the Title IX Coordinator take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within California College of ASU programs or activities;
- j. If the decisionmaker finds that Title IX sex-based harassment, include a statement describing any Title IX disciplinary sanctions that will be imposed on the respondent and whether remedies other than the imposition of disciplinary sanctions will be provided to the complainant, and other students identified to be experiencing the effects of the sex-based harassment;
- k. If the Title IX disciplinary sanction includes referring the matter for discipline consideration another university policy, as required by a respondent's employment classification, shall simultaneously provide both parties with written notice of any discipline issued in that separate disciplinary process; and
- l. A statement that the parties are entitled to appeal the determination regarding responsibility and a notice of appeal rights which shall include a statement:
 - i. Of the permissible basis for the parties to appeal, specifically referring the parties to section F of this grievance procedure;
 - ii. That each party may file an appeal or submit a statement in support of, or challenging, the outcome within five (5) days after the decision is issued. Any filed appeal or statement will be shared with all parties;
 - iii. That the determination regarding responsibility becomes final on the date which an appeal will no longer be considered timely if no appeal is filed; and
 - iv. When appropriate, notify the parties of the right to seek judicial review.

XXI. DISMISSAL OF TITLE IX COMPLAINT

1. At all times during the grievance procedure, the matter is evaluated to ensure that the allegations fall within this grievance procedure.
 - a. Prior to dismissing the complaint the dismissal decision maker must make reasonable efforts to clarify the allegations with the complainant.
 - b. A complaint may be dismissed if:
 - i. The dismissal decision maker is unable to identify the respondent after taking reasonable steps to do so;
 - ii. The respondent is not participating in the California College of ASU's education program or activity and is not employed by California College of ASU;
 - iii. The complainant voluntarily withdraws any or all of the allegations in the complaint, and the Title IX Coordinator declines to initiate a complaint and dismissal decision maker determines that without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute Title IX sex discrimination. For sex-based harassment allegations, the withdrawal by complainant must be in writing; or
 - iv. The dismissal decision maker determines that the conduct alleged in the complaint, even if proven, would not constitute Title IX sex discrimination.
 - c. The dismissal decision maker shall promptly issue a written Notice of Dismissal to the complainant, and simultaneously the respondent, if the dismissal occurs after the respondent has been notified of the allegations, containing the following information:
 - i. If already issued, a copy of the notice of allegations;
 - ii. The basis for the dismissal;
 - iii. A statement of the available basis for appeal;
 - iv. A statement that a party can appeal or submit a statement in support of, or challenging, the dismissal outcome within five (5) days after the decision is issued;
 - v. Notice that any filed appeal or statement will be shared with both Complainant and respondent, even if a notice of allegations has not yet been issued; and
 - vi. A statement that the dismissal determination becomes final on the date which an appeal will no longer be considered timely if no appeal is filed.
 - d. If a complaint is dismissed, any party that received the notice of dismissal will be offered supportive measures.

XXII. INFORMAL RESOLUTION

1. Anytime after a notice of allegations is issued, the Title IX Coordinator can determine whether it is appropriate to offer an informal resolution process.
 - a. An informal resolution will follow the following guidelines:
 - i. Both parties must agree in writing to engage in the informal resolution process.
 - ii. An informal resolution process will not include any fact finding or statements from the parties.
 - b. Parties agreeing to participate in an informal resolution process will simultaneously receive a notice of informal resolution that contains the following information:
 - i. Copy of the notice of allegations;
 - ii. Name of the informal resolution facilitator, who will not be the same person as the Title IX Coordinator, investigator or decision maker.

iii. Notice that:

- A. prior to accepting an informal resolution agreement, any party has the right to withdraw from the informal resolution process and to initiate or resume P20a grievance procedures;
 - B. the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations;
 - C. of 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
 - D. any information provided during an informal resolution process may be used for any future grievance procedure arising from the same allegations, should the informal resolution process not conclude with an agreement.
- c. The allowable terms and outcomes for an informal resolution agreement are outlined here.

i. There are no party admissions to guilt or violation of law or university policy;

ii. Mutual restrictions on future contact such as no contact orders for an agreed timeframe; and/or

iii. Restrictions on participation in one or more of the recipient's programs or activities or attendance at specific events.

- d. Records documenting the informal resolution process, including an executed informal resolution agreement will be retained for no less than seven (7) years.

XXII. APPEAL OF DETERMINATION REGARDING RESPONSIBILITY AND DISMISSAL DETERMINATION

1. An appeal can be filed under the following circumstances.

- a. For appeals of determinations regarding responsibility of sex discrimination involving a student respondent, an appeal may be filed on the following bases:

i. for procedural irregularity that would change the outcome of the matter;

ii. new evidence that would change the outcome and that was not reasonably available at the time the determination regarding responsibility or dismissal determination was made;

iii. the Title IX Coordinator, investigator(s), decision maker or decision-maker(s) 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 of the matter; or

iv. If a sanction of suspension, expulsion or degree revocation is issued, a party can request a rehearing (a new live hearing).

The California College of ASU Student Code of Conduct procedures related to an appeal will be followed for a rehearing.

- b. For appeals of any dismissal determination or determinations regarding responsibility of sex-based harassment involving an employee respondent, an appeal may be filed on the following bases:

i. procedural irregularity that would change the outcome of the matter;

ii. new evidence that would change the outcome and that was not reasonably available at the time the determination regarding responsibility or dismissal determination was made; or

iii. the Title IX Coordinator, investigator(s), decision maker, or decision-maker(s) 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 of the matter.

- c. There is no right of appeal of determinations regarding responsibility of sex discrimination, not including sex-based harassment, of an employee respondent.

XXIII. AN APPEAL OR A STATEMENT IN SUPPORT OF, OR CHALLENGING, THE OUTCOME, MUST BE IN WRITING AND STATE THE BASIS FOR WHICH THE APPEAL IS BEING REQUESTED

1. The appeal decision maker shall send a copy of both the original notice of allegations, if one has been issued, and any filed appeal or statement to all parties within three (3) days of receiving the appeal or statement.

2. The appeal decision maker will issue a written decision, including the rationale for the decision simultaneously to both parties, describing the result of the appeal and the rationale for the result within fifteen (15) days from the date no further appeal or statement can be filed. The appeal decision maker can uphold or modify the previous decision, order that the live hearing be re-convened for specific stated purposes or grant a rehearing. The decision by the appeal decision maker is the final decision.

3. The appeal process shall take no more than thirty (30) days unless a rehearing is requested, or a live hearing is re-convened, or a rehearing is otherwise granted.

XXIV. OTHER GRIEVANCE PROCEDURE PROVISIONS

1. The following provisions are applicable:

- a. Selection of Investigators, decision maker, dismissal decision maker and appeal decision maker

i. The selection will be made, as appropriate, by senior leadership.

2. Conflict of Interest and Bias

- a. Conflict of interest and bias will not be presumed from prior education, employment, or personal affiliation of an individual. Instead conflict of interest or bias will be found only when it can be objectively determined.

- b. Complainant or respondent should be ignored or met with judgment or disbelief. Such conduct may be evidence of bias.

- c. The Title IX Coordinator, investigators, informal resolution facilitator, supportive measures supervisor, hearing

attendant, or decision makers, shall not have a conflict of interest or bias for or against complainants or respondents generally or specifically with regard to an individual complainant or respondent.

3. Dual Roles

- a. When working on a particular Title IX Matter the following applies:
 - i. The supportive measure supervisor shall be someone other than the person who instituted the original supportive measure.
 - ii. The informal resolution facilitator will be someone other than the Title IX Coordinator, investigator or decision maker.
 - iii. The individual serving as the dismissal or determination decision maker cannot serve as the appeal decision maker.
 - iv. Other dual roles are not a violation of this procedure.

4. Reasonably Prompt Time Frames

- a. Major stages of the grievance procedure will adhere to the following timeframes:
 - i. Evaluation Period is expected to take 15 days from the date the notice of allegations is issued
 - ii. The investigation is expected to take 60 days
 - iii. Live hearing is expected to take 1 day
 - iv. Determination regarding responsibility is expected to take 15 days
 - v. Appeal is expected to take 30 days
 - vi. Informal Resolution Process is expected to take 30 days.
- b. In cases where the respondent is an employee who has hearing rights pursuant to another policy, up to an additional 180 days may be added to complete the requirements of the respective policy.
- c. In cases where the respondent is a student who has appeal rights pursuant to institutional code of conduct disciplinary procedures, up to an additional 90 days may be added to complete the requirements of that policy.
- d. The time frames and deadlines set by these procedures may be temporarily delayed or extended for good cause. Good cause may include, but is not limited to, considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. All parties will receive written notice, including reasons, for any temporary delay or extension of time frames or deadlines.

5. Record Keeping

California College of ASU will maintain all records for each report or complaint of sex discrimination, including records documenting the informal resolution process, the evaluation process and the investigation process, including any resulting action or outcome for a period of no less than seven (7) years from the date of the last action taken in the matter.

6. Title IX Coordinator designation of duties:

The Title IX Coordinator is responsible for the coordination of Title IX at California College of ASU. The Title IX Coordinator may delegate duties to employees, including those under service agreements such as the ASU Dean of Students, including those who serve in roles whose main function is to provide supportive measures to parties.

DEFINITIONS

Complainant

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

Days

means business day. If the last day of a specific time period is a university holiday the time period is extended to 5:00 p.m. of the next non-break business day. Any break in the academic calendar is not counted towards days.

Title IX Disciplinary Sanctions

means consequences imposed on a respondent following a determination of responsibility. The following are possible sanctions that can be imposed:

- For an employee, termination of employment (including resignation in lieu of termination), demotion, and suspension without pay.
- For a student, expulsion, suspension or degree revocation.

In addition to disciplinary sanctions, **CALIFORNIA COLLEGE OF ASU** may take administrative actions or proactive measures in response to the determination regarding responsibility. These actions or measures are not disciplinary or punitive in nature. Possible administrative actions can include:

- Administrative action against a student respondent consisting of probation, warning, administrative hold, restricted access to university property, restitution, or notation on transcript.
- Administrative action against any other respondent consisting of verbal or written coaching; training/education; adjustment to reporting structures, work locations or duties; or referral for discipline consideration under other university policy, as required by a respondent's employment classification.

Education program or activity

means all the operations of California College of ASU. For purposes of reports and complaints of Title IX sex discrimination, "education program or activity" includes locations, events, or circumstances over which California College of ASU exercises substantial control over both the respondent and the context in which the sexual harassment occurs, and includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution.

Decision Maker

The Decision Maker can be an individual or the Chair of an appointed committee or panel.

Party

means a complainant or respondent. Neither California College of ASU or the Title IX Coordinator is a party under this grievance procedure.

Relevant

means related to the allegations of Title IX sex discrimination under investigation as part of the grievance procedures. Questions are relevant when they seek 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

means measures provided, as appropriate, to a complainant or any other person California College of ASU identifies as having had their equal access to an education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to CALIFORNIA COLLEGE OF ASU's education program or activity after a determination that Title IX sex discrimination occurred.

Remedies may include 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, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; training and education programs; and administrative and educational actions.

Respondent

means a person who is alleged to have violated California College of ASU's prohibition on Title IX sex discrimination.

STUDENT COMPLAINT AND GRIEVANCE PROCESS

California College of ASU encourages students to bring all questions, concerns, or complaints to the attention of the Student Grievance Committee by emailing grievance@californiacollege.asu.edu.

Questions, concerns, and complaints from students can often be resolved informally through discussion. If the informal resolution to the student's concern or complaint is not satisfactory, the student may formally file the complaint or grievance through the Grievance Procedure process outlined below to resolve the dispute. A grievance is defined as a student's written expression of dissatisfaction concerning conditions of enrollment; unfair treatment by an instructor, fellow student, or staff member; misapplication of institution policies, rules, regulations, or procedures; or coercion, reprisal, or intimidation by an instructor or other institution employee.

California College of ASU will investigate all complaints and grievances fully, promptly, and fairly and will not subject a student to punitive action because of grievances filed with the institution. California College of ASU shall maintain a written record of its handling of all student complaints and grievances. Retaliation against any complainant under this Grievance Procedure or against any person who assists a complainant in the pursuit of a complaint or grievance under this Grievance Procedure is prohibited.

HOW TO FILE A GRIEVANCE

All formal complaints and grievances filed with the Office of Academic Affairs will be investigated by a Student Grievance Committee. The Student Grievance Committee will meet with all respective parties to reach an amicable resolution. All parties will have an equal voice in the discussion with the hope of resolving any dispute through constructive discourse.

STANDARD OF EVIDENCE

The preponderance of the evidence standard "more likely than not" will be used for investigating and making findings.

TIMEFRAME FOR GRIEVANCE PROCEDURE

The college will make its best efforts to complete the Grievance Procedure within thirty (30) days of receipt of the complaint. However, because the length of investigations may vary due to the complexity and unique factors of each case, the timeframe may be extended for good cause to ensure that resolution of the Grievance Procedure is prompt, but also adequate, fair, and impartial. After the student has made all attempts to resolve the issue with the college, the student may contact the following external agencies for a review of the complaint:

WASC Senior College and University Commission (WSCUC)
985 Atlantic Avenue
Suite 100
Alameda, CA 94501 www.wscuc.org

An individual may contact the Bureau of Private Postsecondary Education for a review of a complaint. The bureau may be contacted at:

Address: 1747 N. Market Street, Suite 225, Sacramento, CA 95834
Telephone: (916)574-8900
Fax: (916)263-1897
Website: <http://www.bppe.ca.gov>