

University Senate

Meeting Minutes for Tuesday, September 1, 2026

Goodwin Forum and Zoom, Meeting ID 818 1954 9462

Chair Harmon called the meeting to order at 3:01 pm. A quorum was present.

Members Present

Allison Govier, Banks, Benavides-Garb, Bradley, Burkhalter, Cabot, Cappuccio, Carvajal, Choi, Dschida, Evans, Fisher, Frye, Geck, Harmon, Jannetta, Lancaster, Metzger, Mola, Pachmayer, Panta, Stelter, Sterner, A. Thobaben, M. Thobaben, Tremain, Young

Members Absent

Virnoche

Guests

Michelle Caisse, Adrienne Colegrove-Raymond, Colin Fiske, Mira Friedman, Bethany Gilden, Bella Gray, Kendra Higgins, Melissa Hutsell, Gay Hylton, Myla Jones, Steve Karp, Sarah Long, Heather Madar, Jayne McGuire, Michele Miyamoto, Sasheen Shailee Raymond, Jenni Robinson Reisinger, Connie Stewart, Ronnie Swartz, Tiara Taylor, Jasmin Torres, Kimberly White, Jeanne Wielgus

Announcement of Proxies

None

CFA Interruption Statement

Chair Harmon read the Interruption Statement from the California Faculty Association.

Approval and Adoption of Agenda

M/S (Tremain/Cabot) to adopt the agenda.

Motion to adopt the agenda passed without dissent.

Approval of Minutes from April 28, 2026

M/S (Mola/A. Thobaben) to approve the minute from May 12, 2026.

Motion to approve the minutes passed without dissent.

Reports, Announcements, and Communications of the Chair

Written report attached

Reports of Standing Committees, Statewide Senators, and Ex-officio Members

Academic Policies Committee (APC)

The committee meets for the first time this week, and has a lot of policies to review.

Appointments and Elections Committee (AEC)

The first call for nominations went out yesterday.

Constitution and Bylaws Committee (CBC)

No report (currently no chair)

Faculty Affairs Committee (FAC)

Written report attached

Integrated Curriculum Committee (ICC)

Written report attached

University Policies Committee (UPC)

No report (currently no chair)

University Resources and Planning Committee (URPC)

URPC discussed what they're planning will look like in a year that will hopefully not have reductions.

Academic Senate of the California State University (ASCSU)

Written report attached

Associated Students (AS)

Written report attached

California Faculty Association (CFA)

CFA is having their first strike school meeting this Thursday.

Office of Diversity, Equity, and Inclusion (ODEI)

No report

Emeritus and Retired Faculty and Staff Association (ERFSA)

Written report attached

Labor Council

Written report attached

Staff Council

Aylea Maxwell and Stephanie Whittlesey are the new Staff Council Co-Chairs.

President's Executive Cabinet

Written report attached

General Consent Calendar

It was noted that there were no items on the General Consent Calendar.

Consent Calendar from the Integrated Curriculum Committee

It was noted that there were no items on the ICC Consent Calendar.

TIME CERTAIN: 3:15-3:30 PM – Open Forum for the Campus Community

Colin Fiske from the Coalition for Responsible Transportation Priorities spoke against the university cutting funding to the Humboldt Transit Authority for evening service and the Green & Gold route.

Tiara Taylor, a student, spoke about her experience in Housing with moving from summer to fall. There were costs that she was not made aware of and, if she did not have a system of care, she would not have been able to cover. She asked that the university provide better financial advising to students.

Mira Friedman, Lead for Health Education, spoke about the importance of using the correct pronouns that someone shares with you. She also encouraged people to join the Alcohol and Other Drugs Committee.

TIME CERTAIN: 4:00–4:20 PM – Information Item: Expectations for Ethical Research with Indigenous Communities of Northwestern California

Professor Ronnie Swartz discussed the document and its development, it is available at:

<https://www.humboldt.edu/oliner-altruism-institute/expectations-ethical-research-indigenous-communities-northwestern>

He asked Senate to consider how it could support distribution and awareness of it.

TIME CERTAIN: 4:30–4:50 PM – Information Item: Budget Update

Vice President Fisher and Sarah Long gave the attached presentation.

M/S (Pachmayer/A. Thobaben) to adjourn.

Meeting adjourned at 4:56 pm

Submitted by Patrick Malloy

University Senate Chair Report

September 1, 2026

Hi Folks,

Welcome back to another fantastic year! I hope you had a relaxing summer and are ready to get back into the swing of things. I had a great summer working in my yard: building a fence, planting grass and trees, and enjoying that lovely Cutten Sunshine. That being said, I'm excited to be back and continue serving in this role, and I appreciate your support. We have a lot of great things to look forward to this year, and I hope you are feeling recharged and inspired. Let's get to work!

Last spring, my ITS project request, "Policy Management Modernization," was approved, and we did a good amount of the heavy lifting this summer. If you recall, we started the project by exploring in-house solutions to modernize our current policy database. To us, modernization means being able to search our policy database by various metadata qualifiers, like the responsible office, expiration date, committee of origin, etc. Additionally, modernization means being able to track the progress of a new policy with questions such as: Whose turn is it to look at the document? Who has already looked at the document? Did it get approved by the correct office? And so forth. In our preliminary research, we found many policies with errors, such as the wrong versions posted to the website, guidelines interpreted as policy, and, in a handful of cases, old policies ratified by a previous Senate but never approved by the President's office. Clearly, we need to improve the way we manage policies. Thus, we decided to move forward with acquiring PolicyStat, an industry-leading policy management program used by the Chancellor's Office and several other CSU campuses. Thus, in collaboration with the University Policies Committee (UPC) and the project team (Sulaina Banks, Patrick Malloy, Courtney Loder, and me), we began the initial migration steps last spring and through the summer. The UPC, in a heroic effort, organized some 139 active policies into an organized spreadsheet capturing all that lovely metadata I mentioned. The project team then copy/pasted all of these policies as Google documents, stripped down of all formatting details, in accordance with initial directions for PolicyStat migration. During this copy/past session, which took place in June, we verified all metadata and that the correct versions were being used. It was a massive control-c/control-v party! Due to some hiccups with funding, we had to pause the project; however, as I understand it, those funding issues have been resolved, and we will be proceeding with the migration this fall, which leads me to my next topic: the roster!

We still have not been able to find a UPC chair, who must be a Senator and will also serve on the Senate Executive Committee (SenEx). I expect the workload for this position will be lighter than last year after Sulaina's above-and-beyond efforts on this policy modernization project; however, I am really looking for a UPC chair who wants to continue engaging with policy management modernization. I realize it may sound intimidating, even in a regular year; however, this is actually how I got my start in the Senate 4 years ago. At the time, Chair Mola needed someone to serve as UPC Chair, and the CNRS Senate representative seat was vacant. He asked me to serve, and I rose to the occasion. I had never been a Senator, but I had served as the GEAR committee chair, so I rolled my sleeves up and got to work. Little did I know that jumping straight into an important position like that would inspire me to become Senate Chair one day. I tell you all of this in hopes that it may inspire one of you to step up and lead a committee and serve on SenEx. You will have a direct opportunity to work with campus leadership and advocate for what's important to you and your microcosm of campus. Thanks so much for your consideration!

UPC Chair position doesn't sound right for you? Well, I've got great news, because we also need a Constitution and Bylaws Committee (CBC) Chair. This position must also be held by a Senator; however, you do not have to serve on SenEx. I expect the workload for this position to be lighter than it was in previous years due to, once again, an above-and-beyond effort by the previous chair, Rouhollah Aghasaleh. They redefined

how this committee operates, and I'm so proud of their creation of Committee Oversight through the Committee on Committees (which you would also chair, being the CBC Chair) and our new MPP Hiring Policy, which has already had a significant impact on how we hire upper-level management positions. Continuing down this path that Rouhollah so thoughtfully laid out should be straightforward and will provide another opportunity to advocate for what you think is important to this campus.

Both of those leadership positions may be filled by current Senators; however, we also have two vacant Senate seats available. Those are a one-year position filling in for Cindy Moyer's CAHSS seat and a two-year position replacing Jayne McGuire's tenure-line at-large seat. So, if you know anyone willing to jump straight into it, as I did (I mean... it wasn't that bad, and I'm still alive to tell the tale, plus I only got like 5 gray hairs in the process), please nominate (and convince) them. Nominations are due by Tuesday, September 8th, and you may email the University Senate Office and the Appointments and Elections (AEC) Chair at senate@humboldt.edu and jorge.monteiro@humboldt.edu.

Oh yeah, we also need a Parliamentarian, who does not have to be a Senator, and this will also put you on the CBC. I did this position once; it was fun, and if you are a nerd like me who likes to watch CSPAN occasionally and enjoys interpreting weird rules in a fun, relaxed, totally non-judgmental, accepting place such as our University Senate, this is the position for you! Where is my Alice Sturgis fan club at? I know you're out there!

Alrighty folks, those are my first report highlights; we have a whole bunch of other stuff we are working on, so please come to Senate, or better yet, become a Senator, and find out!

Thanks so much for your service,

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CAL POLY HUMBOLDT

University Senate Written Reports, September 1, 2026

Standing Committees, Statewide Senators and Ex-officio Members

Academic Policies Committee

Submitted by Monty Mola, APC Chair

Members: Julie Alderson, Frank Cappucio, Frank Fogarty, Marissa O’Neil, Cameron Allison Govier, Joel Hardin, Heather Madar, Jenni Robinson Reisinger

Meeting Date(s): Wednesdays at Noon, NHE 119

Meeting Details: No Report (Committee hasn’t met yet).

Appointments and Elections Committee

Submitted by Jorge Monteiro, AEC Chair

Members:

Meeting Date(s):

Meeting Details: no report

Constitution and Bylaws Committee

Submitted by

Members:

Meeting Date(s):

Meeting Details: no report

Faculty Affairs Committee

Submitted by Lisa Tremain, FAC Chair

Members: Claire Till, Melanie Michalak,

Meeting Date: Tuesday, August 25, 11:00 - 11:50 in FH 181

Meeting Details:

The Faculty Affairs Committee (FAC) met during Week 1 of the semester to review its Fall 2026 calendar, committee charge, and priorities for the academic year. Committee members reviewed the FAC Committee charge and membership as outlined in the Senate bylaws. We reviewed our membership and discussed filling the open seat for the committee, which must be a 2026-27 University Senator. The committee reconnected to our FAC priorities list from 2025-26 and discussed related policy recommendations to help roadmap our work for the year. We identified several potential areas of work for 2026-27, including policies related to in-class recordings; accessibility; AI; and the process for summer approval of Faculty Research Associates.

Integrated Curriculum Committee

Submitted by Sara Sterner, ICC Chair

Members: Jill Anderson, Paul Michael Atienza, Morgan Barker, Christine Cass, Joice Chang, Tom Cook, William Fisher, Paul Geck, Chris Guillen, Alison Hodges*, Sei Hee Hwang, Laura Levy, Heather Madar*, Bori Mazzag, John Meyer, Justus Ortega, Rosanna Overholser, Meenal Rana, Jenni Robinson Reisinger, Sara Sterner (Chair), Anna Thaler, Melissa Tafoya, Mark Wicklund; CDC Chair: William Fisher; APC Chair: Monty Mola; Student Representatives: Roselyn Montanez, AS Executive Vice President; Joel Hardin, AS; Curriculum and Catalog Specialist: Cameron Allison Govier; Curriculum and Assessment Analyst: Khristan Lamb; Guests by Regular Invitation: Chris Harmon, Senate Chair; Kim White, Interim Associate Vice President of Faculty Affairs / APS

Meeting Date: August 25, 2026

Overview of Meeting Details: **Quick Recap:** The ICC met to review curriculum updates, proposal management, committee membership, and policy changes for the coming academic year. Key topics included the October 1 deletion of inactive Curriculog proposals, revisions to the consent calendar process, current proposal volume, updated Chancellor's Office requirements, and the ongoing revision of the ICC bylaws. See **DRAFT Meeting Minutes:** [08-25-26-ICC Meeting Minutes - DRAFT](#) for more details (*Humboldt Login Required*)

Curriculum Development Decisions:

- **ICC-Approved Proposals Advancing to Senate on Consent:** None
- **ICC-Approved Proposals Advancing to Senate by Resolution:** None

- **ICC-Reviewed Proposals Determined to Require Further Development Prior to Advancement to Senate:** None

Read More:

- **Meeting Agenda:** [08-25-26-ICC Meeting Agenda - Approved](#) *(Humboldt Login Required)*
 - **26-27 Curriculum Review Queue:** [ICC 2026-27 MCC Proposal Tracking](#)
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University Policies Committee

Submitted by

Members:

Meeting Date(s):

Meeting Details: no report

University Resources and Planning Committee

Submitted by Jaime Lancaster, URPC Co-Chair

Members:

Meeting Date(s):

Meeting Details: no report

Academic Senate of the CSU

Submitted by Stephanie Burkhalter and Mary Virnoche, ASCSU Senators

The first standing committee meeting and plenary of the year will take place Wednesday, September 2 through Friday, September 4.

Senator Burkhalter has been appointed as a member of the Fiscal and Governmental Affairs Committee and the systemwide Generative Artificial Intelligence (GenAI) Committee & Subcommittee on Teaching, Learning, and Scholarship. She also serves as a faculty commissioner on the Commission on Professional and Continuing Education (PaCE).

Senator Virnoche has been appointed as Chair of the Justice, Equity, Diversity and Inclusion (JEDI) Committee and as a member of the Advisory Committee on Pre-Doctoral Programs.

VC Grant (Human Resources) and Peter Lim (Executive Advisor on Civil Rights) have requested ASCSU feedback on two policies: 1) [California State University Sexual Harassment and Sexual Misconduct Policy](#); and 2) [California State University Nondiscrimination Policy](#). We welcome Humboldt input on areas requiring our attention. The CO is interested in hearing whether we feel the new processes will be easier to navigate, especially from those of us who have helped students or colleagues under the existing system. They would also like examples of problems we've encountered and talking through how they would be handled under the new policy.

Associated Students

Submitted by Ayan Cabot, A.S. President

Members: Ashley Hurtado Hernandez, Joel Hardin, Nate Heron, Paola Ferreyra, Riley Hemenover, Roselyn Montanez, Ruth Worthington

Welcome

Good afternoon,

On behalf of the Associated Students of (A.S.) Board of Directors, I am pleased to welcome both new and returning students to the fall semester. It is an honor to serve as your President for the 2026-2027 academic year alongside our dedicated Board members.

Meeting Schedules and Student Engagement

The Board of Directors held its first meeting of the semester on Tuesday, August 25. Our regular meetings take place every **Tuesday from 11:00 a.m. - 1:00 p.m. in SAC 131** (the Banquet Room).

We strongly encourage student participation through multiple channels:

- Attending meetings in-person or [via zoom](#).
- Providing formal public comment during sessions.
- Submitting [anonymous feedback](#) through our online form.

To propose an agenda item, please contact Roselyn Montanez, Executive Vice President and Chair of the Board. Our Board Coordinator, Tammy Petitjean, will assist in processing requests and coordinating follow-up actions. **Contact:** as-evp@humboldt.edu | tlp81@humboldt.edu

Transportation Services and Budgetary Concerns

During our recent meeting, Mike Fisher (Vice President of Administration and Finance) and Cris

Koczera (Associate Vice President) presented proposed changes to the university's transportation contract with the Humboldt Transit Authority (HTA). These modifications primarily target late-night service routes.

The Board of Directors raised significant concerns about these proposals, particularly because students were not adequately notified of changes that directly affect their ability to commute to campus and return home. According to the administration's breakdown, projected revenues from (Jack Pass) IRA fees and sales for the 2025-2026 cycle are insufficient to cover fixed-routes costs, requiring the use of reserves. While the administration has proposed cutting the Red and Yellow evening extensions and the Green and Gold Route, these measures may not fully resolve the deficit.

The Board of Directors urges University leadership to improve communication with student representatives, especially regarding decisions that impact student fees and essential services. We understand the university faces ongoing budget constraints, but we believe any reduction in service must be carefully weighed against student needs. We will continue these discussions to ensure that all proposed transit changes, including the transition from the Red and Yellow lines to the Orange line, are thoroughly assessed for their effects on ridership and student welfare.

Report submitted to the Board of Directors:

 Transportation Breakdown of Student Fees Usage

Student Experience and Shared Governance

In collaboration with several campus departments, A.S. recently participated in the **Student Experience Survey** conducted by Brailsford & Dunlavey. With a **22% response rate**, this survey represents the highest engagement level for such an initiative on our campus.

The data identified key areas for improvement, notably that over **60% of students face challenges in forming social connections**. To address this and promote civic engagement, A.S. is hosting a **Committee Matchmaking event** on Thursday, **September 3, from 10:00 a.m. - 1:00 p.m. in the KBR**. This event is designed to recruit students for various committees, where they can gain professional development and participate in shared governance, and have a space to interact with fellow students, administration, staff, and faculty. Students should be able to engage beyond the classroom setting. This requires a collaborative effort to ensure student success, so that our campus community can thrive. We encourage all committee chairs and representatives.

Attached, please find the event flyer and the **A.S. Committee Handbook**, which includes a QR code for the online application form.

Attachments:  Committee Matchmaking Flyer  A.S. Committee Handbook -8.pdf

Moving Forward

The Board of Directors looks forward to a productive year as we begin work on the Associated Students Strategic Plan. We remain committed to our core pillars: Allocate, Advocate, and Educate. Our goal is to ensure that Cal Poly Humboldt continues to be a supportive environment where every student has the tools they need for long-term success.

California Faculty Association

Submitted by Ryder Dschida, CFA Humboldt Chapter President

Members:

Meeting Date(s):

Meeting Details: no report

Office of Diversity, Equity, and Inclusion

Submitted by Rosamel Benavides-Garb, Campus Diversity Officer

Members:

Meeting Date(s):

Meeting Details: no report

Emeritus & Retired Faculty & Staff Association

Submitted by Marshelle Thobaben, Senate Representative for ERFSA

Members:

Meeting Date(s):

Meeting Details: If you do not plan to submit a written report, please write "no report" in the meeting details space of this document, just so I know not to wait on your committee/division

You are invited to attend the *free* Fall Humboldt-ERFSA In-Person Luncheons.

Location: Baywood Golf and Country Club, **Address:** 3600 Buttermilk Ln, Arcata, CA

They begin *on* **Thursday, September 10, 2026**, at noon. Arrive earlier if you would like to order lunch.

Sept. 10th Ryan Aylward: NOAA Warning Coordination Meteorologist. *“El Niño—Just Hot Water.”* Discussion about El Niño—what it is and isn't—and how El Niño and the Southern Oscillation impact our local weather and climate

<https://www.climate.us/>, <https://www.weather.gov/education/>

Introduction by Jeffry Borgeld

Oct 8, 2026. Cutchá Risling Baldy: Prof. Native American Studies, 2026 Outstanding Professor Award Recipient.

“Rou Dalagurr: Everyone Works Together - Indigenous Food Sovereignty & Community Resilience”. A discussion exploring how the Rou Dalagurr Food Sovereignty Lab creates real-world solutions that support both people and the environment. Engaging sustainability, Indigenous leadership, climate action, or community-based research, this presentation highlights how everyone has a role to play in land management and decolonized futures. Come see how working together today can help shape a healthier future for generations to come.

<https://www.humboldt.edu/food-sovereignty>

https://www.canva.com/design/DAG5KD7tAlc/m1IfuRmeHhdtgb779Phh4A/view?utm_content=DAG5KD7tAlc&utm_campaign=designshare&utm_medium=link2&utm_source=uniquelinks&utm_id=hcc2e7a4b6d

Introduction by Kumi Watanabe-Schock.

Nov 12, 2026, Dr. Justus Ortega, PhD. (Dean of the College of Professional Studies), **Dr. Sarah Landis**, PT, MS, DPT (Director of the Health and Medical Science Degree Program and Biomechanics Lab Mgr.) *“Physical Balance and Fall Risk”*. The Cal Poly Humboldt Fall Risk Program is a collaborative community initiative that partners with local healthcare providers, senior centers, community organizations, and wellness programs to promote healthy aging and reduce fall risk among older adults. This presentation will highlight the impact of these partnerships, showcase ongoing research findings, and demonstrate how community engagement, experiential learning, and applied research come together to improve the lives of older adults while preparing for the next generation of healthcare professionals.

Introduction by Lou Ann Wieand

Dec 10, 2026, Christine Noel: Education Curator, Sequoia Park Zoo. *“Stories of Survival at the Sequoia Park Zoo.”* Sequoia Park Zoo provides a home to many non-releasable rehabilitated animals, including black bear, eagle and owls. Stories of zoo team survival and descriptions of the specialized care, husbandry and welfare practices that go into caring for these animals will be discussed. The Zoo’s website is redwoodzoo.org. We are also accredited by the Association of Zoos and Aquariums (AZA), their website is aza.org.

Introduction by Susan Dobie

Labor Council

Submitted by Phillip Bradley, Labor Council Delegate

Members: Ryder Dschida, Edwin Espinoza, Ann Johnson-Cruz, Phillip Bradley

Meeting Date(s): 8/11/2026

Meeting Details:

- CSUEU (units 2,5,7, & 9), as well as Teamsters (unit-6), are in bargaining with the CSU over successor contracts (currently out of contract). While some progress has been made, the core economic issues remain far apart. They are also preparing membership for collective actions, up to and including striking.
- CSUEU’s unit 15 is still awaiting ratification of CBA by CSU

- APC (unit 4) is in bargaining over contract salary reopener. Not close to resolution yet.
 - CFA (unit 3) has declared an impasse in bargaining with the CSU.
 - Campus unions have lodged complaints (including a grievance from APC) with the university over the digital parking pass fee as it was not met and conferred ahead of time. An interim solution has been found while we await the bargaining process.
 - CSU withdrew opposition to AB1818. Passed legislature and referred to the Governor's Office for signing/rejection.
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Staff Council

Submitted by Senator Sulaina Banks

Members:

Meeting Date(s):

Meeting Details: no report

President's Executive Cabinet

Richard Carvajal, President

Bethany Gilden, Acting Chief of Staff

Shawna Young, Interim Provost and VP for Academic Affairs

Michael Fisher, VP for Administration & Finance and CFO

Peggy Metzger, Interim VP for Enrollment Management & Student Success

Steve Karp, Interim VP for University Advancement

Nick Pettit, Executive Director of Intercollegiate Athletics & Recreational Sports

Brian Walther, University Counsel

ACADEMICS

- Academic Affairs (AA) Welcome Back Reception, Thursday, September 10, 2026, from 3:00 to 5:00 p.m. in the Kate Buchanan Room (SAC 225); a facilitated interactive state of the division discussion
- Promoted Faculty Reception Thursday, September 24, 5:00 to 7:00 p.m. in the Kate Buchanan Room (SAC 225); celebrating 18 promoted T/TT faculty, including 3 Librarians, and 2 lecturer range elevations
- Shared Governance in the Division's Budget Planning Practice
 - AA is currently undergoing consultative sessions with every unit in the division (Chairs and AA Leadership consultative sessions completed; moving on to all AA units over the next several weeks)
 - Synthesis of feedback and draft framework of a new practice by end of fall semester
 - Implementation of new budget planning practice beginning January 2027
- Search for the Vice Provost & Dean of Undergraduate and Graduate Studies position is planned to launch this fall semester. Following the interim provost's consultation with SenEx, this search will be internal, as our campus has a deep bench of strong candidates with appropriate leadership experience, a track record of taking on important, detailed, as well as large-scale initiative work, and following through to successful completion in a consultative and collaborative fashion, demonstrating an enduring commitment to shared governance.

STUDENT SUCCESS FRAMEWORK IMPLEMENTATION TEAM (SSFIT)

- As part of the CSU's Student Success Framework implementation plan, each CSU campus is expected to constitute an Implementation Team. The charge of Cal Poly Humboldt's SSFIT is as follows: *The SSFIT will assess the Framework and its connections to Humboldt's already existing plans and initiatives, and will drive assessment, prioritization, goal formation, and activation at the campus level.*
- [Membership](#) (including co-chair assignment) is outlined by the Chancellor's Office.
- Monthly meetings will begin September, small working groups are anticipated to emerge, and regular reports will be shared with Senate.

ENROLLMENT MANAGEMENT and STUDENT SUCCESS:

- This summer we welcomed our new AVP of Student Success and Dean of Students, Dr. Molly Springer. We also celebrated the appointment, after a national search, of Chelsea Mooney as our new Director of Admissions. Other interim appointments that resulted from Peggy Metzger's Interim VP appointment include: Jenni Robinson Reisinger, Interim AVP of Enrollment Management and University Registrar, and Miriam Miner, Interim Director of Financial Aid.
- Our Direct Admissions MOUs have now expanded beyond Humboldt and Del Norte Counties. Willits Unified School District and Ukiah Unified School District have been added, and Fort Bragg Unified School District is on the docket to be signed later in the Fall.
- Census is September 23rd, and Fall 2026 enrollment will be finalized shortly thereafter, followed by an all-campus message which will include details about current enrollment and some good news to share about various recruitment and retention initiatives. However, over the last two to three weeks, enrollment has flattened unexpectedly, and it is now clear that we will not meet our previous projection of roughly 2% growth over last fall, and in fact we may end up slightly down from last Fall. This lack of growth is primarily due to a decline in FTUG enrollments. We continue to monitor current enrollment closely, while actively pivoting toward both Spring and Fall 2027.

ADVANCEMENT

- I want to welcome our new Student representative to the Advancement Board of Directors: Alejandro Paz-Knatz
-
- Last year's fund-raising numbers was an exceptional year; with
\$18.2M Total Raised in gift commitments from
12,847 Total Gifts from
5,780 Total Donors (12% increase)
 - Thank you to the Advancement team and the entire campus for supporting fundraising to benefit Cal Poly Humboldt Students and campus!

2026-27 Budget Update - August 2026



Agenda

- Budget Timeline
- 2026-27 State & CSU Budget Update
- 2026-27 Cal Poly Humboldt Budget Update
- Next Steps
- Questions

> Budget Timeline

State

CSU

Campus

Campus Budget Finalization (2026-27)

UBO finalizes budget and seeks final approval from CFO & President. UBO posts final budget in CFS & Open Book. UBO submits budget to the CO.

Governor's January Budget Proposal (2027-28)

Campus Budget Preparation (2027-28)

Divisions work with their MBUs to meet preliminary proposed budget target. Budgets are submitted to respective VPs for approval.

Governor's May Budget Revision (2027-28)

Governor's Final Budget (2027-28)

Oct-Jan

May-Jun

Jul-Sept

Feb-Apr

CSU Final Budget Allocation Memo (2026-27)

CSU Budget Request (2027-28)

Campus Budget Strategic Planning (2027-28)

UBO engages leadership, URPC & campus partners on budget planning. UBO provides preliminary proposed budget target scenarios to Divisions. Divisions begin to budget plan accordingly.

CSU Preliminary Budget Allocation Memo (2027-28)

Campus Budget Submission (2027-28)

UBO provides final budget target scenario to reflect any material changes from preliminary planning. Divisional budgets are presented for review to leadership and URPC.

H.

State & CSU 2026-27 Budget Update

➤ 2026-27 Final State Budget

General Fund Allocation to CSU

\$509.6M

- Supports core operating costs and CSU priorities.
- Funding remained consistent across the January proposal, May Revision, and Final State Budget.

Base Increase

\$365.8M

- \$264.9M Year 5 Compact
- \$100.9M Year 4 Compact (partial)

Base Restoration

\$143.8M

- Restores the 2025-26 General Fund reduction to CSU.

Source: CA State Budget

H.

➤ 2026-27 Final CSU Budget

New CSU Resources

**\$712.6
M**

**\$509.6M General Fund
Allocation from State**

**\$203M Tuition & Other
Revenue**

Campus & System Support

\$251M

- \$178.4M Direct Campus Cost Allocations
- \$43.2M Centralized Programs & Services
- \$3.9M New Facility Operations & Maintenance
- \$25.0M CSU Forward

Compensation

\$176.6M

- Held centrally at CSU
- 3% faculty and staff compensation pool
- Final compensation will be determined through agreements with each bargaining unit.

Systemwide Commitments

\$285M

- Held centrally at CSU
- \$143.8M State General Fund Loan Repayment
- \$50M Capital & Infrastructure
- \$91.2M Contingency for State funding uncertainty

The CSU's 2026-27 budget plan is centered on protecting and strengthening existing commitments rather than pursuing new initiatives.

Cal Poly Humboldt 2026-27 Budget Update

➤ 2026-27 CSU Allocations to Campus

New CSU Funding Allocation
to Humboldt

\$5.38M

+\$2.99M

State General Fund Increase

+\$2.39M

6% Tuition Rate Increase

Student & Employee
Support

\$4.6M

86% of Allocation

Retirement

\$3.1M

State University Grant (SUG)

\$1.0M

Health Benefit Premiums

\$0.5M

Operational Costs &
Facilities

\$0.7M

14% of Allocation

Utilities

\$0.5M

Liability & Property Insurance

\$0.1M

Maintenance of New Facilities

\$0.1M

The CSU has fully designated this new allocation for corresponding required costs, with minimal funding available for discretionary campus use.

Source: CSU Budget Allocation Memo

> 2026-27 Campus Resources & Uses

Net New Campus Resource

\$2.5M

+\$2.1M

Tuition: 3% Enrollment Growth

+\$1.2M

Tuition: Summer Session

+\$2.6M

Ongoing Base Reductions

-\$3.4M

Enrollment Reallocation

Campus Planned Uses

\$2.5M

Utilities & Insurance Premiums	\$0.7M
Departmental Allocations	\$1.3M
Green & Gold Guarantee	\$0.2M
Enrollment Contingency	(\$0.3M)
Unallocated Base	\$0.6M

New tuition revenue and ongoing base reductions offset the \$3.4M enrollment reallocation, provide \$1.9M to address increased campus operating costs and priorities, and leave \$625K in unallocated base funding available.



2026-27 Polytechnic Special Allocation & Uses

Special Campus Resource

\$3.7M

State General Fund
Polytechnic Allocation

*(State Allocated in 2021,
CSU Allocated in 2026)*

Polytechnic Allocations	\$3.7M	
	Academic Programs Buildout	\$3.21M
	(87% of Allocation)	
	Communications, Marketing & Branding	\$0.46M
	Infrastructure	\$0.05M

Reflects the final installment of the \$25M in ongoing Polytechnic funding allocated by the State.

➤ 2026-27 Operating Fund Reductions

Division	Reduction %	Reduction \$
President's Office	0.0%	-
University Advancement	1.4%	64,000
Academic Affairs	2.0%	1,678,000
Administrative Affairs	1.2%	256,000
Enrollment Management & Student Success	1.5%	230,000
Athletics & Recreation	2.0%	69,000
University Wide	3.8%	316,000
Total Reductions	1.9%	2,613,000

Reflects the ongoing base reductions implemented by each division as recommended by the URPC in Spring 2026.

Source: Senate Resolution

H.

2026-27 Operating Fund Revenue Budget

	Spring Planning	Increase (Decrease)	Final Budget
2025-26 Revenue Budget	175,270,821	-	175,270,821
Restoration of 2025-26 Cut to CSU	3,040,000	(3,040,000)	-
Enrollment Reallocation <i>(slide 9)</i>	(3,378,000)	(7,000)	(3,385,000)
Polytechnic Allocation <i>(slide 10)</i>	3,729,000	-	3,729,000
New State General Fund Allocation <i>(slide 8)</i>	4,549,000	(1,558,000)	2,991,000
Tuition: 6% Rate Increase <i>(slide 8)</i>	1,969,000	422,000	2,391,000
Tuition & Fees: Enrollment Growth <i>(slide 9)</i>	2,707,000	(629,000)	2,078,000
Tuition: Summer <i>(slide 9)</i>	-	1,194,000	1,194,000
2026-27 Revenue Budget	187,886,821	(3,618,000)	184,268,821

- 2025-26 State funding was restored and retained centrally by the CSU to repay the one-time State loan.
- New State General Fund funding decreased, as compensation is being held by the CSU pending final negotiations offset by the retirement increase.
- Tuition revenue reflects an updated 3% enrollment growth assumption plus new summer session revenue.

» 2026-27 Operating Fund Expenditure Budget

	Spring Planning	Increase (Decrease)	Final Budget
2025-26 Expenditure Budget	175,270,821	-	175,270,821
CSU Allocated Costs & Priorities <i>(slide 8)</i>	9,558,000	(4,176,000)	5,382,000
Polytechnic Allocation <i>(slide 10)</i>	3,729,000	-	3,729,000
Campus Costs & Priorities <i>(slide 9)</i>	2,079,000	(204,000)	1,875,000
Base Reductions <i>(slide 11)</i>	(2,613,000)	-	(2,613,000)
Unallocated <i>(slide 9)</i>	-	625,000	625,000
2026-27 Expenditure Budget	188,023,821	(3,755,000)	184,268,821

- CSU allocated costs decreased, as compensation is being held by the CSU pending negotiations.
- \$625K in ongoing base funding remains unallocated pending URPC's recommendation in the next budget planning cycle, as the campus held to division committed reductions ahead of anticipated enrollment recalibration.

➤ 2026-27 Operating Fund Budget

	Spring Planning	Increase (Decrease)	Final Budget
Total Revenue Budget	187,886,821	(3,618,000)	184,268,821
Total Expenditure Budget	188,023,821	(3,755,000)	184,268,821
Total Operating Budget Surplus (Deficit)	(137,000)	137,000	-

- 2026-27 Operating Budget is balanced, supported by enrollment growth, increased State investment, and collaborative campus-wide reductions.
- \$3.5M in one-time roll-forward funding remains available for future budget needs.
- We are well positioned for 2027-28, with a goal of avoiding university-wide budget reductions.
- Work remains to evaluate current resource allocations, strengthen the sustainability of divisional budgets, and make strategic shifts within divisions to better support University priorities.

Next Steps

Next Steps



September

- CSU 2027-28 Budget Request will go to CSU Board of Trustees for approval

October & Beyond

- Campus 2027-28 Budget Strategic Planning kicks off

Questions?



EXPECTATIONS FOR ETHICAL RESEARCH
WITH INDIGENOUS COMMUNITIES



OF NORTHWESTERN CALIFORNIA

Co-authors¹ : Phil Albers, Jr., Alme Allen, Marnie Atkins, Dr. Kayla Begay (Hoopa Valley Tribe), Loren Me'-lash-ne Bommelyn, Ellen Colegrove, Adrienne Colegrove-Raymond (Hoopa Valley Tribe), Marlene' Dusek, Marlette Grant-Jackson (Yurok/Karuk/Shasta/Abenaki), Eli Hensher-Aubrey, Julie Hubble, Blair Kreuzer, Lonyx Landry, Julian Lang, Callie Lara, Kishan Lara-Cooper, Lesha Manriquez (Wí Cahbi Waka' Mahpiya Wiya - Fort Belknap Nakoda), Cassandra May (Wailaki, Yurok), Jim McQuillen, Virgil Moorehead, Jr. (Yurok/Tolowa), Maggie Peters, Michelle Rainer, Dr. Jason Ramos, DC, Elizabeth Redfeather, Kaitlin Reed, Marc "Bubba" Riggins (Hupa/Yurok), Lyn Risling (Karuk/Yurok/Hupa), Cutcha Risling-Baldy, Geneva Shaw, MSW (Enrolled Hoopa Valley Tribe; Yurok, Karuk), Angela Sundberg, Rachel Sundberg, Ronnie Swartz, Sonny Tripp, Pimm Tripp-Allen, Char Valencia, Hilanea Wilkinson (Wiyot)

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Designed and illustrated by:

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¹ Co-authors include all individual/group participants, organizers, coordinators, consultants, and reviewers. Tribal affiliation is included when provided.

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These are basic expectations for non-Native researchers who want to engage in ethical research with Indigenous Communities of Northwestern California. While these requirements are necessary they are not, in and of themselves, sufficient for ethical research with Indigenous Communities of Northwestern California. The following expectations can be considered a "floor" not a "ceiling." This is not a checklist for non-Native researchers and the following list of expectations does not claim to address all people, communities, or Tribes of Northwestern California. Additionally, this document does not imply that Native researchers are exempt from ethical considerations harmonious with these principles.

The project interview team acknowledges that we could have inadvertently transgressed in relation to the principals outlined in this document. For example, not all interview team members are indigenous to North America or the territory that is now Northwestern California. Valuable knowledge-holders may have been missed in our interviews.

This project receives inspiration from many other related efforts (see Helpful Resources) and extends gratitude to the influential work of:

- Cal Poly Humboldt Council of American Indian Faculty and Staff's *April 29, 2021, Statement on PolyTech University Development and Indigenous Knowledge/Indigenous Science/Traditional Ecological Knowledge*
- Cal Poly Humboldt Native American Studies Professors exploring decolonial frameworks for building a PolyTEK.
- First Nations Information Governance Centre's *The First Nations Principles of OCAP®*
- *Research 101: A Manifesto for Ethical Research in the Downtown Eastside*
- *Guiding Principles for Engaging in Research with Native American Communities*
- The Global Indigenous Data Alliance's *CARE Principles for Indigenous Data Governance*
- North Carolina Survivor Union's *Ethical Research Manifesto*

PAST, PRESENT, AND FUTURE

As Humboldt State University transforms into California State Polytechnic University, Humboldt, the number of non-Native researchers who want to work with Indigenous Communities of Northwestern California is expected to rise. This document is constructed as a guide—as well as a set of demands—for nurturing good outcomes and reducing poor ones when non-Native researchers want to work with the area’s Native communities.

Humboldt State University’s Polytechnic Prospectus (2021)² notes the anticipated increase in research projects, particularly those related to Native communities, several times:

As a polytechnic, our institution would become increasingly attractive to students from California and beyond, raise our national profile, increase the amount of grants for research, and inspire additional donations from individuals (page 11).

Looking beyond the university, the regional setting and facilities managed by HSU’s many partners are integral elements of student learning, research, and creative activities at Humboldt State. The university’s partners include Native American tribes, federal and state agencies, county and city governments, private companies, and non-profit organizations...Collectively, HSU’s partners enrich the learning of thousands of students each year and help enable numerous research efforts and creative activities (page 19).

Indigenous knowledge systems are especially important to consider in the development of a polytechnic institute because Indigenous knowledge is fundamentally interdisciplinary and applied. Indigenous knowledge is also at the forefront of cutting-edge research interventions in the sciences and Western academic institutions (page 24).

Traditional ecological knowledge is also called by other names, including Indigenous knowledge or Native science, and refers to the evolving knowledge acquired by Indigenous and local peoples over hundreds or thousands of years through direct contact with the environment. There are many considerations when engaging with TEK, especially around sustainability, and as a 21st century polytechnic it’s our responsibility to uphold sovereignty and self-determination while working to empower Indigenous students, communities, and partners. Consultation is not collaboration. A polytechnic that foregrounds TEK will also be clear in developing and sustaining collaborative policies (page 24).

²

Humboldt State University (2021). Polytechnic Prospectus. Available at <https://www.humboldt.edu/sites/default/files/202301/hsupolytechnicprospectus.pdf>

Becoming a polytechnic university, without question, will enable HSU to more successfully compete for the major environmental, science, technology, agriculture, health, and energy grants we have pursued while assisting all campuses across the state in meeting California workforce needs...We can't overstate what a monumental change this could be for HSU, raising the profile of the institution, bringing new employers and industry to the region, and allowing our university to pursue major new grants and research (pages 101-102).

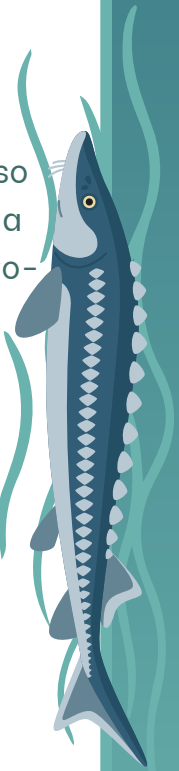
As a guard against harmful consequences of non-Native researchers' efforts—unintended or intentional—Native people who identify as members of different Tribal communities in what is referred to as Northwestern California were interviewed for oral history and testimony about basic expectations for doing research in their lands. Notes from these semi-structured interviews were then sent back to the person interviewed for review/revision. Interview testimony described several general and specific cases of harm to local Native communities caused by non-Native researchers which are described below. When all notes were approved, they were assessed as a collective to develop “Baseline Requirements” and more detailed “Essential Expectations.” A draft set of statements was shared with a group of people interviewed for review/revision. A revised set of demands for non-Native researchers was then shared with all co-authors.

In order for this document to result in reducing harm and enhancing benefits for Indigenous Communities of Northwestern California, it needs to be influential. It also needs to be able to change with the passage of time. While it is being published in a paper format, it is also being published online where it can be revised as needed. Co-authors of this publication are intent on addressing the question, “What happens next?” The potential for including these basic requirements in formal or informal Institutional Review Board³ processes will be explored, as will the prospect of distributing the publication to all new faculty during their mandatory orientation.

The final section of this document includes a non-exhaustive list of Helpful Resources for minimizing harm and maximizing benefits when non-Native researchers want to work with Native communities. Check them out.

³

The Cal Poly Humboldt Institutional Review Board (IRB) exists to ensure the protection of the rights and welfare of human subjects recruited to participate in research.



HARM TO INDIGENOUS COMMUNITIES OF NORTHWESTERN CALIFORNIA

Cultural Exploitation. Misappropriation and misuse of cultural knowledge and ceremonies.

Breach of Sovereignty. Failing to recognize and respect Tribal sovereignty and self-determination.

Lack of Consent. Conducting research without obtaining informed, prior, and ongoing consent from the community.

Misrepresentation. Presenting Tribal cultures, practices, and knowledge inaccurately, disrespectfully, and insensitively.

Benefit Imbalance. Research that primarily benefits external entities without offering tangible benefits to the community.

Universities, museums, construction projects, and governments have perpetrated harm, for example, by excavating cultural sites and villages which can promote looting. This is not just in the past. A village site near the mouth of the Smith River was desecrated very recently. So were ancestral remains near Point St. George. UCLA's involvement with the Smithsonian's bicentennial celebration was not transparent about compensation or copyright laws and failed to uphold informed consent standards. This is not just in the past. Samples of songs from Indigenous Communities of Northwestern California continue to appear in current, monetized music. Researchers in anthropology and psychology made misinformed and biased claims about our community's youth that have become the canon taught in most developmental psychology classrooms today. This shapes social effects for future generations.



BASELINE REQUIREMENTS

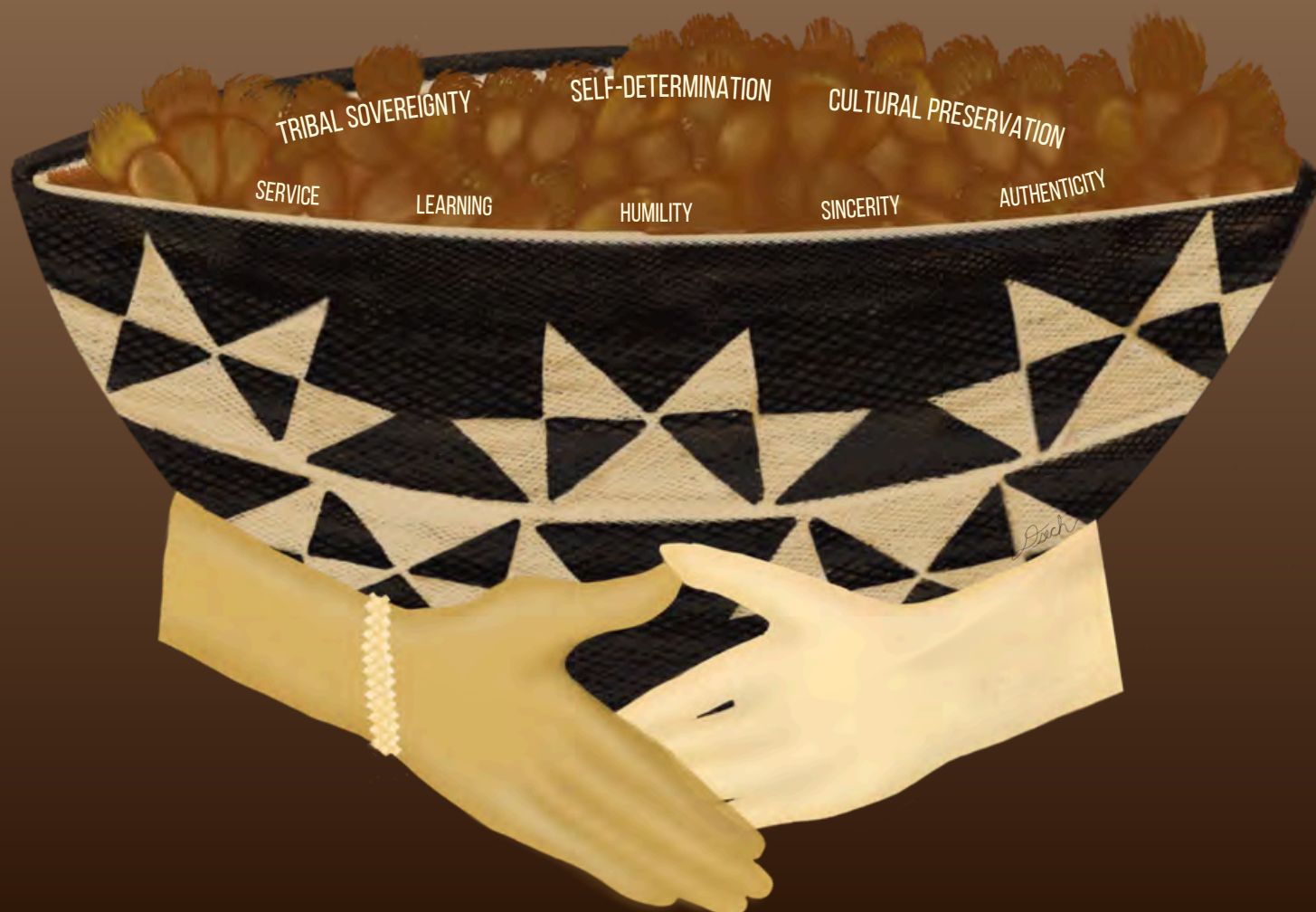
Come from a place of service, learning, humility, sincerity, and authenticity.

Value multiple contexts in which Native communities exist.

Research should be a community-led initiative with aligning goals of supporting tribal sovereignty, self-determination, and cultural preservation.

Give your results back to the community in an accessible format.

Engage in authentic long-term commitment and relationship that extend beyond the lifespan of the research project.



ESSENTIAL EXPECTATIONS

Come from a place of service, learning, humility, sincerity, and authenticity.

- Engage with the community prior to asking to do research.
- Be ready to be changed by the experience.
- Develop an understanding of local history, customs, and protocol ahead of time.
- Do this on your own time rather than asking Tribal people to engage in work so you can gain such understanding.
- You have no right or entitlement to the information you seek.
- If you are told no, you do not need to know why. Just respect it. You do not want to darken people's doors. Do not increase cultural taxation.
- Show up, put time in, and consider what you have offered to the community (for example, you can attend open events, offer to sharpen people's tools, stack wood for those who you are asking to offer you knowledge).
- The impetus is on you to plan wisely for the amount of time things might take. Start sooner than you think you need to.
- Accept that there are many forms of education and experience. Put a lid on arrogance.
- Accept responsibility and accountability for past and potential harms (see previous section).
- You have training, but community holds the knowledge.
- Exercise sensitivity and caution around topics of ceremony, sacred sites, and traditions.
- Do not ask about sacred knowledge.
- Accept what you are offered. If you are invited to come inside, go inside. If you are presented food or drink, take it. If you are not able to do these things, give back and make things right.
- Your previous experience is not generalizable to Indigenous Communities of Northwestern California.
- Do not use existing relationships as leverage or currency to get into spaces.
- Respect prayer and participate, as appropriate, if invited.
- Do not send someone else to do work you said you would do.



Value multiple contexts in which Native communities exist.

- Appreciate that there are different political, cultural, and ethnic recognitions and that the same person can inhabit multiple roles and identities.
 - There are ranges of traditional and cultural knowledge within Native peoples. Do not assume a particular person has access to specific knowledge.
 - Engage with sensitivity in relation to the spectrum of individual knowledge so as not to contribute to cultural identity insecurity.
 - Make sure you have the appropriate knowledge-holder relevant for the specific project.
 - Respect the depth and complexity of cultural practices and knowledge.
 - Recognize that multiple and potentially contradictory truths can simultaneously exist.
 - “Community” is a fluid, changing, and dynamic social, political, cultural and ethnic concept. Do not get fixed on a monolithic conceptualization.
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Research should be a community-led initiative with aligning goals of supporting tribal sovereignty, self-determination, and cultural preservation.

- Find out if the Tribe has already identified areas of research they would like explored so you can engage in authentic collaboration.
 - Tribal Communities do not need more research on figuring out what is wrong. Look at resiliency and survivance.
 - Build in compensation for Tribes and Tribal consultants from the beginning of your project.
 - Identify and utilize existing Tribal government policies and processes as well as Tribal research frameworks such as Tribal IRBs, data sovereignty requirements, and data management practices.
 - Tribal governments should generally be involved and, depending on what the research is about, the Tribal government may not contain people with relevant knowledge.
 - Reduce power relations by sharing decision-making and credit.
 - Adapt your process as the community sees fit, regardless of institutional deadlines or policy (“Slow Research”).
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Give your results back to the community in an accessible format.

- Do not change the content of what you get from people. Check back in with people who participated to confirm.
- Be transparent with your intentions, use of raw data, and findings.
- Pay attention to digital geographic locators and metadata.
- Create a system for Native people's knowledge to have the value it deserves.
- Prepare a disclaimer that outside entities cannot own Tribal knowledge.
- Be aware of misalignment and oversights that come from mainstream knowledge validation practices.
- Hold discussions about data ownership, storage, and usage.
- Promote Tribal sovereignty over cultural knowledge and data.

Engage in authentic long-term commitment and relationship that extend beyond the lifespan of the research project.

- Your top priority should be tangible benefits to the community to actively heal past harms.
- If you are occupying a space with Native people you are already influencing things.
- Foster Indigenous leadership.
- Invest back into the community by expanding community skill sets and networks.
- Use your position to advocate for and support the protection of Indigenous rights, cultures, and lands.
- Even if principles established in this document are not part of formal university research protocols, it is your duty to honor these expectations when working with Indigenous Communities of Northwestern California because everything you do affects future generations.

HELPFUL RESOURCES



Selected highly ethical resources for non-Native researchers who are considering projects with Indigenous Communities of Northwestern California are included below (in alphabetical order by name of resource). Some of these documents are Tribal and/or community-driven. Others are linked to federal government funding or guidelines.

American Indian and Alaska Native Culture Card, from the United States Substance Abuse and Mental Health Services Administration.

Available at <https://store.samhsa.gov/sites/default/files/sma08-4354.pdf>

- This guide enhances cultural competence when serving American Indian and Alaska Native communities. It covers regional differences, cultural customs, spirituality, communication styles, the role of veterans and older adults, and health disparities.

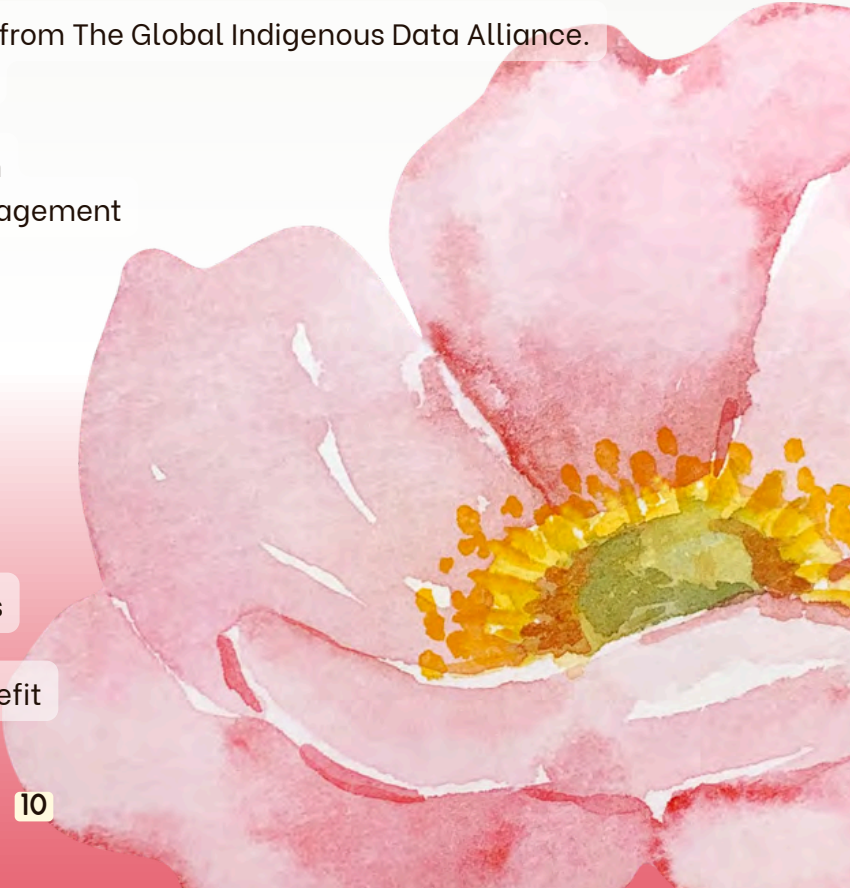
California State University Office of Tribal Relations

Available at <https://www.calstate.edu/csu-system/administration/erc/tribal-relations>

- Facilitates engagement with Native American Tribal Nations and associated government entities to build strong Tribal partnerships, ensures compliance with state and federal laws, conducts government-to-government Tribal relations, and supports academic programs for Native American programs and students.

CARE Principles for Indigenous Data Governance, from The Global Indigenous Data Alliance.

Available at <https://www.gida-global.org/care>

- Collective benefit
 - For inclusive development and innovation
 - For improved governance and citizen engagement
 - For equitable outcomes
 - Authority to control
 - Recognizing rights and interests
 - Data for governance
 - Governance of data
 - Responsibility
 - For positive relationships
 - For expanding capability and capacity
 - For Indigenous languages and worldviews
 - Ethics
 - For minimizing harm and maximizing benefit
 - For justice
 - For future use
- 

Considerations for Seeking Translations in First Nations Languages, from First Peoples' Cultural Council. Available at <https://fpcc.ca/resource/considerations-for-seeking-translations-in-firstnations-languages/>

- This resource outlines good practices to consider when contacting a translator about project work.

Declaration on the Rights of Indigenous Persons, from the United Nations.

Available at

https://www.un.org/development/desa/indigenouspeoples/wpcontent/uploads/sites/19/2018/11/UND RIP_E_web.pdf

- Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions

The First Nations Principles of OCAP®, from the First Nations Information Governance Centre.

Available at <https://fnigc.ca/ocap-training/>

- The four key components of OCAP® are Ownership, Control, Access, and Possession, each of which is equally important, must be respected, and fulfilled. Ownership is the principle that a community or group owns information collectively in the same way that an individual owns his or her personal information. Control affirms that Tribal people, communities, and governments have the right to determine all aspects of research and information management processes that impact them, from start to finish, including resources, review, planning, management, data collection, data use, disclosure, and the ultimate destruction of data. Access states that First Nations must have access to information and data about themselves and their communities, regardless of where it is held, along with the authority to manage and make decisions about who else, if anyone, can access their collective information. Possession is the concrete mechanism by which ownership can be asserted and protected and refers to the physical control of data.
- OCAP® represents principles and values that are intertwined, reflective of First Nations' worldviews on jurisdiction and collective rights, and cannot be strictly defined by each word in the acronym. "All First Nations own OCAP® and as such, the interpretation of OCAP® is unique to each First Nation community or region."

Free Prior and Informed Consent – An Indigenous Peoples' right and a good practice for local communities: Manual for Project Practitioners, from the Food and Agriculture Organization of the United Nations.

Available at <http://www.fao.org/3/a-i6190e.pdf>

- This manual is designed as a tool for following the free, prior, and informed consent (FPIC) principle protected by international human rights standards.

Guiding Principles for Engaging in Research with Native American Communities, a collaborative effort by University of New Mexico Department of Psychiatry Center for Rural and Community Behavioral Health, Albuquerque Area Southwest Tribal Epidemiology Center, University of New Mexico's Prevention Research Center, New Mexico Tribal Strategic Prevention Framework Project, Nadine Tafoya and Associates, Pacific Institute for Research and Evaluation.

Available at

https://hsc.unm.edu/vision2020/common/docs/guiding_principles_research_native_communities2012.pdf

- This document presents principles that can help investigators to be more aware of Native-specific issues and conscientious in their interactions with Native partners throughout the research process.

Kahnawá:ke Schools Diabetes Prevention Project: Code of Research Ethics.

Available at https://www.ksdpp.org/uploads/1/3/6/4/136499863/appendix-a_ksdpp_code_of_research_ethics2007.pdf

- This document was developed as a partnership between the Kanien'kehá:ka (Mohawk) community of Kahnawá:ke and researchers who are affiliated with the Kahnawá:ke Schools Diabetes Prevention Project

The Model Tribal Research Code – With Materials for Tribal Regulation for Research and Checklist for Indian Health Boards, developed by the American Indian Law Center, Inc.

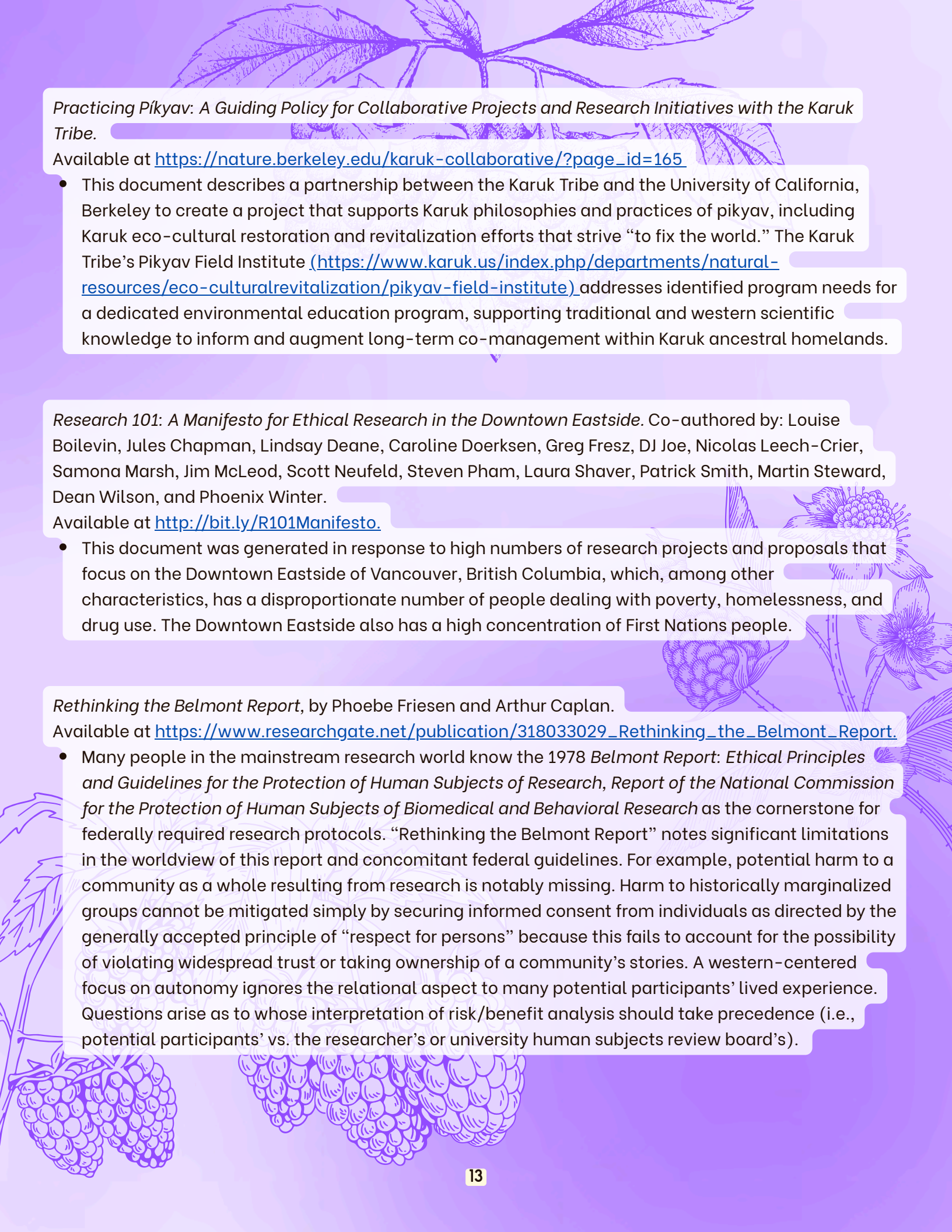
Available at <https://sprc.org/wp-content/uploads/2023/01/ModelTribalResearchCode1999.pdf>

- Many, if not most, researchers are sincere and dedicated professionals who want to help Indian communities solve their health and social problems and preserve their cultural heritage, and in the process to be sensitive to the legitimate needs of the individuals and communities with which they work. But governments, unfortunately, cannot assume that everyone will act according to the highest standards.

Polytech to PolyTEK: Traditional Ecological Knowledge, Indigenous Science, and the Future Forward Polytechnic University, by Cal Poly Humboldt Native American Studies Professors Cutcha Risling Baldy, Kaitlin P. Reed, and Kayla Begay.

Available at: <https://digitalcommons.humboldt.edu/cgi/viewcontent.cgi?article=1219&context=hjsr>

- Article written by Cal Poly Humboldt Native American Studies Professors exploring decolonial frameworks for building a polytechnic university.
- Appendix: *Statement on PolyTech University Development and Indigenous Knowledge/Indigenous Science/Traditional Ecological Knowledge*, from the Humboldt State University Council of American Indian Faculty and Staff.
 - This group of Cal Poly Humboldt personnel maintains a consensus on Native Issues surrounding the University. They recognized early on the potential harms and benefits of transformation into a polytechnic.



Practicing Píkyav: A Guiding Policy for Collaborative Projects and Research Initiatives with the Karuk Tribe.

Available at https://nature.berkeley.edu/karuk-collaborative/?page_id=165

- This document describes a partnership between the Karuk Tribe and the University of California, Berkeley to create a project that supports Karuk philosophies and practices of pikyav, including Karuk eco-cultural restoration and revitalization efforts that strive “to fix the world.” The Karuk Tribe’s Píkyav Field Institute (<https://www.karuk.us/index.php/departments/natural-resources/eco-culturalrevitalization/pikyav-field-institute>) addresses identified program needs for a dedicated environmental education program, supporting traditional and western scientific knowledge to inform and augment long-term co-management within Karuk ancestral homelands.

Research 101: A Manifesto for Ethical Research in the Downtown Eastside. Co-authored by: Louise Boilevin, Jules Chapman, Lindsay Deane, Caroline Doerksen, Greg Fresz, DJ Joe, Nicolas Leech-Crier, Samona Marsh, Jim McLeod, Scott Neufeld, Steven Pham, Laura Shaver, Patrick Smith, Martin Steward, Dean Wilson, and Phoenix Winter.

Available at <http://bit.ly/R101Manifesto>.

- This document was generated in response to high numbers of research projects and proposals that focus on the Downtown Eastside of Vancouver, British Columbia, which, among other characteristics, has a disproportionate number of people dealing with poverty, homelessness, and drug use. The Downtown Eastside also has a high concentration of First Nations people.

Rethinking the Belmont Report, by Phoebe Friesen and Arthur Caplan.

Available at https://www.researchgate.net/publication/318033029_Rethinking_the_Belmont_Report.

- Many people in the mainstream research world know the 1978 *Belmont Report: Ethical Principles and Guidelines for the Protection of Human Subjects of Research*, Report of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research as the cornerstone for federally required research protocols. “Rethinking the Belmont Report” notes significant limitations in the worldview of this report and concomitant federal guidelines. For example, potential harm to a community as a whole resulting from research is notably missing. Harm to historically marginalized groups cannot be mitigated simply by securing informed consent from individuals as directed by the generally accepted principle of “respect for persons” because this fails to account for the possibility of violating widespread trust or taking ownership of a community’s stories. A western-centered focus on autonomy ignores the relational aspect to many potential participants’ lived experience. Questions arise as to whose interpretation of risk/benefit analysis should take precedence (i.e., potential participants’ vs. the researcher’s or university human subjects review board’s).

Supplemental Information to the NIH Policy for Data Management and Sharing: Responsible Management and Sharing of American Indian/Alaska Native Participant Data, from the National Institutes of Health.

Available at <https://grants.nih.gov/grants/guide/notice-files/NOT-OD-22-214.html>.

- NIH recognizes that conducting biomedical research with AI/AN communities, including data management and sharing, must be predicated on respect for Tribal sovereignty, with an acute recognition that our historical failures to honor that sovereignty have caused stigmatization and other harms to AI/AN populations.
- Considerations for Researchers Working with AI/AN Communities:
 - Tribal sovereignty
 - Tribal research laws, policies, and processes
 - Cultural sensitivities
 - Health disparities
- Facilitating Respectful Partnerships under the NIH DMS Policy:
 - Proactively engage AI/AN communities in planning for data management and sharing
 - Establish mutual understandings of goals for data management and sharing
 - Incorporate AI/AN data management and sharing practices and preferences in study design
 - Consider additional protections and appropriate limitations to future data sharing
 - Incorporate data management and sharing plans in the informed consent process
 - Safeguarding against future risk





California State University Nondiscrimination Policy

[\[Add Table of Contents\]](#)

I. Policy Summary

The California State University (“CSU”) is committed to responding promptly and effectively to Reports and Complaints of Discrimination, Harassment, and Retaliation based on Protected Status. Protected Status includes an individual’s actual or perceived Age (at least 40 years of age in employment context), physical or mental Disability (including having a history of a Disability or being regarded as being disabled), Gender, Gender Identity and Expression (including Nonbinary, Transgender, and gender transition), predisposing Genetic Information (including family medical history), Marital Status, Medical Condition (cancer-related or genetic characteristics), Nationality (including national or ethnic origin), Pregnancy or related conditions (including childbirth, lactation, or related medical conditions), Race (including color, caste, or ancestry), Religion or Religious Creed, Sex (including Sex stereotyping or Sex characteristics), Sexual Orientation, and Veteran or Military Status. Conduct prohibited by this Nondiscrimination Policy is collectively referred to below as “Prohibited Conduct.”

This Nondiscrimination Policy (“the Nondiscrimination Policy” or “this Policy”) is one of two CSU policies governing Protected Status-based misconduct. This Policy addresses Discrimination, Harassment, and Retaliation, including certain forms of Sex-based misconduct. The CSU Sexual Harassment and Sexual Misconduct Policy [\[hyperlink\]](#) addresses Title IX Sex-based harassment, sexual harassment, sexual assault and misconduct, dating violence, domestic violence, sexual exploitation, and stalking. Together, the two policies establish the CSU’s standards for prohibiting misconduct based on Protected Status and describe the University’s processes for responding to allegations of such conduct, including ensuring the prompt and equitable resolution of Complaints of Protected Status-based misconduct. The Policy Scope and Applicability section below explains the matters covered by each policy and how the policies work together.

The Discrimination, Harassment, and Retaliation (“DHR”) Administrator and the Title IX Coordinator share responsibility for administering and overseeing this Nondiscrimination Policy. The Title IX Coordinator oversees matters involving Sex-based Discrimination and Harassment, while the DHR Administrator oversees all other matters arising under this Policy. For simplicity, this Policy generally refers to the “DHR Administrator.” Unless otherwise specified, that term in this Policy encompasses the DHR Administrator, the Title IX Coordinator, or both, as appropriate. Any member of the University community may contact either administrator with questions about this Policy, to request assistance, or to

report conduct that may violate this Policy. Individuals do not need to determine which CSU policy applies or which administrator has responsibility before seeking assistance. If a matter should be handled by the other administrator, the University will ensure that it is referred promptly and appropriately.

II. Policy Scope and Applicability

A. General

Students, employees, and other individuals participating or attempting to participate in the University's Programs and Activities have the right to do so without experiencing Prohibited Conduct.

This Policy is effective [\[Implementing Date\]](#). The definitions of Prohibited Conduct below should be used for alleged misconduct that occurs on or after [\[Implementing Date\]](#). The procedures below should be used for Reports and Complaints made on or after [\[Implementing Date\]](#). The definitions for alleged misconduct that occurred before [\[Implementing Date\]](#) can be found in the CSU policy in place at the time of the alleged misconduct; historical policies can be found at [\[hyperlink\]](#).

This Policy will be interpreted and applied in a manner consistent with applicable federal and state law.

B. Conduct Covered Under Other CSU Policies

1. This Policy and the CSU Sexual Harassment and Sexual Misconduct Policy

The CSU Sexual Harassment and Sexual Misconduct Policy [\[hyperlink\]](#) addresses:

- Sex-based harassment covered by the federal government's definitions in the 2020 Title IX regulations
- Sexual harassment involving unwelcome conduct of a sexual nature
- Sexual Assault and Sexual Misconduct
- Sexual Exploitation
- Dating Violence and Domestic Violence
- Stalking

Reports and Complaints involving these forms of conduct are governed exclusively by the Sexual Harassment and Sexual Misconduct Policy [\[hyperlink\]](#).

This Nondiscrimination Policy addresses all other forms of Discrimination, Harassment, and Retaliation based on Protected Status as defined in this Policy, including Sex-based Discrimination and certain forms of Sex-based Harassment that are not covered under the CSU Sexual Harassment and Sexual Misconduct Policy [\[hyperlink\]](#). Specifically, this Nondiscrimination Policy's definition of Harassment includes Harassment that is based on an individual's Sex but does not involve conduct of a sexual nature and is not governed by the federal government's definitions in the 2020 Title IX regulations.

When a Report or Complaint includes alleged conduct that falls under both this Policy and the Sexual Harassment and Sexual Misconduct Policy [\[hyperlink\]](#), the response procedures outlined in the Sexual Harassment and Sexual Misconduct Policy [\[hyperlink\]](#) apply. Similarly, Formal Investigations that include allegations under both this Policy and the Sexual Harassment and Sexual Misconduct Policy [\[hyperlink\]](#) will follow the investigation procedures outlined in the Sexual Harassment and Sexual Misconduct Policy [\[hyperlink\]](#).

2. Matters Involving Academic or Workplace Accommodations or Adjustments

The Nondiscrimination Policy does not apply to concerns relating to the appropriateness or reasonableness of Disability-based academic or workplace accommodations for students or employees.

- **Students:** Such concerns are governed by the Disability Support and Accommodations Policy [\[hyperlink\]](#) and the Policy for the Provision of Accommodations and Support Services to Students with Disabilities [\[hyperlink\]](#) and should be referred to the campus administrator overseeing student disability resources.
- **Employees:** Such concerns are governed by the Disability Support and Accommodations Policy [\[hyperlink\]](#) and should be referred to the campus administrator overseeing employee disability resources or campus Human Resources.

By contrast, Reports and Complaints relating to an Employee's failure to implement an approved Disability-based accommodation, as defined in Section [X] below, are addressed in Appendix A to this Policy.

Concerns raised by students or employees regarding the reasonableness of, or failure to implement, religious accommodations or adjustments—when raised in isolation—do not fall under the Nondiscrimination Policy and should be directed to the appropriate campus administrator.

III. Prohibited Conduct

The Nondiscrimination Policy prohibits Discrimination, Harassment, and Retaliation, as defined below. Conduct may violate this Policy even though it does not violate civil or criminal federal or state law.

A. Discrimination

1. **Different Treatment Discrimination** occurs when a Complainant is: 1) treated less favorably; 2) than other similarly situated individuals under similar circumstances; 3) based on the Complainant's actual or perceived Protected Status; 4) not for a legitimate, nondiscriminatory reason, **and** (5) it results in the denial or substantial limitation of services, benefits, or opportunities provided by the CSU. Conduct does not constitute Discrimination if it is minor, trivial, or not reasonably likely to do more than anger or upset a Complainant.
 - An allegation that an Employee is receiving unequal pay because of their Protected Status (for example, under the California Equal Pay Act) constitutes a Discrimination allegation under this Policy.
2. **Failure to Implement Disability Accommodation** occurs when an Employee fails to implement a disability accommodation that had been approved for a Complainant by the appropriate University administrator (generally, the campus administrator overseeing student disability resources for Students, or Human Resources for Employees), resulting in the denial or substantial limitation of the Complainant's ability to access, participate in, or benefit from a University program or activity.
 - Allegations of Failure to Implement Disability Accommodation are governed by the procedures in Appendix A.

B. Hostile Environment Harassment

Hostile Environment Harassment means unwelcome conduct engaged in by a Respondent based on an individual's actual or perceived Protected Status that, in light of the totality of circumstances, is both subjectively and objectively offensive **and** is so severe or pervasive that it denies or substantially limits the Complainant's ability to access services, benefits, or opportunities provided by the CSU.

Harassment may include, but is not limited to, verbal conduct (e.g., epithets, derogatory comments, or slurs), physical conduct (e.g., assault, impeding or blocking movement, or any physical interference with normal work or movement), and visual conduct (e.g., derogatory posters, cartoons, drawings, symbols, or gestures).

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

- The frequency, nature, and duration of the conduct;
 - The conduct must, in most cases, consist of more than casual or isolated incidents to constitute Hostile Environment Harassment.
- Whether the conduct was physically threatening;
- Whether the conduct arose in the context of other harassing or discriminatory conduct or other misconduct;
- The degree to which the conduct affected the Complainant's ability to access the CSU's Programs or Activities;
- Whether submitting to or rejecting the conduct was explicitly or implicitly a basis for any decision affecting a Complainant's employment or educational status or progress;
- Significant gaps in age or seniority between the Parties, their roles within the CSU's Programs or Activities, previous interactions, and other factors about each Party that may be relevant to evaluating the effects of the conduct; and
- Whether the conduct implicates academic freedom or protected speech. Acts that are determined to be protected by the First Amendment cannot be the basis for a violation of this Policy.

Note regarding campus climate concerns: An individual may experience a hostile campus climate based on a Protected Status even if no single individual is responsible for violating this Nondiscrimination Policy. A hostile campus climate exists when the combined, cumulative, or aggregated protected-status-based conduct of multiple individuals, groups, or conditions within the University's programs and activities is sufficiently severe or pervasive, and subjectively and objectively offensive, that, under the totality of the circumstances, it creates an intimidating, hostile, or offensive work or educational environment that denies or substantially limits an individual's ability to participate in or benefit from the CSU's programs, services, activities, or employment opportunities.

If a hostile campus climate exists, even where no individual actor independently violates this Nondiscrimination Policy, the University will take prompt and effective steps reasonably calculated to end it, eliminate its effects, prevent recurrence, and restore or preserve equal access (including by offering reasonably available supportive measures to those impacted), provided that the University cannot discipline or take other punitive or corrective action against individuals for engaging in speech or expressive conduct that is protected by the First Amendment. However, the University's response to campus climate concerns does not use the procedures in this Policy or otherwise fall under this Policy.

Concerns relating to a possible hostile campus climate – where no individual Respondent has been alleged to have engaged in conduct that, if true, would violate this Nondiscrimination Policy – will be referred to the appropriate University administrator(s) (for example, the University administrator responsible for diversity, equity, and inclusion initiatives on campus).

C. Retaliation

Retaliation means an Adverse Action taken against an individual because the individual engaged in Protected Activity or was believed to have engaged in Protected Activity, or to interfere with, discourage, or prevent the individual's engagement in Protected Activity.

1. **Adverse Action** is conduct that is reasonably likely to dissuade a reasonable person from engaging in Protected Activity. Adverse Action may include intimidation, coercion, threats, discrimination, or other unfavorable treatment. Petty slights, minor annoyances, and trivial harms ordinarily do not constitute an Adverse Action.

2. **Protected Activity** means exercising a right under the Nondiscrimination Policy, the CSU Prohibited Sexual Conduct Policy, the CSU Disability Support and Accommodations Policy, or the CSU Policy for the Provision of Accommodations and Support Services to Students with Disabilities. Protected Activity includes, but is not limited to, opposing or reporting actions reasonably and in good faith believed to violate the above policies, assisting someone else in doing so, participating in a matter that reasonably and in good faith alleged a violation of civil rights laws, refusing to participate as a Party in such a matter, or requesting reasonable modifications of a disability accommodation.
3. Retaliation has not occurred when evidence establishes a facially legitimate, non-retaliatory reason for the Adverse Action that is not pretext for Retaliation. This includes evidence of credible reasons for the Adverse Action that are unrelated to the Protected Activity and evidence that suggests that the Adverse Action would have occurred if the individual had not engaged in Protected Activity.

For purposes of the definition of Retaliation under this Policy:

- Retaliation may occur even when there is not a power or authority differential between the individuals involved.
- The exercise of rights protected under the First Amendment does not constitute Retaliation prohibited under this definition.
- Good faith actions lawfully pursued in response to a Complaint, such as gathering evidence, providing Supportive Measures, or disciplining Students or Employees found to be in violation of the Nondiscrimination Policy or the Prohibited Sexual Conduct Policy, without more, are not considered Retaliation.

IV. Making a Report or Complaint of Prohibited Conduct

A. Reporting

Anyone may report Prohibited Conduct.

1. **Reporting Options:** Reports can be made in person or by mail, telephone, or electronic mail, using the contact information listed for the

DHR Administrator, or the University's online reporting portal. [ADD LINKS] Reports may be made anonymously. Depending on the information reported, the University's ability to respond to anonymous reports may be limited.

2. **Timeframe for Making a Report:** There is no time limit for reporting, and individuals are encouraged to report concerns regardless of how much time has passed. However, specific circumstances, including the passage of time, may prevent the University from gathering sufficient evidence to investigate the allegations or make a determination or from imposing discipline. In all cases, the University will assess for reasonably available Supportive Measures to offer the Complainant.
3. **Removing Barriers to Reporting:** The Nondiscrimination Policy prohibits Retaliation for exercising a right under this Policy. If an individual is reluctant to report because they fear Retaliation, they should discuss their concerns with the DHR Administrator as soon as possible.

B. Making a Complaint

While anyone may report alleged violations of this Nondiscrimination Policy, only the following individuals may request that the University begin a Formal Investigation (also referred to in this Policy as making or filing a Complaint):

1. A University Student or Employee who is alleged to have experienced Prohibited Conduct;
2. A person who is not a University Student or Employee who is alleged to have experienced Prohibited Conduct while participating in, or attempting to participate in, a University Program or Activity;
3. A person who is legally authorized to act on behalf of an individual described in paragraphs 1 or 2; or
4. The University's DHR Administrator.

The same reporting options and other considerations set forth above in Section [XX] apply when making a Complaint of Prohibited Conduct. A Complaint under this Policy should be submitted to the DHR Administrator and may be verbal or written.

C. Confidentiality and Privacy

Once the University becomes aware of a potential violation of this Nondiscrimination Policy, it has a responsibility to take appropriate steps to stop, prevent, and remedy Prohibited Conduct. To fulfill this responsibility, the University may need to share information related to a Report, Complaint, or associated process with individuals who have a legitimate need to know. This may include sharing information to gather relevant facts, provide or coordinate Supportive Measures, conduct an investigation, or take other appropriate action under this Policy. In some circumstances, as described in Section XXX, the DHR Administrator may determine that the University must initiate a Formal Investigation, even if the Complainant does not want the University to do so, in order to ensure a safe and nondiscriminatory campus environment.

For these reasons, the University cannot guarantee confidentiality. However, the University will make reasonable and appropriate efforts to protect individuals' privacy and to limit the sharing of information to those with a legitimate need to know. The University will also protect the confidentiality of information as required by the Family Educational Rights and Privacy Act (FERPA) and other applicable privacy laws.

V. Procedures for Responding to Reports and Complaints of Prohibited Conduct

This section outlines the procedures the University follows when it becomes aware of possible Prohibited Conduct under this Policy. The DHR Administrator oversees this response, in collaboration with other University offices as appropriate. The University's response may or may not include a Formal Investigation and disciplinary sanctions.

A. Applicability of Procedures

The University will respond to reports of alleged misconduct in accordance with these Procedures if the alleged misconduct may violate the Nondiscrimination Policy and it:

1. Occurred on campus, OR
2. Involved or impacted a University Program or Activity, OR
3. Affected a Student's or Employee's ability to participate in a University Program or Activity;

AND

4. The alleged conduct must have been committed by or against a person who, at the time of the alleged misconduct, was a Student or Employee.

However, when the alleged conduct falls outside the University's disciplinary authority, the University will take reasonable steps within its authority to address the reported conduct, mitigate its effect on the University community, and support affected individuals. Such actions may include offering supportive measures and resources to those impacted but typically will not include Formal Investigation or disciplinary action.

B. Initial Assessment and Response

The University will respond promptly and effectively to all Reports and Complaints of Prohibited Conduct.

1. Upon receiving a Report or Complaint, the DHR Administrator will make a preliminary assessment of whether the matter falls within the DHR Administrator's administrative responsibility. If it does not, it will promptly be referred to the appropriate campus policy, procedure, or administrator (e.g., Faculty Affairs, Human Resources, or Student Conduct). If the Report or Formal Complaint was submitted firsthand by someone who experienced alleged misconduct, the DHR Administrator will generally inform the individual of the referral.
2. Upon receiving a Report or Complaint of possible Prohibited Conduct under this Policy, the University will:
 - a. **Outreach:** Promptly contact the Complainant by sending outreach that explains their rights, resources, and options, including, but not limited to, the following: (1) information about Supportive Measures and resources available to those impacted; (2) information about the Formal Investigation process, reporting rights and responsibilities, and other appropriate resolution options including Informal Resolution; and (3) information about the Complainant's right to file a Complaint.

- b. **Preliminary Information Gathering:** Undertake a limited factual inquiry narrowly tailored to gather information necessary to determine what is reported to have occurred and how to appropriately proceed. Specifically, the DHR Administrator will attempt to gather information from the Complainant or Reporting Party or that is otherwise readily available to assess the allegations and determine the appropriate response. This inquiry will not involve resolving disputed facts, assessing credibility, or determining responsibility.
- c. **Initial Response:** Based on the preliminary information gathered, the University may take prompt and appropriate responsive actions designed to stop Prohibited Conduct, prevent its recurrence, and remedy its impact—when those actions do not involve Disciplinary Sanctions.

C. Evaluation and Notification After Initial Assessment and Response

After the Initial Assessment and Response to a Report or Complaint of an alleged violation of the Nondiscrimination Policy, the DHR Administrator will evaluate whether to initiate a Formal Investigation under this Policy, either because: (1) the Complainant has made a Complaint; or (2) the DHR Administrator has determined that a Formal Investigation is necessary to promote a safe and nondiscriminatory environment for the campus community. Based on this evaluation, the DHR Administrator will either move the Report or Complaint forward to Formal Investigation under the process set forth in Section [XX], below, or close the Report or Complaint, after which it may be referred to another University policy, procedure, or administrator.

The factors to be considered in this evaluation are set forth in subsections (1) and (2), below, as are the appropriate notification protocols.

1. Cases Involving a Complaint Made by a Complainant

- a. **Evaluation:** In cases where the Complainant has made a Complaint (requested a Formal Investigation), the DHR Administrator will investigate the allegations in the Complaint unless one of the following mandatory or discretionary dismissal grounds apply:

- i. **Mandatory Dismissal:** At any time after the Initial Assessment and before a Notice of Investigation has been issued, the DHR Coordinator ***must*** dismiss a Complaint, or any part of a Complaint, if they determine that the conduct alleged, even if proven, would not constitute Prohibited Conduct as defined in this Policy.
- ii. **Discretionary Dismissal:** At any time after the Initial Assessment and before a Notice of Investigation has been issued, the DHR Administrator ***may*** dismiss a Complaint, or any part of a Complaint, where they determine that:
 1. The Complainant notifies the DHR Administrator in writing that they would like to withdraw the Complaint or any part of it; or
 2. The Respondent is not or is no longer enrolled or employed by the University, or the University otherwise lacks of the ability to impose discipline for the alleged conduct even if substantiated; or
 3. Specific circumstances prevent the University from reasonably gathering evidence necessary to reach a determination as to the Complaint or part of the Complaint. For the purposes of this provision, specific circumstances may include, but are not limited to:
 - Based on information gathered during the Initial Assessment, the University determines that the passage of time has resulted in the unavailability of relevant witnesses or material evidence and that reasonable efforts to obtain such evidence would be ineffective;
 - The identity of the Respondent cannot be determined after reasonable efforts have been made to identify the Respondent during the Initial Assessment;

- Based on information gathered during the Initial Assessment, the University determines that the Complainant's refusal to participate in the Formal Investigation process will result in insufficient factual information to reach a determination;
- The allegations in the Complaint were previously evaluated and dismissed or closed pursuant to this Policy, and the Complainant did not present new evidence or information that was not reasonably available at the time of the prior resolution. In such circumstances, the DHR Administrator may determine that specific circumstances prevent the University from gathering additional evidence sufficient to reach a new determination.

4. The University has promptly and effectively responded to the alleged Prohibited Conduct in a fashion that has stopped the Prohibited Conduct, remedied its effects, and is tailored to prevent its recurrence through the University's initial response.

b. **Notification:** The DHR Administrator's determination as to whether or not to investigate allegations made by a Complainant in a Complaint will result in the following notifications:

- Complaint Accepted for Formal Investigation:** Within [X] Working Days of the date of receipt of Complainant's request to initiate a Formal Investigation, the DHR Administrator will send a Notice of Investigation to the Complainant and Respondent identifying the allegations being investigated. Additional requirements for the Notice of Investigation are set forth in Section [XX].
- Complaint Not Accepted for Formal Investigation:** If the DHR Administrator determines that a Formal Investigation of the Complaint is not warranted based on one of the

mandatory or discretionary grounds set forth in section [X] above, the DHR Administrator will, within [X] Working Days of the date of receipt of Complainant's request to initiate a Formal Investigation, notify the Complainant in writing that the Complaint will not be investigated under the Nondiscrimination Policy and explain the basis for the determination. The notice will reference the applicable mandatory or discretionary dismissal grounds. The DHR Administrator may refer the Complaint to another University policy, procedure, or administrator, if appropriate, and will notify the Complainant of any referral. The DHR Administrator's decision not to accept a Complaint for investigation under this Policy is final and not subject to appeal.

2. Cases Involving a Report Only (No Complaint Made by a Complainant)

- a. **Evaluation:** In cases involving a Report of Prohibited Conduct where the Complainant has not made a Complaint, the DHR Administrator will evaluate whether a Formal Investigation is necessary to promote a safe and nondiscriminatory environment. If so, the DHR Administrator has discretion to initiate the Formal Investigation process by making a Complaint on behalf of the University, including in situations where a Complainant has not responded to outreach, has chosen not to make a Complaint, has requested that a Formal Investigation not occur, and/or has indicated that they will not participate in a Formal Investigation. These investigations are referred to as DHR Administrator-initiated Formal Investigations. In DHR Administrator-initiated Formal Investigations, the DHR Administrator will remain neutral in applying Nondiscrimination Policy and Formal Investigation process.

When a Complainant requests that no investigation occur or does not participate in the process after reasonable attempts to engage the Complainant, the DHR Administrator will take into account the Complainant's wishes and will balance them against the University's duty to provide a safe and nondiscriminatory

environment for all members of the campus community. In doing so, the DHR Administrator will consider, at a minimum:

- The Complainant's request not to proceed with initiation of a Formal Investigation;
- The reasons for the Complainant's request not to investigate, including any reasonable safety concerns regarding the initiation of an investigation;
- The risk that additional acts of Prohibited Conduct would occur if a Formal Investigation were not initiated;
- The severity of the alleged Prohibited Conduct including whether the conduct, if established, would require the removal of a Respondent from campus;
- Whether the Respondent poses an imminent threat to the campus community, which may include violence, threats of violence, use of a weapon, physical restraints, or unwanted physical contact;
- Significant disparities in age and the relationship of the Parties, including any power imbalance and including whether the Respondent is a faculty or staff member with oversight of students;
- The scope of the alleged conduct, including information suggesting a pattern (such as multiple or prior reports of misconduct against the Respondent), ongoing conduct, or conduct alleged to have impacted multiple individuals;
- Whether the University is able to conduct a thorough investigation and obtain relevant evidence without the Complainant's cooperation;
- Whether the University could end the alleged Prohibited Conduct and prevent its recurrence without initiating a Formal Investigation; and
- For Employee Complainants, the University will also consider its obligation to maintain a safe work environment in determining whether an investigation is necessary.

- b. **Notification:** The DHR Administrator's determination as to whether or not to investigate the allegations in a Report will result in the following notifications:
- i. **DHR Administrator-Initiated Investigation:** If the DHR Administrator determines that a Formal Investigation is necessary, they will file a Complaint on behalf of the University and, within [X] Working Days of the filing of the Complaint, will issue a Notice of Investigation to the Parties identifying the allegations being investigated. In the Notice of Investigation in a DHR Administrator-initiated investigation, the Complainant will be referred to as the Impacted Party and will be informed before the University starts the investigation or discloses their identity to the Respondent. Additional requirements for the Notice of Investigation are set forth in Section [XX].
 - ii. **No Investigation:** If the DHR Administrator does not initiate a Formal Investigation, they will notify the Complainant that the Complainant may make a Complaint under the Nondiscrimination Policy at any time. The DHR Administrator will take reasonable steps to limit the effects of the alleged Prohibited Conduct and prevent its recurrence without initiating formal action against the Respondent. The DHR Administrator also may refer the alleged conduct to another University policy, procedure, or administrator, if appropriate, and will notify the Complainant of any referral.

VI. Supportive Measures

A. General

The University provides and coordinates Supportive Measures as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent, with or without a Complaint. Such measures are non-disciplinary, non-punitive individualized services designed to deter Prohibited Conduct or to restore or preserve a person's access to the University's Programs or Activities without unreasonably burdening the other Party, including measures designed to protect the safety of all Parties or the University's educational environment.

The DHR Administrator is responsible for coordinating the implementation of Supportive Measures. As described in Section [XX], above, the DHR Administrator will provide the Complainant with information about Supportive Measures during the Initial Assessment. The DHR Administrator will provide information about Supportive Measures to the Respondent during an initial meeting.

Duration: Supportive Measures may remain in place as long as required to preserve access to the University's Programs or Activities. They also may be made permanent as part of the resolution of a matter. The DHR Administrator may end Supportive Measures that are no longer necessary to restore or preserve access to the University's Program or Activities.

Review of Supportive Measures: Supportive Measures may be modified or terminated depending on the Parties' evolving needs, as assessed by the DHR Administrator. A Complainant or Respondent may request modification or termination of a Supportive Measure applicable to them if circumstances change materially by contacting the DHR Administrator.

Privacy and Information Sharing: The University will make reasonable efforts to protect the privacy of information about Supportive Measures. Information will be shared only with individuals who need it to implement the Supportive Measures or help ensure that a Party can continue to participate in the University's Programs or Activities, or when disclosure is required by state or federal law.

B. Examples of Supportive Measures

Supportive Measures may include, but are not limited to:

- Academic support including tutoring, counseling, extensions of deadlines, and other course-related adjustments;
 - Generally, the University is unable to provide academic supportive measures on a retroactive basis. This means, for example, that students who require academic supportive measures must request assistance from the University prior to the deadline or exam for which they require support.
- Employment support including change to a different workstation, schedule, work location, unit, department, or reporting line;
- Disability services, health and mental health services, and referral to employee assistance programs;

- Housing assistance or modifications;
- Campus escort services;
- Increased security and monitoring of certain areas of the campus;
- Restrictions on contact applied to one or more Parties, including No-Contact Directives;
- Leaves of absence;
- Modifications to extracurricular or other activities, regardless of whether or not there is a comparable alternative; and
- Training and education programs related to Prohibited Conduct.

While the examples above may be appropriate in some cases, the determination of Supportive Measures will be made on an individualized basis. Such measures must be reasonably available, non-disciplinary, and non-punitive, and must be designed to deter Prohibited Conduct or restore or preserve access to the University's Programs or Activities, without unreasonably burdening the other Party.

No-Contact Directives: No-contact directives may be issued with or without a Formal Investigation, as a Supportive Measure, Remedy, or in connection with an Informal Resolution Agreement. A no-contact directive is appropriate when reasonably needed – and where less restrictive measures would be insufficient – to protect a Party's health and safety or to preserve the integrity of the investigation. A no-contact directive must be delivered to the Parties in writing and must explain the terms of the directive and the consequences for violating the no-contact directive. No-contact directives are intended to be temporary and will be reassessed by the DHR Administrator on an ongoing basis.

No-contact directives that are issued at any time prior to the outcome of a Formal Investigation may be mutual (prohibiting the Parties from contacting each other) or unilateral (prohibiting the Respondent from contacting the Complainant), based on the circumstances of each case. After a finding that the Nondiscrimination Policy has been violated, any no-contact directive will be unilateral. No-contact directives will not limit an individual's movement on a University campus unless the conduct alleged is egregious, an objective threat of physical harm exists, or as agreed upon in an Informal Resolution.

Violations of no-contact directives will be addressed by the appropriate campus administrator (Student Conduct for students, and Human Resources or Faculty

Affairs for employees). If the alleged violation of the no-contact directive is itself a violation of the Nondiscrimination Policy, the matter will be referred to the DHR Administrator.

VII. Other Interim Actions

A. Interim Suspension of a Student Respondent

The University may impose an interim suspension on a Student Respondent where there is reasonable cause to believe that interim suspension is necessary to protect the personal safety of persons within the campus community or campus property, and to ensure the maintenance of order during an investigation. Interim suspension may be considered for a Student Respondent who is, or soon will be, subject to a Formal Investigation or disciplinary proceeding for an alleged violation of the Nondiscrimination Policy. Interim suspension also may be considered where no Formal Investigation or hearing is pending while the University takes reasonable steps to gather information and determine whether to commence a Formal Investigation. In those circumstances, the University will regularly reassess whether interim suspension remains necessary. If a Formal Investigation is not commenced within a reasonable amount of time, the interim suspension will be revoked unless the need for interim suspension is supported by other circumstances.

In determining whether an interim suspension is necessary, the DHR Administrator will gather reasonably available information needed to inform the determination and will provide a written recommendation to the Vice President of Student Affairs (or their designee) on whether to impose an interim suspension and the rationale.

Interim suspensions will be implemented in accordance with the procedures under the Student Conduct Process and will only remain in effect during the Formal Investigation or disciplinary process until determined to be no longer necessary. The DHR Administrator will coordinate with Student Conduct to ensure appropriate implementation and ongoing assessment.

B. Administrative Leave for an Employee Respondent

The University may place an Employee Respondent on paid administrative leave (sometimes referred to as temporary suspension) during a Formal Investigation or disciplinary proceeding concerning a violation of the Nondiscrimination Policy, consistent with University policy and applicable collective bargaining agreements.

C. Transcript Notations and Administrative Holds for a Student Respondent

When a Student Respondent has been issued written notice of a Formal Investigation or disciplinary proceeding under the Nondiscrimination Policy, the University will impose a transcript notation indicating that a conduct investigation or disciplinary proceeding is pending, which will remain until a final outcome is rendered in the matter. The notation will not reflect a finding of responsibility for a policy violation. Typically, a transcript notation implemented prior to a determination of responsibility will be updated upon completion of a Formal Investigation, including any appeals, and either replaced with the appropriate sanction notation or removed altogether depending on the outcome of the investigation.

The University also may issue administrative holds on transcripts, registration transactions, release of educational records, or degrees, in accordance with the provisions below and the Student Conduct Process.

When initiating a Formal Investigation against a Student Respondent, the DHR Administrator will consider whether an administrative hold on the Respondent's degree is appropriate in light of the totality of the circumstances, including the severity of the conduct, the likelihood that a finding of responsibility would result in suspension or expulsion, and the likelihood that, in the absence of a degree hold, the Respondent would receive their degree before the conclusion of the Formal Investigation process. Any administrative hold imposed prior to a determination regarding responsibility shall be made on a case-by-case basis and will be non-punitive, temporary, and procedural. The hold will not reflect a finding of responsibility for a policy violation. Such measures will be removed when no longer necessary or as otherwise provided in the Student Conduct Process.

When a Student Respondent is found responsible for having violated the Nondiscrimination Policy, the DHR Administrator will place an administrative hold on their degree, including a degree otherwise earned, until any appeals, disciplinary proceedings, and resulting sanctions are completed.

VIII. Informal Resolution Process

The Informal Resolution process is a voluntary alternative to a Formal Investigation. It allows the Parties, with the University's involvement, to resolve allegations of Prohibited Conduct without an investigation. Informal Resolution aims to resolve matters in an

efficient, fair, and respectful manner through facilitated dialogue, mediation, or restorative justice practices. If the Parties reach a mutually acceptable resolution and the University approves its terms, they will sign a written agreement. Once signed, the agreement is final and may not be appealed.

A. General Principles

1. The Parties may choose to take part in an Informal Resolution process if they wish. Participation is voluntary. The filing of a Complaint is not required to begin the Informal Resolution process.
2. The DHR Administrator will determine whether it is appropriate to offer, continue, or conclude an Informal Resolution process. They may decline to allow Informal Resolution even if one or both Parties request it. Informal Resolution is not appropriate in cases where the DHR Administrator determines that the alleged conduct, even if true, is not Prohibited Conduct under this Policy.
3. Information and records gathered during the Informal Resolution process will not be used in any other University process arising out of the same allegations, including in a Formal Investigation into the same allegations should the Informal Resolution process be unsuccessful.
4. **Timeframe:** Informal Resolution may take place at any time before a determination of responsibility is made. In most cases, the Informal Resolution process should be finished within [X] Working Days after both Parties give written consent to participate in the process. However, this timeline may be extended if the Parties and the DHR Administrator agree. If a Formal Investigation is already in progress when the Informal Resolution process begins, the Parties may be notified that the Formal Investigation is being paused, and will not be concluded, until the Informal Resolution process is completed, in which case the DHR Administrator may grant a good faith extension of the investigation timeline pursuant to Section [XX], below.

B. Initiating the Informal Resolution Process

1. **Notice of Informal Resolution Process:** Before the Informal Resolution process begins, the DHR Administrator will send the Parties a written notice that explains the following:
 - a. The allegations;

- b. The Informal Resolution process;
 - c. The Parties' right to consult with an Advisor during the Informal Resolution process, and, in cases involving Student Respondents, their right to request that the University provide them with an Advisor;
 - d. That any Party may withdraw from the Informal Resolution process at any time before reaching a signed Informal Resolution agreement and may begin or continue with a Formal Investigation instead;
 - e. What information the University will keep from the Informal Resolution process and whether or how this information could be used in a Formal Investigation if one begins or resumes; and
 - f. That once both Parties sign an Informal Resolution, they cannot begin or continue a Formal Investigation into the same allegations, nor can they appeal the Informal Resolution.
2. The DHR Administrator must obtain voluntary, written consent from the Parties before beginning the Informal Resolution process. No one will be required to give up the right to a Formal Investigation as a condition of enrollment, employment, or the exercise of any other right at the University.
- a. In cases where the DHR Administrator has made a Complaint involving an Impacted Party, absent exceptional circumstances, the Informal Resolution process cannot begin without the consent of the Impacted Party.

C. Facilitation of the Informal Resolution Process

1. The DHR Administrator may facilitate and will oversee the Informal Resolution process. Anyone facilitating an Informal Resolution process will receive appropriate training and must not have a Conflict of Interest or bias for or against an individual Complainant or Respondent or complainants or respondents generally.. The facilitator of an Informal Resolution may not serve as an investigator into the same allegations without receiving an exception from a Systemwide Director for Civil Rights.

2. The Parties have the right to suggest terms to include in the Informal Resolution.
3. An Informal Resolution may include, but is not limited to, the following possible terms:
 - a. An apology;
 - b. Relocation or removal from University housing, subject to availability;
 - c. Changes to academic or work arrangements;
 - d. Restrictions on, agreements about, or alternate arrangements for participation in, or presence at, University programs, activities, events, or locations;
 - e. Participation in and/or successful completion of alcohol or drug education or counseling;
 - f. Participation in counseling services for mental or behavioral health;
 - g. Participation in specific educational opportunities or training;
 - h. Other voluntary educational, mentoring, coaching, or counseling sessions, which may include requirements such as showing proof of completion or a statement of participation from the mentor, coach, or counselor;
 - i. Verbal counseling or warnings;
 - j. Agreements on behavioral or institutional changes;
 - k. No-contact directives, or other restrictions on contact between the Parties;
 - l. A written or verbal impact statement from the Complainant shared with the Respondent;
 - m. Admission or acceptance of responsibility for causing harm or engaging in the alleged conduct;
 - n. Community service; and

- o. Voluntary participation by the Respondent in formal Disciplinary Sanctions, including suspension, expulsion, and termination.

D. Finalizing Informal Resolution

1. The DHR Administrator will make the final determination on whether the terms agreed to by the Parties are appropriate. If the Informal Resolution includes Disciplinary Sanctions, the DHR Administrator will consult with the appropriate University administrator responsible for discipline before approving it.
2. **Written Agreement – Not Subject to Appeal:** The terms of an Informal Resolution must be in writing and signed by the Parties and the DHR Administrator. Electronic signatures are allowed. Once the Informal Resolution is signed, it is final and cannot be appealed by either Party.
3. Any Remedies and Disciplinary Sanctions agreed to in an Informal Resolution have the same effect as Remedies given and Disciplinary Sanctions imposed after a Formal Investigation. Failure to adhere to the terms of an Informal Resolution agreement may result in referral to the appropriate University administrator (Student Conduct Administrator for Student Respondents, or Human Resources or Faculty Affairs for Employee Respondents).

IX. Formal Investigation Process

A. General

The University will provide for adequate, reliable, and impartial investigations of Complaints under the Nondiscrimination Policy. The Formal Investigation process is not adversarial. During the Formal Investigation process the University will treat Complainants and Respondents equitably and the DHR Administrator will oversee and serve as a neutral facilitator of the process. The DHR Administrator will ensure that individuals involved in conducting Formal Investigations, making disciplinary decisions, or facilitating any other proceeding under this Policy are appropriately trained and free from actual Conflicts of Interest or biases for or against an individual Complainant or Respondent or complainants or respondents generally.

B. Initiating a Formal Investigation

1. **Written Notice of Investigation:** To initiate a Formal Investigation, the DHR Administrator will provide the parties with a written notice of the allegations, an explanation of their rights, the applicable procedures, available resources, and this Policy. The Notice of Investigation will include factual details known at the time, and will be provided to the Respondent with sufficient time to prepare a response before an initial interview.

The Notice of Investigation will include, at a minimum:

- a. The identities of the Parties involved in the incident, if known;
- b. A description of the conduct alleged to constitute Prohibited Conduct, including the date (or date range) and location of the alleged incident, if known;
- c. A statement that the Respondent is presumed not responsible for the alleged conduct, and that a determination regarding responsibility will be made at the conclusion of the investigative process;
- d. A copy of, or hyperlink to, this Policy;
- e. The definitions of Prohibited Conduct that the Respondent is alleged to have engaged in, and, for Student Respondents, the relevant Standards for Student Conduct [\[link\]](#);
- f. A summary of the Nondiscrimination Policy's Formal Investigation process, including the right to appeal and the Informal Resolution process;
- g. That Retaliation is prohibited;
- h. The estimated timeline for completion of the investigation;
- i. Information regarding counseling and other Supportive Measures;
- j. A statement that the Parties may have one Advisor of their choice who may be, but is not required to be, an attorney or union representative, and, in cases involving Student Respondents, may request that the University provide them with an Advisor;

- k. A statement that the Parties will have equal opportunities to identify Relevant witnesses and evidence in connection with the investigation, including the ability to:
 - Submit documentary information to the investigator;
 - Submit a list of potential witnesses to the investigator; or
 - Request that the investigator attempt to collect additional Relevant evidence;
- l. A statement that any evidence available, but not disclosed during the investigation, may not be considered for purposes of appeal;
- m. A statement that knowingly providing false or misleading information is prohibited and may result in Disciplinary Sanctions;
- n. An explanation of how a Party may request accommodations relating to the Formal Investigation process;
- o. A statement that the Parties will have an equal opportunity to review the [Final Investigation Report](#) and Relevant evidence;
- p. A statement regarding the possible range of Disciplinary Sanctions; and
- q. In DHR Administrator-initiated Formal Investigations, a statement that the Impacted Party did not request a Formal Investigation but that the DHR Administrator determined one was necessary.

Revising the Notice of Investigation: During the Formal Investigation, the DHR Administrator may issue a revised Notice of Investigation to the Parties as necessary to correct, clarify, or supplement material factual allegations, applicable policy provisions, or other information set forth in the Notice of Investigation.

Consolidation: The DHR Administrator may combine Formal Investigation processes for Complaints 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 arise out of the same or closely related facts or circumstances. The Consolidation process is subject to the Family Educational Rights and Privacy Act (FERPA) and other applicable privacy laws. If matters are

consolidated, this will be indicated in the Notice of Investigation or a revised Notice of Investigation.

2. **Initial Meetings with the Parties:** After issuing a Notice of Investigation, the DHR Administrator will offer to meet with the Complainant and Respondent individually to explain the allegations; the Formal Investigation process; and the Complainant's and Respondent's rights during the Formal Investigation process.
3. **Assignment of Investigator:** The DHR Administrator will either investigate or assign a trained, impartial investigator to investigate the allegations in the Notice of Investigation.

C. Conducting a Formal Investigation

1. **Standard and Burden of Proof:** The standard of proof for the Formal Investigation process is whether the alleged conduct more likely than not occurred based on the evidence or facts available at the time of the decision – known as the Preponderance of the Evidence standard. The burden is on the University to gather sufficient evidence to determine whether Prohibited Conduct occurred. The University presumes that the Respondent is not responsible for the alleged conduct until a determination is made at the conclusion of the Formal Investigation process.
2. **Gathering Evidence:** During the Formal Investigation process, the investigator will make reasonable efforts to gather all Relevant evidence from the Parties, witnesses, or other sources, including inculpatory (meaning that it shows or tends to show a person committed the alleged policy violation), exculpatory (meaning that it shows or tends to show that a person did not commit the alleged policy violation), and credibility-related evidence. The University will provide an equal opportunity for the Parties to identify witnesses and present Relevant evidence. The Parties are encouraged to provide all Relevant information, evidence, witness lists, and question lists as soon as possible to facilitate a prompt investigation of the Complaint.

The investigator will review all Relevant and permissible documents and physical evidence that is timely provided by the Parties. The investigator; however, will not consider impermissible evidence. Impermissible evidence includes:

- a. Evidence protected by a legally recognized privilege, unless the person holding the privilege has waived it in writing;
- b. A Party's or witness's medical, psychological, or similar treatment records maintained by a physician, psychologist, or other recognized professional or paraprofessional, unless the Party or witness provides voluntary, written consent for their use; or
- c. A recording made in violation of California law is generally impermissible, except, in certain cases, for the limited purpose of assessing credibility.

The investigator may decline to gather requested evidence when the burden of producing it substantially outweighs any benefit it may have to the issues in dispute or when the investigator determines that the evidence is unlikely to have significant probative value. The investigator will document the steps taken to gather evidence, even when those efforts are not successful.

Formal rules of evidence applied in courtroom proceedings (e.g., the Federal Rules of Evidence, the California Evidence Code) do not apply to investigations under this Policy. The investigator has discretion to decide whether evidence is Relevant and to give Relevant evidence the appropriate weight in light of the circumstances.

- 3. **Interviews:** The investigator will make reasonable attempts to interview the Parties and witnesses believed to have Relevant information. As appropriate to the investigation, the investigator may conduct follow-up interviews or request responses to questions in writing. Parties may propose questions for the Investigator to ask other Parties or witnesses. The investigator has discretion to determine which questions are Relevant to the investigation and may decline to ask questions that are irrelevant, repetitive, or harassing.
- 4. **Advisors:** Parties may be accompanied by one Advisor of their choice throughout the Formal Investigation process, who may, but is not required to be, an attorney or a union representative. For more information on Advisors, consult the Glossary. A Party's Advisor may not answer questions regarding the subject matter of the investigation for the Party. However, the Advisor may observe and consult with the Party.

5. **Reasonable Accommodations:** Any person with a Disability who seeks reasonable accommodations to participate in a Formal Investigation or other proceeding under this Policy will be referred to the appropriate campus administrator (for Students, the services for students with disabilities administrator, and for Employees the appropriate Human Resources administrator), who will determine and approve reasonable accommodations in accordance with applicable University policies. The appropriate campus administrator will consult with the DHR Administrator to determine the reasonableness of a requested accommodation.
6. **Investigation Where a Party or Witness Does Not Participate:** The Respondent will not be found to have violated the Nondiscrimination Policy solely because the Respondent did not participate in the Formal Investigation process. Nor will the Respondent be found not to have violated the Nondiscrimination Policy solely because a Complainant or other witness did not participate in the investigation process.
7. **DHR Administrator-Initiated Formal Investigations:** When a DHR Administrator initiates an investigation pursuant to Section [XX], the Impacted Party retains all the procedural rights of a Complainant, including the right to receive all information required under this Policy, unless the Impacted Party declines this right in writing. A Student Impacted Party will not be required to participate in an investigation if they do not wish to do so.
8. **Expert Witnesses:** An investigator may consult medical, forensic, technological, or other experts in circumstances where the investigator determines that specialized knowledge is necessary to analyze the issue(s) under investigation. In such cases, the investigator must consult with the DHR Administrator prior to engaging an expert witness.

D. Expectations for Party and Witness Conduct:

1. **Discussion of Allegations and Anti-Retaliation:** The University will not restrict the ability of either Party to discuss the allegations under investigation or to gather and present Relevant evidence. However, in doing so, Parties and witnesses must not engage in Retaliation or conduct that interferes with the Formal Investigation process. This includes threatening, intimidating, coercing, harassing, improperly

attempting to influence another person's participation or testimony, or otherwise interfering with any Party, witness, or other individual participating in the Formal Investigation.

2. **Cooperation in the Formal Investigation Process:** Employees and Students who are not Parties may be directed to participate in the Formal Investigation and other proceedings under this Policy, including but not limited to, attending meetings and interviews. The campus will take reasonable steps to facilitate attendance.

Employees, including those in bargaining units, who fail to comply with any such directive may be subject to discipline under the applicable provisions of their collective bargaining agreement or other CSU policy. Students who fail to comply with any such directive may be subject to discipline under the Student Conduct Process.

3. **Good Faith and Honesty:** All Parties, witnesses, and anyone else participating in a Formal Investigation or other proceeding under this Policy are expected to act in good faith and provide truthful information. Knowingly giving false or misleading information is prohibited and may result in Disciplinary Sanctions. This provision does not apply to Reports or Complaints made or information provided in good faith, even if the information cannot be proven. An unsubstantiated allegation alone does not necessarily indicate that statements made in a Formal Investigation were false, misleading, or made in bad faith.
4. **Disclosure of Investigation Materials:** During the entirety of the Formal Investigation process, including any appeal, the Parties and witnesses are prohibited from disclosing the information or records obtained through their participation in the Formal Investigation process. This provision will not restrict the ability of the Parties to obtain and present evidence during the Formal Investigation, including by speaking to witnesses, consulting with family members, confidential resources, or Advisors, or otherwise preparing for or participating in the Formal Investigation process. These restrictions also do not apply to information learned through other means, such as personal experience, or to disclosures made during another administrative proceeding or through litigation.

E. Discretionary Dismissal During Formal Investigation Process

At times, new information or events that arise during the Formal Investigation process may warrant dismissing the allegations under investigation. This section sets forth the grounds upon which a DHR Administrator may dismiss a Complaint, or a portion of a Complaint, after the issuance of a Notice of Investigation and prior to the issuance of a Final Investigation Report.

1. Discretionary Dismissal Grounds

If the DHR Administrator determines that one or more of the grounds below applies, they **may** dismiss the Complaint or a portion thereof:

- a. The conduct alleged by the Complainant, even if proven, would not constitute Prohibited Conduct under this Policy;
- b. The Complainant notifies the DHR Administrator in writing that they would like to withdraw the Complaint or any part of it; or
- c. The Respondent is no longer enrolled in or employed by the University;
- d. Specific circumstances prevent the University from reasonably gathering evidence necessary to reach a determination; or
- e. The alleged conduct lacks a sufficient nexus to the University.

A dismissal of a Complaint, or portion of a Complaint, on any of the grounds listed above does not preclude the University from addressing the alleged conduct in a non-disciplinary manner or from referring alleged conduct that does not violate the Prohibited Sexual Conduct Policy to another appropriate University policy, procedure, or administrator for review, further investigation, and/or determination as to whether corrective and/or disciplinary action is warranted.

2. Appeals of Discretionary Dismissal Determinations

If at any point during the Formal Investigation process the DHR Administrator determines that a Complaint, or a portion of a Complaint, should be dismissed on any of the grounds listed above, both parties will be notified of the dismissal and the ground for the dismissal. The Parties will also be notified of their right to appeal the discretionary dismissal

within [X] Working Days from the date of the notice. For more information on Appeals, see Section [XX], below.

F. Acceptance of Responsibility:

The Respondent may, at any time during the Formal Investigation process before the issuance of the Final Investigation Report, choose to accept responsibility for all alleged conduct and all alleged Nondiscrimination Policy violations identified in the Notice of Investigation.

1. Before a Respondent accepts responsibility, the DHR Administrator will discuss with the Respondent that the matter will proceed to Disciplinary Sanctions, and that the acceptance of responsibility could – but will not necessarily – be regarded as a mitigating factor that results in less severe sanctions.
2. Acceptance of responsibility will only be recognized if the Respondent accepts responsibility by signing a written document prepared by the DHR Administrator that describes the range of Disciplinary Sanctions that may result from the acceptance of responsibility. Once the written document is signed, the Respondent's acceptance of responsibility will have the same effect as a finding of responsibility made by an investigator in a Final Investigation Report at the conclusion of a Formal Investigation, except that an acceptance of responsibility cannot be appealed.
3. Once the Respondent has accepted responsibility in writing, the DHR Administrator will issue a brief written summary of the allegations and a statement that the Respondent has accepted responsibility, concluding the Formal Investigation. The written summary will be sent to both the Complainant and the Respondent.
4. The matter will then proceed to Disciplinary Sanctions pursuant to Section [XX].
5. If the Respondent accepts responsibility for some but not all of the alleged conduct, or for the alleged conduct but not all alleged policy violations, the Formal Investigation process will continue to conclusion, unless otherwise resolved through Informal Resolution or a discretionary dismissal.

G. Final Investigation Report:

At the conclusion of each Formal Investigation under the Nondiscrimination Policy, unless the case has already resolved through Informal Resolution (pursuant to Section [XX], Acceptance of Responsibility [pursuant to Section [XX], or a discretionary dismissal (pursuant to Section [XX]), the investigator will prepare a Final Investigation Report making factual findings on the allegations and determining whether or not the Nondiscrimination Policy has been violated. The Final Investigation Report will be provided to the Parties.

The Final Investigation Report will include:

1. A statement of each allegation under investigation and a summary of the Relevant, permissible evidence for each allegation;
2. A brief summary of the investigation process including a summary of the procedural steps taken from the receipt of the Complaint through the determination, including notifications to the Parties, interviews with Parties and Witnesses, and methods used to gather other evidence;
3. A statement explaining which procedures apply;
4. The definitions of Prohibited Conduct that the Respondent is alleged to have engaged in (and, for Student Respondents, the relevant Standards for Student Conduct);
5. The Preponderance of the Evidence standard;
6. Credibility determinations when appropriate;
7. Findings of fact for each allegation, supported by an explanation and/or analysis of the evidence on which the findings are based;
 - Only Relevant and permissible evidence, including Party and witness testimony, may be considered by the investigator. When determining whether evidence is Relevant and permissible, the investigator will evaluate the evidence pursuant to Section [XX] above.
 - Hearsay (which generally refers to secondhand information or statements about what someone else said) may be considered by the investigator but will only be given the weight appropriate under

all of the circumstances, with due consideration given to the importance of credibility assessment.

- If a Party or witness declines to submit to questioning during the Formal Investigation process, the investigator may consider prior Relevant statements that the person made, either within or outside of the Formal Investigation process. However, before doing so, the investigator will assess the reliability of the statements by considering all relevant factors, which may include: the fact that the statements were not subject to questioning during the investigation; the extent to which the statement is corroborated by or consistent with other evidence; the circumstances under which the statement was made and whether those circumstances support its reliability; the reason the Party or witness did not submit to questioning; and the extent to which assessing the credibility of the person who made the statement is important to resolving disputed facts. Absent extenuating circumstances, when the Party's or Witness's prior statements are central to the determination of responsibility, the investigator will give the statements little or no weight unless there are sufficient indicia of reliability or other evidence that independently supports the statement.

8. For each allegation, an analysis and determination of whether Respondent violated this Policy, with reference to the relevant factual findings; and
9. Relevant exhibits and documents attached to the written report.

The DHR Administrator will issue the Final Investigation Report to the Parties simultaneously and in writing. The Final Investigation Report will generally be issued electronically and will be accompanied by a communication that summarizes whether or not the Respondent was found responsible for violating the Nondiscrimination Policy and an explanation of the Parties' appeal rights. For more information on Appeals, see Section [XX], below.

If the Formal Investigation determined there was a violation of the Nondiscrimination Policy, see Section [XX], below, for information and procedures regarding Disciplinary Sanctions.

X. Appeals

A. General

The non-prevailing Party may appeal the Final Investigation Report's determination(s) of whether this Policy was violated. Either Party may appeal a decision to discretionarily dismiss a Complaint, or a portion of a Complaint, that occurs at any time after a Notice of Investigation is issued. All other decisions and resolutions under this Policy – including Informal Resolutions, a Respondent's acceptance of responsibility, and decisions not to investigate an allegation under the Nondiscrimination Policy and/or to refer an allegation to another University administrator policy, procedure, or administrator – are final and not appealable under these procedures.

B. Appeal Procedures

1. **Filing an Appeal to the Chancellor's Office:** A written appeal may be submitted to the Chancellor's Office Civil Rights Programming & Services Appeals Unit ("Civil Rights Appeals Unit") no later than [X] Working Days after the Final Investigation Report or discretionary dismissal notice is issued. All information supporting the appeal must be submitted by the deadline to be considered. In an appeal, the appealing Party must explain why they believe that one of the specified bases for appeal applies and how the investigation outcome or dismissal decision was affected. A written appeal may not exceed 3,500 words, excluding exhibits. Appeals will be submitted to:

Civil Rights Appeals Unit
Systemwide Human Resources
Office of the Chancellor
401 Golden Shore
Long Beach, California 90802 [CO-
Appeals@calstate.edu](mailto:CO-Appeals@calstate.edu)

2. Electronic submission to the email address listed above is the preferred method of submitting appeals. If a Party is unable to submit an appeal or a response to an appeal electronically, they should contact the campus DHR Administrator for assistance.
3. **Bases for Appeal:** An appeal must be based only on one or more of

the appeal issues listed below:

- a. Based on the factual findings made by the investigator, there was no reasonable basis for the investigation outcome. – *For appeals of Final Investigation Reports only*
- b. There was a procedural irregularity that changed the outcome of the investigation or the dismissal decision. – *For appeals of Final Investigation Reports or discretionary dismissals*
- c. New evidence is available that would change the outcome of the investigation or the dismissal decision and that was not reasonably available when the investigator's determination or the dismissal decision was made. – *For appeals of Final Investigation Reports or discretionary dismissals*
- d. The DHR Administrator or investigator had a Conflict of Interest or bias that changed the investigation outcome or the dismissal decision. – *For appeals of Final Investigation Reports or discretionary dismissals*

- 4. **Evidence on Appeal:** The evidence raised on appeal will be limited to evidence identified during the investigation, unless the appealing Party satisfies appeal basis (c) above. The Civil Rights Appeals Unit may communicate, at their discretion, with the appealing Party to clarify the written appeal.
- 5. **Acknowledgement of Appeal:** The Civil Rights Appeals Unit will provide written acknowledgement of the receipt of the appeal to the appealing Party no later than [X] Working Days after receipt of the appeal. Within [X] Working Days, the Civil Rights Appeals Unit will determine whether the appealing Party has properly stated a basis for appeal under sections (a)-(d) above. If the appeal is rejected because it does not properly state a basis for appeal, the Civil Rights Appeals Unit will inform both Parties and the campus DHR Administrator that the appeal has been rejected. If the appeal is accepted, the Appeals Unit will provide prompt written notification of the appeal, including a copy of the appeal, to the non-appealing Party and the campus DHR Administrator. The notice will include the right of the non-appealing Party and the University to provide a response to the appeal within [X] Working Days of the date of the notice. The appeal response will be limited to 3,500 words,

excluding exhibits. Any response to the appeal received by the Civil Rights Appeals Unit will be provided to the appealing Party for informational purposes only.

6. **Reasonable Accommodation:** The Civil Rights Appeals Unit will provide reasonable accommodations to any Party or witness in the appeal process with a qualified Disability upon request by the person needing the accommodation. The Civil Rights Appeals Unit will consult with the appropriate University administrator (for Students, the services for students with disabilities administrator, and for Employees the appropriate Human Resources administrator) to determine the reasonableness of a requested accommodation.
7. **Scope of Review:** The Civil Rights Appeals Unit will not conduct a new investigation; however, for appeals involving appeal basis (c), the Civil Rights Appeals Unit may make reasonable inquiries to determine if the new evidence would be likely to change the outcome of the investigation or the dismissal decision. On appeal, the Civil Rights Appeals Unit does not reweigh the evidence, re-decide conflicts in the evidence, or revisit determinations made by the Investigator about the credibility or reliability of witnesses and the Parties.
8. **Civil Rights Appeals Unit Response:** The Civil Rights Appeals Unit's response will include a summary of the issues raised on appeal, a summary of the evidence considered, and the determinations reached regarding the issues identified within the written appeal. A copy of the Civil Rights Appeals Unit's response will be issued to the Parties and the DHR Administrator simultaneously. The appeal response determination is final. If a discretionary dismissal decision is overturned on appeal, the Formal Investigation will proceed.
9. **Reopening a University Investigation after an Appeal of a Final Investigation Report:** When the Civil Rights Appeals Unit determines that the appeal basis (b-d) criteria above are satisfied, the Appeals Unit may remand the investigation back to the University. Remanded investigations will be reopened by the University. When remanding an investigation to the University, the Appeals Unit will specify in writing the issue(s) to be addressed on appeal and a timeline by which a remanded investigation should be completed. The Civil Rights Appeals Unit will notify the Parties of the reopening of the investigation; the issue(s) to be

corrected; and a timeline for completion. Upon completion of the investigation, the University will issue an amended Final Investigation Report and provide the Parties and the Civil Rights Appeals Unit with the amended Final Investigation Report, along with notice of the non-prevailing Party's right to appeal.

10. Reversal by Civil Rights Appeals Unit after an Appeal of a Final

Investigation Report: When the Civil Rights Appeals Unit determines that the appeal basis (a) criterion above is satisfied, the Civil Rights Appeals Unit may vacate and reverse the investigation outcome, but only with respect to whether the Nondiscrimination Policy was violated (and not with respect to factual findings). If the Civil Rights Appeals Unit vacates and reverses the investigation outcome, it will notify the Parties and the DHR Administrator in writing at the same time. Following a reversal of an investigation outcome by the Civil Rights Appeals Unit, the decision is final.

11. Timelines and Extensions: The Civil Rights Appeals Unit has discretion to extend the timelines for the appeal process for good cause. This includes the time for filing an appeal, the time for the Civil Rights Appeals Unit to respond to the appeal, and the time for a reopened investigation to be completed. The Civil Rights Appeals Unit will notify the Parties and the DHR Administrator of any extensions of time granted pertaining to any portion of the appeal process.

XI. Timelines

A. General

While the guidelines below serve as important benchmarks for case processing, not all cases will be resolved within these timeframes. Legitimate external factors, such as the availability of the parties, the complexity of the issues, or other extenuating circumstances, may contribute to reasonable delays. In such instances, the University may extend the deadlines as set forth below.

The University has adopted the following guidelines for ensuring that it responds promptly and effectively to all Reports and Complaints of potential Prohibited Conduct:

Stage	Timeframe
Initial Outreach Following a Report of Potential Discrimination, Harassment, or Retaliation	Typically the University will attempt to contact the Complainant, if known, within 2 Working Days of receiving a Report.
Completion of the Initial Assessment and Response Process	45 Working Days In cases where a Complaint has been made, a determination of whether to initiate a Formal Investigation should generally be made and issued within 20 Working Days from the date of the Complaint.
Completion of the Informal Resolution Process	60 Working Days
Investigation – Final Investigation Report	100 Working Days from the date the Notice of Investigation is sent to Parties
Appeal Submission	7 Working Days from the date that the Final Investigation Report is sent to the Parties or the discretionary dismissal decision is issued
Appeal Determination	30 Working Days after receipt of the written appeal

B. Timeline Extensions and Updates

1. **Reasonable Extensions:** The DHR Administrator may grant reasonable extensions of timeframes for good cause on a case-by-case basis. A

Party or investigator may request a reasonable extension of the timeframes in these Procedures from the DHR Administrator.

Good cause may include:

- a. To ensure the integrity and thoroughness of the investigation;
- b. The reasonable absence of a Party, Party's Advisor, or witness;
- c. To comply with a request from law enforcement;
 - Complainants have the right to make a criminal complaint. The filing of a criminal complaint will not unreasonably delay the University's response or investigation, although it may be necessary to temporarily delay while law enforcement is gathering evidence.
- d. Based on the need to provide language assistance, disability accommodations, or other modifications to allow the full participation of a Party or witness;
- e. Academic breaks or exam periods;
- f. Complexity of the investigation, including multiple Complainants, multiple Respondents, a large number of witnesses, voluminous evidence, the length of the written record, or severity and extent of the alleged misconduct;
- g. Other extenuating or unforeseen circumstances that are not within the control of the University, Parties, witnesses, or investigator.

When the DHR Administrator grants a good cause extension, the Parties will be notified of the extension and the reason for it. The notice will provide a new estimated timeline.

2. **Requests for Extensions:** A Party or investigator may request a reasonable extension of the timeframes in this Policy from the DHR Administrator. While requests for delays by the Parties and the investigator may be considered, the University cannot unreasonably delay the prompt resolution of a Complaint under the Nondiscrimination Policy.

- a. Students – As required by California law, the DHR Administrator will not unreasonably deny a Student Party's request for an extension during periods of examinations or academic breaks.
 - b. Employees – The fact that an Employee is off contract or between semesters, without more, does not excuse an Employee from their expected participation in any proceeding under this Policy.
- 3. **Status Updates:** The University will provide a status update to the Complainant and Respondent every 30 days during a Formal Investigation, beginning from the date that the Notice of Investigation is issued until the Final Investigation Report is issued, unless a Party requests in writing not to receive these updates. Parties may, at any time, request from the DHR Administrator a status update regarding the status of the Formal Investigation process.

XII. Disciplinary Sanctions and Remedies

A. General

The University will not discipline a Respondent for violations of the Nondiscrimination Policy unless: 1) there is a determination at the end of a Formal Investigation (including any appeals) that the Respondent violated the Nondiscrimination Policy; or 2) the Respondent has accepted responsibility for violating the Nondiscrimination Policy pursuant to Section [XX]; or 3) where discipline is agreed to as part of an Informal Resolution pursuant to Section [XX]. This does not prevent the University from disciplining a Respondent for factual findings made during a Formal Investigation under the Nondiscrimination Policy that establish violations of other University policies or applicable laws.

Conduct that does not violate the Nondiscrimination Policy may be referred to the appropriate University administrator for review, further investigation, and/or determination as to whether corrective and/or disciplinary action is warranted. In general, cases involving Student Respondents may be referred to the Student Conduct administrator, and cases involving Employee Respondents may be referred to Human Resources and/or Faculty Affairs.

B. Implementing Remedies and Imposing Discipline

If a Respondent is found to have violated or has accepted responsibility for violating the Nondiscrimination Policy, the DHR Administrator will:

1. Ensure that all appropriate Remedies are provided and implemented for the Complainant and any other individuals who were denied equal access to the University's Programs or Activities due to the violation of the Nondiscrimination Policy;
2. Coordinate with the appropriate University administrator – such as Student Conduct, Human Resources, or Faculty Affairs – so that appropriate Disciplinary Sanctions are imposed on the Respondent. This includes notifying the Complainant of any such Disciplinary Sanctions and complying with University policy (including the sanction procedures in this Policy), state and federal requirements, and, for Employee Respondents, any applicable collective bargaining agreements; and
3. Take prompt and effective steps, as appropriate, designed to ensure that Prohibited Conduct does not continue or recur.

Student Discipline: Students who are found to have violated the Nondiscrimination Policy will be subject to discipline that is appropriate for the violation and is consistent with the Student Conduct Process [\[LINK\]](#) and state and federal requirements. Possible sanctions for Students who violate the Nondiscrimination Policy are identified in the Student Conduct Process. When a Student Respondent is found responsible for having violated the Nondiscrimination Policy, the DHR Administrator will place an administrative hold on their degree, including a degree otherwise earned, until any appeals, disciplinary proceedings, and resulting sanctions are completed.

Employee Discipline: Employees who are found to have violated the Nondiscrimination Policy will be subject to discipline that is appropriate for the violation and is consistent with applicable collective bargaining agreements, other University policies, and state and federal requirements. Possible sanctions for Employees who violate the Nondiscrimination Policy may include education, training, verbal or written counseling, reprimand, unpaid suspension, demotion, and/or termination.

C. Sanction Procedures

In cases involving Student Respondents, if the Final Investigation Report determines that the Respondent violated the Nondiscrimination Policy, the Parties in cases will have 5 Working Days to submit to the DHR Administrator (or designee) a statement regarding discipline that does not exceed 2000 words in length. The statement is an opportunity for the Parties to suggest disciplinary

outcomes and provide information they believe is important for the University to consider in imposing discipline.

In all cases in which a Respondent has been found to have violated the Nondiscrimination Policy, the DHR Administrator will coordinate with the appropriate University administrator responsible for discipline (e.g., Student Conduct for Student Respondents or Human Resources or Faculty Affairs for Employee Respondents) to jointly determine the appropriate recommended sanction or range of sanctions. This determination will be based upon the findings in the Final Investigation Report and any other information relevant to sanctioning (including aggravating and mitigating information and information in the Parties' statements regarding discipline, if applicable).

After the Parties' appeal rights have been exhausted, the DHR Administrator will notify the appropriate University administrator responsible for discipline (e.g., Student Conduct for Student Respondents or Human Resources or Faculty Affairs for Employee Respondents) that the disciplinary process may begin and will provide to the appropriate University administrator the Final Investigation Report, appeal outcome if any, Parties' statements regarding discipline if applicable, and the recommended sanction or range of sanctions with an accompanying rationale for the recommendation. No discipline will be imposed prior to the exhaustion of Parties' appeal rights.

XIII. Academic Freedom and Freedom of Speech

Freedom of expression and academic freedom are cornerstones of a democratic society and are essential to the educational process. Universities have an obligation to create space that encourages and supports the free expression of ideas, values, and opinions, even when unpopular or controversial. Not every act that may be offensive or insulting constitutes Discrimination or Harassment, as defined by law and University Policy.

All members of the Campus community should recognize that the manner in which they choose to express themselves has consequences and that freedom of expression includes a responsibility to respect the right of others to express differing opinions. Freedom of expression and academic freedom are not absolute rights. They coexist with other rights and the need for public order and safety. The exercise of freedom of expression and assembly must comply with all applicable federal, state, and local laws and CSU policy. Conduct that violates the Nondiscrimination Policy, including statements that constitute Discrimination, Harassment, or Retaliation, is not protected by academic freedom or freedom of expression.

CSU's [Academic Freedom Policy](#) sets forth the meaning of academic freedom and is incorporated into this Policy. CSU's [Interim Systemwide Time, Place, and Manner Policy](#) establishes rules relating to the free and orderly exchange of ideas, values, and opinions, and is also incorporated into this Policy.

XIV. Duty to Report

Individuals who have experienced Prohibited Conduct have the right to get help and support and are strongly encouraged to report their experience so the University can respond appropriately.

This section explains which CSU employees must report information about Prohibited Conduct and which employees can keep information confidential.

A. Employees Who Must Report (Responsible Employees):

All University Employees, other than those listed in one of the exceptions in section B below, who know or have reason to know of Prohibited Conduct must promptly report the information to the DHR Administrator / Title IX Coordinator. These Employees are referred to as Responsible Employees.

A Responsible Employee's report to the DHR Administrator constitutes a report to the Title IX Coordinator, and vice versa.

Responsible Employees must report all known information, including the names of the people involved, if known, even if someone requests anonymity. The obligation to report includes on-campus and off-campus incidents.

A Responsible Employee is not required to make a duplicate report if the Employee has actual knowledge that the same alleged conduct has already been reported to the DHR Administrator / Title IX Coordinator. Mere assumptions or secondhand statements that someone else "probably reported it" are not sufficient to satisfy this exception.

As to Discrimination, the duty to report does not extend to generalized or indirect allegations of discrimination, such as allegations of structural or systemic discrimination or disparate impact, or to mere speculation that an act could have been discriminatory.

Examples of Responsible Employees include, but are not limited to:

- All faculty and other teaching staff

- Any employees who assist, advise, or supervise students in any education program or activity of the CSU
- Managers
- Athletic Trainers
- Campus Ombuds
- University Police Officers
- Student Employees and Students serving as Residential Advisors who learn about potential Prohibited Conduct while they are performing duties in the course of their employment with the University

B. Employees Who Do Not Have to Report:

The Employees identified in this section may keep information private and are not required to report Prohibited Conduct to the DHR Administrator / Title IX Coordinator, but may be required to report to local law enforcement in limited situations required by law (see section C below).

1. Physicians, psychotherapists, professional licensed counselors, licensed clinical social workers, and clergy who work on or off Campus, acting solely in those capacities in the provision of medical or mental health treatment or counseling (and those who work or volunteer under their supervision).
2. Sexual assault and domestic violence counselors and advocates who work or volunteer in campus or community centers and who are acting solely in those capacities in the provision of counseling or advocacy services (including those who work or volunteer under their supervision).
3. Employees designated as a University's point of contact for the needs of lesbian, gay, bisexual, asexual, pansexual, transgender, gender-nonconforming, intersex, and two-spirit faculty, staff, and students.
4. A CSU union representative, acting in that capacity, who receives information from a union member seeking advice or representation in a confidential setting. While they are not required to report information to the DHR Administrator / Title IX Coordinator, they are strongly encouraged to do so.

If someone who experiences Prohibited Conduct chooses to speak only with one of these confidential professionals and asks to keep information confidential, the University's ability to respond to the Prohibited Conduct may be limited. These confidential Employees must still explain to the person disclosing Prohibited Conduct: their rights and options for keeping information confidential; how to contact the DHR Administrator / Title IX Coordinator and how the DHR Administrator / Title IX Coordinator can help; how to make a Complaint under the Nondiscrimination Policy; and how to make a police report. These Employees also must provide the specific reporting resources outlined in Attachment [XXX].

C. Exceptions to Section B:

Even Employees who are exempt from the duty to report to the DHR Administrator / Title IX Coordinator must report to law enforcement in certain circumstances as required by California law:

1. Under California law, health practitioners must report to local law enforcement if they provide medical services for a physical condition to a person who they know or reasonably suspect is suffering from: (1) a wound or physical injury inflicted by a firearm; or (2) any wound or other physical injury where the injury is the result of assaultive or abusive conduct (including Rape, Sexual Assault, and Dating and Domestic Violence). This requirement does not apply to sexual assault and domestic violence counselors and advocates.
2. Additionally, under California law, all professionals described in section B above must report incidents involving suspected child abuse or neglect to local law enforcement in accordance with the CSU's Policy on Mandatory Reporting of Child Abuse and Neglect [LINK].
3. Finally, some or all of these professionals may also have reporting obligations under California law to: (1) local law enforcement in cases involving threats of immediate or imminent harm to self or others where disclosure of the information is necessary to prevent the threatened danger, or (2) when required by a court order or subpoena in a criminal proceeding related to Sexual Misconduct, Dating or Domestic Violence, or Stalking.

These professionals will explain these limits on confidentiality, as applicable.

D. Reporting Duties of University Police:

1. University Police Department Employees are Responsible Employees and must report to the DHR Administrator / Title IX Coordinator any time they know or have reason to know of incidents that may violate the Nondiscrimination Policy.
2. To the extent known, the information that University Police must report, includes, but is not limited to:
 - a. The time, date, and location of any reported incidents of possible Prohibited Conduct
 - b. The time and date of the report, complaint, or request for assistance made to University Police
 - c. The name and age of the alleged victim (with a limited exception as provided in subsection 3, below)
 - d. All known factual circumstances surrounding the incident
 - e. The identity of the alleged perpetrator
 - f. A general description of any injuries, property, or weapons involved
 - g. The time, date, and nature of the response by University Police

The information to be reported includes all information that the police are legally authorized to disclose in response to records requests, but without requiring a formal request.

3. For certain sex offenses the victim has the right to ask University Police to keep their identity confidential, after being informed of their options. However, even if the victim requests confidentiality of identity, University Police should specifically ask the victim if their name can be provided to the Title IX Coordinator / DHR Administrator so that the Title IX Coordinator / DHR Administrator can contact the victim to offer Supportive Measures. And in all cases, even when the victim requests confidentiality, all other information known to University Police, including the identity of the alleged perpetrator, must be reported to the Title IX Coordinator / DHR Administrator.

XV. Glossary of Defined Terms

1. **Advisors:** The Complainant and Respondent may choose to be accompanied by one Advisor of their choice, who may be, but is not required to be, an attorney or a union representative, during any stage of a proceeding under the Nondiscrimination Policy. Advisors may not be Parties or witnesses in a Formal Investigation.
 - The University will not limit the choice or presence of the Advisor for the Complainant or Respondent in any meeting or proceeding. However, the unavailability of a specific Advisor will not unreasonably delay scheduling.
 - Upon initiation of a Formal Investigation or Informal Resolution process in cases involving Student Respondents, Parties have the right to request that the University provide an Advisor to assist them throughout the process. If a Party makes such a request, the University will provide them with an Advisor.
 - During proceedings under this Policy, the University will communicate directly with Parties and not through their Advisors.
 - Witnesses may have an Advisor present at the discretion of the DHR Administrator or in accordance with University policy or any applicable collective bargaining agreement.
 - The University may restrict the extent and manner of an Advisor's participation in the proceedings as long as restrictions apply equally to Complainants and Respondents.
2. **Complainant:** A person reported to have been subjected to conduct that could constitute a violation of the Nondiscrimination Policy. A Complainant may also be called a Party to the Complaint.
3. **Complaint:** An oral or written statement to or signed by the DHR Administrator alleging Prohibited Conduct that objectively can be understood as a request to initiate the Formal Investigation Process.
4. **Conflict of Interest:** A Conflict of Interest exists when a DHR Administrator, investigator, or other individual responsible for carrying out duties under this Policy has a personal, professional, financial, or other interest that compromises the individual's ability to act impartially in a matter under this Policy.

- A Conflict of Interest may exist when, among other circumstances, an individual has a personal, familial, romantic, financial, reporting, or supervisory relationship with a Party or witness.
- A Party's belief, suspicion, or disagreement with a procedural decision, without objective facts demonstrating a Conflict of Interest, does not establish a Conflict of Interest.
- The DHR Administrator has discretion to determine, on a case-by-case basis, whether a Conflict of Interest exists.
- A DHR Administrator at one CSU University or a Systemwide Director for Civil Rights may serve as a DHR Administrator at another CSU University if a Conflict of Interest exists.

5. **DHR (Discrimination, Harassment, and Retaliation) Administrator:** The Management Personnel Plan (MPP) Employee at each campus who, together with the campus Title IX Coordinator, is responsible for administering the Nondiscrimination Policy and coordinating compliance with Title IX, Title VI, VAWA/Campus SaVE Act, and related state and federal laws prohibiting Discrimination, Harassment, and Retaliation. The DHR Administrator may delegate tasks, including tasks required by the Nondiscrimination Policy, to one or more designees, provided that any designee shall be an MPP Employee or an external consultant, and the DHR Administrator and Title IX Coordinator retain overall responsibility and authority. Unless otherwise specified, the term DHR Administrator as used in this Policy encompasses the DHR Administrator, the Title IX Coordinator, or both.
6. **Disciplinary Sanctions:** Sanctions imposed on a Respondent for a violation of the Nondiscrimination Policy. Disciplinary Sanctions will be imposed consistent with applicable Employee or Student policies and procedures.
7. **Employee:** A person legally holding a position of employment in the CSU. Employees include full-time, part-time, permanent, tenured, probationary, temporary, intermittent, casual, and per-diem positions. This term does not include auxiliary or foundation Employees or volunteers or other Third Parties. Employee also includes individuals who were employed by the CSU at the time the Complaint was made and have since left the employ of the CSU.
8. **Formal Investigation:** An investigation into alleged violations of the Nondiscrimination Policy, the purpose of which is to determine whether or not a preponderance of the evidence substantiates that the alleged conduct occurred

and that Respondent violated the Nondiscrimination Policy. A Formal Investigation must be conducted under the procedures set forth in this Policy.

9. **Impacted Party:** An individual who is reported to have experienced conduct that could constitute Prohibited Conduct under the Nondiscrimination Policy and who declines to file a Complaint.
10. **Party:** A Complainant or Respondent in a Report or Complaint under the Nondiscrimination Policy.
11. **Protected Status:** The following identities protected by federal or state law, including actual or perceived: Age (at least 40 years of age in employment context), physical or mental Disability (including having a history of a Disability or being regarded as being disabled), Gender, Gender Identity and Expression (including Nonbinary, Transgender, and gender transition), predisposing Genetic Information (including family medical history), Marital Status, Medical Condition (cancer-related or genetic characteristics), Nationality (including national or ethnic origin), Pregnancy or related conditions (including childbirth, lactation, or related medical conditions), Race (including color, caste, or ancestry), Religion or Religious Creed, Sex (including Sex stereotyping or Sex characteristics), Sexual Orientation, and Veteran or Military Status. All Protected Statuses will be understood consistently with applicable federal and state law.
12. **Relevant:** Questions are Relevant when they seek evidence that may aid in showing whether or not the alleged conduct occurred, and evidence is Relevant when it tends to prove or disprove whether the alleged conduct occurred or whether a Party is responsible for the alleged conduct.
13. **Remedies:** Individualized services offered to the Complainant or any Impacted Party after a Respondent has been found responsible for Prohibited Conduct. Remedies are provided as appropriate, when reasonably available, without fee or charge, and are designed to restore access to an educational program, activity, or employment. Remedies may include counseling, extensions of deadlines or other course or work-related adjustments, modifications of work or class schedules, Campus escorts, restrictions on contact between the Parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the Campus, and other similar measures. The DHR Administrator is responsible for determining the reasonableness of the requested Remedy and coordinating the effective implementation of Remedies.

14. **Report:** Information received by the DHR Administration that reasonably suggests that Prohibited Conduct may have occurred or may be occurring within a University program or activity. A Report triggers the University's duty to respond promptly and effectively but does not, by itself, initiate a Formal Investigation process.
15. **Reporting Party:** An individual, mandated or voluntary, who submits a Report of conduct that may constitute a violation of the Nondiscrimination Policy on behalf of someone other than themselves. A Reporting Party is not the Complainant and does not become a Party to any proceeding under the Nondiscrimination Policy by virtue of making a Report, including in cases where the Complainant chooses not to participate. A Reporting Party is not entitled to information about the University's response to the Report.
16. **Respondent:** A person who is alleged to have violated the Nondiscrimination Policy. A Respondent may be an Employee, Student, Third Party, or, in certain cases, a University entity.
17. **Student:** An applicant for admission to the CSU, an admitted CSU Student, an enrolled CSU Student, a CSU extended education Student, a CSU Student between academic terms, a CSU graduate awaiting conferral of a degree, a CSU student currently serving a suspension or interim suspension, and a CSU Student who withdraws from the University while a disciplinary matter (including a Formal Investigation) is pending.
18. **Third-Party:** A person who is not an Employee or a Student. Examples include employees of auxiliary organizations, unpaid interns, volunteers, applicants for employment, independent contractors, vendors, and their employees, and visitors.
19. **Title IX Coordinator:** The MPP Employee at each campus who, together with the campus DHR Administrator, is responsible for administering the Nondiscrimination Policy and coordinating compliance with Title IX, Title VI, VAWA/Campus SaVE Act, and related state and federal laws prohibiting Discrimination, Harassment, and Retaliation. The Title IX Coordinator may delegate tasks, including tasks required by the Nondiscrimination Policy, to one or more designees, provided that any designee shall be an MPP Employee or an external consultant, and the DHR Administrator and Title IX Coordinator retain overall responsibility and authority. Unless otherwise specified, the term DHR Administrator as used in this Policy encompasses the DHR Administrator, the Title IX Coordinator, or both.
20. **University Program or Activity:** A University Program or Activity includes locations, events, or circumstances where the University exercised substantial control over

both the Respondent and the context in which the conduct occurred, as well as any building owned or controlled by a student organization that is officially recognized by the CSU's Student Activities Policy. The University's Program or Activity includes employment and admissions. Conduct may occur within a University Program or Activity regardless of whether it takes place on campus, off campus, or online.

21. **Working Days:** Include Monday through Friday and exclude all official holidays or campus closures where the Complaint originated or at the Chancellor's Office where an Appeal is reviewed.

Appendix A

This Appendix describes the University's procedures for responding to allegations that a Complainant's ability to access, participate in, or benefit from a University program or activity was denied or substantially limited because an approved disability accommodation was not properly implemented.

A. Reporting and Initial Assessment

Allegations that an approved disability accommodation was not implemented should be reported to the DHR Administrator, who will conduct an initial assessment of the appropriate University response. In most cases, the DHR Administrator will promptly refer the matter to the appropriate University administrator responsible for disability accommodations for informal proceedings and remedial action (see Section B, below). However, in certain cases where aggravating factors are present, the DHR Administrator may determine that a Formal Investigation is needed (see Section C, below). The DHR Administrator also may defer the decision regarding a Formal Investigation until additional information is obtained through the informal process.

In conducting the initial assessment, the DHR Administrator may consult with the appropriate University administrator responsible for disability accommodations, reach out to the Complainant or other individuals, or obtain additional information as needed, to determine whether a Formal Investigation should be initiated. The appropriate University offices will coordinate their efforts to the extent possible to avoid unnecessary burden on the Complainant.

The University will also take reasonable steps, as appropriate, to restore equal access while the matter is being assessed, including the implementation of interim measures or temporary accommodations when necessary to preserve the Complainant's equal access.

B. Informal Proceedings and Remedies

Most allegations of Failure to Implement Disability Accommodation are expected to be addressed through informal proceedings directed by the appropriate University administrator responsible for disability accommodations.

In the informal proceedings, the appropriate University administrator will assess whether the available information indicates that the Complainant was denied equal access to, participation in, or the benefits of a University program or activity because an approved disability accommodation was not implemented effectively or as approved. If so, the University will take reasonable and appropriate steps to restore access and remedy the

effects of the failure to implement the accommodation. The purpose of the informal proceedings is not to determine whether any particular individual violated University policy, and disciplinary sanctions may not be imposed during informal proceedings. The appropriate University administrator will communicate with the DHR Administrator as needed regarding the progress and outcome of the informal proceeding and remedies.

An informal proceeding under this Appendix is not equivalent to an Informal Resolution under Section [XX] of this Nondiscrimination Policy.

C. Formal Investigation

Only the DHR Administrator may initiate a Formal Investigation into an allegation of Failure to Implement Disability Accommodation. The DHR Administrator retains discretion to initiate a Formal Investigation at any time, including before, during, or after the informal proceedings described above, depending on the circumstances of the matter.

Generally, Formal Investigations for Failure to Implement Disability Accommodation are reserved for allegations involving aggravating circumstances, including one or more of the following:

1. Whether the alleged conduct, if true, would warrant disciplinary action;
2. Whether the available information suggests a pattern of similar conduct, including multiple or prior reports involving the Respondent;
3. Whether the alleged failure to implement the accommodation appears to have been intentional;
4. The extent of the harm experienced by the Complainant;
5. Whether informal efforts have been unsuccessful in resolving the matter;
6. The risk of additional harm to the Complainant or others if a Formal Investigation is not initiated; and
7. Whether the alleged failure to implement the accommodation occurred in connection with other alleged violations of this Nondiscrimination Policy or other University policies.

In addition to these aggravating circumstances, the DHR Administrator will also consider:

1. The University's ability to conduct a thorough investigation and obtain relevant evidence; and
2. The Complainant's wishes.

If the DHR Administrator initiates a Formal Investigation, the Formal Investigation procedures in Section [XX] of this Policy apply.

If the DHR Administrator decides not to initiate a Formal Investigation, the DHR Administrator may nevertheless coordinate with appropriate University officials to take reasonable steps to restore access, remedy the effects of the alleged conduct, and prevent its recurrence.

D. Ongoing Obligation to Provide Effective Accommodations

Nothing in this Appendix limits the University's continuing obligation under applicable law to provide reasonable accommodations and to promptly take appropriate steps to ensure that qualified individuals with disabilities have equal access to University programs, services, activities, and employment opportunities while a matter under this Appendix is pending.

California State University Sexual Harassment and Sexual Misconduct Policy

[\[Add Table of Contents\]](#)

I. Policy Summary

The California State University (“CSU”) Sexual Harassment and Sexual Misconduct Policy (“the Sexual Harassment and Sexual Misconduct Policy” or “this Policy”) prohibits Sex-based Harassment (Quid Pro Quo and Hostile Environment), Sexual Harassment, Sexual Assault (Rape, Fondling, Incest, and Statutory Rape), Sexual Misconduct, Sexual Exploitation, Dating and Domestic Violence, and Stalking. Conduct prohibited by this Policy is collectively referred to below as “Prohibited Conduct.”

The Sexual Harassment and Sexual Misconduct Policy is one of two CSU policies governing Protected Status-based misconduct. This Policy addresses the above forms of Sex-based misconduct. The CSU Nondiscrimination Policy addresses all other prohibited Discrimination, Harassment, and Retaliation based on Protected Status, including certain forms of Sex-based misconduct not covered by this Policy. Together, the two policies establish the CSU’s standards for prohibiting misconduct based on Protected Status and describe the University’s processes for responding to allegations of such conduct, including ensuring the prompt and equitable resolution of Complaints of Protected Status-based misconduct. The Policy Scope and Applicability section below explains the matters covered by each policy and how the policies work together. Individuals who have experienced misconduct based on Protected Status do not need to determine which CSU policy applies when seeking assistance.

The Title IX Coordinator is the campus administrator charged with overseeing the University’s response to Sex-based misconduct, including all matters covered under this Sexual Harassment and Sexual Misconduct Policy. Questions about this Policy should be directed to the campus Title IX Coordinator.

II. Policy Scope and Applicability

A. General

Students, employees, and other individuals participating or attempting to participate in the University’s Programs and Activities have the right to do so without experiencing Prohibited Conduct.

This Policy is effective [\[Implementing Date\]](#). The definitions of Prohibited Conduct below should be used for alleged misconduct that occurs on or after [\[Implementing Date\]](#). The

procedures below should be used for Reports and Formal Complaints made on or after [Implementing Date]. The definitions for alleged misconduct that occurred before [Implementing Date] can be found in the policy in place at the time of the alleged misconduct.

This Policy will be interpreted and applied in a manner consistent with applicable federal and state law.

B. Conduct Covered Under Other CSU Policies

1. This Policy and the CSU Nondiscrimination Policy

Reports and Complaints involving Prohibited Conduct as defined in Section [XX] of this Sexual Harassment and Sexual Misconduct Policy are governed exclusively by this Policy.

Sex-based misconduct that is not covered by the definitions in Section [XX] of this Policy may still be prohibited by the University's Nondiscrimination Policy. Specifically, the Nondiscrimination Policy addresses Sex-based Discrimination as well as Harassment based on an individual's Sex that does not involve conduct of a sexual nature and is not governed by the federal government's definitions in the 2020 Title IX regulations.

When a Report or Complaint includes alleged conduct that falls under both this Policy and the Nondiscrimination Policy [hyperlink], the response procedures outlined in this Policy apply. Similarly, Formal Investigations that include allegations under both this Policy and the Nondiscrimination Policy [hyperlink] will follow the investigation procedures outlined in this Sexual Harassment and Sexual Misconduct Policy.

Allegations of retaliation against a person for engaging in protected activity under this Policy, such as making a report or participating in an investigation, will be addressed under the Nondiscrimination Policy.

2. Prohibited Consensual Relationships

The CSU's Nepotism and Prohibited Consensual Relationships Policy prohibits consensual sexual or romantic relationships between Employees and individuals over whom they exercise direct or otherwise significant academic, administrative, supervisory, evaluative, counseling, or extracurricular authority. When an investigation includes allegations under both the Nepotism Policy and the Sexual Harassment and Sexual

Misconduct Policy, the investigation will follow the procedures outlined in the Sexual Harassment and Sexual Misconduct Policy.

III. Prohibited Conduct

This Policy has two categories of Prohibited Conduct. The category that applies depends on the type of conduct alleged and the legal requirements that govern the University's response under federal and state law.

Section A – Conduct Covered by the 2020 Title IX Regulations

Section A, below, addresses conduct that is covered by the federal Title IX regulations adopted in 2020. This includes Sex-based Harassment (Quid Pro Quo and Hostile Environment), Sexual Assault (Rape, Fondling, Incest, and Statutory Rape), Dating Violence, Domestic Violence, and Stalking on the basis of Sex, as those terms are defined in the regulations.

When allegations fall within Section A, the University must follow the procedures required by the 2020 Title IX regulations before imposing discipline. Those procedures are set forth in Hearing Procedure I and include a live hearing with direct questioning conducted by the Parties' advisors.

Section B – Additional Conduct Prohibited by CSU Policy

Section B addresses additional conduct that may not be covered by the 2020 Title IX regulations but is prohibited under California law or CSU policy. This includes Sexual Harassment (Quid Pro Quo and Hostile Environment), Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, and Stalking, as defined in this Policy.

In some cases, the same alleged conduct may fall within both Section A and Section B. When that occurs, the University will evaluate the allegations under all applicable definitions.

Conduct may violate this Policy even though it does not violate civil or criminal federal or state law. A finding of responsibility under this Policy does not, therefore, indicate a violation of law, although some of the terms mirror those used in the law.

A. Title IX Prohibited Conduct

1. Sexual Harassment:

- a. **Quid Pro Quo:** An Employee conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct;
- b. **Hostile Environment:** Unwelcome conduct on the basis of Sex that is so severe, pervasive, and objectively offensive from a reasonable person's perspective that it effectively denies a person equal access to a University Program or Activity.

2. **Sexual Assault:**

- a. **Rape:** The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a person of a sex organ of another person, without the Affirmative Consent of the Complainant. Rape also includes the attempted penetration, no matter how slight, of the vagina or anus with any body part or object, or attempted oral penetration by a person of a sex organ of another person, without the Affirmative Consent of the Complainant, with the present ability and the intent to commit Rape.
- b. **Unwelcome Sexual Contact:** The intentional touching of the Complainant's clothed or unclothed body parts without the Complainant's Affirmative Consent for the purpose of sexual degradation, sexual gratification, or sexual humiliation, or the forced touching by the Complainant of the Respondent's clothed or unclothed body parts, without the Complainant's Affirmative Consent for the purpose of sexual degradation, sexual gratification, or sexual humiliation.
- c. **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- d. **Statutory Rape:** Sexual intercourse with a person who is under the age of 18 years, the California statutory age of consent.

Affirmative Consent is defined in Section [XX] below.

- 3. **Dating Violence:** Physical Violence or threat of Physical Violence committed by a person:

- a. who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and
 - b. where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship;
 - The type of relationship;
 - The frequency of interaction between the persons involved in the relationship.
4. **Domestic Violence:** Physical Violence or threat of Physical Violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant.
5. **Stalking on the basis of Sex:** Engaging in a course of conduct directed at a specific person, based on their Sex, that would cause a reasonable person to:
 - a. fear for their safety or the safety of others; or
 - b. suffer substantial emotional distress.

The definitions of Title IX Prohibited Conduct above apply to conduct that is alleged to have occurred (1) in the University's Programs or Activities (2) against a person in the United States, **and** (3) where the Formal Complaint was made by someone participating or attempting to participate in the University's Programs or Activities at the time they made the Formal Complaint or by the Title IX Coordinator.

Alleged conduct that may constitute Title IX Prohibited Conduct under this Section also should be evaluated under the definitions in Section B, below.

Alleged conduct that is not covered by Title IX – either because one or more of the three criteria above is not met, or because the allegations do not meet the definitions in this Section – should be evaluated under the definitions contained in Section B, below.

B. Additional Conduct Prohibited by the CSU

Conduct that does not fall under Section [XX] above may still be Prohibited Conduct under this Policy if it meets one or more of the definitions below.

1. Sexual Harassment:

a. **Quid Pro Quo Sexual Harassment** occurs when (1) an Employee, agent, or other person in a position of power (2) engages in unwelcome verbal, nonverbal, visual, or physical conduct of a sexual nature (including, but not limited to, sexual advances and requests for sexual favors); and (3) the Complainant's submission to, or rejection of, the conduct is explicitly or implicitly a basis for:

- Any decision affecting the Complainant's employment terms and conditions; or
- Any decision affecting a Complainant's academic status or progress; or
- Any decision affecting a Complainant's access to benefits and services, honors, programs, or activities available at or through the University.

b. **Hostile Environment Sexual Harassment** is (1) unwelcome verbal, nonverbal, visual, or physical conduct of a sexual nature (2) that, based on the totality of the circumstances, is subjectively and objectively offensive and (3) so severe or pervasive that it either:

- subjects the Complainant to an intimidating, hostile, or offensive work or educational environment; or
- denies or substantially limits the Complainant's access to services, activities, or opportunities offered by the University.

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

- The frequency, nature, and duration of the conduct;
- Whether the conduct was physically threatening;

- Whether the conduct arose in the context of other harassing or discriminatory conduct or other misconduct;
- The degree to which the conduct affected the Complainant's ability to access the CSU's Programs or Activities;
- Significant gaps in age or seniority between the Parties, their roles within the CSU's Programs or Activities, previous interactions, and other factors about each Party that may be relevant to evaluating the effects of the conduct; and
- Whether the conduct implicates academic freedom or protected speech.

Conduct need not be motivated by sexual desire to constitute sexual harassment.

Note regarding campus climate concerns: An individual may experience a hostile campus climate due to conduct of a sexual nature even if no single individual is responsible for violating this Sexual Harassment and Sexual Misconduct Policy. A hostile campus climate exists when the combined, cumulative, or aggregated conduct of multiple individuals, groups, or conditions within the University's programs and activities is sufficiently severe or pervasive, and subjectively and objectively offensive, that, under the totality of the circumstances, it creates an intimidating, hostile, or offensive work or educational environment that denies or substantially limits an individual's ability to participate in or benefit from the CSU's programs, services, activities, or employment opportunities.

If a hostile campus climate exists, even where no individual actor independently violates this Sexual Harassment and Sexual Misconduct Policy, the University will take prompt and effective steps reasonably calculated to end it, eliminate its effects, prevent recurrence, and restore or preserve equal access (including by offering reasonably available supportive measures to those impacted), provided that the University cannot discipline or take other punitive or corrective action against individuals for engaging in speech or expressive conduct that is protected by the First Amendment. However, the University's response to campus

climate concerns does not use the procedures in this Policy or otherwise fall under this Policy.

Concerns relating to a possible hostile campus climate – where no individual Respondent has been alleged to have engaged in conduct that, if true, would violate this Sexual Harassment and Sexual Misconduct Policy – will be referred to the appropriate University administrator(s) (for example, the University administrator responsible for diversity, equity, and inclusion initiatives on campus).

2. Sexual Misconduct: Engaging in any sexual activity without obtaining Affirmative Consent to the specific activity.

Sexual Misconduct also includes attempted sexual penetration (including oral penetration) without the Complainant's Affirmative Consent; attempted sexual activity that includes the use of physical force against the Complainant without the Complainant's Affirmative Consent; and the Respondent's inducement of the Complainant's incapacitation for the purpose of engaging in sexual activity with the Complainant. To constitute attempted Sexual Misconduct, the Respondent must have had the intent to engage in the sexual act and must have taken a substantial step towards committing the act.

In addition, sexual activity between a Minor and a person who is at least 18 and three years older than the Minor always constitutes Sexual Misconduct, even if there is Affirmative Consent to all sexual activity. The existence of Affirmative Consent and/or the type of sexual activity may be relevant to the determination of an appropriate Disciplinary Sanction.

Sexual Misconduct can be committed by a stranger or a non-stranger (an individual known to the victim, including through a dating or domestic relationship), and the CSU applies the same policies and procedures for both stranger and non-stranger Sexual Misconduct.

a. **Sexual activity** must be sexual in nature and may include, but is not limited to:

- kissing;
- touching private body parts (the sexual organ, anus, groin, buttocks, or breast);
- fondling;

- intercourse;
- penetration, no matter how slight, of the vagina or anus with any part or object;
- oral copulation of a sex organ by another person; and
- any physical sexual act.

b. **Affirmative Consent** means an agreement to engage in sexual activity that is informed, affirmative, conscious, voluntary, and mutual. Affirmative Consent must be given freely and without force, threats, intimidation, or by taking advantage of another person's incapacitation. It is the responsibility of each person involved in the sexual activity to ensure Affirmative Consent has been obtained from the other participant(s).

- Affirmative consent is given by clear words or actions that a reasonable person would interpret as providing consent to the sexual activity.
- Affirmative Consent must be ongoing throughout a sexual activity and can be revoked at any time, including after sexual activity begins. Once consent is withdrawn or revoked and clearly communicated, the sexual activity must stop immediately.
- Consent to one form of sexual activity or one sexual act does not constitute consent to other forms of sexual activity.
- Affirmative Consent cannot be inferred solely from an existing or previous dating, social, or sexual relationship between the Parties. Consent given to sexual activity on one occasion does not constitute consent on another occasion.
- Silence does not mean there is Affirmative Consent.
- Lack of protest or resistance does not mean there is Affirmative Consent.

- A request for someone to use a condom or birth control does not, in and of itself, mean there is Affirmative Consent.
- Affirmative Consent cannot be given by a person who is incapacitated, as defined below.
- A Respondent's assertion that they believed the Complainant provided Affirmative Consent to the sexual activity will be assessed under a reasonable person standard. In other words, the Respondent must have taken reasonable steps, under the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented, and the Respondent's conclusion that the Complainant did affirmatively consent must have been reasonable in light of the totality of the circumstances.
- On the other hand, **it** shall not be a valid excuse that the Respondent believed that the Complainant affirmatively consented to the sexual activity under either of the following circumstances: (i) the Respondent's belief in Affirmative Consent arose from the intoxication or recklessness of the Respondent; or (ii) the Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented.

c. **Incapacitation:** A person is incapacitated if they lack the physical and/or mental ability to understand the fact, nature, or extent of the sexual activity and to make and communicate informed, rational decisions about whether or not to engage in the sexual activity. Specifically, incapacitation exists where:

- A person is asleep or unconscious; or
- A person is so impaired by alcohol, drugs, or medication that they are unable to understand the fact, nature, or extent of sexual activity or are unable to communicate; or
- A person is unable to communicate due to a physical or mental condition; or

- A person is unable to understand the fact, nature, or extent of sexual activity due to a medical or mental disability.

If a person is incapacitated, they lack the ability to give Affirmative Consent to sexual activity. In evaluating Affirmative Consent in cases involving Incapacitation, the CSU considers the totality of available information in determining whether a Respondent knew or reasonably should have known that the Complainant was incapacitated.

- If a Respondent knew or reasonably should have known that the Complainant was unable to consent due to Incapacitation, it shall not be a valid excuse that the Complainant affirmatively consented to the sexual activity.
- A person's own intoxication or incapacitation from drugs or alcohol does not diminish that person's responsibility to obtain Affirmative Consent from others before engaging in sexual activity.

Incapacitation due to alcohol, drugs, or medication is a state of intoxication that is so severe that it interferes with a person's capacity to make informed and knowing decisions. A person who is incapacitated may not be able to understand where they are, whom they are with, how they got there, or what is happening.

Whether an intoxicated person is incapacitated will require an individualized determination about the extent to which the alcohol, drugs, or medication impacted the person's awareness of situations and consequences and ability to make informed judgments. Signs that a person may be incapacitated due to the influence of drugs, alcohol, or medication include, but are not limited to, the following:

- slurred speech or difficulty communicating clearly;
- clumsiness or lack of physical coordination (e.g., difficulty standing or walking without assistance);
- impaired motor skills (e.g., eating, drinking, texting);
- disorientation regarding time and place;

- difficulty concentrating;
- vomiting;
- combativeness or emotional volatility; or
- sleeping, unconsciousness, or going in and out of consciousness.

Incapacitation may also include memory impairment or an inability to recall entire or partial events (sometimes referred to as “black-out” or “brown-out”). A person may experience this symptom while appearing to be functioning “normally,” including communicating through actions or words that can reasonably be interpreted as Affirmative Consent to engage in sexual activity. A Complainant’s total or partial loss of memory, alone, may not be sufficient, without additional evidence, to prove that a Respondent knew or reasonably should have known that an individual was incapacitated under this Policy. Whether sexual activity under these circumstances constitutes Prohibited Conduct depends on the presence or absence of the outwardly observable factors indicating that an individual is incapacitated, as described above.

3. Sexual Exploitation: Taking sexual advantage of another person for the benefit of anyone other than that person without that person's Affirmative Consent, including, but not limited to, any of the following acts:

- a. The prostituting of another person.
- b. The trafficking of another person, defined as the inducement of a person to perform a commercial sex act, or labor of services, through force, fraud, or coercion.
- c. The recording of images, including video or photograph, or audio of another person's sexual activity or private body parts, without that person's consent.
- d. The distribution of images, including video or photographs, or audio of another person's sexual activity or private body parts, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to the disclosure. This includes distribution of digitally

altered or artificial-intelligence-generated images, video, and audio.

- e. The intentional viewing of another person's sexual activity or private body parts, in a place where that other person would have a reasonable expectation of privacy, without that person's consent, for the purpose of arousing or gratifying sexual desire.

4. **Dating Violence:** Physical Violence or threat of Physical Violence committed by a person:

- a. who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and
- b. where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship
 - The type of relationship
 - The frequency of interaction between the individuals involved in the relationship

5. **Domestic Violence:** Physical Violence or threat of Physical Violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant.

6. **Stalking:** Engaging in a Course of Conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer Substantial Emotional Distress.

- a. Course of Conduct means two or more acts, including but not limited to, acts in which one party directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about the other party, or interferes with the other party's property.
- b. Substantial Emotional Distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

IV. Making a Report or Formal Complaint of Prohibited Conduct

A. Reporting

Anyone may report Prohibited Conduct.

1. **Reporting Options:** Reports can be made in person or by mail, telephone, or electronic mail, using the contact information listed for the Title IX Coordinator or the University's online reporting portal. **[ADD LINKS]** Reports may be made anonymously. Depending on the information reported, the University's ability to respond to anonymous reports may be limited.
2. **Timeframe for Making a Report:** There is no time limit for reporting, and individuals are encouraged to report concerns regardless of how much time has passed. However, specific circumstances, including the passage of time, may prevent the University from gathering sufficient evidence to investigate the allegations or make a determination or from imposing discipline. In all cases, the University will assess for reasonably available Supportive Measures to offer the Complainant.
3. **Removing Barriers to Reporting:** The CSU prohibits Retaliation for exercising a right under this Policy. If an individual is reluctant to report because they fear Retaliation, they should discuss their concerns with the Title IX Coordinator as soon as possible.

Any Student who participates as a Complainant or witness in any proceeding under this Policy will not be disciplined for related violations of the Standards for Student Conduct at or near the time of the incident, unless the University determines that the violation was egregious. The University may, however, take other appropriate action, including having an educational discussion with the Student.

Egregious conduct includes, but is not limited to, action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

B. Making a Formal Complaint

While anyone may report alleged violations of this Sexual Harassment and Sexual Misconduct Policy, only the following individuals may request that the University begin a Formal Investigation (also referred to in this Policy as making or filing a Formal Complaint):

1. A University Student or Employee who is alleged to have experienced Prohibited Conduct;
2. A person who is not a University Student or Employee who is alleged to have experienced Prohibited Conduct while participating in, or attempting to participate in, a University Program or Activity;
3. A person who is legally authorized to act on behalf of an individual described in paragraphs 1 or 2; or
4. The University's Title IX Coordinator.

A Complainant may file a Formal Complaint by submitting to the Title IX Coordinator a written request for an investigation into alleged violations of this Policy. The request should be signed (physically or digitally) or otherwise indicate that the Complainant is the person filing the Formal Complaint. For example, an email or electronic reporting form sent by the Complainant requesting or confirming the request for an investigation constitutes a Formal Complaint. A Title IX Coordinator's Formal Complaint should be written and signed (physically or digitally).

C. Confidentiality and Privacy

Once the University becomes aware of a potential violation of the Sexual Harassment and Sexual Misconduct Policy, it is required to respond. To respond appropriately, the University may need to share information related to a Report, Formal Complaint, or associated process with individuals who have a legitimate need to know. This may include sharing information to gather relevant facts, provide or coordinate Supportive Measures, or conduct an investigation. In some circumstances, as described in Section XXX, the Title IX Coordinator may determine that the University must initiate a Formal Investigation, even if the Complainant does not want the University to do so, in order to ensure a safe and nondiscriminatory campus environment. |

For these reasons, the University cannot guarantee confidentiality. However, the University will make reasonable and appropriate efforts to protect individuals'

privacy and to limit the sharing of information to those with a legitimate need to know. The University will also protect the confidentiality of information as required by the Family Educational Rights and Privacy Act (FERPA) and other applicable privacy laws.

V. Procedures for Responding to Reports and Formal Complaints of Prohibited Conduct

This section outlines the procedures the University follows when it becomes aware of possible Prohibited Conduct under this Policy. The Title IX Coordinator oversees this response, in collaboration with other University offices as appropriate. The University's response may or may not include a Formal Investigation and disciplinary sanctions.

A. Applicability of Procedures

The University will respond to reports of alleged misconduct in accordance with these Procedures if the alleged misconduct may violate the Sexual Harassment and Sexual Misconduct Policy and it:

1. Occurred on campus, OR
2. Involved or impacted a University Program or Activity, OR
3. Affected a Student's or Employee's ability to participate in a University Program or Activity;

AND

4. The alleged conduct must have been committed by or against a person who, at the time of the alleged misconduct, was a Student or Employee.

However, when the alleged conduct falls outside the University's disciplinary authority, the University will take reasonable steps within its authority to address the reported conduct and support affected individuals. Such actions may include offering supportive measures and resources to those impacted but typically will not include Formal Investigation or disciplinary action.

B. Initial Assessment and Response

The University will take reasonable steps to respond to all Reports and Formal Complaints of Prohibited Conduct.

1. Upon receiving a Report or Formal Complaint, the Title IX Coordinator will make a preliminary assessment of whether the matter falls within the Title IX Coordinator's administrative responsibility. If it does not, it will promptly be referred to the appropriate campus policy, procedure, or administrator (e.g., Faculty Affairs, Human Resources, or Student Conduct). If the Report or Formal Complaint was submitted firsthand by someone who experienced alleged misconduct, the Title IX Coordinator will generally inform the individual of the referral.
2. Upon receiving a Report or Formal Complaint of possible Prohibited Conduct under this Policy, the University will:
 - a. **Outreach:** Promptly contact the Complainant by sending outreach that explains their rights, resources, and options, including, but not limited to, the following: (1) information about Supportive Measures and resources available to those impacted; (2) information about the Formal Investigation process, reporting rights and responsibilities, and other appropriate resolution options including Informal Resolution; and (3) information about the Complainant's right to file a Formal Complaint.
 - b. **Preliminary Information Gathering:** Undertake a limited factual inquiry narrowly tailored to gather information necessary to determine what is reported to have occurred and how to appropriately proceed. Specifically, the Title IX Coordinator will attempt to gather information from the Complainant or Reporting Party or that is otherwise readily available to assess the allegations and determine the appropriate response. This inquiry will not involve resolving disputed facts, assessing credibility, or determining responsibility.
 - c. **Initial Response:** Based on preliminary information gathered, the University may take prompt and appropriate responsive actions designed to stop Prohibited Conduct, prevent its recurrence, and remedy its impact—when those actions do not involve Disciplinary Sanctions.

C. Evaluation and Notification After Initial Assessment and Response

After the Initial Assessment and Response to a Report or Formal Complaint of an alleged violation of the Sexual Harassment and Sexual Misconduct Policy, the Title IX Coordinator will evaluate whether to initiate a Formal Investigation under this Policy, either because: (1) the Complainant has made a Formal Complaint; or (2) the Title IX Coordinator has determined that a Formal Investigation is necessary to promote a safe and nondiscriminatory environment for the campus community. Based on this evaluation, the Title IX Coordinator will either move the Report or Formal Complaint forward to Formal Investigation under the process set forth in Section [XX], below, or close the Report or Formal Complaint, after which it may be referred to another University policy, procedure, or administrator.

The factors to be considered in this evaluation are set forth in subsections (1) and (2), below, as are the appropriate notification protocols.

1. Cases Involving a Formal Complaint Made by a Complainant

- a. **Evaluation:** In cases where the Complainant has made a Formal Complaint (requested a Formal Investigation in writing), the Title IX Coordinator must investigate the allegations in the Formal Complaint unless one of the following mandatory or discretionary dismissal grounds apply:
 - i. **Mandatory Dismissal:** At any time after the Initial Assessment and before a Notice of Investigation has been issued, the Title IX Coordinator **must** dismiss a Formal Complaint, or any part of a Formal Complaint, if they determine that the conduct alleged, even if proven, would not constitute Prohibited Conduct as defined in this Policy.
 - ii. **Discretionary Dismissal:** At any time after the Initial Assessment and before a Notice of Investigation has been issued, the Title IX Coordinator **may** dismiss a Formal Complaint, or any part of a Formal Complaint, where they determine that:
 - 1. The Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint or any part of it; or

2. The Respondent is not or is no longer enrolled or employed by the University; or
3. Specific circumstances prevent the University from reasonably gathering evidence necessary to reach a determination as to the Formal Complaint or part of the Formal Complaint. For the purposes of this provision, specific circumstances may include, but are not limited to:
 - Based on information gathered during the Initial Assessment, the University determines that the passage of time has resulted in the unavailability of relevant witnesses or material evidence and that reasonable efforts to obtain such evidence would be ineffective;
 - The identity of the Respondent cannot be determined after reasonable efforts have been made to identify the Respondent during the Initial Assessment;
 - Based on information gathered during the Initial Assessment, the University determines that the Complainant's refusal to participate in the Formal Investigation process will result in insufficient factual information to reach a determination;
 - The allegations in the Formal Complaint were previously evaluated and dismissed or closed pursuant to this Policy, and the Complainant did not present new evidence or information that was not reasonably available at the time of the prior resolution. In such circumstances, the Title IX Coordinator may determine that specific circumstances prevent the University from

gathering additional evidence sufficient to reach a new determination.

- b. **Notification:** The Title IX Coordinator's determination as to whether or not to investigate allegations made by a Complainant in a Formal Complaint will result in the following Notifications:
- i. **Formal Complaint Accepted for Formal Investigation:**
Within [X] Working Days of the date of receipt of Complainant's request to initiate a Formal Investigation, the Title IX Coordinator will send a Notice of Investigation to the Complainant and Respondent. The Notice of Investigation will identify the allegations being investigated and the procedure that applies to the investigation. Additional requirements for the Notice of Investigation are set forth in Section [XX].
 - ii. **Formal Complaint Not Accepted for Formal Investigation:** If the Title IX Coordinator determines that a Formal Investigation of the Formal Complaint is not warranted based on one of the mandatory or discretionary grounds set forth in section [X] above, the Title IX Coordinator will, within [X] Working Days of the date of receipt of Complainant's request to initiate a Formal Investigation, notify the Complainant in writing that the Formal Complaint will not be investigated under the Sexual Harassment and Sexual Misconduct Policy; and explain the basis for the determination. The notice will reference the applicable mandatory or discretionary dismissal grounds. The Title IX Coordinator may refer the Formal Complaint to another University policy, procedure, or administrator if appropriate, and will notify the Complainant of any referral.
 - In cases where the Formal Complaint (1) alleges conduct that the Complainant asserts is Title IX Prohibited Conduct (Sexual Harassment (Quid Pro Quo or Hostile Environment), Sexual Assault, Dating Violence, Domestic Violence, or Sex-Based Stalking under the definitions set forth in Section [XX]) and (2) was filed at a time when the Complainant was

participating or attempting to participate in the University's Programs or Activities, the written notice shall be issued to the Complainant and Respondent, and both Parties may appeal the decision not to accept a Formal Complaint for investigation under this Policy. See Section [XX] for appeal information.

- In all other cases, the Title IX Coordinator's decision not to accept a Formal Complaint for investigation under this Policy is final and not subject to appeal.

2. Cases Involving a Report Only (No Formal Complaint Made by a Complainant)

- Evaluation:** In cases involving a Report of Prohibited Conduct where the Complainant has not made a Formal Complaint, the Title IX Coordinator will evaluate whether a Formal Investigation is necessary to promote a safe and nondiscriminatory environment. If so, the Title IX Coordinator has discretion to initiate the Formal Investigation process by making a Formal Complaint on behalf of the University, including in situations where a Complainant has not responded to outreach, has chosen not to make a Formal Complaint, has requested that a Formal Investigation not occur, and/or has indicated that they will not participate in a Formal Investigation. These investigations are referred to as Title IX Coordinator-initiated Formal Investigations. In Title IX Coordinator-initiated Formal Investigations, the Title IX Coordinator will remain neutral in applying the Sexual Harassment and Sexual Misconduct Policy and Formal Investigation process.

When a Complainant requests that no investigation occur or does not participate in the process after reasonable attempts to engage the Complainant, the Title IX Coordinator will take into account the Complainant's wishes and will balance them against the University's duty to provide a safe and nondiscriminatory environment for all members of the campus community. In doing so, the Title IX Coordinator will consider, at a minimum:

- The Complainant's request not to proceed with initiation of a Formal Investigation;

- The reasons for the Complainant's request not to investigate, including any reasonable safety concerns regarding the initiation of an investigation;
- The risk that additional acts of Prohibited Conduct would occur if a Formal Investigation were not initiated;
- The severity of the alleged Prohibited Conduct including whether the conduct, if established, would require the removal of a Respondent from campus;
- Whether the Respondent poses an imminent threat to the campus community, which may include violence, threats of violence, use of a weapon, physical restraints, or unwanted physical contact;
- Significant disparities in age and the relationship of the Parties, including any power imbalance and including whether the Respondent is a faculty or staff member with oversight of students;
- The scope of the alleged conduct, including information suggesting a pattern (such as multiple or prior reports of misconduct against the Respondent), ongoing conduct, or conduct alleged to have impacted multiple individuals;
- Whether the University is able to conduct a thorough investigation and obtain relevant evidence without the Complainant's cooperation;
- Whether the University could end the alleged Prohibited Conduct and prevent its recurrence without initiating a Formal Investigation; and
- For Employee Complainants, the University will also consider its obligation to maintain a safe work environment in determining whether an investigation is necessary.

b. **Notification:** The Title IX Coordinator's determination as to whether or not to investigate the allegations in a Report will result in the following notifications:

- i. **Title IX Coordinator-Initiated Investigation:** If the Title IX Coordinator determines that a Formal Investigation is necessary, they will file a Formal Complaint on behalf of the University and, within [X] Working Days of the filing of the Formal Complaint, will issue a Notice of Investigation identifying the allegations being investigated and the procedure that applies to the investigation. In the Notice of Investigation in a Title IX Coordinator-initiated investigation, the Complainant will be referred to as the Impacted Party and will be informed before the University starts the investigation or discloses their identity to the Respondent. Additional requirements for the Notice of Investigation are set forth in Section [XX].
- ii. **No Investigation:** If the Title IX Coordinator does not initiate a Formal Investigation, they will notify the Complainant that the Complainant may make a Complaint under the Sexual Harassment and Sexual Misconduct Policy at any time. The Title IX Coordinator will take reasonable steps to limit the effects of the alleged Prohibited Conduct and prevent its recurrence without initiating formal action against the Respondent. The Title IX Coordinator also may refer the alleged conduct to another University policy, procedure, or administrator, if appropriate, and will notify the Complainant of any referral.

VI. Supportive Measures

A. General

The University provides and coordinates Supportive Measures as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent, with or without a Formal Complaint. Such measures are non-disciplinary, non-punitive individualized services designed to deter Prohibited Conduct or to restore or preserve a person's access to the University's Programs or Activities without unreasonably burdening the other Party, including measures designed to protect the safety of all Parties or the University's educational environment.

The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures. As described in Section [XX], above, the Title IX Coordinator will provide the Complainant with information about Supportive Measures during the Initial Assessment. The Title IX Coordinator will provide information about Supportive Measures to the Respondent during an initial meeting.

Duration: Supportive Measures may remain in place as long as required to preserve access to the University's Programs or Activities. They also may be made permanent as part of the resolution of a matter. The Title IX Coordinator may end Supportive Measures that are no longer necessary to restore or preserve access to the University's Program or Activities.

Review of Supportive Measures: Supportive Measures may be modified or terminated depending on the Parties' evolving needs, as assessed by the Title IX Coordinator. A Complainant or Respondent may request modification or termination of a Supportive Measure applicable to them if circumstances change materially by contacting the Title IX Coordinator.

Privacy and Information Sharing: The University will make reasonable efforts to protect the privacy of information about Supportive Measures. Information will be shared only with individuals who need it to implement the Supportive Measures or help ensure that a Party can continue to participate in the University's Programs or Activities, or when disclosure is required by state or federal law.

B. Examples of Supportive Measures

Supportive Measures may include, but are not limited to:

- Academic support including tutoring, counseling, extensions of deadlines, and other course-related adjustments;
 - Generally, the University is unable to provide academic supportive measures on a retroactive basis. This means, for example, that students who require academic supportive measures must request assistance from the University prior to the deadline or exam for which they require support.
- Employment support including change to a different workstation, schedule, work location, unit, department, or reporting line;

- Disability services, health and mental health services, and referral to employee assistance programs;
- Housing assistance or modifications;
- Campus escort services;
- Increased security and monitoring of certain areas of the campus;
- Restrictions on contact applied to one or more Parties, including No-Contact Directives;
- Leaves of absence;
- Modifications to extracurricular or other activities, regardless of whether or not there is a comparable alternative; and
- Training and education programs related to Prohibited Conduct.

While the examples above may be appropriate in some cases, the determination of Supportive Measures will be made on an individualized basis. Such measures must be reasonably available, non-disciplinary, and non-punitive, and must be designed to deter Prohibited Conduct or restore or preserve access to the University's Programs or Activities, without unreasonably burdening the other Party.

No-Contact Directives: No-contact directives may be issued with or without a Formal Investigation, as a Supportive Measure, Remedy, or in connection with an Informal Resolution Agreement. A no-contact directive is appropriate when reasonably needed – and where less restrictive measures would be insufficient – to protect a Party's health and safety or to preserve the integrity of the investigation. A no-contact directive must be delivered to the Parties in writing and must explain the terms of the directive and the consequences for violating the no-contact directive. No-contact directives are intended to be temporary and will be reassessed by the Title IX Coordinator on an ongoing basis.

No-contact directives that are issued at any time prior to the outcome of a Formal Investigation may be mutual (prohibiting the Parties from contacting each other) or unilateral (prohibiting the Respondent from contacting the Complainant), based on the circumstances of each case.

After a finding that the Sexual Harassment and Sexual Misconduct Policy has been violated, any no-contact directive will be unilateral. No-contact directives will not limit an individual's movement on a University campus unless the conduct alleged

is egregious, an objective threat of physical harm exists, or as agreed upon in an Informal Resolution.

Violations of no-contact directives will be addressed by the appropriate campus administrator (Student Conduct for students, and Human Resources or Faculty Affairs for employees). If the alleged violation of the no-contact directive is itself a violation of the Sexual Harassment and Sexual Misconduct Policy, the matter will be referred to the Title IX Coordinator.

VII. Other Interim Actions

A. Interim Suspension of a Student Respondent

The University may impose an interim suspension on a Student Respondent in matters determined to fall under Hearing Procedure II or the Non-Hearing Procedure where there is reasonable cause to believe that interim suspension is necessary to protect the personal safety of persons within the campus community or campus property, and to ensure the maintenance of order during an investigation. Interim suspension may be considered for a Student Respondent who is, or soon will be, subject to a Formal Investigation or disciplinary proceeding under Hearing Procedure II or the Non-Hearing Procedure for an alleged violation of the Sexual Harassment and Sexual Misconduct Policy. Interim suspension also may be considered where no Formal Investigation or hearing is pending while the University takes reasonable steps to gather information and determine whether to commence a Formal Investigation. In those circumstances, the University will regularly reassess whether interim suspension remains necessary. If a Formal Investigation is not commenced within a reasonable amount of time, the interim suspension will be revoked unless the need for interim suspension is supported by other circumstances.

In determining whether an interim suspension is necessary, the Title IX Coordinator will gather reasonably available information needed to inform the determination and will provide a written recommendation to the Vice President of Student Affairs (or their designee) on whether to impose an interim suspension and the rationale.

Interim suspensions will be implemented in accordance with the procedures under the Student Conduct Process and will only remain in effect during the Formal Investigation or disciplinary process until determined to be no longer necessary. The Title IX Coordinator will coordinate with Student Conduct to ensure appropriate implementation and ongoing assessment.

B. Emergency Removal of a Student Respondent

The University may remove a Student Respondent from University programs and activities on an emergency basis where there is an immediate threat to the physical health or safety of any student or other individual arising from allegations of Title IX Prohibited Conduct. Emergency removal may be considered for a Student Respondent who is, or soon will be, subject to a Formal Investigation or disciplinary proceeding under Hearing Procedure I for an alleged violation of the Sexual Harassment and Sexual Misconduct Policy. Emergency removal also may be considered where no Formal Investigation or hearing is pending while the University takes reasonable steps to gather information and determine whether to commence a Formal Investigation. In those circumstances, the University will regularly reassess whether emergency removal remains necessary. If a Formal Investigation is not commenced within a reasonable amount of time, the emergency removal will be revoked unless the need for emergency removal is supported by other circumstances.

In determining whether an emergency removal is necessary, the Title IX Coordinator will lead an individualized safety and risk analysis tailored to determine whether there is an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Title IX Prohibited Conduct that justifies removal. The Title IX Coordinator will provide a written recommendation to the Vice President of Student Affairs (or their designee) on whether to impose an emergency removal and the rationale.

Emergency removals will be implemented in accordance with the procedures under the Student Conduct Process and will only remain in effect during the Formal Investigation or disciplinary process until determined to be no longer necessary. The Title IX Coordinator will coordinate with Student Conduct to ensure appropriate implementation and ongoing assessment.

C. Administrative Leave for an Employee Respondent

The University may place an Employee Respondent on paid administrative leave (sometimes referred to as temporary suspension) during a Formal Investigation or disciplinary proceeding concerning a violation of the Sexual Harassment and Sexual Misconduct Policy, consistent with University policy and applicable collective bargaining agreements.

D. Transcript Notations and Administrative Holds for a Student Respondent

When a Student Respondent has been issued written notice of a Formal Investigation or disciplinary proceeding under the Sexual Harassment and Sexual Misconduct Policy, the University will impose a transcript notation indicating that a conduct investigation or disciplinary proceeding is pending, which will remain until a final outcome is rendered in the matter.

The notation will not reflect a finding of responsibility for a policy violation. Typically, a transcript notation implemented prior to a determination of responsibility will be updated upon completion of a Formal Investigation, including any appeals, and either replaced with the appropriate sanction notation or removed altogether depending on the outcome of the investigation.

The University also may issue administrative holds on transcripts, registration transactions, release of educational records, or degrees, in accordance with the provisions below and the Student Conduct Process.

In Formal Investigations falling under Hearing Procedure I, the University may not place an administrative hold on a Student Respondent's degree prior to a determination of responsibility unless an independent basis for the hold exists, such as a separate Student Conduct proceeding. When initiating a Formal Investigation against a Student Respondent under Hearing Procedure II or the Non-Hearing Procedure, the Title IX Coordinator will consider whether an administrative hold on the Respondent's degree is appropriate in light of the totality of the circumstances, including the severity of the conduct, the likelihood that a finding of responsibility would result in suspension or expulsion, and the likelihood that, in the absence of a degree hold, the Respondent would receive their degree before the conclusion of the Formal Investigation process.

Any administrative hold imposed prior to a determination regarding responsibility shall be made on a case-by-case basis and will be non-punitive, temporary, and procedural. The hold will not reflect a finding of responsibility for a policy violation. Such measures will be removed when no longer necessary or as otherwise provided in the Student Conduct Process.

When a Student Respondent is found responsible for having violated the Sexual Harassment and Sexual Misconduct Policy, the Title IX Coordinator will place an administrative hold on their degree, including a degree otherwise earned, until any appeals, disciplinary proceedings, and resulting sanctions are completed.

VIII. Informal Resolution Process

The Informal Resolution process is a voluntary alternative to a Formal Investigation. It allows the Parties, with the University's involvement, to resolve allegations of Prohibited Conduct without an investigation. Informal Resolution aims to resolve matters in an efficient, fair, and respectful manner through facilitated dialogue, mediation, or restorative justice practices. If the Parties reach a mutually acceptable resolution and the University approves its terms, they will sign a written agreement. Once signed, the agreement is final and may not be appealed.

A. General Principles

1. The Parties may choose to take part in an Informal Resolution process if they wish. Participation is voluntary. The filing of a Formal Complaint is not required to begin the Informal Resolution process, except as provided below:
 - a. For allegations subject to Hearing Procedure I, the Informal Resolution Process may not commence unless and until a Formal Complaint has been filed.
2. The Title IX Coordinator will determine whether it is appropriate to offer, continue, or conclude an Informal Resolution process. They may decline to allow Informal Resolution even if one or both Parties request it. Informal Resolution is not appropriate in cases where the Title IX Coordinator determines that the alleged conduct, even if true, is not Prohibited Conduct under this Policy.
 - a. For allegations subject to Hearing Procedure I, Informal Resolution may not be used to resolve allegations made by a Student against a University Employee.
 - b. Informal Resolution may not be used to resolve allegations of Sexual Harassment (Hostile Environment or Quid Pro Quo) made by a Student against a University Employee.
 - c. Informal Resolution may not be used to resolve allegations that a University Employee committed Sexual Assault or Sexual Misconduct.
3. Information and records gathered during the Informal Resolution process will not be used in any other University process arising out of the same

allegations, including in a Formal Investigation into the same allegations should the Informal Resolution process be unsuccessful.

4. **Timeframe:** Informal Resolution may take place at any time before a determination of responsibility is made. In most cases, the Informal Resolution process should be finished within [X] Working Days after both Parties give written consent to participate in the process. However, this timeline may be extended if the Parties and the Title IX Coordinator agree. If a Formal Investigation is already in progress when the Informal Resolution process begins, the Parties may be notified that the Formal Investigation is being paused, and will not be concluded, until the Informal Resolution process is completed, in which case the Title IX Coordinator may grant a good faith extension of the investigation timeline pursuant to Section [XX], below.

B. Initiating the Informal Resolution Process

1. **Notice of Informal Resolution Process:** Before the Informal Resolution process begins, the Title IX Coordinator will send the Parties a written notice that explains the following:
 - a. The allegations;
 - b. The Informal Resolution process;
 - c. The Parties' right to consult with an Advisor during the Informal Resolution process, and, in cases involving Student Respondents, their right to request that the University provide them with an Advisor;
 - d. That any Party may withdraw from the Informal Resolution process at any time before reaching a signed Informal Resolution agreement and may begin or continue with a Formal Investigation instead;
 - e. What information the University will keep from the Informal Resolution process and whether or how this information could be used in a Formal Investigation if one begins or resumes; and
 - f. That once both Parties sign an Informal Resolution, they cannot begin or continue a Formal Investigation into the same allegations, nor can they appeal the Informal Resolution.

2. The Title IX Coordinator must obtain voluntary, written consent from the Parties before proceeding with the Informal Resolution process. No one will be required to give up the right to a Formal Investigation as a condition of enrollment, employment, or the exercise of any other right at the University.
 - a. In cases where the Title IX Coordinator has made a Formal Complaint involving an Impacted Party, absent exceptional circumstances, the Informal Resolution process cannot begin without the consent of the Impacted Party.

C. Facilitation of the Informal Resolution Process

1. The Title IX Coordinator may facilitate and will oversee the Informal Resolution process. Anyone facilitating an Informal Resolution process will receive appropriate training and must not have a Conflict of Interest or bias for or against an individual Complainant or Respondent or complainants or respondents generally. The facilitator of an Informal Resolution may not serve as an investigator into the same allegations without receiving an exception from a Systemwide Director for Civil Rights.
2. The Parties have the right to suggest terms to include in the Informal Resolution.
3. Informal Resolutions may not include a nondisclosure agreement as a term.
4. An Informal Resolution may include, but is not limited to, the following possible terms:
 - a. An apology;
 - b. Relocation or removal from University housing, subject to availability;
 - c. Changes to academic or work arrangements;
 - d. Restrictions on, agreements about, or alternate arrangements for participation in, or presence at, University programs, activities, events, or locations;
 - e. Participation in and/or successful completion of alcohol or drug education or counseling;

- f. Participation in counseling services for mental or behavioral health;
- g. Participation in specific educational opportunities or training;
- h. Other voluntary educational, mentoring, coaching, or counseling sessions, which may include requirements such as showing proof of completion or a statement of participation from the mentor, coach, or counselor;
- i. Verbal counseling or warnings;
- j. Agreements on behavioral or institutional changes;
- k. No-contact directives, or other restrictions on contact between the Parties;
- l. A written or verbal impact statement from the Complainant shared with the Respondent;
- m. Admission or acceptance of responsibility for causing harm or engaging in the alleged conduct;
- n. Community service; and
- o. Voluntary participation by the Respondent in formal Disciplinary Sanctions, including suspension, expulsion, and termination.

D. Finalizing Informal Resolution

1. The Title IX Coordinator will make the final determination on whether the terms agreed to by the Parties are appropriate.
 - a. If the Informal Resolution includes Disciplinary Sanctions, the Title IX Coordinator will consult with the appropriate University administrator responsible for discipline before approving it.
 - b. If the Informal Resolution resolves allegations of Sexual Harassment against a University Employee, the campus president also must approve the Informal Resolution prior to finalization.
2. **Written Agreement – Not Subject to Appeal:** The terms of an Informal Resolution must be in writing and signed by the Parties and the Title IX Coordinator. Electronic signatures are allowed. Once the Informal Resolution is signed, it is final and cannot be appealed by either Party.

3. Any Remedies and Disciplinary Sanctions agreed to in an Informal Resolution have the same effect as Remedies given and Disciplinary Sanctions imposed after a Formal Investigation. Failure to adhere to the terms of an Informal Resolution agreement may result in referral to the appropriate University administrator (Student Conduct Administrator for Student Respondents, or Human Resources or Faculty Affairs for Employee Respondents).

IX. Formal Investigation Process

A. General

The University will provide for adequate, reliable, and impartial investigations of Formal Complaints under the Sexual Harassment and Sexual Misconduct Policy. The Formal Investigation process is not adversarial. During the Formal Investigation process the University will treat Complainants and Respondents equitably and the Title IX Coordinator will oversee and serve as a neutral facilitator of the process. The Title IX Coordinator will ensure that individuals involved in conducting Formal Investigations, making disciplinary decisions, or facilitating any other proceeding under this Policy are appropriately trained and free from actual Conflicts of Interest or biases for or against an individual Complainant or Respondent or complainants or respondents generally.

B. Initiating a Formal Investigation

1. **Written Notice of Investigation:** To initiate a Formal Investigation, the Title IX Coordinator will provide the parties with a written notice of the allegations, an explanation of their rights, the applicable procedures, available resources, and this Policy. The Notice of Investigation will include factual details known at the time, and will be provided to the Respondent with sufficient time to prepare a response before an initial interview.

The Notice of Investigation will include, at a minimum:

- a. The identities of the Parties involved in the incident, if known;
- b. A description of the conduct alleged to constitute Prohibited Conduct, including the date (or date range) and location of the alleged incident, if known;

- c. A statement that the Respondent is presumed not responsible for the alleged conduct, and that a determination regarding responsibility will be made at the conclusion of the investigative process;
- d. A copy of, or hyperlink to, this Policy;
- e. The definitions of Prohibited Conduct that the Respondent is alleged to have engaged in, and, for Student Respondents, the relevant Standards for Student Conduct [[link](#)];
- f. An identification of the procedure that will apply to the investigation (Hearing Procedure I, Hearing Procedure II, or the Non-Hearing Procedure);
- g. Information about the right to appeal (if applicable) and the Informal Resolution process;
- h. That Retaliation is prohibited;
- i. The estimated timeline for completion of the investigation;
- j. Information regarding counseling and other Supportive Measures;
- k. A statement that the Parties may have one Advisor of their choice who may be, but is not required to be, an attorney or union representative, and, in cases involving Student Respondents, may request that the University provide them with an Advisor;
- l. A statement that the Parties will have equal opportunities to identify Relevant witnesses and evidence in connection with the investigation, including the ability to:
 - Submit documentary information to the investigator;
 - Submit a list of potential witnesses to the investigator; or
 - Request that the investigator attempt to collect additional Relevant evidence;
- m. A statement that any evidence available, but not disclosed during the investigation, may not be considered for purposes of appeal;
- n. A statement that knowingly providing false or misleading information is prohibited and may result in Disciplinary Sanctions;

- o. An explanation of how a Party may request accommodations relating to the Formal Investigation process;
- p. A statement that the Parties will have an equal opportunity to review the Preliminary and Final Investigation Reports and all evidence directly related to the allegations under investigation;
- q. A statement regarding the possible range of Disciplinary Sanctions; and
- r. In Title IX Coordinator-initiated Formal Investigations, a statement that the Impacted Party did not request a Formal Investigation but that the Title IX Coordinator determined one was necessary.

Identification of Investigation Procedures in Notice of Investigation:

Because federal and state laws impose different procedural requirements depending on the alleged conduct and the status of the Respondent, the University uses three procedures to resolve Formal Investigations under this Policy. While most aspects of the investigation process are consistent across all cases, the procedures differ at the end of the investigation, providing three distinct methods for reaching a resolution: (1) Hearing Procedure I, which utilizes a live hearing during which a Hearing Officer makes factual findings and policy determinations; (2) Hearing Procedure II, which is similar to Hearing Procedure I but with certain changes to the hearing due to different requirements in state versus federal law; and (3) the Non-Hearing Procedure, during which the investigator makes factual findings and policy determinations. The Notice of Investigation will identify which of these procedures apply.

- **Hearing Procedure I:** This procedure, which contains certain procedural protections required by federal law, applies to all allegations of Title IX Prohibited Conduct under Section [XX]. If all of the following criteria are met, then the Formal Investigation will proceed under Hearing Procedure I. If one or more of these criteria are not met, then Hearing Procedure II or the Non-Hearing Procedure apply.
 - The alleged conduct, if true, would constitute at least one form of Title IX Prohibited Conduct; and

- The Formal Complaint was filed by someone who was participating or attempting to participate in the University's Programs or Activities at the time of filing (or by the Title IX Coordinator); and
 - The conduct is alleged to have occurred against a person in the United States; and
 - The alleged conduct occurred in a University Program or Activity.
- **Hearing Procedure II:** This procedure, which contains protections required by state law in certain cases, applies to certain allegations against Student Respondents. If all of the following criteria are met and Hearing Procedure I does not apply, then the Formal Investigation will proceed under Hearing Procedure II.
 - The Respondent is a Student; and
 - The allegations involve Sexual Misconduct, Dating Violence, or Domestic Violence, as defined in Section [XX].
 - **Non-Hearing Procedure:** This procedure applies to all Formal Investigations under this Policy that do not fall under Hearing Procedure I or Hearing Procedure II.

For all Formal Investigations initiated under Hearing Procedure II or the Non-Hearing Procedure, the Notice of Investigation will include the reason the case did not meet the criteria to proceed under Hearing Procedure I, with an opportunity to appeal this decision within 10 Working Days on certain grounds, as set forth in Section [XX].

Revising the Notice of Investigation: During the Formal Investigation, the Title IX Coordinator may issue a revised Notice of Investigation to the Parties as necessary to correct, clarify, or supplement material factual allegations, applicable policy provisions, or other information set forth in the Notice of Investigation.

Consolidation: The Title IX Coordinator may combine Formal Investigation processes for Formal Complaints 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 arise out of the same or closely related facts or circumstances. The Consolidation process is subject to the Family Educational Rights and Privacy Act (FERPA) and other applicable privacy laws. If matters are consolidated, this will be indicated in the Notice of Investigation or a revised Notice of Investigation.

2. **Initial Meetings with the Parties:** After issuing a Notice of Investigation, the Title IX Coordinator will offer to meet with the Complainant and Respondent individually to explain the allegations; the Formal Investigation process; and the Complainant's and Respondent's rights during the Formal Investigation process.
3. **Assignment of Investigator:** The Title IX Coordinator will either investigate or assign a trained, impartial investigator to investigate the allegations in the Notice of Investigation.

C. Conducting a Formal Investigation

1. **Standard and Burden of Proof:** The standard of proof for the Formal Investigation process is whether the alleged conduct more likely than not occurred based on the evidence or facts available at the time of the decision – known as the Preponderance of the Evidence standard. The burden is on the University to gather sufficient evidence to determine whether Prohibited Conduct occurred. The University presumes that the Respondent is not responsible for the alleged conduct until a determination is made at the conclusion of the Formal Investigation process.
2. **Gathering Evidence:** During the Formal Investigation process, the investigator will make reasonable efforts to gather all Relevant evidence from the Parties, witnesses, or other sources, including inculpatory (meaning that it shows or tends to show a person committed the alleged policy violation), exculpatory (meaning that it shows or tends to show that a person did not commit the alleged policy violation), and credibility-related evidence. The University will provide an equal opportunity for the Parties to identify witnesses and present Relevant evidence. The Parties are encouraged to provide all Relevant information, evidence, witness lists, and question lists as soon as possible to facilitate a prompt investigation of the Formal Complaint.

The investigator will review all Relevant and permissible documents and physical evidence that is timely provided by the Parties. The investigator; however, will not consider impermissible evidence. Impermissible evidence includes:

- a. Evidence protected by a legally recognized privilege, unless the person holding the privilege has waived it in writing;
- b. A Party's or witness's medical, psychological, or similar treatment records maintained by a physician, psychologist, or other recognized professional or paraprofessional, unless the Party or witness provides voluntary, written consent for their use; or
- c. Evidence of the Complainant's sexual interests or prior sexual behavior, unless such evidence:
 - i. Is offered to prove that someone other than the Respondent committed the alleged conduct; or
 - ii. Concerns specific incidents of prior sexual behavior between the Complainant and the Respondent and is offered to prove consent.

Where evidence of prior or subsequent consensual sexual relations between the Complainant and Respondent is deemed Relevant and permissible, the mere fact that the Parties engaged in other consensual sexual activity is not sufficient, by itself, to establish consent to the conduct at issue. Prior consensual sexual conduct between the Parties does not preclude a determination that the alleged conduct violated the Sexual Harassment and Sexual Misconduct Policy.

- d. A recording made in violation of California law is generally impermissible, except, in certain cases, for the limited purpose of assessing credibility.

The investigator may decline to gather requested evidence when the burden of producing it substantially outweighs any benefit it may have to the issues in dispute or when the investigator determines that the evidence is unlikely to have significant probative value. The investigator will document the steps taken to gather evidence, even when those efforts are not successful.

Formal rules of evidence applied in courtroom proceedings (e.g., the Federal Rules of Evidence, the California Evidence Code) do not apply to investigations under this Policy. The investigator has discretion to decide whether evidence is Relevant and/or directly related to the allegations under investigation.

3. **Interviews:** The investigator will make reasonable attempts to interview the Parties and witnesses believed to have Relevant information. As appropriate to the investigation, the investigator may conduct follow-up interviews or request responses to questions in writing. Parties may propose questions for the Investigator to ask other Parties or witnesses. The investigator has discretion to determine which questions are Relevant to the investigation and may decline to ask questions that are irrelevant, repetitive, or harassing.
4. **Advisors:** Parties may be accompanied by one Advisor of their choice throughout the Formal Investigation process, who may, but is not required to be, an attorney or a union representative. For more information on Advisors, consult the Glossary. A Party's Advisor may not answer questions regarding the subject matter of the investigation for the Party. However, the Advisor may observe and consult with the Party.
5. **Reasonable Accommodations:** Any person with a Disability who seeks reasonable accommodations to participate in a Formal Investigation or other proceeding under this Policy will be referred to the appropriate campus administrator (for Students, the services for students with disabilities administrator, and for Employees the appropriate Human Resources administrator), who will determine and approve reasonable accommodations in accordance with applicable University policies. The appropriate campus administrator will consult with the Title IX Coordinator to determine the reasonableness of a requested accommodation.
6. **Investigation Where a Party or Witness Does Not Participate:** The Respondent will not be found to have violated the Sexual Harassment and Sexual Misconduct Policy solely because the Respondent did not participate in the Formal Investigation process. Nor will the Respondent be found not to have violated the Sexual Harassment and Sexual Misconduct Policy solely because a Complainant or other witness did not participate in the investigation process.

7. **Title IX Coordinator-Initiated Formal Investigations:** When a Title IX Coordinator initiates an investigation pursuant to Section [XX], the Impacted Party retains all the procedural rights of a Complainant, including the right to receive all information required under this Policy, unless the Impacted Party declines this right in writing. A Student Impacted Party will not be required to participate in an investigation if they do not wish to do so.
8. **Expert Witnesses:** An investigator may consult medical, forensic, technological, or other experts in circumstances where the investigator determines that specialized knowledge is necessary to analyze the issue(s) under investigation. In such cases, the investigator must consult with the Title IX Coordinator prior to engaging an expert witness.

D. Expectations for Party and Witness Conduct:

1. **Discussion of Allegations and Anti-Retaliation:** The University will not restrict the ability of either Party to discuss the allegations under investigation or to gather and present Relevant evidence. However, in doing so, Parties and witnesses must not engage in Retaliation or conduct that interferes with the Formal Investigation process. This includes threatening, intimidating, coercing, harassing, improperly attempting to influence another person's participation or testimony, or otherwise interfering with any Party, witness, or other individual participating in the Formal Investigation.
2. **Cooperation in the Formal Investigation Process:** Employees and Students who are not Parties may be directed to participate in the Formal Investigation and other proceedings under this Policy, including but not limited to, attending meetings, interviews, and hearings. The campus will take reasonable steps to facilitate attendance.
3. **Good Faith and Honesty:** All Parties, witnesses, and anyone else participating in a Formal Investigation or other proceeding under this Policy are expected to act in good faith and provide truthful information. Knowingly giving false or misleading information is prohibited and may result in Disciplinary Sanctions. This provision does not apply to Reports or Complaints made or information provided in good faith, even if the information cannot be proven. An unsubstantiated allegation alone does

not necessarily indicate that statements made in a Formal Investigation were false, misleading, or made in bad faith.

4. **Disclosure of Investigation Materials:** During the entirety of the Formal Investigation process, including any Hearing and appeal, if applicable, the Parties and witnesses are prohibited from disclosing the information or records obtained through their participation in the Formal Investigation process. This provision will not restrict the ability of the Parties to obtain and present evidence during the Formal Investigation, including by speaking to witnesses, consulting with family members, confidential resources, or Advisors, or otherwise preparing for or participating in the Formal Investigation process. These restrictions also do not apply to information learned through other means, such as personal experience, or to disclosures made during another administrative proceeding or through litigation.

E. Discretionary Dismissal and Case Reorientation During the Formal Investigation Process

At times, new information or events that arise during the Formal Investigation process may warrant dismissing the allegations under investigation or reorienting a matter from one procedure under this Policy to another. This section sets forth the grounds upon which a Title IX Coordinator may dismiss or reorient a Formal Complaint, or a portion of a Formal Complaint, after the issuance of a Notice of Investigation and prior to the issuance of a Final Investigation Report.

1. Discretionary Dismissal Grounds

If the Title IX Coordinator determines that one or more of the grounds below applies, they **may** dismiss the Complaint or a portion thereof:

- a. The conduct alleged by the Complainant, even if proven, would not constitute Prohibited Conduct under this Policy;
- b. The Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint or any part of it; or
- c. The Respondent is no longer enrolled in or employed by the University;

- d. Specific circumstances prevent the University from reasonably gathering evidence necessary to reach a determination; or

A dismissal of a Formal Complaint, or portion of a Formal Complaint, on any of the grounds listed above does not preclude the University from addressing the alleged conduct in a non-disciplinary manner or from referring alleged conduct that does not violate the Sexual Harassment and Sexual Misconduct Policy to another appropriate University policy, procedure, or administrator for review, further investigation, and/or determination as to whether corrective and/or disciplinary action is warranted.

2. Case Reorientation Grounds

If the Title IX Coordinator determines that the conduct alleged by the Complainant, if proven, may constitute Prohibited Conduct but would lead to a different case orientation determination than that identified in the Notice of Investigation, then the Title IX Coordinator **may** reorient the Formal Investigation from one process under this Policy to a different process under this Policy (e.g., reorient a matter from Hearing Process I to Hearing Process II or the Non-Hearing Process).

3. Appeals of Discretionary Dismissal and Case Reorientation Determinations

If at any point during the Formal Investigation process the Title IX Coordinator determines that a Formal Complaint, or a portion of a Formal Complaint, should be dismissed or reoriented on any of the grounds listed above, both parties will be notified of the determination and the applicable ground on which the determination was made. The Parties will also be notified of their right to appeal the dismissal or reorientation within [X] Working Days from the date of the notice. For more information on Appeals, see Section [XX], below.

F. Acceptance of Responsibility:

The Respondent may, at any time prior to a determination as to responsibility during a Formal Investigation under Hearing Procedure II or the Non-Hearing Procedure (in other words, prior to a Hearing Officer Report under Hearing Procedure II or a Final Investigation Report under the Non-Hearing Procedure), choose to accept responsibility for all alleged

conduct and all alleged policy violations identified in the Notice of Investigation. This section does not apply to Formal Investigations under Hearing Procedure I.

1. Before a Respondent accepts responsibility, the Title IX Coordinator will discuss with the Respondent that the matter will proceed to Disciplinary Sanctions, and that the acceptance of responsibility could – but will not necessarily – be regarded as a mitigating factor that results in less severe sanctions.
2. Acceptance of responsibility will only be recognized if the Respondent accepts responsibility by signing a written document prepared by the Title IX Coordinator that describes the range of Disciplinary Sanctions that may result from the acceptance of responsibility. Once the written document is signed, the Respondent's acceptance of responsibility will have the same effect as a finding of responsibility made by an investigator in a Final Investigation Report at the conclusion of a Formal Investigation, except that an acceptance of responsibility cannot be appealed.
3. Once the Respondent has accepted responsibility in writing, the Title IX Coordinator will issue a brief written summary of the allegations and a statement that the Respondent has accepted responsibility, concluding the Formal Investigation. The written summary will be sent to both the Complainant and the Respondent.
4. The matter will then proceed to Disciplinary Sanctions pursuant to Section [XX] and the sanctioning procedures in the Non-Hearing Procedure.
5. If the Respondent accepts responsibility for some but not all of the alleged conduct, or for the alleged conduct but not all alleged policy violations, the Formal Investigation process will continue to conclusion, unless otherwise resolved through Informal Resolution or a discretionary dismissal.

G. Review of Evidence

Prior to the completion of the Formal Investigation, the investigator will prepare and share with the Parties (and their Advisors, if any) a Preliminary Investigation Report summarizing the investigation process and all Relevant evidence.

At the same time that the Preliminary Investigation Report is shared, the Parties (and their Advisors, if any) will also be provided with an equal opportunity to review all permissible evidence obtained during the investigation that is directly related to the allegations in the Notice of Investigation. This includes evidence the University does not intend to rely upon in reaching a determination of responsibility, as well as both inculpatory and exculpatory evidence, regardless of the source. The University, however, will not provide impermissible evidence (as set forth in Section [XX]) to the Parties for review.

The sharing of the Preliminary Investigation Report and all directly related evidence is known as Review of Evidence. Review of Evidence will generally be conducted electronically, with the Preliminary Investigation Report and evidence simultaneously shared with the Parties in an electronic format. The materials provided are confidential and may be used solely for the purpose of participating in the Formal Investigation process. The University may require the Parties and their Advisors to sign a non-disclosure agreement (NDA) or similar confidentiality agreement before granting access to the evidence. The University may take additional steps to safeguard particularly sensitive materials.

Each Party will be given at least 10 Working Days to submit a response to the evidence, if they wish. Any such response may not exceed [XXX] words. The Investigator will consider the Parties' responses. If the Investigator obtains new evidence that is Relevant to the allegations during the initial Review of Evidence, the Investigator will make that evidence available to the Parties in a second limited Review of Evidence period and will provide a reasonable and time-limited opportunity for the Parties to review and respond. The investigator will determine when to conclude the Review of Evidence process and, absent exceptional circumstances, will not allow more than two Review of Evidence periods.

After the Review of Evidence process concludes, the Formal Investigation will proceed pursuant to the applicable procedures in Hearing Procedure I, Hearing Procedure II, or the Non-Hearing Procedure.

X. Hearing Procedure I

The following procedures apply to cases that fall under Hearing Procedure I.

A. Final Investigation Report

After the conclusion of the Review of Evidence, the investigator will prepare and share with the Parties (and their Advisors, if any) a Final Investigation Report summarizing the investigation process and Relevant evidence gathered, including any additional Relevant evidence gathered during the Review of Evidence. It will generally be shared in an

electronic format, with all exhibits and documents that are directly related to the allegations attached.

Within 10 Working Days after the issuance of the Final Investigation Report, the Parties may submit a written response for consideration by the Hearing Officer. No less than 15 Working Days after the issuance of the Final Investigation Report, the University will schedule a live hearing pursuant to the Procedures below.

B. Administration and Pre-Hearing Procedures

1. **The Hearing Coordinator:** The Hearing Coordinator, who may be the Title IX Coordinator or a designee (but may not be the investigator assigned to the matter), is responsible for administrative coordination of the hearing, including: scheduling the hearing; providing written notice of the hearing; coordinating technology and logistics; providing the Hearing Officer with the investigation report and all evidence subject to inspection and review; and serving as procedural liaison between the Parties and the Hearing Officer. The Hearing Coordinator does not make substantive determinations.
2. **Notice of Hearing:** At least 15 Working Days prior to the Hearing, the University will send the Parties written notice of the hearing. The Notice of Hearing will include the date, time, and format (in-person or virtual) of the hearing; identity of the Hearing Officer; a list of participants; and the purpose of the hearing.
3. **Hearing Officer:** The Hearing Officer will be free from Conflicts of Interest and bias for or against complainants or respondents generally or the individual Parties. The Hearing Officer may not have served as the Investigator of the matter nor the Title IX Coordinator.

Within 5 Working Days of the Notice of Hearing, a Party may submit a written objection to the appointed Hearing Officer. Parties' objections may only be based on an actual Conflict of Interest. The Title IX Coordinator will determine whether removal is warranted and, if so, appoint a new Hearing Officer.

The Hearing Officer will preside over the hearing process and make all procedural, substantive, and evidentiary determinations. The Hearing Officer has ultimate authority over the relevance of witnesses, questions, and evidence; enforces the rules of decorum set forth in Section [XX];

ensures that each Party has a full and fair opportunity to present evidence and conduct cross-examination through their Hearing Advisor; determines the weight of the evidence; applies the preponderance of the evidence standard; and issues a written report after the Hearing that includes factual findings and determinations as to responsibility.

4. **Hearing Advisors and Support Persons:** Within 5 Working Days of the Notice of Hearing, the Parties are required to provide the name and contact information for their Hearing Advisor or request that the University assign them a Hearing Advisor. The Hearing Advisor may, but is not required, to be the same individual who served as the Party's Advisor during the Formal Investigation process. Each Party must have a Hearing Advisor for purposes of conducting cross-examination at the Hearing, including if the Party chooses not to attend the Hearing. If a Party does not have a Hearing Advisor present at the Hearing, the campus will provide one without fee or charge. Hearing Advisors conduct cross-examination of the other Party and Witnesses. Parties may not personally conduct cross-examination.

In addition to the Hearing Advisor, each Party may, but is not required to, have a Support Person of their choice to accompany them at the Hearing. The Party's Support Person may not be a witness in the Formal Investigation or Hearing.

Neither Hearing Advisors nor Support Persons may make opening statements, closing arguments, or otherwise advocate.

The unavailability of a Party's specific Hearing Advisor or Support Person of choice will not unreasonably delay scheduling.

5. **Witness Lists and Proposed Questions:** No later than 15 Working Days before the hearing, each Party may submit a proposed witness list including the name and contact information for each proposed witness, as well as an explanation of the relevance of each proposed witness's testimony. The Hearing Officer determines which witnesses have relevant testimony and shall be invited to attend the hearing. The Hearing Officer may also identify witnesses from the Final Investigation Report. The final witness list will be shared with the Parties no later than 10 Working Days before the hearing, at which time each witness will be notified of the date, time, and location of the Hearing and will be directed to attend.

Parties may submit proposed questions for the Hearing Officer's consideration no later than 5 working days before the hearing. Submission is encouraged but not required. Proposed questions will not be shared with the other Party prior to the hearing.

The hearing officer will determine which questions, if submitted, are Relevant.

6. **Availability of Evidence:** All evidence gathered during the investigation, including evidence deemed by the investigator to be not Relevant nor directly related to the allegations under investigation, will be available to the Hearing Officer prior to the Hearing for the Hearing Officer's evidentiary determinations, reference, and use. All evidence determined to be either directly related to the allegations or Relevant will be made available to the Parties at the Hearing for their reference and use.
7. **Evidence Standards:** The Hearing Officer determines the Relevance of evidence, including Party and witness testimony, pursuant to the standards set forth in Section [VIII(c)(2)] above. Formal rules of evidence applied in courtroom proceedings (e.g., the Federal Rules of Evidence, the California Evidence Code) do not apply to Hearings under this Policy.

The Hearing Officer has discretion to exclude evidence not previously disclosed during the investigation if it was reasonably available at that time. For good cause, the Hearing Officer also has discretion to accept such evidence.

8. **Attendance of Witnesses:** All Employees and all Students who are not Parties, but are witnesses, may be directed to participate in the Hearing. The campus will take reasonable steps to facilitate attendance.

C. Hearing Procedures

1. **Live Hearing:** The University will conduct a live hearing, which will generally be conducted virtually using videoconferencing technology that enables all participants to simultaneously see and hear each other. Neither Party will be required to be physically present in the same room as another Party or Witnesses. The Parties may, but are not required, to attend the entirety of the Hearing.

The hearing is closed to the public. Participants are limited to: the Parties; each Party's Hearing Advisor; each Party's Support Person, if any;

Witnesses (while providing their account); the Title IX Coordinator, the Hearing Coordinator, the investigator, and any other necessary University administrators; the Hearing Officer; and any person necessary to create a formal record of the proceeding.

The Hearing Officer controls the Hearing and makes whatever rulings are necessary to ensure a fair hearing.

2. **Hearing Format:** At the beginning of the hearing, the Hearing Officer will provide an overview of the hearing process and address any preliminary matters or Party's questions about the hearing process.
3. **Opening Statements:** The Hearing Officer will permit each Party to provide an opening statement that may not last longer than 10 minutes.
4. **Order of Statements:** The Investigator or the Title IX Coordinator (if not the Investigator) will generally be the first Witness and will summarize the Formal Complaint, Investigation Process, and evidence. The Hearing Officer will determine the order of questioning for the remaining Parties and Witnesses.
5. **Questioning and Cross Examination by Advisors:** First, the Hearing Officer will question the Parties and Witnesses.

Next, each Party's Hearing Advisor may ask Relevant and permissible questions (cross-examination) to the other Party or each witness. Parties may not directly ask questions to each other or witnesses. Parties may not be questioned by their own Hearing Advisor. All cross-examination must be conducted directly, orally, and in real time by the Party's Hearing Advisor.

Only Relevant and permissible questions, including follow-up questions and credibility-related questions, may be asked, and only Relevant and permissible evidence may be referenced. The Hearing Officer will determine whether questions are Relevant and permissible. Before a Party or Witness answers a cross-examination question, the Hearing Officer must determine whether the question is Relevant and permissible. Objections by Parties and Hearing Advisors are not permitted. The Hearing Officer may decline to allow questions that are irrelevant, impermissible, repetitive, harassing, or otherwise inappropriate. If excluded, the Hearing Officer will explain the decision to exclude the question on the record. When determining whether a

question is Relevant and permissible the Hearing Officer will evaluate the question pursuant Section [XX] above.

Hearsay (which generally refers to secondhand information or statements about what someone else said) may be considered by the Hearing Officer but will only be given the weight appropriate under all of the circumstances, with due consideration given to the importance of credibility assessment.

If a Party or witness declines to attend the hearing, the Hearing Officer may consider prior Relevant statements that the person made, either within or outside of the Formal Investigation process. However, before doing so, the Hearing Officer will assess the reliability of the statements by considering all relevant factors, which may include: the fact that the statements were not subject to questioning at the Hearing; the extent to which the statement is corroborated by or consistent with other evidence; the circumstances under which the statement was made and whether those circumstances support its reliability; the reason the Party or witness did not submit to questioning; and the extent to which assessing the credibility of the person who made the statement is important to resolving disputed facts. Absent extenuating circumstances, when the Party's or witness's prior statements are central to the determination of responsibility, the Hearing Officer will give the statements little or no weight unless there are sufficient indicia of reliability or other evidence that independently supports the statement.

If a Party or witness attends the hearing but declines to submit to questioning by the Hearing Officer and/or the other Party's Hearing Advisor, the Hearing Officer will engage in the same analysis described above in determining the reliability of the person's statements both during and prior to the Hearing.

6. **Hearing Decorum:** All participants in a hearing, including the Parties, Hearing Advisors, Support Persons, witnesses, and administrators must: (1) treat all participants with respect and professionalism; (2) refrain from abusive, intimidating, harassing, or threatening behavior; (3) comply with the Hearing Officer's instructions and rulings; (4) maintain confidentiality of the proceeding; and (5) refrain from recording the hearing.

The Hearing Officer has the authority to maintain order and decorum throughout the hearing; require questions to be asked in a respectful

manner; pause, recess, or reconvene the hearing as necessary; and may remove any individuals whose behavior materially disrupts the proceeding.

7. **Failure to Appear:** If a Party fails to appear at the hearing without good cause the hearing will nevertheless proceed. Whether good cause exists is determined by the Hearing Officer. If a Party fails to appear at the hearing or chooses to leave during the hearing, the Hearing Advisor for the non-appearing Party will attend the hearing and question the other Party and Witnesses. No inference as to responsibility may be drawn solely from a Party's absence.
8. **Recording:** The University will create an audio or audiovisual recording or transcript of the hearing. The recording is institutional property. No other recording is permitted. Upon request Parties may inspect and review the recording during a Formal Investigation under this Policy (including any appeals) or resulting disciplinary process.

D. Hearing Officer Report and Sanction Determination Procedures

1. Hearing Officer Report

Within approximately 10 Working Days after the hearing, the Hearing Officer will prepare, and submit to the Title IX Coordinator, a written report (the Hearing Officer Report) making factual findings on the allegations and determining whether or not the Respondent violated the Sexual Harassment and Sexual Misconduct Policy.

The Hearing Officer Report will include:

- a. A statement of each allegation under investigation and a summary of the Relevant, permissible evidence for each allegation;
- b. A brief summary of the investigation process, including a summary of the procedural steps taken from the receipt of the Formal Complaint through the determination, including notifications to the Parties, interviews with Parties and Witnesses, methods used to gather other evidence, and hearings held;
- c. A statement explaining the applicable procedures and the basis for their application in the matter;

- d. The definitions of Prohibited Conduct that the Respondent is alleged to have engaged in (and, for Student Respondents, the relevant Standards for Student Conduct);
- e. The Preponderance of the Evidence standard;
- f. Credibility determinations when appropriate;
- g. Findings of fact for each allegation, supported by any necessary explanation and/or analysis of the evidence on which the findings are based;
- h. For each allegation, an analysis and determination of whether Respondent violated this Policy, with reference to the relevant factual findings; and
- i. Relevant exhibits and documents attached to the written report.

The Title IX Coordinator will review the Hearing Officer Report to ensure procedural compliance with this Policy.

The Title IX Coordinator will issue the Hearing Officer Report to the Parties simultaneously and in writing. The Hearing Officer Report will generally be issued electronically and will be accompanied by a communication that summarizes whether or not the Respondent was found responsible for violating the Sexual Harassment and Sexual Misconduct Policy.

If no violation of the Sexual Harassment and Sexual Misconduct Policy is found, the Parties will also receive notification of their appeal rights. For more information on appeals, see section [X].

If a violation of the Sexual Harassment and Sexual Misconduct Policy is found, the sanction procedures in subsections (2) and (3), below, apply.

2. Sanction Procedures

If the Hearing Officer determines that the Respondent violated the Sexual Harassment and Sexual Misconduct Policy, the Parties will have 5 Working Days to submit to the Title IX Coordinator (or designee) a statement regarding discipline that does not exceed 2000 words in length. The statement is an opportunity for the Parties to suggest disciplinary outcomes and provide information they believe is important for the University to consider in imposing discipline.

The Title IX Coordinator will coordinate with the appropriate University administrator (e.g., Student Conduct for Student Respondents or Human Resources or Faculty Affairs for Employee Respondents) to jointly determine the appropriate recommended sanction. This determination will be based upon the Hearing Officer's findings and any other information relevant to sanctioning (including aggravating and mitigating information and information in the Parties' statements regarding discipline).

The sanction recommendation and an accompanying rationale will be provided in writing to the campus president (or designee), who will review the Hearing Officer Report and the sanction recommendation and may adopt or modify the recommended sanction. The president's (or designee's) sanction determination and rationale will be provided to the Hearing Officer.

The Hearing Officer will then incorporate a Sanctions Statement into the Hearing Officer Report, consisting of:

- a. The president's (or designee's) disciplinary sanctions determination and rationale; and
- b. A statement that the Title IX Coordinator will determine whether the Complainant will be provided with additional remedies tailored to restore or preserve equal access to the University's program or activity.

For more information on sanctions, see Section [X].

3. Hearing Officer Report and Sanctions Statement

The Hearing Officer Report and Sanctions Statement will be provided to the Parties simultaneously, generally within 20 Working Days after the Hearing concludes.

The Hearing Officer Report and Sanctions Statement will usually be delivered to the Parties electronically and will be accompanied by a communication that summarizes whether or not the Respondent was found responsible for violating the Sexual Harassment and Sexual Misconduct Policy and an explanation of the Parties' appeal rights. For more information on Appeals, see Section [XX], below.

XI. Hearing Procedure II

For cases that fall under Hearing Procedure II, the procedures in Hearing Procedure I apply in full except as follows:

1. **Advisors and Support Persons:** Parties may, but are not required to, have one Advisor and one Support Person present at the Hearing. Neither the Advisor nor the Support Person may be a witness in the Formal Investigation or Hearing. In cases involving Student Respondents, Parties are entitled to request that the University provide them with an Advisor. If a Party does not attend a Hearing, their Advisor and Support Person are not entitled to attend.

Neither Advisors nor Support Persons may make opening statements, closing arguments, conduct cross-examination, or otherwise advocate at the Hearing.

The unavailability of a Party's specific Advisor or Support Person of choice will not unreasonably delay scheduling.

2. **Questioning and Cross-Examination:** Live questioning of Parties and witnesses shall be conducted only by the Hearing Officer.

Parties and their Advisors and Support Persons will not directly question other Parties or witnesses. Parties may propose questions to the Hearing Officer in writing, either in advance of the hearing and/or during the hearing.

Only Relevant and permissible questions, including follow-up questions and credibility-related questions, may be asked, and only Relevant and permissible evidence may be referenced. The other Party shall have the opportunity to note an objection to any questions posed. The objections may be limited to written form, and will not require a response other than to include any such objections in the record. The Hearing Officer shall determine whether questions are Relevant and permissible before asking them. When determining whether a question is Relevant and permissible the Hearing Officer will evaluate the question pursuant Section [XX] above.

The Hearing Officer shall pose approved questions to the target Party or witness. The Hearing Officer may decline to ask questions that are

irrelevant, impermissible, repetitive, harassing, or otherwise inappropriate.

Hearsay (which generally refers to secondhand information or statements about what someone else said) may be considered by the Hearing Officer but will only be given the weight appropriate under all of the circumstances, with due consideration given to the importance of credibility assessment.

If a Party or witness declines to attend the hearing, the Hearing Officer may consider prior Relevant statements that the person made, either within or outside of the Formal Investigation process. However, before doing so, the Hearing Officer will assess the reliability of the statements by considering all relevant factors, which may include: the fact that the statements were not subject to questioning at the Hearing; the extent to which the statement is corroborated by or consistent with other evidence; the circumstances under which the statement was made and whether those circumstances support its reliability; the reason the Party or witness did not submit to questioning; and the extent to which assessing the credibility of the person who made the statement is important to resolving disputed facts. Absent extenuating circumstances, when the Party's or Witness's prior statements are central to the determination of responsibility, the Hearing Officer will give the statements little or no weight unless there are sufficient indicia of reliability or other evidence that independently supports the statement. If a Party or witness attends the hearing but declines to submit to questioning by the Hearing Officer, the Hearing Officer will engage in the same analysis described above in determining the reliability of the person's statements both during and prior to the Hearing.

All other references to a Party's Hearing Advisor in Hearing Procedure I should be interpreted to refer to a Party's Advisor in Hearing Procedure II.

XII. Non-Hearing Procedure

The following procedures apply to cases that fall under the Non-Hearing Procedure.

A. Final Investigation Report

After the conclusion of the Review of Evidence, the investigator will prepare a Final Investigation Report making factual findings on the allegations and determining whether or

not the Sexual Harassment and Sexual Misconduct Policy has been violated. The Final Investigation Report will include:

1. A statement of each allegation under investigation and a summary of the Relevant, permissible evidence for each allegation;
2. A brief summary of the investigation process including a summary of the procedural steps taken from the receipt of the Formal Complaint through the determination, including notifications to the Parties, interviews with Parties and Witnesses, and methods used to gather other evidence;
3. A statement explaining which procedures apply;
4. The definitions of Prohibited Conduct that the Respondent is alleged to have engaged in (and, for Student Respondents, the relevant Standards for Student Conduct);
5. The Preponderance of the Evidence standard;
6. Credibility determinations when appropriate;
7. Findings of fact for each allegation, supported by an explanation and/or analysis of the evidence on which the findings are based;
 - Only Relevant and permissible evidence, including Party and witness testimony, may be considered by the investigator. When determining whether evidence is Relevant and permissible, the investigator will evaluate the evidence pursuant to Section [XX] above.
 - Hearsay (which generally refers to secondhand information or statements about what someone else said) may be considered by the investigator but will only be given the weight appropriate under all of the circumstances, with due consideration given to the importance of credibility assessment.
 - If a Party or witness declines to submit to questioning during the Formal Investigation process, the investigator may consider prior Relevant statements that the person made, either within or outside of the Formal Investigation process. However, before doing so, the investigator will assess the reliability of the statements by considering all relevant factors, which may include: the fact that the statements were not subject to questioning during the

investigation; the extent to which the statement is corroborated by or consistent with other evidence; the circumstances under which the statement was made and whether those circumstances support its reliability; the reason the Party or witness did not submit to questioning; and the extent to which assessing the credibility of the person who made the statement is important to resolving disputed facts. Absent extenuating circumstances, when the Party's or Witness's prior statements are central to the determination of responsibility, the investigator will give the statements little or no weight unless there are sufficient indicia of reliability or other evidence that independently supports the statement.

8. For each allegation, an analysis and determination of whether Respondent violated this Policy, with reference to the relevant factual findings; and
9. Relevant exhibits and documents attached to the written report.

The Title IX Coordinator will issue the Final Investigation Report to the Parties simultaneously and in writing. The Final Investigation Report will generally be issued electronically and will be accompanied by a communication that summarizes whether or not the Respondent was found responsible for violating the Sexual Harassment and Sexual Misconduct Policy and an explanation of the Parties' appeal rights. For more information on Appeals, see Section [XX], below.

B. Sanction Procedures

In cases involving Student Respondents, if the Final Investigation Report determines that the Respondent violated the Sexual Harassment and Sexual Misconduct Policy, the Parties will have 5 Working Days to submit to the Title IX Coordinator (or designee) a statement regarding discipline that does not exceed 2000 words in length. The statement is an opportunity for the Parties to suggest disciplinary outcomes and provide information they believe is important for the University to consider in imposing discipline.

In all cases in which a Respondent has been found to have violated the Sexual Harassment and Sexual Misconduct Policy, the Title IX Coordinator will coordinate with the appropriate University administrator responsible for discipline (e.g., Student Conduct for Student Respondents or Human Resources or Faculty Affairs for Employee Respondents) to jointly determine the appropriate recommended sanction or range of sanctions. This determination will be based upon the findings in the Final Investigation Report and any

other information relevant to sanctioning (including aggravating and mitigating information and information in the Parties' statements regarding discipline, if applicable).

After the Parties' appeal rights have been exhausted, the Title IX Coordinator will notify the appropriate University administrator responsible for discipline (e.g., Student Conduct for Student Respondents or Human Resources or Faculty Affairs for Employee Respondents) that the disciplinary process may begin and will provide to the appropriate University administrator the Final Investigation Report, appeal outcome if any, parties' statements regarding discipline if applicable, and the recommended sanction or range of sanctions with an accompanying rationale for the recommendation. No discipline will be imposed prior to the exhaustion of Parties' appeal rights.

For more information on Disciplinary Sanctions, see Section [XX].

XIII. Appeals

A. General

Parties have the right to appeal under the following circumstances:

1. Either parties may appeal a determination as to whether this Policy was violated in a Hearing Officer's Report under Hearing Procedure 1, and the non-prevailing Party may appeal a determination as to whether this Policy was violated in a Final Investigation Report under the Non-Hearing Procedure or a Hearing Officer's Report under Hearing Procedure II;
2. Either Party may appeal a decision to discretionarily dismiss a Formal Complaint, or a portion of a Formal Complaint, or to reorient a Formal Complaint from one procedure to another, that occurs at any time after a Notice of Investigation is issued pursuant to Section [XX];
3. Either Party may appeal a decision not to accept a Formal Complaint for investigation pursuant to Section [XX].
 - This section applies only in cases where the Formal Complaint (1) alleges conduct that the Complainant asserts is Title IX Prohibited Conduct (Sexual Harassment – Quid Pro Quo or Hostile Environment, Sexual Assault, Dating Violence, Domestic Violence, or Sex-Based Stalking) under the definitions set forth in Section [XX] and (2) was filed at a time when the Complainant was participating or attempting to participate in the University's Programs or Activities);

4. Either Party may appeal a case orientation decision pursuant to Section [XX] that results in the initiation of an investigation under Hearing Procedure II or the Non-Hearing Procedure.

All other decisions and resolutions under this Policy are final and not appealable under these procedures, including Informal Resolutions, a Respondent's acceptance of responsibility, and all other decisions not to investigate an allegation under this Policy and/or to refer an allegation to another University policy, procedure, or administrator.

B. Appeal Procedures

1. **Filing an Appeal to the Chancellor's Office:** A written appeal may be submitted to the Chancellor's Office Civil Rights Programming & Services Appeals Unit ("Civil Rights Appeals Unit") no later than [X] Working Days after notice of the decision being appealed is issued. All information supporting the appeal must be submitted by the deadline to be considered. In an appeal, the appealing Party must explain why they believe that one of the specified bases for appeal applies and how the determination being appealed was affected. A written appeal may not exceed 3,500 words, excluding exhibits. Appeals will be submitted to:

Civil Rights Appeals Unit
Systemwide Human Resources
Office of the Chancellor
401 Golden Shore
Long Beach, California 90802 [CO-
Appeals@calstate.edu](mailto:CO-Appeals@calstate.edu)

2. Electronic submission to the email address listed above is the preferred method of submitting appeals. If a Party is unable to submit an appeal or a response to an appeal electronically, they should contact the campus Title IX Coordinator for assistance.
3. **Bases for Appeal:** An appeal must be based only on one or more of the appeal issues listed below:
 - a. Based on the factual findings made by the decision-maker (the investigator in cases falling under the Non-Hearing Procedure or the Hearing Officer in cases falling under Hearing Procedures I or II), there was no reasonable basis for the investigation or hearing

outcome. – *For appeals of determinations of responsibility only*

- b. There was a procedural irregularity that changed the outcome of the decision being appealed. – *For all appeals under this Section*
- c. New evidence is available that would change the outcome of the decision being appealed and that was not reasonably available when the decision was made. – *For all appeals under this Section*
- d. The Title IX Coordinator, investigator, or Hearing Officer had a Conflict of Interest or bias that changed the outcome of the decision being appealed. – *For all appeals under this Section*

4. **Evidence on Appeal:** The evidence introduced on appeal will be limited to evidence identified during the investigation or Hearing, unless the appealing Party satisfies appeal basis (c) above. The Civil Rights Appeals Unit may communicate, at their discretion, with the appealing Party to clarify the written appeal.
5. **Acknowledgement of Appeal:** The Civil Rights Appeals Unit will provide written acknowledgement of the receipt of the appeal to the appealing Party no later than [X] Working Days after receipt of the appeal. Within [X] Working Days, the Civil Rights Appeals Unit will determine whether the appealing Party has properly stated a basis for appeal under sections (a)-(d) above. If the appeal is rejected because it does not properly state a basis for appeal, the Civil Rights Appeals Unit will inform both Parties and the campus Title IX Coordinator that the appeal has been rejected. If the appeal is accepted, the Appeals Unit will provide prompt written notification of the appeal, including a copy of the appeal, to the non-appealing Party and the campus Title IX Coordinator. The notice will include the right of the non-appealing Party and the University to provide a response to the appeal within [X] Working Days of the date of the notice. The appeal response will be limited to 3,500 words, excluding exhibits. Any response to the appeal received by the Civil Rights Appeals Unit will be provided to the appealing Party for informational purposes only.
6. **Reasonable Accommodation:** The Civil Rights Appeals Unit will provide reasonable accommodations to any Party or witness in the appeal process with a qualified Disability upon request by the person needing

the accommodation. The Civil Rights Appeals Unit will consult with the appropriate University administrator (for Students, the services for students with disabilities administrator, and for Employees the appropriate Human Resources administrator) to determine the reasonableness of a requested accommodation.

7. **Scope of Review:** The Civil Rights Appeals Unit will not conduct a new investigation or Hearing; however, for appeals involving appeal basis (c), the Civil Rights Appeals Unit may make reasonable inquiries to determine if the new evidence would be likely to change the outcome of the decision being appealed. On appeal, the Civil Rights Appeals Unit does not reweigh the evidence, re-decide conflicts in the evidence, or revisit determinations made by the Investigator or Hearing Officer about the credibility or reliability of witnesses and the Parties.
8. **Civil Rights Appeals Unit Response:** The Civil Rights Appeals Unit's response will include a summary of the issues raised on appeal, a summary of the evidence considered, and the determinations reached regarding the issues identified within the written appeal. A copy of the Civil Rights Appeals Unit's response will be issued to the Parties and the Title IX Coordinator simultaneously. The appeal response determination is final. If a discretionary or mandatory dismissal decision, a decision not to accept a Formal Complaint for Investigation, or a case orientation decision is overturned on appeal, the process will proceed pursuant to any instructions from the Civil Rights Appeals Unit.
9. **Reopening a University Investigation after an Appeal of a Determination As to Responsibility:** When the Civil Rights Appeals Unit determines that the appeal basis (b-d) criteria above are satisfied, the Appeals Unit may remand the matter back to the University. Remanded investigations will be reopened by the University and may require a new Hearing. When remanding an investigation to the University, the Appeals Unit will specify in writing the issue(s) to be addressed on appeal and a timeline by which a remanded investigation should be completed. The Civil Rights Appeals Unit will notify the Parties of the reopening of the investigation; the issue(s) to be corrected; and a timeline for completion. Upon completion of the investigation (or Hearing, if applicable), the University will issue an amended Final Investigation Report or Hearing Officer Report and provide the Parties and the Civil Rights Appeals Unit with the amended report, along with notice of the non-prevailing Party's

right to appeal.

10. Reversal by Civil Rights Appeals Unit after an Appeal of a Final

Investigation Report: When the Civil Rights Appeals Unit determines that the appeal basis (a) criterion above is satisfied, the Civil Rights Appeals Unit may vacate and reverse the investigation or Hearing outcome, but only with respect to whether the Sexual Harassment and Sexual Misconduct Policy was violated (and not with respect to factual findings). If the Civil Rights Appeals Unit vacates and reverses the investigation or Hearing outcome, it will notify the Parties and the Title IX Coordinator in writing at the same time. Following a reversal of an investigation outcome by the Civil Rights Appeals Unit, the decision is final.

11. Timelines and Extensions: The Civil Rights Appeals Unit has discretion to extend the timelines for the appeal process for good cause. This includes the time for filing an appeal, the time for the Civil Rights Appeals Unit to respond to the appeal, and the time for a reopened investigation or Hearing to be completed. The Civil Rights Appeals Unit will notify the Parties and the Title IX Coordinator of any extensions of time granted pertaining to any portion of the appeal process.

XIV. Timelines

A. General

While the guidelines below serve as important benchmarks for case processing, not all cases will be resolved within these timeframes. Legitimate external factors, such as the availability of the parties, the complexity of the issues, or other extenuating circumstances, may contribute to reasonable delays. In such instances, the University may extend the deadlines as set forth below.

The University has adopted the following guidelines for ensuring that it responds promptly and effectively to all Reports and Complaints of potential Prohibited Conduct:

Stage	Timeframe
Initial Outreach Following a Report of Potential Discrimination, Harassment, or Retaliation	Typically the University will attempt to contact the Complainant, if known, within 2 Working Days of receiving a Report.
Completion of the Initial Assessment and Response Process	45 Working Days In cases where a Formal Complaint has been made, a determination of whether to initiate a Formal Investigation should generally be made and issued within 20 Working Days from the date of the Complaint.
Completion of the Informal Resolution Process	60 Working Days
Investigation – Final Investigation Report	100 Working Days from the date the Notice of Investigation is sent to Parties
Appeal Submission	7 Working Days from the date that the notice containing the decision being appealed is sent to the Parties
Appeal Determination	30 Working Days after receipt of the written appeal

B. Timeline Extensions and Updates

1. **Reasonable Extensions:** The Title IX Coordinator may grant reasonable extensions of timeframes for good cause on a case-by-case basis. A

Party or investigator may request a reasonable extension of the timeframes in these Procedures from the Title IX Coordinator.

Good cause may include:

- a. To ensure the integrity and thoroughness of the investigation;
- b. The reasonable absence of a Party, Party's Advisor, or witness;
- c. To comply with a request from law enforcement;
 - Complainants have the right to make a criminal complaint. The filing of a criminal complaint will not unreasonably delay the University's response or investigation, although it may be necessary to temporarily delay while law enforcement is gathering evidence.
- d. Based on the need to provide language assistance, disability accommodations, or other modifications to allow the full participation of a Party or witness;
- e. Academic breaks or exam periods;
- f. Complexity of the investigation, including multiple Complainants, multiple Respondents, a large number of witnesses, voluminous evidence, the length of the written record, or severity and extent of the alleged misconduct;
- g. Other extenuating or unforeseen circumstances that are not within the control of the University, Parties, witnesses, or investigator.

When the Title IX Coordinator grants a good cause extension, the Parties will be notified of the extension and the reason for it. The notice will provide a new estimated timeline.

2. **Requests for Extensions:** A Party or investigator may request a reasonable extension of the timeframes in this Policy from the Title IX Coordinator. While requests for delays by the Parties and the investigator may be considered, the University cannot unreasonably delay the prompt resolution of a Complaint under the Sexual Harassment and Sexual Misconduct Policy.

- a. Students – As required by California law, the Title IX Coordinator will not unreasonably deny a Student Party's request for an extension during periods of examinations or academic breaks.
 - b. Employees – The fact that an Employee is off contract or between semesters, without more, does not excuse an Employee from their expected participation in any proceeding under this Policy.
3. **Status Updates:** The University will provide a status update to the Complainant and Respondent every 30 days during a Formal Investigation, beginning from the date that the Notice of Investigation is issued until the Final Investigation Report is issued, unless a Party requests in writing not to receive these updates. Parties may, at any time, request from the Title IX Coordinator a status update regarding the status of the Formal Investigation process.

XV. Disciplinary Sanctions and Remedies

A. General

The University will not discipline a Respondent for violations of the Sexual Harassment and Sexual Misconduct Policy unless: 1) there is a determination at the end of a Formal Investigation (including a Hearing and any appeals, if applicable) that the Respondent violated the Sexual Harassment and Sexual Misconduct Policy; or 2) the Respondent has accepted responsibility for violating the Sexual Harassment and Sexual Misconduct Policy pursuant to Section [XX]; or 3) where discipline is agreed to as part of an Informal Resolution pursuant to Section [XX]. This does not prevent the University from disciplining a Respondent for factual findings made during a Formal Investigation under the Sexual Harassment and Sexual Misconduct Policy that establish violations of other University policies or applicable laws.

Conduct that does not violate the Sexual Harassment and Sexual Misconduct Policy may be referred to the appropriate University administrator for review, further investigation, and/or determination as to whether corrective and/or disciplinary action is warranted. In general, cases involving Student Respondents may be referred to the Student Conduct administrator, and cases involving Employee Respondents may be referred to Human Resources and/or Faculty Affairs.

B. Implementing Remedies and Imposing Discipline

If a Respondent is found to have violated or has accepted responsibility for violating the Sexual Harassment and Sexual Misconduct Policy, the Title IX Coordinator will:

1. Ensure that all appropriate Remedies are provided and implemented for the Complainant and any other individuals who were denied equal access to the University's Programs or Activities due to the violation of the Sexual Harassment and Sexual Misconduct Policy;
2. Coordinate with the appropriate University administrator – such as Student Conduct, Human Resources, or Faculty Affairs – so that appropriate Disciplinary Sanctions are imposed on the Respondent. This includes notifying the Complainant of any such Disciplinary Sanctions and complying with University policy (including the sanction procedures in this Policy), state and federal requirements, and, for Employee Respondents, any applicable collective bargaining agreements; and
3. Take prompt and effective steps, as appropriate, designed to ensure that Prohibited Conduct does not continue or recur.

Student Discipline: Students who are found to have violated the Sexual Harassment and Sexual Misconduct Policy will be subject to discipline that is appropriate for the violation and is consistent with the Student Conduct Process [\[LINK\]](#) and state and federal requirements. Possible sanctions for Students who violate the Sexual Harassment and Sexual Misconduct Policy are identified in the Student Conduct Process. When a Student Respondent is found responsible for having violated the Sexual Harassment and Sexual Misconduct Policy, the Title IX Coordinator will place an administrative hold on their degree, including a degree otherwise earned, until any appeals, disciplinary proceedings, and resulting sanctions are completed. Any sanctions imposed will be stayed pending the outcome of a timely filed appeal.

Employee Discipline: Employees who are found to have violated the Sexual Harassment and Sexual Misconduct Policy will be subject to discipline that is appropriate for the violation and is consistent with applicable collective bargaining agreements, other University policies, and state and federal requirements. Possible sanctions for Employees who violate the Sexual Harassment and Sexual Misconduct Policy may include education, training, verbal or written counseling, reprimand, unpaid suspension, demotion, and/or termination.

XVI. Academic Freedom and Freedom of Speech

Freedom of expression and academic freedom are cornerstones of a democratic society and are essential to the educational process. Universities have an obligation to create space that encourages and supports the free expression of ideas, values, and opinions, even when unpopular or controversial. Not every act that may be offensive or insulting constitutes Discrimination or Harassment, as defined by law and University policy.

All members of the Campus community should recognize that the manner in which they choose to express themselves has consequences and that freedom of expression includes a responsibility to respect the right of others to express differing opinions. Freedom of expression and academic freedom are not absolute rights. They coexist with other rights and the need for public order and safety. The exercise of freedom of expression and assembly must comply with all applicable federal, state, and local laws and CSU policy. Conduct that violates the Sexual Harassment and Sexual Misconduct Policy, including statements that constitute Harassment, is not protected by academic freedom or freedom of expression.

CSU's [Academic Freedom Policy](#) sets forth the meaning of academic freedom and is incorporated into this Policy. CSU's [Interim Systemwide Time, Place, and Manner Policy](#) establishes rules relating to the free and orderly exchange of ideas, values, and opinions, and is also incorporated into this Policy.

XVII. Duty to Report

Individuals who have experienced Prohibited Conduct have the right to get help and support and are strongly encouraged to report their experience so the University can respond appropriately.

This section explains which CSU employees must report information about Prohibited Conduct and which employees can keep information confidential.

A. Employees Who Must Report (Responsible Employees):

All University Employees, other than those listed in one of the exceptions in section B below, who know or have reason to know of possible Prohibited Conduct must promptly report to the Title IX Coordinator / DHR Administrator. These Employees are referred to as Responsible Employees.

A Responsible Employee's report to the Title IX Coordinator constitutes a report to the DHR Administrator, and vice versa.

Responsible Employees must report all known information, including the names of the people involved, if known, even if someone requests anonymity. The obligation to report includes on-campus and off-campus incidents.

A Responsible Employee is not required to make a duplicate report if the Employee has actual knowledge that the same alleged conduct has already been reported to the DHR Administrator / Title IX Coordinator. Mere assumptions or secondhand statements that someone else "probably reported it" are not sufficient to satisfy this exception.

As to Discrimination, the duty to report does not extend to generalized or indirect allegations of discrimination, such as allegations of structural or systemic discrimination or disparate impact, or to mere speculation that an act could have been discriminatory.

Examples of Responsible Employees include, but are not limited to:

- All faculty and other teaching staff
- Any employees who assist, advise, or supervise students in any education program or activity of the CSU
- Managers
- Athletic Trainers
- Campus Ombuds
- University Police Officers
- Student Employees and Students serving as Residential Advisors who learn about potential Prohibited Conduct while they are performing duties in the course of their employment with the University

B. Employees Who Do Not Have to Report:

The Employees identified in this section may keep information private and are not required to report Prohibited Conduct to the Title IX Coordinator / DHR Administrator, but may be required to report to local law enforcement in limited situations required by law (see section C below).

1. Physicians, psychotherapists, professional licensed counselors, licensed clinical social workers, and clergy who work on or off Campus, acting solely in those capacities in the provision of medical or mental health

treatment or counseling (and those who work or volunteer under their supervision).

2. Sexual assault and domestic violence counselors and advocates who work or volunteer in campus or community centers and who are acting solely in those capacities in the provision of counseling or advocacy services (including those who work or volunteer under their supervision).
3. Employees designated as a University's point of contact for the needs of lesbian, gay, bisexual, asexual, pansexual, transgender, gender-nonconforming, intersex, and two-spirit faculty, staff, and students.
4. A CSU union representative, acting in that capacity, who receives information from a union member seeking advice or representation in a confidential setting. While they are not required to report information to the Title IX Coordinator / DHR Administrator, they are strongly encouraged to do so.

If someone who experiences Prohibited Conduct chooses to speak only with one of these confidential professionals and asks to keep information confidential, the University's ability to respond to the Prohibited Conduct may be limited. These confidential Employees must still explain to the person disclosing Prohibited Conduct: their rights and options for keeping information confidential; how to contact the Title IX Coordinator / DHR Administrator and how the Title IX Coordinator / DHR Administrator can help; how to make a Complaint under the Sexual Harassment and Sexual Misconduct Policy; and how to make a police report. These Employees also must provide the specific reporting resources outlined in Attachment [XXX].

C. Exceptions to Section B:

Even Employees who are exempt from the duty to report to the Title IX Coordinator / DHR Administrator must report to law enforcement in certain circumstances as required by California law:

1. Under California law, health practitioners must report to local law enforcement if they provide medical services for a physical condition to a person who they know or reasonably suspect is suffering from: (1) a wound or physical injury inflicted by a firearm; or (2) any wound or other physical injury where the injury is the result of assaultive or abusive conduct (including Rape, Sexual Assault, and Dating and Domestic

Violence). This requirement does not apply to sexual assault and domestic violence counselors and advocates.

2. Additionally, under California law, all professionals described in section B above must report incidents involving suspected child abuse or neglect to local law enforcement in accordance with the CSU's Policy on Mandatory Reporting of Child Abuse and Neglect [\[hyperlink\]](#).
3. Finally, some or all of these professionals may also have reporting obligations under California law to: (1) local law enforcement in cases involving threats of immediate or imminent harm to self or others where disclosure of the information is necessary to prevent the threatened danger, or (2) when required by a court order or subpoena in a criminal proceeding related to Sexual Misconduct, Dating or Domestic Violence, or Stalking.

These professionals will explain these limits on confidentiality, as applicable.

D. Reporting Duties of University Police:

1. University Police Department Employees are Responsible Employees and must report to the Title IX Coordinator / DHR Administrator any time they know or have reason to know of incidents that may violate the Sexual Harassment and Sexual Misconduct Policy.
2. To the extent known, the information that University Police must report, includes, but is not limited to:
 - a. The time, date, and location of any reported incidents of possible Prohibited Conduct
 - b. The time and date of the report, complaint, or request for assistance made to University Police
 - c. The name and age of the alleged victim (with a limited exception as provided in subsection 3, below)
 - d. All known factual circumstances surrounding the incident
 - e. The identity of the alleged perpetrator
 - f. A general description of any injuries, property, or weapons involved
 - g. The time, date, and nature of the response by University Police

The information to be reported includes all information that the police are legally authorized to disclose in response to records requests, but without requiring a formal request.

3. For certain sex offenses the victim has the right to ask University Police to keep their identity confidential, after being informed of their options. However, even if the victim requests confidentiality of identity, University Police should specifically ask the victim if their name can be provided to the Title IX Coordinator / DHR Administrator so that the Title IX Coordinator / DHR Administrator can contact the victim to offer Supportive Measures. And in all cases, even when the victim requests confidentiality, all other information known to University Police, including the identity of the alleged perpetrator, must be reported to the Title IX Coordinator / DHR Administrator.

XVIII. Glossary of Defined Terms

1. **Advisors:** The Complainant and Respondent may choose to be accompanied by one Advisor of their choice, who may be, but is not required to be, an attorney or a union representative, during any stage of a proceeding under the Sexual Harassment and Sexual Misconduct Policy.
 - The University will not limit the choice or presence of the Advisor for the Complainant or Respondent in any meeting or proceeding. However, the unavailability of a specific Advisor will not unreasonably delay scheduling.
 - Upon initiation of a Formal Investigation or Informal Resolution process in cases involving Student Respondents, Parties have the right to request that the University provide an Advisor to assist them throughout the process. If a Party makes such a request, the University will provide them with an Advisor.
 - During proceedings under this Policy, the University will communicate directly with Parties and not through their Advisors.
 - Witnesses may have an Advisor present at the discretion of the Title IX Coordinator or in accordance with University policy or any applicable collective bargaining agreement.
 - The University may restrict the extent and manner of an Advisor's participation in the proceedings as long as restrictions apply equally to Complainants and Respondents.

2. **Complainant:** A person reported to have been subjected to conduct that could constitute a violation of the Sexual Harassment and Sexual Misconduct Policy. A Complainant may also be called a Party to the Complaint.
3. **Conflict of Interest:** A Conflict of Interest exists when a Title IX Coordinator, investigator, or other individual responsible for carrying out duties under this Policy has a personal, professional, financial, or other interest that compromises the individual's ability to act impartially in a matter under this Policy.
 - A Conflict of Interest may exist when, among other circumstances, an individual has a personal, familial, romantic, financial, reporting, or supervisory relationship with a Party or witness.
 - A Party's belief, suspicion, or disagreement with a procedural decision, without objective facts demonstrating a Conflict of Interest, does not establish a Conflict of Interest.
 - The Title IX Coordinator has discretion to determine, on a case-by-case basis, whether a Conflict of Interest exists.
 - A Title IX Coordinator at one CSU University or a Systemwide Director for Civil Rights may serve as a Title IX Coordinator at another CSU University if a Conflict of Interest exists.
4. **DHR (Discrimination, Harassment, and Retaliation) Administrator:** The Management Personnel Plan (MPP) Employee at each campus who, together with the campus Title IX Coordinator, is responsible for administering the CSU Nondiscrimination Policy and coordinating compliance with Title IX, Title VI, VAWA/Campus SaVE Act, and related state and federal laws prohibiting Discrimination, Harassment, and Retaliation. The DHR Administrator may delegate tasks, including tasks required by the Nondiscrimination Policy, to one or more designees, provided that any designee shall be an MPP Employee or an external consultant, and the DHR Administrator and Title IX Coordinator retain overall responsibility and authority for compliance with the Nondiscrimination Policy.
5. **Disciplinary Sanctions:** Sanctions imposed on a Respondent for a violation of the Sexual Harassment or Sexual Misconduct Policy. Disciplinary Sanctions will be imposed consistent with applicable Employee or Student policies and procedures.
6. **Employee:** A person legally holding a position of employment in the CSU. Employees include full-time, part-time, permanent, tenured, probationary,

temporary, intermittent, casual, and per-diem positions. This term does not include auxiliary or foundation Employees or volunteers or other Third Parties. Employee also includes individuals who were employed by the CSU at the time the Complaint was made and have since left the employ of the CSU.

7. **Formal Complaint:** A written statement alleging Prohibited Conduct signed by the Title IX Coordinator or submitted by a Complainant that objectively can be understood as a request from the Complainant to initiate the Formal Investigation Process.
8. **Formal Investigation:** An investigation into alleged violations of the Sexual Harassment and Sexual Misconduct Policy, the purpose of which is to determine whether or not a preponderance of the evidence substantiates that the alleged conduct occurred and that Respondent violated the Sexual Harassment and Sexual Misconduct Policy. A Formal Investigation must be conducted under the procedures set forth in this Policy.
9. **Hearing Advisor:** (Hearing Procedures I only) An individual selected by a Party, or appointed by the University if the Party does not have one present at the Hearing, whose primary role is to ask questions on behalf of the Party during the Hearing. Hearing Advisors may question the other Party and witnesses, subject to relevance determinations made by the Hearing Officer. If a Party does not have a Hearing Advisor present at the Hearing, the University will provide one without fee or charge. A Party's Advisor during the Formal Investigation may also serve as their Hearing Advisor. A Party may not serve as their own Hearing Advisor.
10. **Impacted Party:** An individual who is reported to have experienced conduct that could constitute Prohibited Conduct under the Sexual Harassment and Sexual Misconduct Policy and who declines to file a Formal Complaint.
11. **Party:** A Complainant or Respondent in a Report or Complaint under the Sexual Harassment and Sexual Misconduct Policy.
12. **Physical Violence:** Physical conduct, including assault, that intentionally or recklessly threatens the health and safety of the recipient of the behavior. Violence used by a person acting in reasonable belief of self-defense or defense of others is not a policy violation if the sole purpose of the action was to establish safety rather than to cause harm.
13. **Relevant:** Questions are Relevant when they seek evidence that may aid in showing whether or not the alleged conduct occurred, and evidence is Relevant when it

tends to prove or disprove whether the alleged conduct occurred or whether a Party is responsible for the alleged conduct.

14. **Remedies:** Individualized services offered to the Complainant or any Impacted Party after a Respondent has been found responsible for Prohibited Conduct. Remedies are provided as appropriate, when reasonably available, without fee or charge, and are designed to restore access to an educational program, activity, or employment. Remedies may include counseling, extensions of deadlines or other course or work-related adjustments, modifications of work or class schedules, Campus escorts, restrictions on contact between the Parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the Campus, and other similar measures. The Title IX Coordinator is responsible for determining the reasonableness of the requested Remedy and coordinating the effective implementation of Remedies.
15. **Report:** Information received by the DHR Administration/Title IX Coordinator that reasonably suggests that Prohibited Conduct may have occurred or may be occurring within a University program or activity. A Report triggers the University's duty to respond promptly and effectively but does not, by itself, initiate a Formal Investigation process.
16. **Reporting Party:** An individual, mandated or voluntary, who submits a Report of conduct that may constitute a violation of the Sexual Harassment and Sexual Misconduct Policy on behalf of someone other than themselves. A Reporting Party is not the Complainant and does not become a Party to any proceeding under the Sexual Harassment and Sexual Misconduct Policy by virtue of making a Report, including in cases where the Complainant chooses not to participate. A Reporting Party is not entitled to information about the University's response to the Report.
17. **Respondent:** A person who is alleged to have violated the Sexual Harassment and Sexual Misconduct Policy. A Respondent may be an Employee, Student, Third Party, or, in certain cases, a University entity.
18. **Student:** An applicant for admission to the CSU, an admitted CSU Student, an enrolled CSU Student, a CSU extended education Student, a CSU Student between academic terms, a CSU graduate awaiting conferral of a degree, a CSU student currently serving a suspension or interim suspension, and a CSU Student who withdraws from the University while a disciplinary matter (including a Formal Investigation) is pending.

19. **Support Person:** In addition to a Hearing Advisor, each Party may choose to have a Support Person present at the Hearing. A Support Person is an individual who provides emotional support or other assistance to a Party but does not participate in the Hearing process. The Support Person may not be a witness in the Formal Investigation or Hearing.
20. **Third-Party:** A person who is not an Employee or a Student. Examples include employees of auxiliary organizations, unpaid interns, volunteers, applicants for employment, independent contractors, vendors, and their employees, and visitors.
21. **Title IX Coordinator:** The MPP Employee at each Campus who is responsible for administering the Sexual Harassment and Sexual Misconduct Policy and coordinating compliance with Title IX, VAWA/Campus SaVE Act, and related state and federal laws prohibiting Sex-based discrimination. The Title IX Coordinator may delegate tasks, including tasks required by this Policy, to one or more designees, provided that any designee shall be an MPP Employee or an external consultant, and the Title IX Coordinator retains overall responsibility and authority.
22. **University Program or Activity:** A University Program or Activity includes locations, events, or circumstances where the University exercised substantial control over both the Respondent and the context in which the conduct occurred, as well as any building owned or controlled by a student organization that is officially recognized by the CSU's Student Activities Policy. A University's Program or Activity includes employment and admissions. Conduct may occur within a University Program or Activity regardless of whether it takes place on campus, off campus, or online.
23. **Working Days:** Include Monday through Friday and exclude all official holidays or campus closures where the Complaint originated or at the Chancellor's Office where an Appeal is reviewed.