

Occidental College
Sexual and Interpersonal Misconduct Policy

Effective: January 1, 2022

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Institutional Values, Community Expectations, and Notice of Non-Discrimination

It is the policy of Occidental College (“Occidental” or “the College”) to maintain an environment for students, faculty, administrators, staff, and visitors that is free of all forms of discrimination and harassment, including sexual and interpersonal misconduct. The College has enacted this Sexual and Interpersonal Misconduct Policy (“Policy”) to reflect and maintain its institutional values and community expectations, to provide for fair and equitable procedures for determining when this Policy has been violated, and to provide recourse for individuals and the community in response to violations of this Policy.

This Policy prohibits all forms of sexual or gender-based discrimination, harassment, and misconduct, including sexual assault, dating violence, domestic violence, sexual exploitation, stalking, and complicity. This Policy also prohibits retaliation against a person who reports, complains about, or who otherwise participates in good faith in, any matter related to this Policy. All the foregoing conduct will be referred to as “Prohibited Conduct.” Occidental College does not discriminate on the basis of sex in its educational, extracurricular, athletic, or other programs or in the context of employment. Sex discrimination is prohibited by Title IX of the Education Amendments of 1972, a federal law that provides:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

Sexual harassment is also prohibited under Title IX, Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act, and other applicable statutes. This Policy prohibits sexual harassment against Occidental community members of any sex, sexual orientation, gender identity, or gender expression in the context of education or employment. This Policy also prohibits gender-based harassment that does not involve conduct of a sexual nature.

The College strongly encourages all members of our community to act to maintain and facilitate a safe, welcoming, and respectful environment on campus. The College expects that all Occidental community members will take reasonable and prudent actions to prevent or stop Prohibited Conduct. The College strongly supports individuals who choose to take such action and will protect such individuals from retaliation. Upon receipt of a report, the College will take prompt and equitable action to eliminate the Prohibited Conduct (if any), prevent its recurrence, and remedy its effects. In addition, the College will fulfill its obligations under the Violence Against Women Reauthorization Act of 2013 (“VAWA”) amendments to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”) in response to reported Prohibited Conduct. The College’s processes for investigating and responding to reported Prohibited Conduct are contained in [Appendix A](#), [Appendix B](#), and [Appendix C](#).

Occidental also prohibits other forms of discrimination and harassment, including discrimination and harassment on the basis of race, color, national origin, ancestry, age, religious belief, marital status, physical or mental disability, medical condition, veteran status, or any other characteristic protected by federal, state, or local law. Such prohibited conduct is addressed the College’s [Discrimination, Harassment, and Retaliation Policy](#).

The College's Civil Rights & Title IX Coordinator

The Civil Rights & Title IX Coordinator coordinates and manages the College's compliance with Title IX and related provisions of the Clery Act (as amended by VAWA). The Civil Rights & Title IX Coordinator oversees the College's centralized response to all reports of Prohibited Conduct to ensure consistent implementation of this Policy and compliance with federal and state law. The Civil Rights & Title IX Coordinator and designated staff will, among other things:

- Communicate with members of the College community regarding applicable law and policy and provide information about reporting and support options.
- Review applicable College policies to ensure institutional compliance with applicable federal and state law.
- Monitor the College's administration of its own applicable policies, including record keeping, adherence to timeframes, and other procedural requirements.
- Conduct training regarding Title IX, related provisions of the Clery Act (as amended by VAWA), and Prohibited Conduct as defined in this Policy.
- Respond to any report regarding conduct that may violate this Policy. In this capacity, the Civil Rights & Title IX Coordinator will oversee the response to, and resolution of, such alleged misconduct, direct the provision of any remedial and protective measures (including oversight of the failure to abide by an interim protective measure), and monitor the administration of any request for review of the finding.

The Civil Rights & Title IX Coordinator may delegate responsibilities under this Policy to designated administrators or external professionals, who will have appropriate training and/or experience. When used in this Policy, the term Civil Rights & Title IX Coordinator may include an appropriate designee. The Civil Rights & Title IX Coordinator's contact information is:

Alexandra Fulcher
AGC Room 111
(323) 259-1338
afulcher@oxy.edu

Prevention and Awareness Programs

The College is committed to the prevention of Prohibited Conduct through mandated, regular, and ongoing education and awareness programs. Incoming students and new employees receive primary prevention and awareness programming as part of their orientation and returning students and current employees receive ongoing training and related education.

Annual Review

This Policy is maintained by the Civil Rights & Title IX Office. The College will review this Policy on at least an annual basis. The review will capture evolving legal requirements, evaluate the supports and resources available to parties, and assess the effectiveness of the resolution process. The review may incorporate feedback from parties and an aggregate view of reports, resolution, and climate.

Scope of Policy

This Policy applies to all reports of Prohibited Conduct received on or after the effective date of this Policy. If the alleged Prohibited Conduct occurred before the effective date of this Policy, applicable definitions of misconduct in College policies in existence at the time of the conduct will be used to the extent that they conflict with definitions of terms in this Policy. The Grievance Processes under this Policy will be used to investigate and resolve all reports made or that are pending on or after the effective date of this Policy, regardless of when the incident(s) occurred.

This Policy uses the terms complainant, respondent, third party, and witness as follows:

- *Complainant*: An individual who is reported to have experienced conduct that could constitute Prohibited Conduct, even if they do not participate in any related process.
- *Respondent*: An individual who has been reported to have engaged in conduct that could constitute Prohibited Conduct.
- *Party/Parties*: A complainant or respondent participating in a resolution process.
- *Witness*: An individual who may have information relevant to a report of Prohibited Conduct. A witness may be a student, an employee, or a third party.

Occidental College's primary concern is student and employee safety. For every report, the Civil Rights & Title IX Coordinator will review the circumstances of the reported conduct to determine whether the College has jurisdiction or disciplinary authority over the respondent or the conduct. In exercising jurisdiction over an Occidental-affiliated respondent for reported conduct that occurs off campus and that has no nexus to the College or a College-related or sponsored education program or activity, the College's ability to investigate and impose disciplinary action may be limited. In instances where the College does not have disciplinary authority over the respondent, the College will still take reasonably available steps to support a complainant through interim or supportive measures and will assist a complainant in identifying external reporting mechanism.

This Policy applies to all Occidental community members, including students, faculty, administrators, staff, volunteers, vendors, contractors, visitors, and individuals regularly or temporarily employed, conducting business, studying, living, visiting, or having any official capacity with the College or on its property. The College strongly encourages reports of Prohibited Conduct regardless of who engaged in the conduct.

This Policy applies to all on-campus conduct and some off-campus conduct, as described below. The College strongly encourages reports of Prohibited Conduct regardless of location. Even if the Policy does not apply to the conduct because of its location, the College will take prompt action to provide for the safety and well-being of the complainant and the broader campus community.

- *On-Campus Conduct*: Conduct that occurs on-campus, including conduct which occurs on property owned or controlled by the College.
- *College Programs*: Conduct that occurs in the context of College employment or education programs or activities, including, but not limited to, Occidental study abroad or internship programs.

- *Off-Campus Conduct*: Conduct that occurs off-campus and has continuing adverse effects on, or creates a hostile environment for, any member of the Occidental community on-campus or in any College employment or education program or activity.

Occidental College will take reasonable steps to respond to each incident of sexual harassment involving individuals subject to the College's policies that occur in connection with any educational activity or other program of the institution, as well as incidents that occur outside of those educational programs or activities, whether they occur on or off campus, if, based on the allegations, there is reason to believe that the incident could contribute to a hostile educational environment or otherwise interfere with a student's access to education.

Regardless of whether a complaint has been filed under the grievance procedures outlined below, if the College knows, or reasonably should know, about possible sexual harassment involving individuals subject to the College's policies at the time, the College will promptly investigate to determine whether the alleged conduct more likely than not occurred, or otherwise respond if the College determines that an investigation is not required. If the College determines that the alleged conduct more likely than not occurred, it will immediately take reasonable steps to end the harassment, address the hostile environment, if one has been created, prevent its recurrence, and address its effects.

Academic Freedom and Freedom of Speech

This Policy is consistent with the College's commitment to academic freedom and free speech, including but not limited to those set forth in the 1940 Statement of Principles on Academic Freedom and Tenure. This commitment requires that the College protect community members' expression of ideas in their teaching, learning, and research, including advocacy that may be controversial, provocative, or unpopular. Though not unlimited, this protection extends to the expression of ideas, however controversial, in the classroom, residential life, and other campus-related activities. Allegations of discrimination or harassment involving speech must be carefully considered in light of students' free speech rights under California law and the College's commitment to academic freedom and free speech. As a protected right under California law, a currently enrolled student may not be subject to discipline on the basis of speech, unless that speech rises to a legal standard of being *unprotected*.

Prohibited Conduct and Definitions

In determining whether reported conduct violates this Policy, the College will consider the totality of the facts and circumstances involved in the incident, including the nature of the reported conduct and the context in which it occurred. Individuals of any sex or gender can commit any of the Prohibited Conduct defined in this Policy, and it can occur between individuals of the same sex or gender, or different sexes or genders. It can occur between strangers or acquaintances, as well as persons involved in intimate, sexual, dating, domestic, or familial relationships. This Policy prohibits the following forms of conduct, including attempts to commit the Prohibited Conduct defined below.

Title IX Sexual Harassment

“Title IX Sexual Harassment” is a subset of Prohibited Conduct. Under Department of Education regulations (*see* 34 C.F.R., Part 106) issued in May 2020 to implement Title IX of the Education Amendments of 1972, the College is required to prohibit certain forms of sexual harassment as defined in those regulations.

Prohibited Conduct meets the definition of Title IX Sexual Harassment when:

- An Employee conditions the provision of an aid, a benefit, or a service on an individual’s participation in unwelcome sexual conduct (i.e., *Quid Pro Quo* sexual harassment), within the United States; or
- A Student, Employee, or Third Party engages in unwelcome conduct on the basis of sex that would be determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies another person equal access to the College’s programs or activities, in the United States; or
- A Student, Employee, or Third Party engages in Sexual Assault, Domestic Violence, Dating Violence, or Sexual and/or Gender-based Stalking as defined below; and
 - The alleged conduct was perpetrated against a person in the United States; and
 - The conduct took place within the College’s programs and activities.

Conduct takes place within the “College’s programs and activities” when that conduct occurs: (1) in a location, at an event, or in a circumstance where the College exercises substantial control over both the respondent and the context in which the conduct occurs; or (2) in any building owned or controlled by a student organization recognized by the College. Events that occur off campus or in locations with no connection to the College are unlikely to be considered a College program or activity. Conduct that does not meet this strict definition for Title IX Sexual Harassment is still prohibited by this policy if it otherwise constitutes Prohibited Conduct as further defined below. Prohibited Conduct under the definition of Title IX Sexual Harassment will follow the disciplinary resolution procedures outlined in [Appendix A](#).

The following Prohibited Conduct definitions apply for purposes of the definition of Title IX Sexual Harassment:

Title IX Quid Pro Quo Sexual Harassment

Conduct on the basis of sex by which an employee of the College conditions the provision of an aid, benefit, or service of the College on an individual’s participation in unwelcome sexual conduct.

Title IX Severe, Pervasive and Objectively Offensive Sexual Harassment

Conduct on the basis of sex that constitutes unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a student or employee equal access to the College’s education program or activity.

Title IX Sexual Assault

Title IX sexual assault includes rape, fondling, incest, or statutory rape, defined as follows:

- Rape is the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral-genital contact of another person without [affirmative consent](#).
- Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without [affirmative consent](#).
- Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory rape is sexual intercourse with a person who is under the statutory age of consent. Under California law, individuals younger than 18 years of age are legally incapable of giving consent to sexual penetration or contact by an adult (someone 18 years of age or older) who is three or more years older than the individual.

Title IX Domestic Violence

Conduct, on the basis of sex, that constitutes a felony or misdemeanor crime of 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;
- By a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- By any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Title IX Dating Violence

Conduct that constitutes violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship will be determined based on the parties' statements and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

Title IX Stalking

Conduct on the basis of sex that constitutes a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. For the purposes of this definition:

- Course of conduct means two or more acts, including, but not limited to, acts in which the respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

- Reasonable person means a reasonable person under similar circumstances and with similar identities to the complainant.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Non-Title IX Misconduct

Non-Title IX Misconduct is Prohibited Conduct that falls within the Scope of this Policy and the definitions below but that does not fall within the definition of [Title IX Sexual Harassment](#), either due to the nature of the conduct or because it did not reportedly occur within a program or activity of the College in the United States. Non-Title IX Misconduct will follow the disciplinary resolution procedures outlined in [Appendix B](#) or [Appendix C](#). Such conduct is defined for purposes of this policy as:

Non-Title IX Sexual Harassment

Any unwelcome sexual advances, requests for sexual favors, or other verbal, visual, or physical conduct of a sexual nature (including sexual battery, sexual violence, and sexual exploitation, as defined below), made by someone in the work or educational setting, under any of the following conditions:

- Submission to the conduct is explicitly or implicitly made a term or condition of an individual’s employment, academic status, or progress; or
- Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual; or
- The conduct has the purpose or effect of having a negative impact upon the individual’s work or academic performance, or of creating an intimidating, hostile, or offensive work or education environment; or
- Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.

Non-Title IX Sexual Violence

Physical sexual acts committed against a person without the person’s [affirmative consent](#). “Physical sexual acts” includes:

Non-Title IX Rape: Penetration, no matter how slight, of the vagina or anus with any part or object, or oral copulation of a sex organ by another person, without [affirmative consent](#).

Sexual Battery: The intentional touching of another person’s intimate parts without [affirmative consent](#), intentionally causing a person to touch the intimate parts of another without [affirmative consent](#), or using a person’s own intimate part to intentionally touch another person’s body without [affirmative consent](#).

Non-Title IX Stalking

Stalking as defined in the Title IX Stalking [definition](#) above that did not reportedly occur in a program or activity of the College in the United States, or that otherwise fits within the definition

of stalking but does not fall within the Title IX Stalking definition because the reported conduct is not directed at the alleged victim on the basis of sex.

Non-Title IX Dating Violence

Dating violence as defined in the Title IX Dating Violence [definition](#) above that did not reportedly occur in a program or activity of the College in the United States.

Non-Title IX Domestic Violence

Domestic violence as defined in the Title IX Domestic Violence [definition](#) above that did not reportedly occur in a program or activity of the College in the United States.

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:

- The prostituting of another person;
- The trafficking of another person, defined as the inducement of a person to perform a commercial sex act, or labor or services, through force, fraud, or coercion;
- The recording of images, including video or photograph, or audio of another person's sexual activity or intimate parts, without that person's [affirmative consent](#);
- The distribution of images, including video or photography, or audio of another person's sexual activity or intimate 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 affirmatively consent to the disclosure; and/or
- The viewing of another person's sexual activity or intimate parts, in a place where that other person would have a reasonable expectation of privacy, without that person's [affirmative consent](#), for the purpose of arousing or gratifying sexual desire.

Complicity

Any act that knowingly aids, facilitates, promotes, or encourages the commission of Prohibited Conduct by another person.

Sex or Gender-Based Discrimination

"Discrimination" on the basis of a person's sex, sexual orientation, gender identity, or gender expression can take two primary forms:

Disparate Treatment Discrimination: Disparate treatment discrimination is any unlawful distinction, preference, or detriment to an individual as compared to others that is based on an individual's protected characteristic(s) and that: 1) excludes an individual from participation in; 2) denies the individual benefits of; 3) treats the individual differently; or 4) otherwise adversely affects a term, condition, or benefit of an individual's employment, education, living environment, or participation in a College program or activity.

Disparate Impact Discrimination: Disparate impact discrimination occurs when there is sufficient evidence that policies or practices that are neutral on their face disproportionately exclude or adversely impact persons within a protected class, where the policies or practices are not: (1) job-related and consistent with business necessity (for employees) or (2) necessary to meet an important educational goal (for students). In determining whether a facially-neutral policy or practice has a disparate impact on a protected class, the College will consider whether there are alternative policies or practices that would meet the job requirements, business necessities, and/or education goals without resulting in disparate impact.

Gender-Based Harassment

Harassment based on sex, sexual orientation, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal, physical, graphic, or otherwise. To qualify as Gender-Based Harassment, the conduct need not involve conduct of a sexual nature. Gender-based harassment can take two primary forms:

Hostile Environment Harassment: Harassment occurs when verbal, physical, written, electronic, or other conduct based on an individual's protected characteristic(s) is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or denies that individual's ability to participate in or benefit from the College's educational program or activity, employment access, benefits, or opportunities, or other College programs and activities (e.g., campus housing, official College list-servs, College-sponsored platforms), when viewed from both a subjective and objective perspective.

In evaluating whether a hostile environment exists, the College will evaluate the totality of known circumstances, including, but not limited to: the nature, frequency, intensity, location, context, and duration of the conduct; whether the conduct was physically threatening; the effect of the conduct on the Complainant's mental or emotional state; whether the conduct was directed at more than one individual; whether the conduct arose in the context of other discriminatory conduct; whether the conduct unreasonably interfered with the Complainant's educational or work performance and/or College's programs or activities; whether the conduct implicates academic freedom or protected speech; and other relevant factors that may arise from consideration of the reported facts and circumstances. Hostile environment harassment does not need to be directed at a specific person to be a violation of this Policy.

This Policy is written and interpreted broadly to include unwelcome conduct that occurs online or through other technology or electronic forms of communication (e.g., email, instant messages, direct messages, iMessages, text messages, blogs, pictures, videos, postings on social media), provided that it occurs within the scope and jurisdiction articulated in this Policy. For example, online conduct occurring completely outside of the College's education program or activity may only be addressed where the College otherwise regulates the conduct, the conduct has or could have a continuing impact within the College's education program or activity, or the conduct may have the effect of posing a serious threat to the College community.

Quid Pro Quo Harassment: Quid pro quo harassment occurs when submission to or rejection of unwelcome conduct is used, explicitly or implicitly, as the basis for decisions affecting an individual's education (e.g., admission, academic standing, grades, assignment); employment (e.g., hiring, advancement, assignment); or participation in a College program or activity (e.g., campus housing).

Retaliation

Retaliation includes adverse action taken against a person for making a good faith report of Prohibited Conduct or participating in any proceeding under this Policy. Adverse action includes conduct that threatens, intimidates, harasses, coerces, or that seeks to discourage a reasonable person from engaging in activity protected under this Policy. Retaliation can be committed by or against any individual or group of individuals, not just a Complainant or Respondent. Retaliation does not include good faith actions lawfully pursued in response to a report of Prohibited Conduct. Retaliation may be present even where there is a finding of "no responsibility" with respect to the allegations of Prohibited Conduct.

The College will take immediate and responsive action to any report of retaliation and will pursue disciplinary action as appropriate. An individual reporting Prohibited Conduct is entitled to protection from any form of retaliation following a report that is made in good faith, even if the report is later not proven.

As explained below, complaints of discrimination, harassment or retaliation may also be made with the Office for Civil Rights for the Department of Education ("OCR"); the California Department of Fair Employment and Housing ("DFEH") or the federal Equal Opportunity Employment Commission ("EEOC").

Prohibited Relationships

Prohibited Relationships by Persons in Authority

Sexual or romantic relationships in which one party maintains — and fails to promptly report and discontinue — a direct supervisory or evaluative role over the other party are strictly prohibited.

Romantic or sexual relationships where there is a differential in power or authority produce risks for every member of our community and undermine the professionalism of faculty and supervisors. In either context, the unequal position of the parties presents an inherent element of risk and may raise sexual harassment concerns if one person in the relationship has the actual or apparent authority to supervise, evaluate, counsel, coach, or otherwise make decisions or recommendations as to the other person in connection with their employment or education at the College.

If an individual contemplates beginning, or is involved in, a sexual or romantic relationship with another, over whom the individual holds direct supervisory or evaluative responsibilities, the individual must immediately: (1) discontinue any supervising role or relationship over the other person; and (2) report the circumstances to their supervisor and the Chief Human Resources Officer. Failure to comply with these requirements is a violation of this Policy, and the person in authority could be subject to disciplinary action, up to and including dismissal from employment.

Prohibited Relationships with Students

Even if an employee of the College (excluding student employees) does not hold a position of authority over a student, any sexual or romantic relationship between an employee and a student of the College could jeopardize the integrity of the academic and living environment of the Occidental community and damage the student. Therefore, sexual or romantic relationships between an employee and any student of the College are prohibited. A sexual or romantic relationship in violation of this section may result in disciplinary action against the employee, up to and including dismissal.

Exceptions

Exceptions to these prohibitions will be considered on a case-by-case basis by the Chief Human Resources Officer in consultation with the Civil Rights & Title IX Coordinator and the supervisor(s) of the individual(s) involved. The individual with the power or status advantage in the relationship must request the exception in writing. The Chief Human Resource Officer will respond to the request in writing. Possible exceptions may include: 1) the relationship existed prior to the effective date of this Policy; and/or 2) the relationship existed prior to a change in either partner's status at the College.

Definitions of Key Terms and Other Considerations

To provide clarity as to the kinds of behavior that constitute Prohibited Conduct, the College defines key terms which will be used in evaluating whether Prohibited Conduct has occurred.

Affirmative Consent

“Affirmative Consent” is an affirmative, conscious, and voluntary agreement to engage in sexual activity. Affirmative consent is required for any sexual activity to occur between two or more individuals. It is the responsibility of each person involved in the sexual activity to ensure that the person has the affirmative consent of the other(s) to engage in the sexual activity.

It will not be a valid excuse to allege lack of affirmative consent that the respondent believed that the complainant consented to the sexual activity under either of the following circumstances: (a) The respondent's belief in affirmative consent arose from the intoxication or recklessness of the respondent, or (b) the respondent did not take reasonable steps, in the circumstances known to the respondent at the time, to ascertain whether the complainant affirmatively consented.

The following are essential elements of affirmative consent:

- Informed and reciprocal: All parties must demonstrate a clear and mutual understanding of the nature and scope of the act to which they are consenting and a willingness to do the same thing, at the same time, in the same way.
- Freely and actively given: Consent cannot be obtained through the use of force, coercion, threats, intimidation or pressuring, or by taking advantage of the incapacitation of another individual.
- Mutually understandable: Communication consists of mutually understandable words and/or actions that indicate a mutually unambiguous willingness to engage in sexual activity. Consent may not be inferred from silence, passivity, lack of resistance, or lack of

active response. An individual who does not physically resist or verbally refuse sexual activity is not necessarily giving consent. Relying solely upon non-verbal communication can lead to a false conclusion as to whether consent was sought or given.

- *Not indefinite*: Affirmative consent must be ongoing throughout the activity. Consent may be withdrawn by any party at any time. Recognizing the dynamic nature of sexual activity, individuals choosing to engage in sexual activity must evaluate consenting an ongoing manner and communicate clearly throughout all stages of sexual activity. Withdrawal of consent can be a verbally expressed “no” or “stop” or can be based on an outward demonstration that conveys that an individual is hesitant, confused, uncertain, or is no longer a mutual participant. Once consent is withdrawn, the sexual activity must cease immediately, and all parties must obtain mutually expressed or clearly stated consent before continuing further sexual activity.
- *Not unlimited*: Consent to one form of sexual contact does not constitute consent to all forms of sexual contact, nor does consent to sexual activity with one person constitute consent to activity with any other person. Each participant in a sexual encounter must consent to each form of sexual contact with each participant. Even in the context of a current or previous intimate relationship, each party must consent to each instance of sexual contact each time. The consent must be based on mutually understandable communication that clearly indicates a willingness to engage in sexual activity. The mere fact that there has been prior intimacy or sexual activity does not, by itself, imply consent to future acts.

In evaluating whether consent has been freely sought and given, the College will consider all relevant facts and circumstances, including, but not limited to, the ages of the parties; the presence of any force, threat of force, intimidation, or coercion; whether the complainant had the capacity to give consent; and, whether the communication (through words and/or actions) between the parties would be interpreted by a reasonable person (under similar circumstances and with similar identities) as a willingness to engage in a particular sexual act.

Age

The State of California considers sexual intercourse with a minor to be unlawful. A person who engages in felony “unlawful” sexual intercourse as described in the California Penal Code does so without affirmative consent as defined by the College’s Sexual and Interpersonal Misconduct Policy. Specifically, there is no affirmative consent where one party (the “minor”) is under the age of eighteen, and the other party is more than three years older than the minor.

Force

“Force” is the use or threat of physical violence to overcome an individual’s freedom of will to choose whether or not to participate in sexual activity or provide consent. Consent obtained by force is not valid. For the use of force to be demonstrated, there is no requirement that a complainant resist the sexual advance or request. However, evidence of resistance by the complainant will be viewed as a clear demonstration of a lack of consent.

Intimidation

“Intimidation” is the use of implied threats to overcome an individual’s freedom of will to choose whether or not to participate in sexual activity or provide consent. Consent obtained by intimidation is not valid.

Coercion

“Coercion” is the improper use of pressure to compel another individual to initiate or continue sexual activity against that individual’s will. Consent obtained through coercion is not valid.

Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. A person’s words or conduct are sufficient to constitute coercion if they wrongfully impair another individual’s freedom of will and ability to choose whether or not to engage in sexual activity. Examples of coercion include threatening to “out” someone based on sexual orientation, gender identity, or gender expression and threatening to harm oneself if the other party does not engage in the sexual activity. When someone indicates, verbally or physically, that they do not want to engage in a particular sexual activity, that they want to stop a particular activity, or that they do not want to go past a certain point of sexual interaction, continued activity or pressure to continue beyond that point can be coercive. The College will evaluate the following in determining whether coercion was used: (a) the frequency of the application of pressure, (b) the intensity of the pressure, (c) the degree of isolation of the person being pressured, and (d) the duration of the pressure.

Incapacitation

“Incapacitation” is a state where an individual cannot make an informed and rational decision to engage in sexual activity because of a lack of conscious understanding of the fact, nature, or extent of the act (e.g., to understand the who, what, when, where, why, or how of the sexual interaction) and/or is physically helpless. For example, an individual is incapacitated, and therefore, unable to give consent, if the individual is asleep, unconscious, or otherwise unaware that sexual activity is occurring. An individual will also be considered incapacitated if the person cannot understand the nature of the activity or communicate due to mental or physical condition.

Incapacitation may result from the use of alcohol, drugs, or other medication. Consumption of alcohol or other drugs alone is insufficient to establish incapacitation. The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs impacts an individual’s: (1) decision-making ability; (2) awareness of consequences; (3) ability to make informed judgments; or (4) capacity to appreciate the nature and the quality of the act.

It will not be a valid excuse that the respondent believed that the complainant affirmatively consented to the sexual activity if the respondent knew or reasonably should have known that the complainant was unable to consent to the sexual activity under any of the following circumstances: (a) the complainant was asleep or unconscious; (b) the complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the complainant could not understand the fact, nature, or extent of the sexual activity; (c) the complainant was unable to communicate due to a mental or physical condition.

Whether the respondent reasonably should have known that the complainant was incapacitated will be evaluated using an objective reasonable person standard. The fact that the respondent was actually unaware of the complainant's incapacity is irrelevant to this analysis, particularly where the respondent's failure to appreciate the complainant's incapacitation resulted from the respondent's failure to take reasonable steps to determine the complainant's incapacitation or where the respondent's own incapacitation (from alcohol or drugs) caused the respondent to misjudge the complainant's incapacity. It is the responsibility of each party to be aware of the intoxication level of the other party before engaging in sexual activity. In general, sexual activity while under the influence of alcohol or other drugs poses a risk to all parties. If there is any doubt as to the level or extent of the other individual's intoxication, it is safest to forgo or cease any sexual contact or activity. Being intoxicated by drugs or alcohol is no defense to any violation of this Policy and does not diminish one's responsibility to obtain consent.

Confidentiality, Privacy, and Related Reporting Responsibilities

Privacy and Confidentiality: Understanding the Differences

The College is committed to protecting the privacy of all individuals involved in the investigation and resolution of reports under this Policy. The College also is committed to assisting students, employees, and third parties in making informed choices. With respect to any report under this Policy, the College will make reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal law, while balancing the need to gather information to take steps to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects. All College employees who are involved in the College's Title IX response receive specific instruction about respecting and safeguarding private information. Privacy and confidentiality have distinct meanings under this Policy.

Privacy

"Privacy" generally means that information related to a report of Prohibited Conduct will only be shared with individuals who "need to know" in order to assist in the assessment, investigation, or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act ("FERPA"), as outlined in the College's FERPA Policy. The privacy of an individual's medical and related records may be protected by the Health Insurance Portability and Accountability Act ("HIPAA"), excepting health records protected by FERPA and by the California Confidentiality of Medical Information Act ("CMIA"), Cal. Civ. Code § 56.05 et seq. Access to an employee's personnel records may be restricted by applicable California and federal law. While there are certain limitations on privacy, the College generally will not release the names of the complainant or respondent to the general public without express written consent or absent another exception consistent with the law. The release of names will be guided by applicable law, including the Family Educational Rights and Privacy Act (FERPA) and the Clery Act. In addition, no information will be released from a proceeding to enforce this Policy except as required or permitted by law and College policy.

Confidentiality

“Confidentiality” generally means that information shared by an individual with designated campus or community professionals cannot be revealed to any other individual without the express permission of the individual. The confidentiality of information shared by an individual with designated campus or community professionals generally is governed by California law, including California Evidence Code restrictions on disclosure of information by mental health providers, ordained clergy, rape crisis counselors, and attorneys, all of whom have legally protected confidentiality. These individuals are prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others. An individual who seeks confidential assistance may do so by speaking with professionals who have a legally protected confidentiality. The confidential resources available to individuals on campus are listed below. Note, however, that these confidential resources are required by state law to notify child protective services and/or local law enforcement of any report which involves suspected abuse of a minor under the age of 18.

Requests for Confidentiality

A person may desire to report Prohibited Conduct to the College but to maintain confidentiality; if so, the Civil Rights & Title IX Coordinator will evaluate such requests. Where a complainant requests that the complainant’s name or other identifiable information not be shared with the respondent or that no formal action be taken, the Civil Rights & Title IX Coordinator will balance the complainant’s request with its obligation to provide a safe and non-discriminatory environment for all College community members. In making this determination, the College may consider the seriousness of the conduct, the respective ages and roles of the complainant and respondent, whether there were additional complainants or potential respondents involved, whether a weapon was used, evidence of predation, and whether there have been other complaints or reports of harassment or misconduct against the respondent, among other factors.

The College will take all reasonable steps to investigate and respond to a complaint consistent with the request for confidentiality or request not to pursue an investigation, but its ability to do so may be limited based on the nature of the request by the complainant. Where the College is unable to honor the request of the complainant, the Civil Rights & Title IX Coordinator will inform the complainant about the chosen course of action, which may include the College seeking disciplinary action against a respondent. Alternatively, the course of action may also include steps to limit the effects of the alleged harassment and prevent its recurrence that do not involve formal disciplinary action against a respondent or revealing the identity of the complainant.

Responsible Employees

A “Responsible Employee” includes any employee who: (1) has the authority to take action to redress the harassment; (2) has the duty to report to appropriate school officials sexual harassment or any other misconduct; and/or, (3) a student could reasonably believe has the authority or responsibility to take action. **All College employees who do not have legally protected confidentiality are considered Responsible Employees.** This includes all employees with supervisory or leadership responsibilities on-campus, including, but not limited to, faculty, coaches, administrators, staff members and Resident Advisors. The College requires that all Responsible Employees share a report of misconduct with the Civil Rights & Title IX Coordinator.

Take Back the Night and Other Public Awareness Events

Public awareness events such as “Take Back the Night,” the Clothesline Project, candlelight vigils, protests, or other forums in which community members disclose incidents of Prohibited Conduct do not initiate the College’s Title IX obligations, including its obligation to investigate reports of sexual harassment or sexual violence. Such events may, however, inform the need for campus-wide educational and prevention efforts, and the College may implement broad community initiatives in response to such events where appropriate.

Disclosures Required by The Clery Act

Timely Warnings

A “Timely Warning” is a campus-wide notification of a serious or continuing threat to the Occidental community. The Timely Warning does not include identifying information about the complainant. If a report of misconduct discloses a continuing threat involving one of the specified “Clery crimes” to the Occidental community, the College may issue a campus wide timely warning (which can take the form of an email to campus) to protect the health or safety of the community.

Annual Reporting Responsibilities

All higher education institutions that receive federal funding, including the College, are obligated to issue publicly an Annual Security Report (“ASR”) which identifies the number of particular reported crimes on campus or campus property, or adjacent to campus. The ASR does not include identifying information about the complainant or respondent.

Crime Log

All higher education institutions that have campus police forces or security departments must maintain a daily crime log that includes entries for all crimes that occur within both the Clery geography and the campus safety force’s regular patrol route. The crime log does not include identifying information about the complainant or respondent.

Reporting Options

The College strongly encourages all individuals to seek assistance from a medical provider and/or law enforcement immediately after an incident of sexual violence. This is the best option to ensure preservation of evidence and to begin a timely investigative and remedial response. The College also strongly encourages all individuals to make a report to the College and to local law enforcement, although neither is required. These reporting options are not mutually exclusive. Both internal and criminal reports may be made simultaneously. The College has a strong interest in supporting those who have experienced sexual harassment, sexual violence, stalking, and intimate partner violence and strongly encourages all individuals or third-party witnesses to report any incident to the College.

Making a report means telling a Responsible Employee what happened - in person, by telephone, in writing, or by text message or email. At the time a report is made, a complainant does not have to request any particular course of action, nor does a complainant need to know how to label what happened.

Choosing to make a report, and deciding how to proceed after making the report, can be a process that unfolds over time. The College provides support that can assist each individual in making these decisions and will respect an individual's autonomy in deciding how to proceed to the extent possible. In this process, the College will balance the individual's interest with its obligation to provide a safe and non-discriminatory environment for all members of the College community.

The College will respond to all reports of Prohibited Conduct in a fair and impartial manner. A complainant, a respondent, and all individuals involved will be treated with dignity and respect. In response to all reports of Prohibited Conduct, the College will make an immediate assessment of a risk of harm to the complainant, respondent, or to the broader campus community and will take steps to address those risks. These steps may include interim supportive or protective measures to provide for the safety of the individual and the campus community.

Reports of violations of this Policy may be made to the Civil Rights & Title IX Coordinator. A formal complaint may be filed at any time by using the form provided at www.oxy.edu/sexual-respect-title-ix. A formal complaint may be submitted by dropping it off at the Civil Rights & Title IX Office, by email, or by mail. Upon receipt of any formal complaint, the Civil Rights & Title IX Coordinator will contact the complainant to conduct an intake interview.

In the event that a complainant has filed a formal complaint but then declines to participate in an intake interview, if the formal complaint contains an allegation meeting all of the jurisdictional elements of this Policy, the formal complaint is signed and requests an investigation, the Civil Rights & Title IX Coordinator will put the respondent on notice of the allegation and commence the investigation process.

Emergency and External Reporting Options

Complainants have the right to notify or decline to notify law enforcement. The College strongly encourages all individuals to seek assistance from law enforcement immediately after an incident of Prohibited Conduct. This is the best option to ensure preservation of evidence and to begin a timely criminal investigative and remedial response. Police have unique legal authority, including the power to seek and execute search warrants, collect forensic evidence, make arrests, and assist in seeking emergency protective orders. If requested, the College will help any Occidental community member get to a safe place and will provide transportation to the hospital, coordination with law enforcement, and information about on- and off-campus resources and options for resolution.

LAPD (Los Angeles Police Department)

Available to respond to any reports of crime or violence, including Prohibited Conduct.

For Emergencies: 911

For concerning situations, call dispatch at (877) ASK-LAPD [(877)-275-5273].

LAPD Northeast Division

Available to respond to any reports of crime or violence, including Prohibited Conduct.

3353 North San Fernando Road Los Angeles, CA 90065

Front desk phone number: (323) 344-5701

Campus Reporting Options

The College strongly encourages all individuals to report Prohibited Conduct to the Civil Rights and Title IX Office.

Civil Rights & Title IX Office

Handles complaints of Prohibited Conduct against any individual; works with other offices on-campus as appropriate to provide supportive interim measures, which may include changes in housing, academic flexibility, and no-contact directives, among other measures. AGC Room 111

www.oxy.edu/civil-rights-title-ix

(323) 259-1338

Individuals may also report to the following offices, which will forward any reports involving potential Prohibited Conduct to the Civil Rights and Title IX Office.

Campus Safety

Available as a first option to report any incident of crime or violence, as well as any incidents involving Prohibited Conduct. Also provides an escort service on campus to any student and can reach the Dean on Duty at any time. Available 24 hours a day, 7 days a week. Campus Safety will forward any reports involving potential Prohibited Conduct to the Civil Rights and Title IX Office.

Facilities Management Building

www.oxy.edu/offices-services/campus-safety

(323) 259-2599 (front desk)

(323) 259-2511 (emergency line) or dial 5 from any campus phone

Human Resources

Available on weekdays during regular office hours to receive complaints related to employees of the College, including faculty. Human Resources will forward any reports involving potential Prohibited Conduct to the Civil Rights and Title IX Office.

AGC First Floor

www.oxy.edu/offices-services/human-resources

(323) 259-2613

Dean of Students Office/Dean on Duty

Available on weekdays during regular office hours. Access to Dean on Duty 24 hours a day by calling Campus Safety at (323) 259-2599. Can assist with reasonable accommodations for housing, academic flexibility, and No Contact Letters. The Dean of Students will forward any reports involving potential Prohibited Conduct to the Civil Rights and Title IX Office.

Berkus Hall

www.oxy.edu/student-life/student-affairs/dean-students

(323) 259-2661

Anonymous Reporting

Any individual may make an anonymous report concerning an act of Prohibited Conduct. An individual may report the incident without disclosing their name, identifying the respondent, or requesting any action. Depending on the extent of information available about the incident or the individuals involved, however, the College's ability to respond to an anonymous report may be limited. The Anonymous Reporting Form can be found at:

www.oxy.edu/sexual-respect-title-ix.

The Civil Rights & Title IX Coordinator will receive the anonymous report and will determine any appropriate steps, including individual or community remedies as appropriate, and in consultation with the Clery Team, compliance with all Clery Act obligations.

A [formal complaint](#) cannot be filed anonymously and is only considered to have been filed when the complaint contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

Reporting to External Agencies

In addition to reporting to law enforcement or the College, students, faculty, and staff should be aware of the following external governmental agencies that investigate and prosecute complaints of prohibited discrimination and harassment:

Title IX Compliance

Inquiries or complaints concerning the College's compliance with Title IX may be referred to the U.S. Department of Education's Office for Civil Rights.

U.S. Department of Education Office for Civil Rights, San Francisco

United Nations Plaza, Suite 50

San Francisco, California 94102

(415) 486-5555

www2.ed.gov/about/offices/list/ocr/index.html

Employment Discrimination or Harassment

Any employee may pursue any charge of discrimination or harassment with the California Department of Fair Employment and Housing ("DFEH") or the federal Equal Opportunity Employment Commission ("EEOC"). It is unlawful to retaliate against any employee for opposing the practices prohibited by the California Fair Employment and Housing Act or comparable federal law or for filing a complaint with, or for otherwise participating in an investigation, proceeding, or hearing conducted by the DFEH or EEOC.

Any employee may pursue any charge of discrimination or harassment with the California Department of Fair Employment and Housing ("DFEH").

California Department of Fair Employment and Housing

320 West 4th Street

Los Angeles, California 90013

(213) 439-6799

www.dfeh.ca.gov

Any employee may pursue any charge of discrimination or harassment with the federal Equal Opportunity Employment Commission (“EEOC”).

Equal Opportunity Employment Commission
255 East Temple Street,
Los Angeles, California 90012
(213) 894-1000
www.eeoc.gov

The Bureau for Private Postsecondary Education accepts all types of complaints related to the College and may refer any complaint it receives including complaints related to institutional policies or procedures, or both, to the College, an accrediting agency, or another appropriate entity for resolution.

Bureau for Private Postsecondary Education
2535 Capitol Oaks Drive, Suite 400
Sacramento, CA 95833
(916) 431-6924
www.bppe.ca.gov

Other Reporting Considerations

Timeliness and Location of Incident

Complainants and third-party witnesses are encouraged to report Prohibited Conduct as soon as possible in order to maximize the College’s ability to respond promptly and effectively. The College does not, however, limit the time frame for reporting. If the respondent is not a member of the Occidental community, the College will still seek to take steps to end the harassment, prevent its recurrence, and address its effects, but its ability to take disciplinary action against the respondent may, of course, be limited. An incident does not have to occur on campus to be reported to the College.

Amnesty for Alcohol or Other Drug Use or Other Conduct Violations

The College strongly encourages the reporting of Prohibited Conduct under this Policy. It is in the best interest of this community that as many complainants as possible choose to report to college officials and that participants in the grievance process are forthright in sharing information. To guard against discouraging reporting or participation, a student who reports Prohibited Conduct or participates in the grievance process, either as a complainant, respondent, or a third-party witness, will not be subject to disciplinary action by the College for personal consumption of alcohol or drugs or other violations of the conduct policy (not including this Policy) at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk and do not involve plagiarism, cheating, or academic dishonesty. The College may, however, initiate an educational discussion or pursue other educational remedies with the student regarding alcohol or other drugs. Being intoxicated or impaired by drugs or alcohol is no defense to any violation of this Policy and does not diminish one’s responsibility to obtain consent.

Coordination with Law Enforcement

The College strongly encourages complainants to pursue criminal action for incidents of sexual harassment, sexual violence, and intimate partner violence that may also be crimes under

California law. The College will assist a complainant in making a criminal report and cooperate with law enforcement agencies if a complainant decides to pursue the criminal process to the extent permitted by law. The College's Policy, definitions, and burden of proof may differ from California criminal law. A complainant may seek recourse under this Policy and/or pursue criminal action. Neither law enforcement's determination whether or not to prosecute a respondent, nor the outcome of any criminal prosecution, are determinative of whether a violation of this Policy has occurred.

Proceedings under this Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. The College may not delay conducting its own investigation unless specifically requested by the law enforcement (e.g., LAPD). In the event of such a specific request, the College will defer its investigation only during the time that law enforcement is gathering evidence, which should not exceed ten days absent extenuating circumstances. The College will nevertheless communicate with the complainant and respondent (if appropriate) regarding Title IX rights, procedural options, and the implementation of supportive measures to assure safety and well-being. The College will promptly resume fact-gathering as soon as it is informed that law enforcement has completed its initial investigation.

False Reports

The College takes the accuracy of information very seriously, as a report of Prohibited Conduct may have severe consequences. A good-faith complaint that results in a finding of not responsible is not considered a false or fabricated report of Prohibited Conduct. Each party and every witness is expected to provide truthful information to the Investigator, Hearing Officer, and Appeals Officer. Should any party, or a witness, provide knowingly false information as part of this process, this may be considered a violation of College policies and will be referred to the appropriate office for further handling. It is a violation of the Code of Student Conduct to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws.

Reports Involving Minors or Suspected Child Abuse

Under California law, an individual must make a mandatory report of suspected child abuse and neglect, including sexual assault when that individual, in their professional capacity or within the scope of their employment, has knowledge of, or observes, a minor under the age of 18 whom the individual knows or reasonably suspects has been the survivor of child abuse or neglect. All College employees are required to immediately report any suspected child abuse and neglect to the Civil Rights & Title IX Coordinator and the Director of Campus Safety. The source of abuse does not need to be known in order to file a report. The College will report all suspected child abuse and neglect, including sexual assault, to law enforcement and/or the Los Angeles County Department of Child and Family Services. It is not the responsibility of any employee, student, or volunteer to investigate suspected child abuse. This is the role of Child Protective Services and law enforcement.

In addition to notifying the Civil Rights & Title IX Coordinator and Director of Campus Safety, any individual may make a direct report as follows:

- If a child is in immediate danger, call 911.

- If there is no immediate danger, contact the Child Protection Hotline 24 hours a day, 7 days a week, at (800) 540-4000. If calling from outside of California, call (213) 639- 4500.

Any Occidental employee who is also a confidential employee (for example, a therapist, sexual assault victim advocate, physician) and who was hired into that confidential role should report suspected child abuse or neglect to law enforcement and/or the Los Angeles County Department of Child and Family Services but would not make any such report to the Civil Rights & Title IX Coordinator or the Director of Campus Safety.

Supportive Measures and Remedies

Upon receipt of a report, the College will provide reasonable and appropriate supportive measures designed to preserve equal access to the College's programs and activities, and to protect the parties involved. The College will make reasonable efforts to communicate with the parties to ensure that all safety, emotional and physical well-being concerns are being addressed. Supportive measures may be imposed regardless of whether formal disciplinary action is sought by the complainant or the College, and regardless of whether the crime is reported to Campus Safety or local law enforcement. Interim protective measures are available to both complainants and respondents.

A complainant or respondent may request a no-contact directive or other protection, or the College may choose to impose supportive measures at its discretion to ensure the safety of all parties, the broader College community, and/or the integrity of the process. When requested by a complainant or otherwise determined to be appropriate, the College will issue a no-contact directive prohibiting the respondent from contacting the complainant. The College will not issue an interim mutual no-contact directive automatically, but instead shall consider the specific circumstances of each case to determine whether a mutual no-contact directive is necessary or justifiable to protect the noncomplaining party's safety or well-being, or to respond to interference with an investigation.

Upon the issuance of a mutual no-contact directive, the College will provide the parties with a written justification for the directive and an explanation of the terms of the directive. Upon the issuance of the any no-contact directive, the College will provide the parties with an explanation of the terms of the directive, including the circumstances, if any, under which violation could be subject to disciplinary action.

The College will maintain the privacy of any remedial and supportive measures provided under this Policy to the extent practicable and will promptly address any violation of the protective measures. All individuals are encouraged to report concerns about failure of another individual to abide by any restrictions imposed by a supportive measure. The College will take immediate and responsive action to enforce a previously implemented restriction if such restriction was violated.

Range of Measures

Supportive and protective measures will be implemented at the discretion of the College. Potential measures may include:

- Access to counseling services and assistance in scheduling, both on and off campus;

- Assistance in obtaining a sexual assault forensic examination or other medical services;
- Imposition of campus “no-contact directive;”
- Rescheduling of exams and assignments;
- Providing alternative course completion options, change in class schedule, including the ability to take an “incomplete,” drop a course without penalty or transfer sections;
- Change in work schedule or job assignment;
- Change in on-campus housing, when feasible, or arranging to dissolve a housing contract and pro-rating a refund in accordance with campus housing policies;
- Limiting an individual or organization’s access to certain College facilities or activities pending resolution of the matter;
- Voluntary leave of absence;
- Providing an escort to ensure safe movement between classes and activities;
- Providing academic support services, such as tutoring;
- Interim suspension or College-imposed leave;
- Any other remedy that can be tailored to the involved individuals to reasonably achieve the goals of this Policy.

Interim Suspension or Separation

If the College determines that the conduct, as alleged, poses a physical safety risk to one or more students, or to the College’s educational environment, the College may suspend the respondent, on an interim basis, from the College, from residence halls, or from specific programs or activities. Any such assessment will be made on a case-by-case basis, based on an individualized safety and violence risk analysis. If the College determines that an immediate physical threat to the health or safety of students or others justifies removal, then the respondent may be suspended on an interim basis. The decision to do so will be provided to the respondent in writing.

A student respondent will have an opportunity to challenge the decision immediately following the interim suspension. To challenge the suspension, the respondent should contact the Dean of Students Office within three (3) business days to meet with the Dean of Students (or designee) who will review the appeal to determine whether the decision to put the respondent on interim suspension was arbitrary or capricious. A decision is arbitrary and capricious where there is no rational connection between the facts presented and the decision made. The respondent will remain on interim suspension while the appeal is pending. The respondent will be notified in writing of the outcome of the appeal. The decision to place any respondent on an interim suspension will not be considered as evidence that any determination has been made regarding potential responsibility.

Provisions for suspension of faculty members are contained in the Faculty Handbook and NTT Faculty Collective Bargaining Agreement (where applicable). Staff may be placed on leave at the discretion of the College, and in keeping with applicable collective bargaining agreements.

Care and Support Resources for Complainants and Respondents

The College is committed to treating all members of the community with dignity, care, and respect. Any student who experiences or is affected by violations under this Policy, whether as a complainant, a respondent, or a third-party, will have equal access to support and counseling services through the College.

The College strongly encourages individuals to report Prohibited Conduct. The College recognizes, however, that the decision to report Prohibited Conduct (to the College and/or law enforcement) can be difficult. The College strongly encourages individuals who are considering whether to report Prohibited Conduct to seek the support of confidential campus and community resources, listed below. These trained professionals can provide guidance in making decisions, information about available resources and procedural options, and assistance to either party in the event that a report and/or resolution under this Policy is pursued. These resources are available regardless of when or where the incident occurred.

There are many resources available on campus and in the surrounding community. As detailed below, there are Confidential Resources, which by law cannot share information without the consent of the individual seeking assistance (in most circumstances). There are also a variety of College resources that will be discreet and private but are not considered confidential. These resources will maintain the privacy of an individual's information within the limited circle of those involved in the resolution of a complaint under this Policy.

Confidential Resources (Non-Medical)

The College strongly encourages all community members to make a prompt report of any incident of Prohibited Conduct to local law enforcement and the College. For individuals who are not prepared to make a report, or who may be unsure how to proceed, but are still seeking information and support, there are several legally protected confidential resources available as designated below.

On-Campus Confidential Resources:

Sexual Assault Survivor Advocate and Project SAFE Manager

Provides highly confidential crisis support and resource options to students who experience sexual assault of any kind. Support includes, but is not limited to, advising, case management, and accompanying survivors to rape treatment centers or medical services. As the Project SAFE Manager, conducts comprehensive outreach and educational programming.

Steward-Cleland Hall Lower Lounge

survivoradvocate@oxy.edu

(323) 259-1359

Office for Religious & Spiritual Life

Provides spiritual guidance and in the context of ordained clergy, confidential support.

Herrick Interfaith Center

www.oxy.edu/student-life/resources-support/orsl

(323) 259-2621

Employee Assistance Program

Occidental College's Employee Assistance Program (EAP) is designed to help maximize employees' health and effectiveness at home and at work. Administered by Ability Assist by Hartford, the EAP offers employees confidential, personal support for a wide range of issues, from everyday concerns to serious problems. The Employee Assistance Program is available to employees and their family members at no cost.

www.guidanceresources.com

(800) 96-HELPS

*Emmons Student Wellness Center**

Provides medical services and counseling to students. *Medical providers who treat a physical injury sustained from an assault, physical or sexual, are required by state law to report the assault to law enforcement.

www.oxy.edu/student-life/resources-support/emmons-wellness-center

(323) 259-2657

Off-Campus Confidential Resources:

Peace Over Violence

Provides comprehensive, free services for sexual assault survivors, including referrals and accompaniments to 24-hour emergency medical care and forensic services, counseling and support groups, advocacy, and accompaniment services for other related legal or medical needs.

1015 Wilshire Blvd.

Los Angeles, California 90017

www.peaceoverviolence.org

24/7 Confidential hotline: (213) 626-3393 or (626) 793-3385

Office: (213) 955-9090

Video phone: (213) 785-2684

Rape, Abuse, and Incest National Network (RAINN)

A confidential, anonymous national sexual assault hotline.

www.rainn.org

(800) 656-4673

National Domestic Violence Hotline

Available 24/7 to speak confidentially with anyone experiencing domestic violence, seeking resources or information, or questioning unhealthy aspects of their relationship.

www.thehotline.org

(800) 799-7233

Confidential Medical Resources

In California, medical providers who treat a physical injury sustained from an assault, physical or sexual, are required by state law to report the assault to law enforcement. However, the patient has the right to request that a survivor advocate be present when the patient speaks with law enforcement and to request that law enforcement not pursue a criminal charge at that time. Further, the disclosure of private information contained in most medical records is generally protected by HIPAA, and community medical providers will not notify the College.

Forensic examinations: Qualified providers can provide a forensic examination. The forensic medical exam has two goals: first, to diagnose and treat the full extent of any injury or physical effect (including prevention of sexually transmitted illnesses and pregnancy) and second, to properly collect and preserve evidence. There is a limited window of time (within 96 hours) following an incident of sexual assault to preserve physical and other forms of evidence, although it may be possible to obtain evidence from towels, sheets, clothes, and other items for longer periods of time. It is best to gather evidence prior to washing a person's body or changing clothing. If clothes have been changed, the clothes worn at the time of the incident should be brought to the examination in a clean, sanitary container such as a paper bag or wrapped in a clean sheet. Do not use a plastic bag: plastic containers do not breathe and may render evidence useless. A change of clothing should also be brought to the hospital, as the clothes worn at the time of the incident will likely be kept as evidence. Taking the steps to gather evidence immediately does not commit an individual to any particular course of action. The decision to seek timely medical attention and gather any evidence will preserve the full range of options to seek resolution under this Policy or through the pursuit of criminal prosecution and may be helpful in obtaining protective orders.

Taxi vouchers are available at Project SAFE, Campus Safety, Emmons Student Wellness Center and Residential Education and Housing Services to provide free transportation to local medical centers. The Survivor Advocate is also available to accompany survivors to access off-campus resources. The following three off-campus medical centers are all designated by Los Angeles County as Sexual Assault Response Team ("SART") Centers. While the specific process and resources each SART Center offers may vary, generally each SART Center will provide an immediate, victim-centered response following an incident of sexual assault, including collaborating between the hospital, law enforcement agencies, and sexual assault counselors to provide comprehensive treatment options.

San Gabriel Valley Medical Center

Provides medical treatment and forensic exams performed by Sexual Assault Nurse Examiners; closest facility to campus. Los Angeles County designated SART Center.
438 W. Las Tunas Dr.
San Gabriel, California 91776
(877) 209-3049

LA County/USC Medical Center

Provides medical treatment and forensic exams performed by Sexual Assault Nurse Examiners. Los Angeles County designated SART Center.
2010 Zonal Ave.

Los Angeles, California 90033
(323) 226-3961

Rape Treatment Center at Santa Monica-UCLA Medical Center

Provides comprehensive, free treatment for sexual assault survivors, including 24- hour emergency medical care and forensic exams performed by Sexual Assault Nurse Examiners, counseling and psychotherapy, advocacy, and accompaniment services. Los Angeles County designated SART Center.

1250 Sixteenth Street
Santa Monica, California 90404
(424) 259-7208 (24-hour hotline)

Additional On-Campus & Off-Campus Resources

Occidental community members have access to a variety of resources provided by the College. All on-campus reporting options listed above have staff members trained to support individuals affected by Prohibited Conduct and to coordinate with the Civil Rights & Title IX Coordinator consistent with the College's commitment to a safe and healthy educational environment. While not bound by confidentiality, those resources will maintain the privacy of an individual's information within the limited circle of those involved in the Title IX resolution process.

Students, faculty, and staff may also access resources located in the local community in addition to those confidential resources above. These organizations can provide crisis intervention services, counseling, medical attention, and assistance in dealing with the criminal justice system. It may be helpful for survivors to have someone who can help them explore their off-campus options and guide them through legal processes; an advocate can provide assistance in this area. Two local resources, Peace Over Violence and the Rape Treatment Center at Santa Monica UCLA Medical Center offer advocacy support. Below are some additional on-campus and community resources.

Project SAFE (Sexual Assault Free Environment)

An on-campus prevention and education support program dedicated to ending sexual violence on campus through resources, advocacy, and educational programming.

Stewart-Cleland Hall Lower Lounge

www.oxy.edu/student-life/resources-support/project-safe

(323) 341-4750

projectsafe@oxy.edu

Los Angeles LGBT Center

Provides support and advocacy services for LGBT community members.

1625 N. Schrader Blvd.

Los Angeles, California 90028

lalgbtcenter.org

(323) 993-7400

California Women's Law Center (CWLC)

The CWLC has attorneys available to serve as a resource/advisor to Occidental College complainants, including both men and women, who are filing Title IX sexual assault, harassment, or gender discrimination complaints and going through the Occidental College resolution process. *Please note, however, that the College does not endorse or recommend this organization (or their attorneys), and that the organization makes an independent decision about the cases that it will accept and the terms of the representation.

360 North Pacific Coast Highway, Suite 2070, El Segundo, CA 90245

<https://www.cwlc.org/>

(323) 951-1041

Overview of Resolution Options

The College is committed to providing a prompt, thorough, equitable, and impartial resolution of all reported violations of this Policy. The College uses two processes to resolve reports of Prohibited Conduct under this Policy: Disciplinary Resolution, which involves an investigation and adjudication, and if appropriate, the imposition of sanctions, and Adaptable Resolution, which includes restorative options for resolving reports. The Civil Rights & Title IX Coordinator will determine the appropriate resolution process after making an initial assessment of the reported information, considering the stated interests of the parties, campus safety, and the College's obligation to maintain an environment free from harassment and discrimination.

The processes under this Policy are separate and distinct from California's criminal procedures. Proceedings under this Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus. Neither a decision by law enforcement regarding prosecution nor the outcome of any criminal proceeding will be considered determinative of whether a violation of this Policy occurred.

Initial Assessment

After receiving a report of Prohibited Conduct, the Civil Rights & Title IX Office will gather information about the reported conduct and respond to any immediate health or safety concerns raised by the report. The Civil Rights & Title IX Office will assess the complainant's safety and well-being, offer the College's immediate support and assistance, and assess the nature and circumstances of the report to determine whether the reported conduct raises a potential Policy violation, whether the reported conduct is within the scope of this Policy, and the appropriate manner of resolution under this Policy.

The Civil Rights & Title IX Office will provide outreach to each identifiable complainant that is alleged to have experienced misconduct. The outreach will include the following information:

- the College has received a report that they may have experienced misconduct;
- retaliation for filing a complaint or participating in a complaint process, or both, is prohibited;
- the counseling resources available at the College or in the community;

- that, when a crime may have occurred, they have the right to report the matter to law enforcement;
- the right to seek medical treatment;
- the College's investigation procedures;
- potential interim measures that are available;
- the importance of preserving evidence;
- a request for the complainant to meet with the Civil Rights & Title IX Office to discuss options for responding to the report;
- the right to be accompanied by an advisor of choice; and
- the way the College responds to reports of misconduct and a description of potential disciplinary consequences.

As part of the initial assessment, the Civil Rights & Title IX Office will:

- assess the nature and circumstances of the report;
- address immediate physical safety and emotional well-being;
- communicate necessary details of the report to Campus Safety to enter the report into the College's daily crime log if required by the Clery Act;
- provide the complainant with an explanation of the procedural options, including Disciplinary Resolution and Adaptable Resolution;
- discuss the complainant's preference for manner of resolution and any barriers to proceeding;
- discuss the process for filing a formal complaint;
- assess for any pattern of conduct by the respondent; and
- determine age of the complainant; and if the complainant is a minor, or was a minor at the time of the alleged Prohibited Conduct, make the appropriate notifications to state agencies.

Any Supportive Measures put in place will be kept private, except to the extent that doing so impairs the ability of the institution to provide the supportive measures. For example, to effectuate a housing change, staff at Residential Education and Housing Services will be informed of the need to assist with a housing change as directed by the Civil Rights & Title IX Coordinator but will not be provided with any of the details of any complaint. When the Civil Rights & Title IX Coordinator decides to initiate an investigation, impose interim protective measures, or take any other action that impacts a respondent, the Civil Rights & Title IX Coordinator will also ensure that the respondent is notified and receives written information on available resources and options.

At the conclusion of the initial assessment, the College will proceed with one of the following options:

- Proceed with an investigation and resolution under the Disciplinary Resolution process as outlined in [Appendix A](#), [Appendix B](#), or [Appendix C](#). This will occur when a complainant requests an investigation and the Civil Rights & Title IX Coordinator determines it is appropriate; when the Civil Rights & Title IX Coordinator determines that an investigation must be pursued even when a complainant requests that no investigation be pursued; or when Adaptable Resolution is not appropriate or available.
- Proceed with the Adaptable Resolution process as outlined in [Appendix D](#). This will always require the consent of the complainant. The consent of the respondent is also required when the form of resolution involves the respondent.
- If outside the scope of this Policy, refer the matter to another appropriate office or department for resolution under the relevant policy.
- Close the report with the option to re-open it at another time if the complainant requests resolution or if the College subsequently determines there is a need to further investigate the alleged misconduct.

Formal Complaints, Dismissals and Appeals of Dismissals

A formal complaint for purposes of this Policy is a document filed by a complainant or signed by the Civil Rights & Title IX Coordinator alleging [Title IX Sexual Harassment](#) and requesting that the College investigate the allegation. A formal complaint may be filed at any time by using the form provided at <https://www.oxy.edu/sexual-respect-title-ix>. A form may be submitted by dropping it off at the Civil Rights & Title IX Office, by email, or by mail. Upon receipt of a complaint, the Civil Rights & Title IX Coordinator will contact the complainant to conduct an intake interview. When a complainant submits a formal complaint, the Civil Rights & Title IX Coordinator will first promptly determine whether:

- the conduct alleged would, if proved, constitute [Title IX Sexual Harassment](#);
- the conduct alleged occurred in the College’s education program or activity;
- the conduct alleged occurred in the United States;
- the conduct alleged occurred on or after August 14, 2020; and
- the complainant is participating in or attempting to participate in the College’s education program or activity at the time the complaint is filed.

If the formal complaint satisfies all of these elements, it will be investigated and resolved as a [Title IX Sexual Harassment](#) matter through the procedures outlined in [Appendix A](#). If it appears based upon initial review or upon information gathered during an investigation that a formal complaint does not satisfy and/or no longer satisfies all of these elements, the College will dismiss the formal complaint for purposes of the Title IX Sexual Harassment process. The Civil Rights & Title IX Coordinator may upon such dismissal transfer the matter for handling under the disciplinary processes outlined in [Appendix B](#) or [Appendix C](#), or other College procedures, as deemed appropriate by the College.

Even if the allegations of a formal complaint fall within the definition of [Title IX Sexual Harassment](#), the Civil Rights & Title IX Coordinator may (but is not required to) dismiss a formal complaint or any allegations therein if at any time during the investigation or resolution process:

- A complainant notifies the Civil Rights & Title IX Coordinator in writing that they would like to withdraw the formal complaint or any allegations therein;
- The respondent is no longer enrolled or employed by the College; or
- Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

If a formal complaint is dismissed by the College under the circumstances described above, the College will simultaneously provide to the parties written notice of the dismissal and the reasons for the dismissal, and notice of the parties' opportunity to appeal such dismissal through the appeal procedures outlined in [Appendix G](#).

Formal Complaints Signed by Civil Rights & Title IX Coordinator

In cases where it appears based on an initial report that the elements stated above would be satisfied, but the complainant does not wish to file a formal complaint, the Civil Rights & Title IX Coordinator may, in their discretion, decide to sign a complaint of [Title IX Sexual Harassment](#) and initiate an investigation and resolution process under the process outlined below. If this occurs, the Civil Rights & Title IX Coordinator will not be a complainant or otherwise a party to the matter. Additionally, if a formal complaint is dismissed as described above because it does not fit within the definition of [Title IX Sexual Harassment](#), but the Civil Rights & Title IX Coordinator determines that the allegations of the complaint may constitute [Non-Title IX Misconduct](#), the Civil Rights & Title IX Coordinator may (upon the resolution of, and to the extent consistent with the result of, any appeal of such dismissal), address the alleged Non-Title IX Misconduct through the disciplinary resolution procedures outlined in [Appendix B](#) or [Appendix C](#).

Requests for Confidentiality, Not to Investigate, or Not to Discipline

A complainant may request that their name or other personally identifiable information not be shared with a respondent, that no investigation be pursued, or that no disciplinary action be taken. In these instances, before taking any further investigative steps, a member of the Civil Rights & Title IX Office will discuss any concerns with the complainant and seek to address and remedy barriers to reporting and/or participation based upon concerns about retaliation or other lack of clarity in understanding procedural options and potential outcomes. In reaching a determination on whether to honor a complainant's request for confidentiality or no investigation or discipline, the Civil Rights & Title IX Coordinator will balance the complainant's request against the following factors:

- the totality of the known circumstances;
- the nature and scope of the alleged conduct, including whether the reported behavior involves the use of a weapon, physical restraints, or battery;
- the respective ages and roles of the complainant and respondent, including whether the respondent is a faculty or staff member with oversight of students and whether there is a power imbalance between the complainant and respondent;
- the risk posed to any individual or to the campus community by not proceeding, including the risk of additional violence;

- whether there have been other reports of other Prohibited Conduct or other misconduct by the respondent;
- whether the report reveals a pattern of misconduct related to Prohibited Conduct at a given location or by a particular group;
- the complainant's interest in the College not pursuing an investigation or disciplinary action and the impact of such actions on the complainant;
- whether the College possesses other means to obtain relevant evidence;
- fairness considerations for both the complainant and the respondent;
- the College's obligation to provide a safe and non-discriminatory environment; and
- any other available and relevant information.

The Civil Rights & Title IX Coordinator will consider what steps may be possible or appropriate when a respondent is unknown or the complainant requests anonymity, and what other measures or remedies might be considered to address any effects of the reported behavior on the campus community. The Civil Rights & Title IX Coordinator will make a determination regarding the appropriate manner of resolution under the policy. The College will seek resolution consistent with the complainant's request, if it is possible to do so, based upon the facts and circumstances, while also protecting the health and safety of the complainant and the College community.

The College's ability to investigate and respond fully to a report may be limited if the complainant requests anonymity or declines to participate in an investigation. The College will, however, pursue other steps to limit the effects of the potential Prohibited Conduct and prevent its recurrence. In all cases, the final decision on whether, how, and to what extent the College will conduct an investigation and whether other interim remedial or protective measures will be taken in connection with a report of Prohibited Conduct will be made in a manner consistent with this Policy.

Where the Civil Rights & Title IX Coordinator determines that a complainant's request(s) can be honored, the College may nevertheless take other appropriate steps to eliminate the reported conduct, prevent its recurrence, and remedy its effects on the complainant and the College community. Those steps may include increased monitoring, supervision, or security at locations or activities where the alleged misconduct occurred; providing additional training and education materials for students and employees; or conducting climate surveys regarding sexual violence. The College will also take immediate steps to provide for the safety of the complainant while keeping the complainant's identity confidential as appropriate. These steps may include changing living arrangements or course schedules, assignments, or tests. The complainant will be notified that the steps the College will take to respond to the complaint will be limited by the request for confidentiality. The Civil Rights & Title IX Coordinator may also request that a report be reopened and pursued under this Policy if any new or additional information becomes available, and/or if the complainant decides that they would like Disciplinary Resolution to occur.

In those instances when the Civil Rights & Title IX Coordinator determines that the College must proceed with an investigation despite the complainant's request that it not occur, the Civil Rights & Title IX Coordinator will notify the complainant that the College intends to initiate an

investigation prior to disclosing the complainant's identity and/or initiating the investigation. The College will take immediate steps to provide for the safety of the complainant where appropriate. In the event the complainant requests that the College inform the respondent that the complainant asked the College not to investigate or seek discipline, the College will honor this request.

Additional Provisions

Consolidation of Investigation

The Civil Rights & Title IX Office has the discretion to consolidate multiple reports into a single investigation if evidence relevant to one incident might be relevant to the others. Consolidation might involve multiple complainants and a single respondent, multiple respondents, or conduct that is temporally or logically connected. In the event that the allegations under this Policy involve allegations of a violation of a separate policy, whether Student Code of Conduct, Faculty Handbook, or Staff Handbook, the College will have the right, within its sole discretion, to consolidate those other allegations within one investigation and/or hearing.

Interaction with Grievance Procedures Under Collective Bargaining Agreements

If a union represented employee elects to pursue a grievance regarding Prohibited Conduct through the procedures set forth in a Collective Bargaining Agreement, the College may, within its discretion, suspend an investigation procedure under this Policy for the duration of such grievance procedure, to avoid the possibility of concurrent investigations and conflicting findings with respect to the employee's complaint. If a represented employee's complaint is resolved through the applicable grievance procedure, the Civil Rights and Title IX Office may request that the union representative transfer all information gathered and related findings to the Civil Rights and Title IX Office to determine whether further investigation is necessary under this Policy.

Standard of Evidence

The standard for determining whether the respondent is responsible for a policy violation is the preponderance of the evidence standard, i.e., whether it is more likely than not that a violation of College policy occurred.

No Conflict of Interest or Bias

Any individual carrying out these procedures must be free from any actual conflict of interest or bias that would impact the handling of this matter. Should the Civil Rights & Title IX Coordinator have a conflict of interest, the Civil Rights & Title IX Coordinator is to immediately notify the President of the College, who will appoint a College administrator to serve as Acting Civil Rights & Title IX Coordinator for the matter at issue. Should any Investigator have a conflict of interest, the Investigator is to notify the Civil Rights & Title IX Coordinator immediately upon discovery of the conflict. Each party may object to the designated Investigator, Hearing Officer, or appeals officer, on the grounds of an actual bias or conflict of interest. If either of the parties objects, they must notify the Civil Rights & Title IX Coordinator, in which case the Civil Rights & Title IX Coordinator will evaluate whether the objection is substantiated. The party raising the objection will be notified in writing of the determination within three (3) business days. If it is determined that an actual bias or conflict of interest exists, the person who was the subject of the objection will be removed and replaced.

Modification of Processes

The College will follow the Processes described herein barring exceptional circumstances. In rare instances, however, the College may be required to adapt or modify the Processes (including timelines) to ensure prompt and equitable resolution of a report of Prohibited Conduct. The College reserves this right. In such instances, the College will notify the parties of the modification of the Processes and, if appropriate, the exceptional circumstances requiring the College to adapt or modify the Processes.

Requests for Delays and Extensions of Time

The Civil Rights & Title IX Coordinator may extend any deadlines within this Policy, for good cause shown and documented. “Good Cause” will be determined by the Civil Rights & Title IX Coordinator in their sole discretion and may include: (1) the unavailability of a witness because of death, illness, or other excusable circumstances; (2) the unavailability of a party because of death, illness, or other excusable circumstances; (3) the unavailability of an advisor because of death, illness, or other excusable circumstances; (4) concurrent law enforcement activity; and (5) the need for language assistance or accommodation of disabilities. Although reasonable attempts will be made to schedule proceedings consistent with an advisor’s availability, the process will not be delayed to schedule the proceedings at the convenience of the advisor. The complainant and respondent will be notified in writing of any extension, the reasons for it, and projected new timelines. The College will not unreasonably deny a student party’s request for an extension of a deadline related to a complaint during periods of examinations or school closures.

Past Sexual History

The investigator and/or hearing officer will not consider the past sexual history of a complainant or respondent, unless: 1) the prior or subsequent sexual history between the complainant and anyone other than the respondent is directly relevant to prove that physical injuries alleged to have been inflicted by the respondent were inflicted by another individual; or 2) the existence of a dating relationship or prior or subsequent consensual sexual relations between the complainant and respondent is relevant to how the parties communicated consent in prior or subsequent consensual sexual relations.

Where the investigator and/or hearing officer allows consideration of evidence about a dating relationship or prior or subsequent consensual sexual relations between the complainant and the respondent, the mere fact that the complainant and respondent engaged in other consensual sexual relations with one another is never sufficient, by itself, to establish that the conduct in question was consensual. Prior to allowing the consideration of any evidence of past sexual history, the investigator and/or hearing officer will provide a written explanation to the parties as to why the consideration of the evidence is consistent with this policy.

Non-Adversarial Process/Presumption of Non-Responsibility

The investigation and adjudication of alleged misconduct under this policy is not an adversarial process between the complainant, the respondent, and the witnesses, but rather a trauma-informed process for the College to comply with its obligations under existing law. The complainant does not have the burden to prove, nor does the respondent have the burden to disprove, the underlying allegation or allegations of misconduct. The decision to proceed with an investigation is not a

determination that the respondent has engaged in the conduct as alleged. The respondent is presumed not responsible for the conduct that is the subject of the investigation, unless and until a decision of responsibility has been made upon the completion of the adjudication process.

Respondent's Prior Conduct History

Where there is evidence of a pattern of conduct similar in nature by the respondent, either prior, or subsequent, to the conduct in question, this information may be deemed relevant and probative to the decision-maker's determination of responsibility, and/or the determination of sanction. The Civil Rights & Title IX Coordinator will make a determination of relevance based on an assessment of whether the previous incident was substantially similar to the conduct cited in the report and indicates a pattern of behavior and the College, through the Civil Rights & Title IX Coordinator, may choose to provide this information to the Investigator or Hearing Officer, with appropriate notice to the parties. The Civil Rights & Title IX Coordinator will access the relevance of this information and determine if it is appropriate for inclusion in the investigation report.

Advisor

Throughout any investigation or resolution, each party has the right to consult with an advisor of their choosing. The advisor may be any person, including an attorney. The parties may be accompanied by their respective advisor at any meeting or proceeding related to the investigation or resolution of a report under this Policy. While the advisor may provide support and advice to the parties at any meeting and/or proceeding, the institution may establish restrictions regarding the extent to which the advisor may participate in the proceedings. Advisors may not speak on behalf of the parties or otherwise participate in, or in any manner delay, disrupt, or interfere with meetings and/or proceedings, with the exception that a party's advisor participating in a hearing under [Appendix A](#) will ask questions of the other party and witnesses. Generally, the Civil Rights & Title IX Office and Investigator will communicate directly with the complainant or respondent. An advisor should plan to make themselves reasonably available, and the College will not unduly delay the scheduling of meetings or proceedings based on the advisor's unavailability.

Failure to Comply with Investigation and Disciplinary Process

If an advisor fails to comply with the procedures set forth herein, the College reserves the right to exclude the advisor from further participation in the process. If a participant fails to comply with the procedures set forth herein, the College reserves the right to bring additional charges of misconduct against the participant. The Civil Rights & Title IX Coordinator is responsible for interpreting and applying this provision.

Integrity of Proceeding

These procedures are entirely administrative in nature and are not considered legal proceedings, but rather procedures designed to address policy violations. No party may audio or video record the proceedings. Advisors may not speak for, or on behalf of, parties, with the exception of a party's advisor participating in a hearing under [Appendix A](#), who will ask questions of the other party and witnesses but will not otherwise act on behalf of a party.

Record Retention

The Civil Rights & Title IX Coordinator will retain records of all reports and complaints, regardless of whether the matter is resolved by means of Initial Assessment, Adaptable Resolution or Disciplinary Resolution. Complaints resolved by means of an Initial Assessment or Adaptable Resolution are not part of a student's conduct file or academic record. Affirmative findings of responsibility in matters resolved through Disciplinary Resolution are part of a student's conduct record. Such records will be used in reviewing any further conduct, or developing sanctions, and will remain a part of a student's conduct record. In addition to records kept by the Civil Rights & Title IX Coordinator, the conduct files of students who have been suspended or expelled from the College are maintained in the Dean of Students Office indefinitely. Conduct files of students who have not been suspended or expelled are maintained in the Dean of Students Office for no fewer than seven years from the date of the incident. Further questions should be directed to the Civil Rights & Title IX Office.

Use of Privileged Records

The College will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

Transcript Actions

When a Disciplinary Resolution begins under this Policy, the College will notate the student respondent's transcript with "Administrative Matter Pending." The notation will be removed after the Grievance Process is completed unless the respondent is also a respondent in other ongoing investigations or processes for which the notation is also applicable.

Training for Investigators, Hearing Officers, Appeals Officers, Civil Rights & Title IX Coordinator

The Civil Rights & Title IX Coordinator, Hearing Officer, and Appeals Officer must have the following training prior to commencing any role in any case involving [Title IX Sexual Harassment](#):

- the definition of sexual harassment under 34 CFR 106.30(a);
- the scope of the College's education program or activity as defined by the same regulations;
- how to conduct investigations (not required for hearings or appeals officers), hearings, appeals, and informal resolution processes; and
- how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Hearing Officers must have training on the following prior to commencing a role in any case involving [Title IX Sexual Harassment](#):

- the definition of sexual harassment under 34 CFR 106.30(a);
- the scope of the College's education program or activity as defined by the same regulations;
- how to conduct investigations (not required for hearings or appeals officers), hearings, appeals, and informal resolution processes;

- how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and
- issues of relevance of questions and evidence, including when questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant.

Any individual who will be coordinating any hearing involving [Title IX Sexual Harassment](#) must also have training on how to use any technology that will be used at a live hearing.

Investigators must have training on the following prior to commencing a role in any case involving [Title IX Sexual Harassment](#):

- the definition of sexual harassment under 34 CFR 106.30(a);
- the scope of the College’s “education program or activity” as defined by the regulations;
- how to conduct investigations, hearings, appeals, and informal resolution processes;
- how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
- issues of relevance; and
- how to create an investigative report that fairly summarizes relevant evidence.

Appendix A: Disciplinary Resolution of a Grievance of Title IX Sexual Harassment

Appendix A outlines the disciplinary resolution procedures the College follows in resolving allegations that a person has been subjected to [Title IX Sexual Harassment](#) in violation of the College's Sexual and Interpersonal Misconduct Policy.

Notice of Investigation

Upon the filing of a [Formal Complaint](#), written notice will be provided to the parties. The notice will include the following information:

- The specific allegation and the specific conduct that is alleged to have occurred;
- The identity of the parties;
- The date and location (if known) of the conduct that is alleged to have occurred;
- A copy of this Policy, which contains the process that will be followed, including an explanation that each party will have the right to inspect and review all evidence (get language) prior to the completion of the investigation;
- A statement indicating that the decision to accept a complaint does not presume that the conduct at issue has occurred, and that the respondent is presumed not responsible, unless and until, at the conclusion of the process below, there is a determination of responsibility;
- An explanation that each party may be accompanied by an advisor of their choice, who may be a parent, friend, attorney, or union representative;
- The date and time of the initial meeting with the Civil Rights & Title IX Coordinator, with a minimum of three (3) business days' notice;
- The College's alcohol and drug amnesty policy;
- The College's prohibition against providing false information as part of an investigation or adjudication process;
- The name and contact information for the assigned Investigator; and
- Information regarding Supportive Measures, which are available equally to the respondent and to the complainant.

Should additional allegations be added to the investigation at a later time, the respondent will again be provided with full written notice.

Preliminary Investigation

The Investigation process, up to evidence review, is generally expected to take thirty (30) business days, which may be extended for Good Cause by the Civil Rights & Title IX Coordinator. Both parties will be notified, in writing, of any extension granted and the reason for the extension.

The Investigator will interview all parties and relevant witnesses and gather relevant documentary evidence provided by the parties and any identified witnesses. Interviews may be conducted in person, or via telephone or video conference.

The Investigator will prepare a summary of each interview (“Interview Summary”). The Investigator will share the Interview Summary with the interviewee. The interviewee will have three (3) business days to correct or comment on any statements made in the Interview Summary. The deadline may be extended for Good Cause, upon request to the Investigator. If the interviewee has no corrections to, or comments on, the Interview Summary, the interviewee will sign an acknowledgement that the interviewee has reviewed and agrees that the Interview Summary is accurate. If the interviewee has corrections or comments to the Interview Summary, the interviewee may submit a written response within three (3) business days reflecting any additions or changes which the interviewee believes are necessary to ensure the accuracy of the interviewee’s statement. If no response is received from the interviewee by the deadline, their Interview Summary may be included in the Investigation Report and will be presumed to be accurate. In all instances where the Investigator includes the Interview Summary as an exhibit to a report, the Investigator will also include any response.

Each party will be provided with an opportunity to offer relevant witnesses and evidence. The Investigator will consider all relevant evidence, both inculpatory and exculpatory. All information for consideration by the Hearing Officer must be provided to the Investigator as part of the investigation process. Information that was not provided to the Investigator will not be allowed during the hearing itself, unless it can be clearly demonstrated that such information was not reasonably known to or available to the parties at the time of the investigation. If new evidence is provided at the hearing, the Hearing Officer either reject the new evidence, or send the case back to the Investigator for further fact-gathering, in the sole discretion of the Hearing Officer.

Evidence Review

At the conclusion of all interviews and fact gathering, and when the evidence has been gathered, the Investigator will provide each party the opportunity to review all of the evidence gathered that is directly related to the allegation(s). This will include both inculpatory and exculpatory evidence. Given the sensitive nature of the information provided, the information will be provided in a secure manner (e.g., by providing digital copies of the materials through a protected, “read-only” web portal). Neither the complainant nor the respondent (nor their advisors) may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. Any student or employee who fails to abide by this may be subject to discipline. Any advisor who fails to abide by this may be subject to discipline and/or may be excluded from further participation in the process.

Each party may respond to the evidence gathered. Each party will have ten (10) business days in which to respond to the evidence. Each may provide a response in writing to the Investigator. The Investigator will incorporate any response provided by the parties into the Investigation Report. Along with their response to the evidence, each party may also submit a written request for additional investigation, such as a request for a follow-up interview(s) with existing witnesses to clarify or provide additional information, including offering questions to the Investigator to pose to witnesses or to the other party. This response may include written, relevant questions that a party would like the Investigator to ask of any party or witness (at the discretion of the Investigator). If any of the questions posed will be excluded as not relevant, or not likely to lead

to relevant information, the Investigator will explain to the party who proposed the questions any decision to exclude a question as not relevant.

Upon receipt of each party's response to the evidence reviewed, the Investigator will determine if any additional investigation is needed. In addition, either party may offer new witnesses or other new evidence. The Investigator will consider the responses provided, will pose questions to parties or witnesses as appropriate (at the discretion of the Investigator), and interview new witnesses, and accept new, relevant, evidence. If new relevant evidence is provided by either party, or gathered by the Investigator, the newly gathered evidence (including answers to clarifying questions) will be made available for review by each party. Each party will have five (5) business days in which to respond to the new evidence. Each may provide a response in writing, or verbally, to the Investigator. The Investigator will incorporate any written response provided by the parties into the Investigation Report.

Any evidence to be considered by the Hearing Officer must be provided to the Investigator during the fact-gathering portion of the investigation. Information that was not provided to the Investigator will not be allowed during the hearing itself, unless it can be clearly demonstrated that such information was not reasonably known to, or available to, the parties at the time of the investigation. Should new evidence be presented at hearing, the Hearing Officer has the authority to reject the new evidence, or to send the matter back to the Investigator for further, limited, fact-gathering.

Investigation Report

The Investigator will prepare a written report summarizing all the relevant evidence gathered and all investigative steps taken to date. Each party will be provided with a copy of the written report and will have ten (10) business days to provide a response. Upon receipt of any response(s), the Investigator will then complete the Investigation Report, which will include as an attachment all relevant evidence gathered during the investigation, as well as all interview notes and interview summaries, showing the original (as sent to each interviewee for review) and the revised version, after corrections or additions by each interviewee.

Conclusion of Investigation, Notice of Hearing

The Civil Rights & Title IX Coordinator will review the Investigation Report, with appendices. The Civil Rights & Title IX Coordinator may require that the Investigator conduct additional investigation. Once the Investigation Report is final, it will be provided through a protected, read-only, server, together with all appendices, to each party. At the same time, each party will be provided with a Notice of Hearing, which will include information regarding the date of the hearing, the identity of the Hearing Officer, and any deadlines for submission of evidence, names of witnesses, or questions to be reviewed by the Hearing Officer to ensure relevance. The hearing will be scheduled no less than ten (10) business days from the date of the Notice of Hearing.

Within three (3) business days of receipt of the Notice of Hearing, either party may object to the Hearing Officer on the basis of an actual bias or conflict of interest. Any objection is to be in writing and sent to the Civil Rights & Title IX Coordinator. Should the Civil Rights & Title IX Coordinator determine that there is a bias or conflict of interest, the Civil Rights & Title IX Coordinator will remove the Hearing Officer and appoint another.

Hearing

Hearings will be held via videoconferencing. Prior to the hearing, the Hearing Officer will receive instructions regarding the operation of any audio-visual equipment for the hearing. Each participant shall also be provided with instructions on how to access the hearing. Each hearing will be audio recorded. No individual is permitted to record while the hearing is taking place. The recording is the property of Occidental College but will be available to the parties for listening by contacting the Civil Rights & Title IX Coordinator.

The complainant, respondent, and the Hearing Officer all have the right to call witnesses. Witnesses must have information relevant to the incident. No party will be permitted to call as a witness anyone who was not interviewed by the Investigator as part of the Preliminary Investigation. Each party must submit the names of witnesses they would like to call to the Civil Rights & Title IX Coordinator no less than five (5) business days in advance of the hearing.

Five (5) business days prior to the hearing, each party must submit to the Civil Rights & Title IX Coordinator a preliminary list of questions they wish to pose to the other party, or to a witness. If the Hearing Officer determines that any questions are not relevant, the Hearing Officer will explain the reason for the exclusion of the question at the hearing.

The Hearing Officer will have the authority to limit the time allotted to any phase of the hearing, and/or to limit the time allotted to the full hearing. Any such limitation will be communicated to the parties no later than three (3) business days before the hearing.

The hearing will start with an overview of the hearing process from the Hearing Officer. The Hearing Officer will then pose questions to the complainant. When the Hearing Officer has concluded, the respondent's advisor will then pose questions to the complainant. If the Hearing Officer has any additional questions, those will be posed by the Hearing Officer. If the respondent's advisor has any follow-up questions for the complainant, the advisor will ask those questions. The same process will then be followed for questions posed to the respondent by the Hearing Officer, followed by questions from the complainant's advisor to the respondent. This process will then be followed for any witnesses who are to be interviewed.

At the hearing, the non-questioning party will have an opportunity to note an objection to the questions posed. Any such objection must occur in written form, and neither the hearing officer nor the College are obligated to respond, other than to include any objection in the record. The hearing officer has the authority and obligation to discard or rephrase any question that the hearing officer deems to be repetitive, irrelevant, or harassing.

The Hearing Officer will have the authority to maintain order and decorum at the hearing. The Hearing Officer also has the authority to determine whether any questions are abusive, intimidating, or disrespectful, and will not permit such questions. Further, the Hearing Officer may refuse to allow any questions that seek information that is not relevant under this Policy. The Hearing Officer is not required to provide a lengthy or complicated explanation but is required only to explain the reason why a question will not be permitted.

If either party does not appear, their advisor will be present for the purpose of asking questions of the other party, or of witnesses. During the hearing, if either party has any follow-up or clarifying questions for the other party, or for witnesses, the questions must be submitted in writing to the Hearing Officer. The Hearing Officer will determine the relevance of each question and explain why any question is deemed irrelevant. Each party will have the opportunity to make a closing statement. This statement is to be made by the party directly, and not by their advisor. This closing statement is not evidence but is intended as an opportunity to address the decision-maker directly.

Following the conclusion of the hearing, the Hearing Officer will prepare a written notice of hearing outcome. To the extent credibility determination needs to be made, determinations will not be based on a person's status as complainant, respondent, witness. The Hearing Officer's written determination regarding responsibility and any sanctions, as determined by the procedures outlined in [Appendix E](#) or [Appendix F](#), will be provided to the parties within fifteen (15) business days of the hearing. The Hearing Officer's written determination will include:

- Identification of the Prohibited Conduct section(s) of this policy, and of any other College policy sections considered in the investigation, alleged to have been violated;
- A description of the procedural steps taken from the receipt of the complaint through the determination, including but not limited to, as applicable, any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the College's definitions of Prohibited Conduct to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
- A statement of, and rationale for, any sanction imposed on the respondent, and whether remedies designed to restore or preserve equal access to the educational program or activity of the College will be provided by the College to the complainant; and
- Identification of procedures and permissible bases for the parties to appeal.

The written decision will not be redacted and will be sent simultaneously to each party. The determination regarding responsibility becomes final either on the date that the parties are provided written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

Advisor for Hearing

Each party is entitled to one advisor at the hearing. The role of the advisor is to ask questions of the other party and of witnesses, but not to advocate for, or otherwise speak on behalf of, the advisee during the hearing. No party will be permitted to ask questions of the other party, or of a witness. An advisor of the College's choosing will be provided for any party who does not have an advisor.

Sanctions and Remedies

Upon conclusion of the adjudication process, when there is a finding of responsibility, the complainant will be offered such remedies designed to restore or preserve equal access to the institution's education program or activity. If the Hearing Officer determines that the respondent is responsible for one or more violations of the College's antidiscrimination policies, the College will issue sanctions commensurate with the violation(s), in accordance with [Appendix E](#) or [Appendix F](#). Any sanctions issued will be included in the Hearing Officer's written determination.

Appeals

Appeals may be filed by either party and must be sent to the Civil Rights & Title IX Coordinator. When an appeal is filed, the other party will be notified, in writing, and will then have five (5) business days to respond to the appeal. Any party's decision not to submit a reply to an appeal is not evidence that the non-appealing party agreed with the appeal. The appeals process is documentary only, and no hearing is held. Appeals will follow the procedures outlined in [Appendix G](#).

Appendix B: Disciplinary Resolution of a Grievance of Non-Title IX Misconduct Against a Student

Appendix B outlines the disciplinary resolution procedures the College follows in resolving allegations that a person has been subjected to [Non-Title IX Misconduct](#) by a student in violation of the College's Sexual and Interpersonal Misconduct Policy.

Notice of Investigation

If (1) the Civil Rights & Title IX Coordinator determines that the complainant's report must proceed through Disciplinary Resolution; (2) either the complainant or respondent declines to pursue Adaptable Resolution; or (3) either the complainant or respondent fails to respond to the Civil Rights & Title IX Coordinator's inquiry regarding Adaptable Resolution, the Civil Rights & Title IX Coordinator will notify both parties, in writing, that the complaint will proceed through Disciplinary Resolution. The Civil Rights & Title IX Coordinator's written notification to the respondent and complainant will include:

- The complainant's name;
- Nature of the report;
- Specific policy violation(s) alleged (e.g., sexual assault, sexual harassment, retaliation);
- Date(s) of alleged policy violation(s);
- Location(s) of alleged policy violation(s);
- Brief description of allegation(s);
- 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 Disciplinary Resolution process;
- A statement that the parties have the right to review and inspect all evidence being considered by the Investigator or Hearing Officer during the Disciplinary Resolution process, consistent with this Policy; and
- A statement regarding the College's policy related to false reports and making knowingly false statements during the Disciplinary Resolution process.

The notice of the complaint will also be accompanied with a request for a meeting with the Civil Rights & Title IX Coordinator within four (4) business days. At the meeting, or if the respondent does not respond to the meeting request or is unable to meet within four (4) business days, the Civil Rights & Title IX Coordinator will provide the following information in writing:

- On- and off-campus resources, including counseling, health, mental health, legal assistance (including connecting respondent with visa and immigration advisory resources), student financial aid, and other available services.
- The range of supportive measures and remedies available, including changes to academic, living, transportation, and/or working situations, or other supportive measures as may be appropriate.

- An overview of the procedural options and process, including Adaptable Resolution and Disciplinary Resolution.
- Explain that the student has a right to an advisor of their choice during the process and provide a list of College employees trained as advisors upon request.
- The College’s [alcohol and drug amnesty policy](#).
- The College’s policy prohibiting retaliation.

Concurrently, the Civil Rights & Title IX Coordinator will select a trained internal or external Investigator (“Investigator”) to conduct a reasonable, impartial, and prompt investigation of the complaint (“Investigation”). The Civil Rights & Title IX Coordinator will select an Investigator based on several factors, including the parties involved, the complexity of the complaint, the need to avoid any potential conflict of interest, and who may best conduct a fair and equitable investigation for all parties involved. The Civil Rights & Title IX Coordinator will notify the parties, in writing, of the name of the designated Investigator at the time the Civil Rights & Title IX Coordinator issues the notice of investigation. The parties will have three (3) business days to object to the Investigator’s selection on the basis of bias or conflict of interest. If either of the parties objects, the Civil Rights & Title IX Coordinator will evaluate whether the objection is substantiated. The Civil Rights & Title IX Coordinator will remove and replace any Investigator the Civil Rights & Title IX Coordinator finds to have an actual bias or conflict of interest against either party.

The Investigator will commence the investigation once the time for the parties to object has passed or any objections have been resolved.

Preliminary Investigation

The Investigator will begin with a Preliminary Investigation, with an anticipated timeline of thirty (30) business days for completion. The purpose of a Preliminary Investigation is to identify and gather all relevant facts. Generally, the Investigator will conduct the Preliminary Investigation in the following order:

Initial Fact-Gathering

The Investigator will interview all parties and relevant witnesses and gather documentary evidence provided by the parties and any identified witnesses. The Investigator will prepare a summary of each interview (“Interview Summary”). The Investigator will share the Interview Summary with the interviewee. The interviewee will have three (3) business days opportunity to correct or comment on any statements made in the Interview Summary. The deadline may be extended for good cause, upon request to the Investigator. If the interviewee has no corrections to, or comments on, the Interview Summary, the interviewee will sign an acknowledgement that the interviewee has reviewed and agrees that the Interview Summary is accurate. If the interviewee has corrections or comments to the Interview Summary, the interviewee may submit a written response within three days reflecting any additions or changes which the interviewee believes are necessary to ensure the accuracy of the interviewee’s statement. If no response is received from the interviewee by the deadline, their Interview Summary may be included in the Investigation Report and will be presumed to be accurate. In all instances where the Investigator includes the Interview Summary as an exhibit to a report, the Investigator will also include any response.

Evidence Review

Once the Initial Fact-Gathering is complete, the Civil Rights & Title IX Coordinator will provide the Interview Summaries and any documentary evidence gathered to the parties for review. Given the sensitive nature of the information provided, the Civil Rights & Title IX Coordinator will provide the information in a secure manner (e.g., by providing digital copies of the materials through a protected, “read-only” web portal). Neither the complainant nor the respondent (or their advisors, including but not limited to family members and/or legal counsel) may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. Any student who fails to abide by this Policy may be subject to discipline. Any advisor who fails to abide by this Policy may be subject to discipline and/or may be excluded from further participation in the process. The parties may respond to the Interview Summaries and any documentary evidence; the parties will submit any response within ten (10) business days of being notified of their opportunity to review the documents. The parties may respond in one or both of the following ways:

- The parties may provide a written response. The Investigator will incorporate any written response provided by the parties in the Investigation Report.
- The parties may submit a written request for additional investigation. Such requests may include, but are not limited to, the following: (1) request(s) for follow-up interview(s) with existing witnesses to clarify or provide additional information, including offering questions to the Investigator to pose to witnesses (at the discretion of the Investigator); (2) request(s) for interviews with new witnesses; or (3) request(s) to consider new evidence. Any request for additional investigation will explain the reason for the request.

Rebuttal Fact-Gathering

The Investigator may conduct follow-up interviews with the parties and witnesses based upon evidence gathered during the preliminary investigation and the parties’ request for additional investigation, if any. The parties and witnesses can expect that, in these follow-up interviews, the Investigator will seek responses to specific allegations or evidence (e.g., an Investigator may show one of the parties a series of text messages between himself or herself and another witness and ask about the content of the text messages). To the extent additional material, witnesses or evidence are identified during evidence review, the Investigator will conduct additional interviews and gather additional evidence consistent with the procedures outlined above. Any and all information for consideration by the Hearing Officer should be provided to the Investigator during the preliminary investigation. Information that was not provided to the Investigator will not be allowed during the hearing itself, unless it can be clearly demonstrated that such information was not reasonably known to or available to the parties at the time of the investigation.

Investigation Report

The Investigator will prepare an Investigation Report summarizing the facts and evidence gathered in the course of the Preliminary Investigation. The Investigator will not state factual findings or ultimate findings as to whether the respondent has, or has not, violated one or more of the College’s policies in the Investigation Report. The Investigator will attach as appendices to the Investigation Report all Interview Summaries and any documentary evidence gathered in the Preliminary Investigation, including any written responses to the evidence submitted by the parties. When the

Investigator determines that the Preliminary Investigation is complete, the Investigator will submit the Investigation Report to the Civil Rights & Title IX Coordinator. The Civil Rights & Title IX Coordinator may require the Investigator to conduct additional investigation; if so, the Investigator will conduct additional investigation consistent with the procedures outlined above.

Once the Civil Rights & Title IX Coordinator has agreed that the Preliminary Investigation is complete, within five (5) business days, the Civil Rights & Title IX Coordinator will provide the Investigation Report to the parties. The parties will have ten (10) business days to review the Investigation Report and provide a response to the Civil Rights & Title IX Coordinator. The Civil Rights & Title IX Coordinator will provide the parties' response, if any, to the Hearing Officer, and to the other party. Given the sensitive nature of the information provided, the Civil Rights & Title IX Coordinator will provide the Investigation Report in a secure manner (e.g., by providing digital copies of the materials through a protected, "read-only" web portal). Neither the complainant nor the respondent (or their advisors, including but not limited to family members and/or legal counsel) may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. An advisor who fails to abide by this Policy may be subject to discipline and/or may be excluded from further participation in the process.

Hearing

The hearing is an opportunity for the parties to address the Hearing Officer in person, to question the other party and/or witnesses through indirect cross-examination, and for the Hearing Officer to obtain information following the investigation that is necessary to make a determination of whether a Sexual and Interpersonal Misconduct Policy violation occurred. The hearing will be conducted as follows:

Hearing Officer

The hearing will be conducted by a Hearing Officer, who is selected by the College. The Hearing Officer will be an individual other than the Investigator or Civil Rights & Title IX Coordinator. The Hearing Officer will receive annual training regarding the College's policies and procedures, the handling of student sexual misconduct cases, and other relevant issues.

The Hearing Officer must be impartial and free from bias or conflict of interest. The parties will be informed of the identity of the Hearing Officer and vice versa before the pre-hearing meeting. If the Hearing Officer has concerns that they cannot conduct a fair or unbiased review, the Hearing Officer must report those concerns in advance of the pre-hearing meeting to the Civil Rights & Title IX Coordinator and a different Hearing Officer will be assigned. Similarly, the parties will have three (3) business days to object to the Hearing Officer's selection on the basis of bias or conflict of interest. If any party objects, the Civil Rights & Title IX Coordinator will evaluate whether the objection is substantiated. The Civil Rights & Title IX Coordinator will remove and replace any Hearing Officer the Civil Rights & Title IX Coordinator finds to have a bias or conflict of interest against any party.

The Hearing Officer has broad discretion to determine the hearing format. However, in all instances in which a respondent faces severe disciplinary sanctions (i.e., expulsion or suspension), and the credibility of any party or witness is central to the adjudication of the allegation, the

Hearing Officer will conduct a live hearing, at which they will permit indirect cross-examination of the parties and witnesses. For purposes of this Policy, the term Indirect Cross-Examination means the Hearing Officer will allow the parties and/or their advisors to submit proposed questions for the parties and witnesses, as well as follow-up questions based on testimony provided during the hearing. The Hearing Officer will ask the parties and witnesses the proposed questions that the Hearing Officer determines are consistent with this Policy and are probative of facts relevant to the adjudication of the matter. The Hearing Officer may refuse to allow questions that are unduly harassing or that seek information that is not relevant under this Policy.

The Hearing Officer is responsible for maintaining an orderly, fair, and respectful hearing and has broad authority to respond to disruptive or harassing behaviors, including adjourning the hearing or excluding the offending person. Parties may make requests to the Civil Rights & Title IX Coordinator related to the format or the nature of their participation in the hearing. The Civil Rights & Title IX Coordinator will work with the Hearing Officer to accommodate reasonable requests. All hearings will occur via videoconferencing.

Scheduling

The Civil Rights & Title IX Coordinator will schedule a hearing date and time and notify the parties of the same. The Hearing Officer will strive to hold a hearing within ten (10) business days from receipt of the Investigation Report and the parties' responses, if any.

Pre-Hearing Meeting

Prior to the hearing, or, at the latest, on the day of the hearing, the Hearing Officer or a designated Hearing Coordinator will conduct a pre-hearing meeting with the parties prior to commencing the hearing. At this pre-hearing meeting, each party will receive an explanation of the hearing process and have the opportunity to ask any questions. If the complainant and/or respondent have elected to have advisors throughout the hearing process, the advisor is encouraged to accompany the complainant/respondent to this meeting.

Witnesses

The complainant, respondent, and the Hearing Officer all have the right to call witnesses. Witnesses must have observed the conduct in question or have information relevant to the incident and cannot be called solely to speak about an individual's character. In general, no party will be permitted to call as a witness anyone who was not interviewed by the Investigator as part of the College's investigation. If any party wishes to call witnesses, whether or not they were previously interviewed as part of the College's Investigation, the following must be submitted no later than five (5) business days before the hearing to the Hearing Officer and Civil Rights & Title IX Coordinator via e-mail:

- The name of any witness (es)
- A written statement and/or description of what each witness observed, if not already provided during Investigation;
- A summary of why the witness' presence is relevant to making a decision about responsibility at the hearing; and
- The reason the witness was not interviewed by the Investigator, if applicable.

The Hearing Officer will determine if the proffered witness(es) has relevant information and if there is sufficient justification for permitting a witness who was not interviewed by the Investigator. The Hearing Officer may also require the Investigator to interview the newly proffered witness.

When witnesses are approved to be present, the respondent and complainant will be provided with a list of witnesses and any relevant documents related to the witnesses' appearance at the hearing no later than three (3) business days before the hearing.

Case Presentation

The hearing is intended to provide a fair and ample opportunity for each side to present their account of the incident and for the Hearing Officer to determine the facts of the case and make a determination as to whether College policy was violated. The hearing is not intended to be a repeat of the Investigation. The Hearing Officer will be well-versed in the facts of the case based upon the Investigation Report and the parties' responses to the Investigation Report, if any. The Hearing Officer will make a hardcopy of the Investigation Report, the parties' responses to the Investigation Report, Interview Summaries, and any documentary evidence provided to the Investigator available to the parties for their use during the hearing.

The complainant and the respondent, their advisors, and the Hearing Officer will attend the hearing. Advisors may only be present during the hearing if the party they are advising is also present. A Hearing Coordinator designated by the College will be present to ensure the orderly handling of the hearing. Other College administrators may attend at the request of or with the prior approval of the Hearing Officer, but the parties will be notified in advance of anyone who will be in attendance. Any individual appearing as a witness will be present only while providing a statement and responding to questions.

The Hearing Officer has absolute discretion to decide upon a format for the hearing and to determine which witnesses are relevant to the outcome determination. A Hearing Officer may decline to hear from a witness where they conclude that the information is not necessary for their outcome determination. A typical hearing may include brief opening remarks by the Hearing Officer; questions posed by the Hearing Officer to one or both of the parties; questions by the Hearing Officer to any witness; and indirect cross-examination by either party to any party or witnesses. Any cross-examination of either party or any witness will not be conducted directly by a party or a party's advisor. The Hearing Officer also will afford any party an opportunity at the end of the hearing to offer closing remarks. A decision whether to offer closing remarks is completely voluntary; however, closing remarks may only be made by the parties, and not their advisors. The Hearing Officer will have discretion to impose time limits on closing remarks.

Parties will have the opportunity to submit written questions to the hearing officer in advance of the hearing. At the hearing, the other party will have an opportunity to note an objection to the questions posed. Any such objection must occur in written form, and neither the hearing officer nor the College are obligated to respond, other than to include any objection in the record. The hearing officer has the authority and obligation to discard or rephrase any question that the hearing officer deems to be repetitive, irrelevant, or harassing.

Expectations of the Complainant, Respondent, and Witnesses at a Hearing

Students, staff, and faculty have the responsibility to participate fully and truthfully in any proceeding under this Policy. If any party chooses not to appear at the hearing, they will not be permitted to cross-examine the witnesses or any party during the hearing, nor will they be permitted to offer witnesses, documents, or a closing statement. If any party chooses not to appear at the hearing, the College may move forward with the hearing and imposition of findings and sanctions, if any, in absentia. In reaching findings in absentia, the Hearing Officer may rely on: (1) any information in the Final Investigation Report; (2) any documentary evidence disclosed to the Investigator; (3) any statements made during the hearing; and (4) any documentary evidence presented at the hearing. If the complainant chooses not to appear at the hearing, the College's ability to fully investigate, adjudicate, and respond to the complaint may be limited.

Standard of Evidence

The Hearing Officer will determine a respondent's responsibility by a preponderance of the evidence. This means that the Hearing Officer will decide whether it is "more likely than not," based upon all the evidence, that the respondent is responsible for the alleged violation(s).

Notice of Hearing Outcome

Following the hearing, the Hearing Officer will consider all the evidence and make a determination, by a preponderance of the evidence, whether the respondent has violated the Sexual and Interpersonal Misconduct Policy. In making this determination, the Hearing Officer will independently review and assess all evidence collected and presented at the hearing. Where appropriate, the Hearing Officer may also assess credibility. The Hearing Officer will issue a written notice of hearing outcome (the "Final Report"), which will contain the Hearing Officer's factual findings, determination of whether a Sexual and Interpersonal Misconduct Policy violation occurred, and a summary of the Hearing Officer's rationale in support of the hearing outcome. The Hearing Officer's written determination regarding responsibility and any sanctions will be provided to the parties within fifteen (15) business days of the hearing.

Sanctions and Remedies

Upon conclusion of the adjudication process, when there is a finding of responsibility, the complainant will be offered such remedies designed to restore or preserve equal access to the institution's education program or activity. If the Hearing Officer determines that the respondent is responsible for one or more violations of the College's antidiscrimination policies, the College will issue sanctions commensurate with the violation(s), in accordance with [Appendix E](#).

Appeals

Appeals may be filed by either party and must be sent to the Civil Rights & Title IX Coordinator. When an appeal is filed, the other party will be notified, in writing, and will then have five (5) business days to respond to the appeal. Any party's decision not to submit a reply to an appeal is not evidence that the non-appealing party agreed with the appeal. The appeals process is documentary only, and no hearing is held. Appeals will follow the procedures outlined in [Appendix G](#).

Appendix C: Disciplinary Resolution of a Grievance of Non-Title IX Misconduct Against Administrator, Staff Member, or Faculty Member

Appendix C outlines the disciplinary resolution procedures the College follows in resolving a grievance that a person has been subjected to [Non-Title IX Misconduct](#) by an administrator, staff member, or faculty member in violation of the College's Sexual and Interpersonal Misconduct Policy.

Notice of Investigation

The Civil Rights & Title IX Coordinator's written notification to the respondent will state facts sufficient to apprise the respondent of the nature of the allegations, including specifically:

- The complainant's name;
- Nature of the complaint;
- Specific policy violations alleged (e.g., sexual assault, racial harassment, retaliation);
- Dates of alleged policy violations;
- Locations of alleged policy violations;
- Brief description of the incident/ alleged misconduct;
- An overview of the procedural options and process, including Adaptable Resolution and Disciplinary Resolution;
- The availability of an advisor of their choice; and
- A description of the College's policy prohibiting retaliation

In the notice to the respondent, the Civil Rights & Title IX Coordinator will request a meeting within three (3) days of transmittal of the notice. If the respondent does not respond to the meeting request, the investigation may proceed without the respondent's participation.

Investigation

The Civil Rights & Title IX Coordinator will select a trained internal or external Investigator or a two- person investigative team, (which may include a combination of one internal and one external Investigator) (the "Investigator") to conduct a reasonable, impartial, and prompt investigation of the complaint ("Investigation"). The Civil Rights & Title IX Coordinator will notify the parties, in writing, of the name of the Investigator within three (3) business days of the Investigator's selection. Both parties will have three (3) business days to object to the Investigator's selection on the basis of bias or conflict of interest. If either of the parties objects, the Civil Rights & Title IX Coordinator, or other College Administrator if the objection is against the Civil Rights & Title IX Coordinator, will evaluate whether the objection is substantiated. The Civil Rights & Title IX Coordinator will remove and replace any Investigator the Civil Rights & Title IX Coordinator finds to have a bias or conflict of interest against either party.

Reasonable effort will be made to complete the investigation within sixty (60) business days of the date the formal complaint is made or as soon thereafter as practical under the circumstances.

The Civil Rights & Title IX Coordinator will provide the complainant and the respondent with notice of any delays and give them a new timetable for completion of the investigation.

The investigation will include an interview(s) with the complainant, the respondent and/or any other person who may have information regarding the incident, each of whom is encouraged to cooperate with any investigation. The Investigator will prepare a summary of each interview, share the summary with the interviewee, and provide the interviewee with an opportunity to correct or comment on any statements made in the summary. If no response is received from the interviewee within three (3) business days reflecting any additions or changes which the interviewee believes are necessary, the interview summary shall be deemed to be undisputed. In all instances where the Investigator includes an interview summary as an exhibit to a report, the Investigator will also include any response. The Investigator may also gather any relevant documents and conduct follow-up or rebuttal interviews, as necessary.

The Civil Rights & Title IX Coordinator will provide the Interview Summaries and any documentary evidence gathered to the parties for review. Given the sensitive nature of the information provided, the Civil Rights & Title IX Coordinator will provide the information in a secure manner (e.g., by providing digital copies of the materials through a protected, “read-only” web portal). Neither the complainant nor the respondent (or their advisors, including but not limited to family members and/or legal counsel) may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. Any party who fails to abide by this Policy may be subject to discipline. Any advisor who fails to abide by this Policy may be subject to discipline and/or may be excluded from further participation in the process. The parties may respond to the Interview Summaries and any documentary evidence; the parties will submit any response within ten (10) business days of being notified of their opportunity to review the documents. The parties may respond in one or both of the following ways:

- The parties may provide a written response. The Investigator will incorporate any written response provided by the parties in the Final Investigation. Report.
- The parties may submit a written request for additional investigation. Such requests may include, but are not limited to, the following: (1) request(s) for follow-up interview(s) with existing witnesses to clarify or provide additional information, including offering questions to the Investigator to pose to witnesses; (2) request(s) for interviews with new witnesses; or (3) request(s) to consider new evidence. Any request for additional investigation will explain the reason for the request.

The Investigator will review the evidence submitted by the parties and conduct any additional fact-gathering as may be necessary.

The Investigator will prepare a Final Report for the Civil Rights & Title IX Coordinator. The report will state (1) the ultimate finding(s) (e.g., whether the respondent did, or did not, violate College Policy); (2) the specific factual findings in support of the Investigator’s ultimate finding(s); and (3) the specific evidence upon which the Investigator relied in making each factual finding. The standard for determining whether the policy has been violated is the preponderance of the evidence standard, i.e., whether it is more likely than not that a violation of College policy occurred. Where applicable, the report will have attached as appendices the testimonial and documentary evidence

from the Investigation. Once the Investigator is satisfied that the report is complete, the Investigator will submit the report to the Civil Rights & Title IX Coordinator. The Civil Rights & Title IX Coordinator will review the report and assess whether the report demonstrates, by a preponderance of the evidence, that: (1) the evidence supports the Investigator's factual findings; and (2) the Investigator's factual findings support the Investigator's ultimate finding of responsibility or non-responsibility.

The Civil Rights & Title IX Coordinator may require that the Investigator conduct additional investigation, consistent with the procedures outlined above. Once the Civil Rights & Title IX Coordinator has confirmed that the Final Report is complete, the Civil Rights & Title IX Coordinator will provide a copy of the Final Report to the parties in a secure manner.

Sanctions

Where the Investigator concludes that a violation of this Policy has occurred, the appropriate College officers will take prompt and appropriate remedial action, including disciplinary action, as described in [Appendix F](#).

Appeals

The right to appeal is limited and applies only in cases where suspension without pay or termination of employment are appropriate disciplinary actions for the alleged conduct. An appeal for such cases will follow the procedures outlined in [Appendix G](#).

Appendix D: Adaptable Resolution Procedures

Adaptable resolution is a voluntary, remedies-based, structured interaction between or among affected parties that balances support and accountability without taking formal disciplinary action against the respondent. Adaptable resolution is generally designed to allow the respondent to acknowledge harm and accept responsibility for repairing harm (to the extent possible) experienced by the complainant and/or the College community. Adaptable resolution is designed to eliminate the Prohibited Conduct, prevent its recurrence, and remedy its effects in a manner that meets the needs of the complainant while maintaining the safety of the campus community. Adaptable resolution may not be used in cases where an employee is alleged to have committed [Title IX Sexual Harassment](#) against a student. The College will not mandate mediation to resolve allegations of sexual harassment, and will not allow mediation, even on a voluntary basis, to resolve allegations of sexual violence.

The Civil Rights & Title IX Coordinator reviews the matter to the extent necessary to confirm that it is of the type that would be appropriate for an adaptable resolution process and that use of an adaptable resolution process was without pressure or compulsion from others. The adaptable resolution options available under this Policy recognize:

- The goal of adaptable resolution is to address the Prohibited Conduct, identify ways that individuals and/or the community have been harmed, and develop a resolution agreement to address the harm and prevent future Prohibited Conduct;
- Participation is voluntary and both a complainant and a respondent, as well as any other participating individuals, must consent in writing to participation in adaptable resolution;
- The written consent will inform the complainant and the respondent that either can request to end adaptable resolution at any time and pursue formal resolution. Written consent will also inform parties that information gathered and utilized in adaptable resolution by and between the parties cannot be used in any other College process, including formal resolution, if adaptable resolution ends and formal resolution begins or resumes;
- The College will not pressure or compel a complainant to engage in mediation, to directly confront the respondent, or to participate in any particular form of adaptable resolution;
- Prohibited Conduct affects complainants, respondents, witnesses, friends, community members, family members, and others;
- Complainants, respondents, and other participants in adaptable resolution often benefit when resolution processes and outcomes are tailored to meet their unique needs and interests;
- Complainants and other participants in adaptable resolution may find it useful to meet with a respondent who acknowledges the substance of the underlying events and who acknowledges that complainants or participants have reported experiencing harm as a result;
- Structured interactions between participants can facilitate long-term healing and reduce recidivism; and

- Participants in adaptable resolution processes must be protected from secondary victimization and other potential harms, including the pressure to proceed through adaptable resolution instead of formal resolution.

Adaptable Resolution Options

The adaptable resolution options will be enabled by a trained coordinator. The adaptable resolution coordinator must be impartial and free from bias or conflict of interest. If the adaptable resolution coordinator has concerns that they cannot facilitate a fair or unbiased process, the adaptable resolution coordinator must report those concerns to the Civil Rights & Title IX Coordinator and a different adaptable resolution coordinator will be assigned. Similarly, a complainant, a respondent, or any other participant who has concerns that the assigned adaptable resolution coordinator cannot enable a fair and unbiased process, may report those concerns to the Civil Rights & Title IX Coordinator who will assess the circumstances and determine whether a different adaptable resolution coordinator should be assigned to the adaptable resolution process.

If a party requests the initiation of an adaptable resolution process and the Civil Rights & Title IX Coordinator agrees that the matter is appropriate for adaptable resolution, each party will receive a written notice that discloses:

- The allegations;
- The requirements of the adaptable resolution process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations;
- The parties' right to withdraw from adaptable resolution and resume or initiate disciplinary resolution with respect to the formal complaint; and
- Information about maintenance of records or how records could be shared.

With approval from the Civil Rights & Title IX Coordinator, after consultation and intake with the adaptable resolution coordinator, the complainant and the respondent may voluntarily agree on the process that best meets the interests and needs of the parties. Adaptable resolution may include one or more of the following restorative approaches:

Facilitated Dialogue: A structured and facilitated conversation between two or more individuals, most often the complainant, the respondent, and/or other community members. The focus is often on providing a space for voices to be heard and perspectives to be shared. Depending on stated interests, the participants may sometimes work towards the development of a shared agreement, although working towards an agreement is not always the intended outcome.

Restorative Circle or Conference Process: A facilitated interaction where the individuals who have experienced harm can come together with an individual(s) who assumes responsibility for repairing the harm (to the extent possible). A circle or conference may include multiple members of the community to explore individual and community impact, harm, obligations, and opportunity for repairing them. Parties must agree on all those who will be present.

Shuttle Negotiation: An indirect, facilitated conversation individually with the complainant, the respondent, and/or other participants to discuss experience and perspective and explore interests while working towards meeting expressed needs. This negotiated process does not require direct interaction between the parties or the parties and other participants, but rather, independently, with a coordinator.

Circle of Accountability (COA): A facilitated interaction between the respondent and College faculty and/or staff designed to provide accountability, structured support, and the development of a learning plan. The focus of a COA is to balance support and accountability for an individual who has acknowledged their obligation to repair harm and willingness to engage in an educational process. The COA model does not require participation from the complainant, but as with other types of adaptable resolution, it must be voluntary for the complainant and the respondent.

Measures that may be agreed to as a result of the adaptable resolution process may include:

- Alcohol education classes for the respondent;
- Regular meetings with an appropriate College individual, unit, or resource;
- Permanent extension of a no-contact directive;
- Restriction from participation in specific clubs and/or organizations;
- respondent restriction from participation in particular events;
- respondent completion of an educational plan with regular meetings with the adaptable; resolution coordinator or other appropriate College staff or faculty member; and/or
- Counseling sessions for the respondent.

Individuals who wish to participate in an adaptable resolution process must have successfully completed preparatory meetings with the adaptable resolution coordinator. Individuals may be accompanied by an adviser at any meetings related to the adaptable resolution process.

Adaptable Resolution Agreements

Any agreements reached in an adaptable resolution must be documented by the adaptable resolution coordinator and approved by the Civil Rights & Title IX Coordinator to ensure consistency with the College's Title IX obligations. An agreement will not be considered valid if the Civil Rights & Title IX Coordinator does not approve it. If the Civil Rights & Title IX Coordinator or designee approves an agreement after the parties have voluntarily reached consensus as to its terms, the respondent will be required to comply with the agreement. If no agreement is reached, the matter may be referred to the Civil Rights & Title IX Coordinator for further action. Once the Civil Rights & Title IX Coordinator approves an agreement, the parties are bound by its terms and cannot return to Disciplinary Resolution.

To fairly assess pattern or systemic behavior, the Civil Rights & Title IX Coordinator will maintain records of all reports and conduct referred for adaptable resolution. The time frame for completion of adaptable resolution may vary, but the College will seek to initiate action within fifteen (15) business days of the initial assessment. While the College will seek to honor confidentiality of the parties' communications with the facilitator during the adaptable resolution process to the extent

necessary to facilitate the resolution, the College may be required to produce records created during this process in response to a judicial subpoena or a FERPA educational record request. If adaptable resolution is stopped prior to completion, statements made by a party in adaptable resolution may not be used in a disciplinary resolution process related to that matter.

Adaptable Remedies or Interventions for the College Community

In addition to interventions applied to the respondent, and regardless of whether the College pursues an Disciplinary Resolution or takes other formal disciplinary action, the Civil Rights & Title IX Coordinator may find it helpful or necessary to request or require the respondent or others to undertake specific steps designed to eliminate the misconduct, prevent its recurrence, and/or remedy its effects. Examples include, but are not limited to, the following:

- Requesting or requiring a College entity to provide training for its staff or members;
- Requesting or requiring the respondent to receive training;
- Continuing any of the protective and supportive measures previously established;
- Identifying the need for any additional or ongoing measures, supports and remedies; or
- Revising College policies, practices, or services.

Appendix E: Student Sanctioning Procedures

If a report proceeds through Disciplinary Resolution and the respondent is found responsible for one or more violations of the College's antidiscrimination policies, the College will issue sanctions commensurate with the violation(s). The Civil Rights & Title IX Coordinator will designate three trained individuals to serve on a three-person panel ("Review Panel") to determine sanctions. The Civil Rights & Title IX Coordinator will notify the parties, in writing, of the name of the designated Review Panelists at least five (5) business days prior to the hearing. The parties will have three (3) business days to object to any Review Panelist on the basis of actual bias or conflict of interest. If any party objects, the Civil Rights & Title IX Coordinator will evaluate whether the objection is substantiated. The Civil Rights & Title IX Coordinator will remove and replace any Review Panelist the Civil Rights & Title IX Coordinator finds to have a bias or conflict of interest against either party.

The Civil Rights & Title IX Coordinator will also notify the parties that they have the opportunity to submit an Impact Statement to the Review Panel at least five (5) business days prior to the hearing. The Review Panel will review the parties' Impact Statements, and all other materials in the case, including the Hearing Outcome and attached appendices, in assessing the appropriate sanction. The Review Panel does not have the power or ability to alter the findings (factual or ultimate) by the Hearing Officer.

This policy prohibits a broad range of conduct, all of which is serious in nature. In keeping with the College's commitment to foster an environment that is safe, inclusive, and free from discrimination and harassment, the Review Panel has great latitude in the imposition of sanctions tailored to the facts and circumstances of each report, the impact of the conduct on the complainant and surrounding community, and accountability for the respondent. The imposition of sanctions is designed to eliminate Prohibited Conduct, prevent its recurrence, remedy its effects and restore or preserve the complainant's equal access to College education programs or activities, while supporting the College's educational mission. Sanctions may include educational, restorative, rehabilitative, and punitive components. Some conduct, however, is so egregious in nature, harmful to the individuals involved, and/or so deleterious to the educational process that it requires severe sanctions, including suspension or expulsion.

In determining the appropriate sanction, the Review Panel may consider factors including but not limited to the following:

- the nature and violence of the conduct at issue;
- the impact of the conduct on the complainant;
- the impact or implications of the conduct on the community or the College;
- prior misconduct by the respondent, including the respondent's relevant prior discipline or criminal history (if available);
- maintenance of a safe and respectful environment conducive to learning;
- protection of the College community; and
- any other mitigating, aggravating, or compelling circumstances in order to reach a just and

appropriate resolution in each case.

The Civil Rights & Title IX Coordinator also has the discretion to review any interim protective or remedial measures to determine whether they should be changed or are no longer applicable. The Review Panel will issue a determination on sanctions and the parties will receive notice of the determination within five (5) business days of the Review Panel's receipt of all materials in the case. For cases involving allegations of [Title IX Sexual Harassment](#), the Review Panel's determination regarding sanctions will be included in the Hearing Officer's written determination.

Any one or more of the sanctions listed here may be imposed on a respondent who is found responsible for a violation of the College's Sexual and Interpersonal Misconduct Policy. Sanctions are assessed in response to the specific violation(s) and any prior discipline history of the respondent. Sanctions are effective immediately. If the respondent appeals the findings contained in the Final Report, the sanctions will continue in effect during the appeal. The sanctions may be lifted only if, as a result of the final outcome of the appeal, the respondent is found not responsible for one or more of the original policy violations submitted to the Review Panel.

List of Possible Sanctions

Any one or more of the sanctions listed below may be imposed on a respondent who is found responsible for a violation of the College's Sexual and Interpersonal Misconduct Policy. Sanctions not listed here may be imposed in consultation with and approval by the Civil Rights & Title IX Coordinator.

Campus Community: In all instances where a student is found responsible for engaging in Prohibited Conduct, the Civil Rights & Title IX Coordinator will consider and determine whether non-disciplinary, administrative measures for the larger campus community are appropriate. Such remedial, community-based responses may include educational initiatives and/or trainings, climate surveys, or other appropriate measures.

Educational Initiatives: Any student found responsible for engaging in Prohibited Conduct, who is not permanently separated from the College, will be required to complete non-disciplinary, educational initiatives at the discretion of the Review Panel.

Warning: Notice, in writing, that continuation or repetition of Prohibited Conduct may be cause for additional disciplinary action.

Censure: A written reprimand for violating the Sexual and Interpersonal Misconduct Policy. This conduct status specifies a period of time during which the student's good standing with the College may be in jeopardy. The student is officially warned that continuation or repetition of Prohibited Conduct may be cause for additional conduct action including probation, suspension, or expulsion from the College.

Disciplinary Probation: Exclusion from participation in privileged activities for a specified period of time (privileged activities may include, but are not limited to, elected or appointed ASOC offices, student research, athletics, some student employment, and study abroad). Additional restrictions or conditions may also be imposed. Violations of the terms of disciplinary probation or any other College policy violations may result in further disciplinary action.

Restitution: Repayment to the College or to an affected party for damages resulting from a violation of this Code. To enforce this sanction, the College reserves the right to withhold its transcripts and degrees or to deny a student participation in graduation ceremonies and privileged events.

Removal from Campus Housing: Students may be removed from College housing and/or barred from applying for campus housing due to disciplinary violations of this Code.

Suspension: Exclusion from College premises, attending classes, and other privileges or activities for a specified period of time, as set forth in the suspension notice. Notice of this action will remain in the student's conduct file and will be permanently recorded on the student's academic transcript. Conditions for readmission may be specified in the suspension notice.

Expulsion: Permanent termination of student status and exclusion from College premises, privileges, and activities. This action will be permanently recorded on the student's academic transcript.

Revocation of Admission and/or Degree: Admission to, or a degree awarded by, the College may be revoked for fraud, misrepresentation in obtaining the degree or violation of College policies, the Student Code of Conduct or for other serious violations committed by a student prior to enrollment or graduation.

Withholding Degree: The College may withhold awarding a degree otherwise earned until the completion of the process set forth in this Policy, including the completion of all sanctions imposed, if any.

Other: Other sanctions may be imposed instead of, or in addition to, those specified here. Service, education, or research projects may also be assigned.

Multiple Sanctions: More than one of the sanctions listed above may be imposed for any single violation.

Appendix F: Faculty or Staff Member Sanctioning Procedures

If the respondent is found responsible for a violation of one or more of the College's antidiscrimination policies, the Disciplinary Resolution process concludes with the imposition of discipline. If the respondent is found not to have violated any antidiscrimination policy, the Disciplinary Resolution has concluded. If, however, the respondent is found not to have violated any antidiscrimination policy but is found to have engaged in inappropriate or unprofessional conduct which violates the College's Standards of Conduct and Performance policy, the appropriate College officers will take prompt and appropriate remedial action, including disciplinary action, limited to the actions set forth below.

Remedies

Remedies may include but are not limited to offering to remove the complainant or the respondent from the hostile environment; changes in classes; changes in residence arrangements; changes in schedules or work hours; changes in work assignment/location; a unilateral "no-contact directive" order against the party found responsible.

Discipline

Persons who violate one or more of the College's antidiscrimination policies will be disciplined. The particular form of discipline will depend on the nature of the offense. Such discipline will be imposed pursuant to and in accordance with any and all applicable College rules, policies and procedures. A person against whom such discipline is imposed will have any rights to contest the imposition of discipline as may otherwise exist under applicable College rules, policies, or procedures.

Discipline will be imposed by the Operative Vice President in consultation with the Director of Human Resources or the Civil Rights & Title IX Coordinator if there is a violation of this Policy. In the event that the Operative Vice President is the respondent in the case, the President of the College will consult with the Director of Human Resources or the Civil Rights & Title IX Coordinator if there is a violation of this Policy. The Operative Vice President has the discretion to implement a variety of disciplinary actions. If the decision-maker has found that the respondent sexually assaulted the complainant in violation of this Policy, it is expected that the Operative Vice President will terminate the respondent's employment (absent extenuating circumstances). The Civil Rights & Title IX Coordinator will notify the parties of the disciplinary actions within five (5) business days of receipt of the Operative Vice President's Decision. For cases involving allegations of [Title IX Sexual Harassment](#), the determination regarding sanctions will be included in the Hearing Officer's written determination. Discipline against a faculty member will be imposed in accordance with the disciplinary procedures in the Faculty Handbook as set forth below (for Tenured and Tenure-Track Faculty) or applicable collective bargaining agreement (for Non-Tenure Track Faculty).

Any one or more of the disciplinary actions listed here may be imposed on a respondent who is found responsible for a violation of the College's antidiscrimination policies. Disciplinary actions not listed here may be imposed in consultation with the Civil Rights & Title IX Coordinator. Disciplinary actions are assessed in response to the specific violation(s) and any prior discipline

of the respondent. Disciplinary action against a union represented employee shall be undertaken consistent with any applicable collective bargaining agreement.

Possible disciplinary actions for Non-Tenure Track Faculty and staff include, but are not limited to the following actions, which will be imposed in a manner that is consistent with the discipline and discharge provisions of any applicable collective bargaining agreement:

Warning: Verbal Notice, with documentation in the personnel file, that continuation or repetition of Prohibited Conduct may be cause for additional disciplinary action.

Reprimand: A written reprimand for violating one or more of the College's antidiscrimination policies. The employee is officially warned that continuation or repetition of Prohibited Conduct may be cause for additional conduct action including probation, suspension, or termination of employment.

Restricted Access or Modification of Duties: Conditions which specifically dictate and limit the respondent's presence on campus, restrict or modify employment duties and/or participation in College sponsored or related activities. The restrictions will be clearly defined and may include, but are not limited to, presence in certain buildings or locations on campus.

Probation: Formal, written notice that the employee's conduct is in violation of the College's antidiscrimination and/or other College policy and an expectation that the employee exhibits good behavior for a defined period of time. Any violation during the probationary period may result in further disciplinary action including but not limited to suspension without pay or termination of employment.

Suspension Without Pay: Separation of employment for a defined period of time without pay for the time of separation. During the suspension period, the employee is not permitted on campus and is not permitted to participate in, or supervise, any College sponsored or affiliated program or activity. The terms of the suspension may include the designation of special conditions affecting eligibility to continue employment upon completion of the suspension period. The Director of Human Resources will determine, consistent with law and College policy, whether and to what extent the employee will be eligible for benefits during this suspension and notify the employee, in writing, of that determination.

Termination of Employment: Permanent separation of the employee from the College.

Other: Other actions may be imposed instead of, or in addition to, those specified here. Service, education, training, coaching, or research projects may also be assigned.

Multiple Disciplinary Actions: More than one of the actions listed above may be imposed for any single violation.

Any disciplinary action against a Tenured or Tenure-Track Faculty Member will be imposed as follows:

Referral to Faculty Hearing Committee: Referral by the Dean of the College to the elected members of the Advisory Council ("Hearing Committee") for the imposition of disciplinary action. The Dean of the College will notify the Faculty Council President when the Dean convenes the Hearing Committee. The Hearing Committee excludes the Dean of the College and the appointed members of the Advisory Council. The Hearing Committee

will elect their own chair from among their members and will establish a reasonable timetable for the imposition of disciplinary action. The Hearing Committee will accept as true the finding as to whether the alleged conduct violated the Sexual and Interpersonal Misconduct Policy. The parties will have the opportunity to submit an Impact Statement to the Hearing Committee, and the Hearing Committee will review the parties' Impact Statements, and all other materials in the case (redacted as necessary and appropriate), including the Hearing or Investigation Outcome and attached appendices, in assessing the appropriate sanction.

The Hearing Committee's review is documentary only and no hearing is held. Following standard practice, the Civil Rights & Title IX Coordinator will be available throughout deliberations to address questions about the Sexual and Interpersonal Misconduct Policy and related procedures. Any decision to warn, reprimand, or dismiss a faculty member requires a two-thirds majority of the members conducting the hearing, the vote in each instance to be taken by secret ballot.

The Hearing Committee will make a recommendation to the Dean of the College, subject to her or his approval. Acceptance of the Hearing Committee's decision will normally be expected. The Civil Rights & Title IX Coordinator will notify the parties of the Hearing Committee's decision in writing. The Hearing Committee's decision on disciplinary action may be appealed to the President by either party. An appeal must be submitted in writing to both the Civil Rights & Title IX Coordinator and the President within five (5) business days of receipt of the Hearing Committee's decision on disciplinary action. When an appeal is filed, the other party will be notified in writing and then have five (5) business days to respond to the appeal. The parties will generally be notified in writing of the outcome of the appeal within ten (10) business days of receipt of the non-appealing party's response statement.

The President will transmit to the Board of Trustees the full report of the Hearing Committee, stating its action, and/or her or his decision after an appeal. If the Board of Trustees chooses to review the case, its review should be based on the record. The decision of the Hearing Committee will either be sustained or the proceeding will be returned to the Hearing Committee with objections specified and with or without suggesting a different decision. In such a case the Hearing Committee will reconsider, taking account of the stated objections and any other decision recommended, and receiving new evidence if necessary. It will frame its decision and communicate it in the same manner as before. Following study of the Hearing Committee's reconsideration, the Board of Trustees will make a final decision. The Dean of the College, all members of the Hearing Committee, the President, and the Board of Trustees will complete Title IX training facilitated by the Civil Rights & Title IX Coordinator prior to commencing any role in any case under the Sexual and Interpersonal Misconduct Policy.

Accommodations and Non-Disciplinary, Administrative Measures

In addition to, and independent of, the results of the investigation and disciplinary process, the Civil Rights & Title IX Coordinator, in consultation with the Operative Vice President and Director of Human Resources, will determine any appropriate non-disciplinary, administrative measures. Such measures may include various forms of remedial, community-based responses,

such as educational initiatives and/or trainings. In addition, the Civil Rights & Title IX Coordinator will continue to provide for the care and support of the parties as appropriate, including the ongoing provision of appropriate accommodations.

Appendix G: Appeal Procedures

Appeals of hearing or investigative outcomes may be filed by either party. Appeals must be sent to the Civil Rights & Title IX Coordinator within five (5) business days of receipt of the Final Report. When an appeal is filed, the other party will be notified, in writing, and then have five (5) business days to respond to the appeal. Any party's decision not to submit a reply to an appeal is not evidence that the non-appealing party agreed with the appeal.

The appeals process is documentary only, and no hearing is held. Either party may file an appeal of: 1) a determination regarding responsibility; and/or 2) the Civil Rights & Title IX Coordinator's dismissal of a formal complaint or any allegations therein from the [Title IX Sexual Harassment](#) process as outlined in [Formal Complaints, Dismissals and Appeals of Dismissals](#), on the following grounds:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- The Civil Rights & Title IX Coordinator, Investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter; and/or
- The decision of the decision-maker was arbitrary or capricious.

The Civil Rights & Title IX Coordinator will appoint a trained Appeals Officer and will notify the parties of the appointment in writing. The Appeals Officer will not have any actual conflict of interest or bias and cannot be the Hearing Officer, the Investigator, or the Civil Rights & Title IX Coordinator. The parties will have five (5) business days to object to the Appeal Officer's selection on the basis of bias or conflict of interest. Any objection is to be in writing and sent to the Civil Rights & Title IX Coordinator. Should the Civil Rights & Title IX Coordinator determine that there is a bias or conflict of interest, the Civil Rights & Title IX Coordinator will remove the appeals officer and appoint another.

The role of the Appeal Officer is limited. Appeals are not intended to be a full rehearing of the complaint and are confined to a review of the Appeal Record for the grounds stated above. The party submitting the appeal carries the burden of proof to demonstrate that either the procedural irregularity, the proposed new evidence, or the alleged bias affected the outcome of the matter, or that the decision of the decision-maker was arbitrary or capricious. The Appeal Officer will determine whether any grounds for the appeal are substantiated. The Appeal Officer may deny the appeal, or if one or more of the appeal grounds have been met, may:

- Return the case to the original Hearing Officer for reconsideration; or
- Appoint an alternate Hearing Officer to review the case.

The parties will generally be notified in writing of the outcome of the appeal within ten (10) business days of receipt of non-appealing party's response statement. The Appeal Officer's decision is final and is not subject to appeal.