



**OCCIDENTAL COLLEGE**

**POLICY PROHIBITING DISCRIMINATION,  
HARASSMENT, AND RETALIATION**

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## **I. Introduction: 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. The College has enacted this Discrimination, Harassment, and Retaliation Policy (the “DHR 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 all members of the College community (including visitors) who allege violations of this Policy.

Occidental separately has enacted a [Sexual Misconduct Policy](#), which specifically prohibits all forms of sexual or gender-based discrimination and harassment, including sexual assault, non-consensual sexual contact, intimate partner violence, sexual exploitation, and stalking, as well as retaliation for raising such concerns or participating in any related process. Occidental’s Sexual Misconduct Policy can be found [here](#).

This Policy prohibits discrimination and harassment on the basis of protected class: 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. This Policy also prohibits retaliation against a person who reports, complains about, or who otherwise participates in good faith in any proceeding related to this Policy. All of the foregoing conduct shall be referred to as “Prohibited Conduct.”

Occidental does not discriminate on the basis of any protected class in its educational, extracurricular, athletic, or other programs, or in the context of employment. The College complies with all federal, state, and local laws addressing discriminatory behavior.

The College expects all members of our community (including visitors on campus) to take action to maintain and facilitate a safe, welcoming, and respectful environment on campus. In particular, the College expects that all Occidental community members will take reasonable and prudent actions to prevent, stop, and report Prohibited Conduct. The College strongly supports individuals who 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 discrimination or harassment (if any), prevent its recurrence, and remedy its effects. The College’s procedures for investigating and responding to violations of this Policy are contained in Appendix A (Student Grievance Process - student Respondent). Students who are found to have violated this Policy will face disciplinary action.

## **II. Scope of Policy**

This Policy applies to all reports of Prohibited Conduct made 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 report will be used to the extent that they conflict with definitions of terms in this Policy.

The Grievance Process under this Policy, however, will be used to investigate and resolve all reports made on or after the effective date of this Policy, regardless of when the incident(s) are alleged to have occurred.

When used in this Policy, “Complainant” refers to the individual who is identified as the target of Prohibited Conduct. “Respondent” refers to the individual accused of engaging in Prohibited Conduct. A “Third-Party” refers to any other participant in the process, including a witness to the incident.

A. Persons Covered

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 College property.

The College strongly encourages all individuals to report Prohibited Conduct regardless of who engaged in the conduct. Even if the College does not have the authority to take disciplinary action against a Respondent, the College will take prompt action to provide for the safety and well-being of the Complainant and the broader campus community.

B. Locations Covered

This Policy applies to all on-campus conduct and some off-campus conduct, described below. The College strongly encourages all individuals to report Prohibited Conduct regardless of its 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. This Policy applies to conduct that occurs on campus, including conduct that occurs on property owned or controlled by the College.

College Programs. This Policy applies to 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. This Policy also applies to conduct that occurs off campus and has continuing adverse effects on, or creates a hostile environment for, any member of the Occidental community while on campus or in any College employment or education program or activity.

### **III. Prohibited Conduct and Definitions**

A. Discrimination

“Discrimination” refers to the disparate treatment of a person or group because of that person’s or group’s protected class, such as 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. This policy

also prohibits discrimination based on the perception that any person has any of the foregoing characteristics or is associated with a person who has, or is perceived as having, any of those characteristics. All such discrimination is unlawful and constitutes Prohibited Conduct.

B. Harassment

“Harassment” is conduct that creates an intimidating, offensive, or hostile working or learning environment, or that unreasonably interferes with work or academic performance based on a person’s protected class, including 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, when either or both of the conditions below are present. All such conduct is unlawful and constitutes Prohibited Conduct.

Generally speaking, harassment can be divided into two types of conduct:

1. *Quid Pro Quo Harassment.* Submission to, or rejection of, such conduct is made, either explicitly or implicitly, a term or condition of an individual’s employment, academic standing, or participation in any aspect of a College program or activity, or is used as the basis for the College’s decisions affecting the individual.
2. *Hostile Environment.* A hostile environment exists when the conduct is sufficiently severe, pervasive, or persistent that it unreasonably interferes with, limits, or deprives an individual from participating in or benefiting from the College’s education or employment programs and/or activities. Whether conduct is sufficiently severe, pervasive, or persistent is determined both from a subjective and objective perspective.

Harassing conduct can take many forms, including, but not limited to physical, verbal, visual, audio or Internet harassment (“cyberbullying”), and can be committed by any person against any other person. The determination of whether an environment is hostile is based on the totality of the circumstances, including but not limited to: (1) the frequency of the conduct; (2) the nature and severity of the conduct; (3) whether the conduct was physically threatening; (4) the effect of the conduct on the Complainant’s mental or emotional state, with consideration of whether the conduct unreasonably interfered with the Complainant’s educational or work performance and/or College programs or activities; (5) whether the conduct was directed at more than one person; (6) whether the conduct arose in the context of other discriminatory conduct; and (7) whether the conduct implicates concerns related to academic freedom or protected speech.

A single, isolated incident may create a hostile environment if the incident is sufficiently severe, particularly if the conduct is physical. A single incident of extreme physical violence, for example, may be sufficiently severe to constitute a hostile environment. In contrast, the perceived offensiveness of a single verbal or written expression or exchange is typically not sufficient to constitute a hostile environment.

Harassment:

- a) May be blatant and intentional and involve an overt action, a threat or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated.
- b) May be committed by anyone, regardless of gender, age, position or authority. While there is often a power differential between two persons, perhaps due to differences in age, social, educational or employment relationships, harassment can occur in any context.
- c) May be committed by a stranger, an acquaintance, or someone with whom the Complainant has an intimate or sexual relationship.
- d) May be committed by or against an individual or may be a result of the actions of an organization or group.
- e) May occur by or against any individual.
- f) May occur in any setting, including for example the classroom, the workplace, the athletic field, or residential settings.
- g) May be a one-time event or can be part of a pattern of behavior.
- h) May be committed in the presence of others or when the parties are alone.
- i) May affect the Complainant and/or Third Parties who witness or observe harassment and are affected by it.

Examples of conduct that may constitute Harassment may include a severe, persistent or pervasive pattern of unwelcome conduct that includes one or more of the following:

- a) **Physical conduct**, including unwelcome touching, physical assault, impeding, restraining, or blocking movements;
- b) **Verbal conduct**, including making or using derogatory comments, verbal abuse, epithets, slurs or humor;
- c) **Written conduct**, including letters, notes or electronic communications containing comments, words, or images described above.

C. Academic Freedom and Free Speech

This Policy is consistent with the College's commitment to academic freedom and free speech which 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. This protection extends to the expression of ideas, however controversial, in the classroom, residential life, and other campus-related activities.

It must be recognized, however, that this protection has its limits. This DHR Policy defines those limits. Conduct that is found to be “harassing” (as defined above) is not consistent with the College’s commitment to academic freedom and free speech. No member of the College community may escape responsibility for engaging in harassing conduct merely by labeling the conduct as “speech” or other expressive activity.

#### D. 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 Respondent or Complainant. 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”).

### IV. Confidentiality and Privacy

#### A. Privacy vs. Confidentiality: Understanding the Difference

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 eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects.

Privacy and confidentiality have distinct meanings under this Policy.

**Privacy.** “Privacy” generally means that information related to a report of Prohibited Conduct under this Policy will only be shared with a limited circle of 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”), [NOTE: Erica, it seems like something is missing here...]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 FERPA and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (as amended), 20 U.S.C. § 1092(f) (the “Clery Act”).

In addition, no information shall 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, 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 in Section VII 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.

## **V. Disclosures Required by the Clery Act**

### **A. Timely Warning**

“Timely Warning” is a campus-wide notification of a serious or continuing threat to the Occidental community. If a report of misconduct discloses a serious or continuing threat 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. A Timely Warning does **not** include identifying information about the Complainant.

## B. Annual Reporting Responsibilities

All higher education institutions that receive federal funding, including Occidental, are required to issue publicly an Annual Security Report (“ASR”) that 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.

## C. 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 occurring 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.

# VI. **Reporting**

## A. Overview

The College strongly encourages all individuals to report Prohibited Conduct to the College and to local law enforcement (in the case of alleged criminal misconduct). These reporting options are not mutually exclusive. Both internal and criminal reports may be made simultaneously.

Making a report to the College means filing a report with the CRC or other College official. 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.

The College will investigate and resolve 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 any risk of harm to the Complainant, Respondent, or to the broader campus community and will take reasonable steps to address those risks. These steps will include interim measures to provide for the safety of the individual and the campus community.

## B. 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 that involves injury or imminent threat of injury to person or property. This is the best option to ensure preservation of evidence and to begin a timely 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.

The College will help any Occidental community member to 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 Northeast Division** is available to respond to any report of crime or violence.

C. Campus Reporting Options

The College strongly encourages all individuals to report Prohibited Conduct to any College employee.

The College recommends that individuals report such misconduct to any of the following:

**Civil Rights Coordinator (CRC)/Dean of Students office**

Erica O’Neal Howard, Senior Associate Dean of Students  
(323) 259-2661  
[onealhoward@oxy.edu](mailto:onealhoward@oxy.edu)

Addresses complaints of Prohibited Conduct made against any student relating to all forms of discrimination, harassment, or retaliation. Can provide reasonable interim measures or remedies for housing, academic flexibility, and No Contact letters.

**Human Resources**

Jacalyn Feigelman  
Associate Director of Human Resources for Employee Relations and Training  
(323) 259-2614  
[jacalynf@oxy.edu](mailto:jacalynf@oxy.edu)

Addresses complaints made against employees (faculty, administrators, or staff) relating to all forms of discrimination, harassment, or retaliation

**Campus Safety**

Rick Tanksley, Director of Campus Safety  
(323) 259-2599  
[rtanksley@oxy.edu](mailto:rtanksley@oxy.edu)

Available as an 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.

D. 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 Reporting Form can be found [here](#).

The Civil Rights Coordinators ("CRC Coordinator") will receive the report and determine appropriate next steps.

#### 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 Conduct:

#### [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. Contact information for the DFEH and EEOC may be found in Section VII.

#### [Title VI Compliance](#)

Inquiries or complaints concerning the College's compliance with anti-discrimination laws (Title VI) may be referred to the U.S. Department of Education's Office for Civil Rights. Contact information for the OCR may be found in Section VII.

#### [Bureau for Private Postsecondary Education](#)

2535 Capitol Oaks Drive, Suite 400  
Sacramento, CA 95833  
Telephone: (916) 431-6924  
Facsimile: (916) 263-1897  
Website: [bppe.ca.gov](http://bppe.ca.gov)

#### E. Care and Support Options

To the extent the Prohibited Conduct involves any assault, violence, or any other crime, the College strongly encourages individuals to seek assistance from a medical provider and/or law enforcement. This is the best option to ensure preservation of evidence and to begin a timely investigative and remedial response. The College will help any Occidental community member to get to a safe place and will facilitate transportation to the hospital, coordination with law enforcement, and information about on-and off-campus resources and options for resolution. A complete list of resources for care and support can be found under Section VII(B).

## F. Other Reporting Considerations

### 1. *Timeliness and Location of Incident*

Complainants and Third-Party witnesses are encouraged to report Prohibited Conduct as soon as possible so that the College can respond promptly and effectively. There is, however, no time limit or deadline for reporting Prohibited Conduct.

If the Respondent is not a member of the Occidental community, the College will take steps to end the harassment, prevent its recurrence, and address its effects even if it does not have the ability to take disciplinary action against the Respondent.

An incident does not have to occur on campus to be reported to the College. Off-campus conduct that is likely to have a substantial effect on the Complainant's on-campus life and activities or poses a threat or danger to members of the Occidental community may also be addressed under this Policy.

### 2. *Amnesty for Alcohol or Other Drug Use*

The College strongly encourages the reporting of Prohibited Conduct under this Policy. It is in the best interest of this community that all complaints be reported to College officials; that participants in the grievance process be forthright in sharing information; and that witnesses come forward to share what they know. To encourage reporting, a student who timely and in good faith reports discrimination or harassment or participates in the grievance process, either as a Complainant or a Third-Party witness, will not be subject to disciplinary action by the College for his/her own personal consumption of alcohol or drugs 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. The College may, however, initiate an educational discussion or pursue other educational remedies with the student regarding alcohol or other drugs.

### 3. *False Reports*

A charge of discrimination or harassment can have severe consequences, and the College expects that every complaint is made in good faith. **A good-faith complaint that results in a finding of “not responsible” is not considered a false or fabricated accusation.** However, when a Complainant or Third-Party witness is found to have fabricated allegations or knowingly given false information, that person may be subject to disciplinary action. It is a violation of the Code of Student Conduct and other College policy to make an intentionally false report of any Policy violation, and it may also violate state criminal statutes and civil defamation laws.

#### 4. *Coordination with Law Enforcement*

The College strongly encourages Complainants to pursue criminal action for incidents of discrimination or harassment that may also constitute crimes under California law. The College will assist a Complainant in making a criminal report and will cooperate with law enforcement agencies (to the extent permitted by law) if a Complainant decides to pursue the criminal process.

The College's Policy, definitions, and burden of proof may differ from California criminal law. A Complainant may seek recourse under this DHR 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 will nevertheless communicate with the Complainant and Respondent (if appropriate) regarding their rights, procedural options, and the implementation of interim measures to assure safety and well-being. The College will promptly resume its fact gathering as soon as it is informed that law enforcement has completed its initial investigation.

#### G. Interim Measures and Remedies

Upon receipt of a report, the College will impose reasonable and appropriate interim measures designed to eliminate the alleged discrimination or hostile environment and 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. Interim 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.

##### 1. *Range of Measures*

Interim measures will be implemented at the discretion of the College. The range of potential remedies includes:

- a) Access to counseling services and assistance in setting up initial appointment, both on- and off-campus;
- b) Imposition of campus "No Contact Letter;"
- c) Rescheduling of exams and assignments (with the agreement of appropriate faculty and Deans as necessary);

- d) Providing alternative course completion options (with the agreement of the appropriate faculty and Deans as necessary);
- e) Change in class schedule, including the ability to take an “incomplete,” drop a course without penalty or transfer sections (with the agreement of the appropriate faculty);
- f) Change in work schedule or job assignment;
- g) Change in on-campus housing;
- h) Arranging to dissolve a housing contract and pro-rating a refund in accordance with campus housing policies;
- i) Assistance from College support staff in completing on-campus housing relocation;
- j) Limiting an individual or organization’s access to certain College facilities or activities pending resolution of the matter;
- k) Voluntary leave of absence;
- l) Providing an escort to ensure safe movement between classes, on-campus employment and activities;
- m) Arranging academic support services, such as note takers when available;
- n) Interim suspension or College-imposed leave;
- o) Any other remedy that can be tailored to reasonably achieve the goals of this Policy.

2. *Interim Suspension or Separation*

Where the reported conduct poses a substantial and immediate threat of harm to the safety or well-being of an individual, members of the campus community, or the performance of normal College functions, the College may place a student or student organization on interim suspension or impose leave for an employee. Pending resolution of the complaint of Prohibited Conduct, an individual or organization may be denied access to campus, campus facilities, and/or all other College activities or privileges, as the College determines appropriate for which the individual might otherwise be eligible. When interim suspension or leave is imposed, the College will make reasonable efforts to complete the investigation and resolution within an expedited time frame.

A student Respondent who has been put on interim suspension has the right to a meeting within three (3) business days with the Dean of Students or designee to appeal the interim suspension. The Dean of Students (or designee) reviews the

appeal to determine whether the decision to put a student on interim suspension was arbitrary or capricious. A decision is arbitrary or capricious when there is no rational connection between the facts presented and the decision made.

## **VII. List of Resources for Reporting, Care and Support**

The College is committed to treating all members of the community with dignity, care, and respect. Any student or employee 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 reasonable support and counseling services through the College.

The College strongly encourages individuals to report Prohibited Conduct, and recognizes that the decision to report (to the College and/or law enforcement) can be difficult. Individuals who are considering whether to report Prohibited Conduct are may 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 described below, there are Confidential Resources who by law in most circumstances cannot share information without the consent of the individual seeking assistance. 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 who have a need to know (are involved in the investigation, assessment or resolution of a complaint under this Policy).

### **A. Confidential Resources**

Incidents of Prohibited Conduct involving injury or threat of injury to person or property should be reported as soon as possible 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 described below.

These confidential resources will not, in most circumstances, share information with the College or anyone else without the individual's permission:

#### **1. [Office for Religious & Spiritual Life](#)**

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

(323) 259-2621

#### **2. [Employee Assistance Program](#)**



Provides confidential telephone consultation or face-to-face meeting with a master's level consultant; also provides educational materials through an online library of downloadable materials and interactive tools.

(800) 854-1446, English

(877) 858-2147, Spanish

[www.lifebalance.net](http://www.lifebalance.net) (User ID and password: lifebalance)

3. [Emmons Student Wellness Center](#)

Provides confidential psychological counseling services. As detailed below, Emmons also provides medical treatment. NOTE: 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.

(323) 259-2657

B. Below is a complete of other reporting, care, and support options, with accompanying contact information.

1. [Campus Safety](#)

Available as a first option to report any incidents of crime or violence, including 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.

Telephone: (323) 259-2599 (front desk)

Emergency Telephone: (323) 259-2511, or dial 5 from any campus phone

2. [Dean of Students office](#)

Can provide reasonable accommodations for housing, academic flexibility and No Contact Letters. Available on weekdays during regular office hours. Access to Dean on Duty 24 hours a day by calling Campus Safety at (323) 259-2599.

Telephone: (323) 259-2661

Email: deanofstudents@oxy.edu

2. [DFEH Los Angeles Office](#)

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

320 West 4th Street, 10th Floor

Los Angeles, CA 90013

(213) 439-6799

3. [EEOC Los Angeles District Office](#)

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

255 East Temple Street, 4th Floor  
Los Angeles, California 90012  
Telephone: (213) 894-1000

4. [Human Resources](#)

Addresses complaints of Prohibited Conduct against all employees (faculty, administration, and staff). Available on weekdays during regular office hours to respond to complaints related to employees of the College, including faculty.

Telephone: (323) 259-2613  
Email: [hr@oxy.edu](mailto:hr@oxy.edu)

5. [LAPD Northeast Community Division](#)

Available to respond to any reports of crime or violence, including Prohibited Conduct. Occidental is located in the Northeast Division.

**For Emergencies: DIAL 911**

3353 North San Fernando Road  
Los Angeles, CA 90065  
Front desk phone number: (323) 344-5701

6. [United States Department of Education](#)

Inquiries or complaints concerning the College’s compliance with anti-discrimination laws (Title IX and Title VI) may be referred to the U.S. Department of Education’s Office for Civil Rights.

Office for Civil Rights, San Francisco Office  
50 Beale Street, Suite 7200  
San Francisco, California 94105  
Telephone: (415) 486-5555  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)

7. [Bureau for Private Postsecondary Education](#)

The Bureau 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. More information about filing a complaint with the Bureau can be found at: [bppe.ca.gov/enforcement/faqs.shtml](http://bppe.ca.gov/enforcement/faqs.shtml)

and [bppe.ca.gov/enforcement/complaint.shtml](http://bppe.ca.gov/enforcement/complaint.shtml).

2535 Capitol Oaks Drive, Suite 400

Sacramento, CA 95833

Telephone: [\(916\) 431-6924](tel:(916)431-6924)

Facsimile: [\(916\) 263-1897](tel:(916)263-1897)

Website: [bppe.ca.gov](http://bppe.ca.gov)

## APPENDIX A

### **RESOLUTION OF GRIEVANCE AGAINST STUDENT (BASED ON PROTECTED CLASS OTHER THAN SEX)**

This Appendix A outlines the procedures the College follows in resolving allegations that a person (“Complainant”) has been subjected to Prohibited Conduct by a student (“Respondent”) in violation of the College’s Discrimination, Harassment and Retaliation Policy (Other than Sex) (referred to as the “DHR Policy”). Complainant and Respondent will be referred to collectively as the “Parties.” The College follows the grievance procedures outlined in Appendix B to resolve grievances against non-faculty employees and Appendix C to resolve grievances against faculty.

#### **I. Complaint and Initial Assessment**

##### **A. Overview**

An individual who wishes to report prohibited conduct by a student based on any protected class is encouraged to report directly to a Civil Rights Coordinator (CRC) or the Title IX Coordinator (or Deputy Title IX Coordinators). Reports of discrimination, harassment, and/or retaliation may also be made to Campus Safety.

#### **Discrimination, Harassment, or Retaliation Based on any Protected Status other than Sex or Gender:**

*Dean of Students office*

Erica O’Neal Howard, Civil Rights Coordinator  
(323) 259-2849  
[onealhoward@oxy.edu](mailto:onealhoward@oxy.edu)

*Associate Director of Human Resources for Employee Relations and Training*

Jacalyn Feigelman  
(323) 259-2614  
[hr@oxy.edu](mailto:hr@oxy.edu)  
[jacalynf@oxy.edu](mailto:jacalynf@oxy.edu)  
<http://oxy.edu/human-resources>

#### **Sexual Misconduct:**

*Office of Title IX*  
Jody Shipper, Interim Title IX Coordinator  
(323) 259-1338  
[jshipper@oxy.edu](mailto:jshipper@oxy.edu)

*Deputy Title IX Coordinators:*

Alison Haehnel – Athletics  
(323) 259-2632  
[haehnel@oxy.edu](mailto:haehnel@oxy.edu)

Heather Lukes – Faculty  
323-259-1312  
[lukes@oxy.edu](mailto:lukes@oxy.edu)

***Campus Safety***

Rick Tanksley, Director of Campus Safety  
Service Line: (323) 259-2599  
Emergency Line: (323) 259-2511  
[rtanksley@oxy.edu](mailto:rtanksley@oxy.edu)

The College will identify, based upon the nature of the allegations, the appropriate office to coordinate resolution of the report through the Grievance Process. The office that coordinates resolution of the report will identify a Grievance Process Coordinator (“Civil Rights Coordinator” (CRC)) to monitor the Grievance Process as follows:

1. The Senior Associate Dean of Students (or designee) will be the CRC with respect to all reports of Prohibited Conduct committed by students; the Director of Human Resources (or designee) will be the CRC with respect to all reports of Prohibited Conduct committed by employees.
2. The Office of Title IX, and the Title IX team, will coordinate resolution of all reports of Prohibited Conduct defined in the Sexual Misconduct Policy. The Title IX Coordinator or a Deputy Title IX Coordinator will be the CRC in all instances where the Complainant reports discrimination, harassment, and/or retaliation on the basis of sex or gender.
3. In instances where a report alleges Prohibited Conduct under both the Sexual Misconduct Policy and the Civil Rights Policy, the Title IX Coordinator or a Deputy Title IX Coordinator will generally serve as CRC for the entire complaint in accordance with the applicable policies and procedures.

**B. Addressing Possible Conflicts or Bias by the CRC**

As described below, both Parties will have the opportunity to object to the designated CRC on the grounds of bias or conflict of interest. If either of the Parties objects, the Grievance Process will be suspended, and the Dean of Students, or other appropriate College administrator who is not the subject of the objection, will evaluate whether the objection is substantiated. The Parties will be notified in writing of the findings within two (2) calendar days. If the CRC is found to have a bias or conflict of interest against either Party, the CRC will be removed and replaced by another CRC. The Grievance Process will resume immediately upon a finding of no bias or conflict of interest, or upon the CRC’s replacement, whichever is first.

## 1. Initial Assessment

### a. Intake Meeting

Upon receipt of a report, the CRC will conduct an Intake Meeting as soon as possible after receiving a complaint. At that meeting, the CRC will address the following topics, if appropriate:

- Address immediate physical safety and emotional well-being needs.
- Notify the Complainant of the right to contact law enforcement and seek medical treatment (and the right to decline to do so), including the importance of preservation of evidence.
- Notify the Complainant of the right to be assisted by individuals at the College in contacting law enforcement.
- Explain the right to object to the assignment of the designated CRC based on bias or conflict of interest within two (2) calendar days of a decision to proceed through the Grievance Process;
- Notify the Complainant of confidential and non-confidential reporting options internally and externally.
- Provide the Complainant with information about:
  - On- and off-campus resources, including counseling, health, mental health, victim advocacy, legal assistance (including visa and immigration assistance), student financial aid, and other available services.
  - The range of potential interim measures and remedies, including changes to academic, living, transportation, and/or working situations, or other protective measures, which may be available to the Complainant regardless of whether the Complainant files a formal complaint with the College, Campus Safety or local law enforcement.
- Provide an overview of the procedural options, including Informal Resolution and Formal 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.
- Assess for pattern evidence or other similar conduct if possible.
- Explain the College's alcohol and drug amnesty policy.
- Explain the College's policy prohibiting retaliation.

If the reported Prohibited Conduct could constitute a crime as defined by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (as amended), 20 U.S.C. § 1092(f) (the “Clery Act”), the CRC will explain that the College’s Clery Coordinator will be notified of the report to assess the need to (1) enter the report into the College’s daily crime log and (2) issue a timely warning as defined by the Clery Act. The CRC will explain to the Complainant that any such reports will not include the Complainant’s personally identifying information.

Following the meeting, the CRC will provide the Complainant with the above-listed information in writing.

As explained in the DHR Policy, the Complainant may request that the CRC not share the Complainant’s name (or other identifiable information) with the Respondent, or that the CRC take no formal action in response to the report. If the Complainant makes such a request, the CRC will balance the request with its dual obligation to provide a safe and nondiscriminatory environment for all College community members, and to remain true to principles of fundamental fairness that require the College to provide the Respondent with notice of the allegations and an opportunity to respond before action is taken against the Respondent. The CRC will make this determination consistent with the following considerations: (1) the severity of the alleged conduct; (2) the respective ages and roles of the Complainant and the Respondent; (3) whether there have been other complaints or reports of Prohibited Conduct or other misconduct against the Respondent; and (4) the right of the Respondent to receive notice and relevant information before disciplinary action is sought. Should the CRC determine that, in response to the Complainant’s request for confidentiality, the College can nevertheless satisfy its obligations to the Complainant, the College community members, and the Respondent without proceeding through the Grievance Process, the CRC has the discretion to do so.

Absent a request for confidentiality, the CRC will ask the Complainant questions to get a basic understanding of the reported Prohibited Conduct. The interview will include questions to understand the key facts upon which the Complainant bases the report (i.e., the “who, what, where, and when”) to appropriately assess how to proceed. If the individual wishes to move forward with a complaint, the CRC will make two threshold determinations: (1) Does the Complainant’s report state facts that, if true, could constitute a violation of the College’s DHR Policy? (2) If yes, should the College proceed through Formal or Informal Resolution?

The CRC will make both threshold determinations within three (3) business days of the CRC’s Intake Meeting with the Complainant and communicate that finding in writing to the Complainant.

- b. First Threshold Determination: Does The Complainant's Report Allege A Potential Violation of the College's DHR Policy?

The CRC will determine whether the Complainant's report alleges a potential violation of the College's DHR Policy. This determination is *not* intended to screen complaints from the Grievance Process. Rather, its purpose is to determine whether the conduct as stated *could* constitute a violation of the College's DHR Policy. For example, if a Complainant alleges that a Respondent engaged in Prohibited Conduct as defined by the DHR Policy, but did not allege facts demonstrating that the conduct was on the basis of a protected class, the College likely would determine that the Complainant's report does not allege a potential violation of the College's DHR Policy. The standard for the first threshold determination is "preponderance of the evidence," i.e. that it is more likely than not that the Complainant's report states facts, that if true, could constitute a violation of the College's DHR Policy. (In the event that the CRC finds that the report does not allege a potential violation of the College's DHR Policy because the misconduct was not alleged to be on the basis of protected class, the CRC would take appropriate action such as referring the report to the administrator responsible for addressing the complaint.) In addition, the Complainant may file a report with the Office of Student Conduct, the federal Office for Civil Rights, the police, or seek available civil remedies through the judicial system. The Complainant also may re-file the report with the College upon discovery of additional facts.

If the CRC determines that the Complainant's report states facts which, if true, could constitute a violation of the College's DHR Policy, the CRC will assess whether the complaint must proceed through Formal Resolution, or may proceed through Informal Resolution. The CRC will communicate the threshold determination finding in writing to the Complainant.

- c. Second Threshold Determination: Should The Complainant's Report Proceed Through Formal or Informal Resolution?

The CRC will determine whether the report may proceed through informal resolution, or must proceed through formal resolution. The CRC will rely on the following guidelines in making this determination: Any complaint that alleges forms of physical violence *must* proceed through the formal investigation process. Some complaints that allege harassment (without violence) *may* be appropriate for informal resolution. If the CRC determines that the complaint may appropriately be resolved through informal resolution, the CRC will ask the Complainant and Respondent, separately, whether they would agree to pursue resolution of the complaint informally. If either Party does not agree to pursue Informal Resolution, or if the Complainant, Respondent, or CRC, at any time, determines that Informal Resolution is no longer appropriate, the complaint will proceed through Formal Resolution.



## II. Resolution Of Complaint

### A. Formal Resolution

If the CRC determines that the Complainant's report must proceed through Formal Resolution, the CRC will notify both Parties, in writing, of the decision within three (3) business days of the CRC's Intake Meeting with the Complainant. The CRC's written notification to the Respondent will state facts sufficient to apprise the Respondent of the nature of the allegations, including, specifically:

1. Complainant's name
2. Nature of the report
  - a. Specific policy violation(s) alleged (e.g., racial harassment, retaliation);
  - b. Date(s) of alleged policy violation(s);
  - c. Approximate time(s) of alleged policy violation(s);
  - d. Location(s) of alleged policy violation(s); and
  - e. Brief description of allegation(s).

The notice of the complaint shall be accompanied with a request for a meeting with the CRC within three (3) business days. If the Respondent does not respond to the meeting request or is unable to meet within three (3) business days, the CRC shall provide the following information in writing to the Respondent:

- 1) On- and off-campus resources, including counseling, health, mental health, victim advocacy, legal assistance (including visa and immigration assistance), student financial aid, and other available services;
- 2) The range of interim measures and remedies, including changes to academic, living, transportation, and/or working situations, or other protective measures;
- 3) If the Respondent has not yet been provided an opportunity to object to the designated CRC based on bias or conflict of interest, the CRC will also notify the Respondent of the right to do so within two (2) calendar days of receipt of the notice of Formal Resolution. As noted above, the Complainant will have been provided the same opportunity after the Intake Meeting.
- 4) An overview of the procedural options and process, including Informal Resolution and Formal Resolution;
- 5) Student's right to an advisor of their choice during the process, along with a list of College employees trained as advisors upon request;

- 6) The College's alcohol and drug amnesty policy; and
- 7) The College's policy prohibiting retaliation.

Concurrently, the CRC 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 CRC 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 CRC will notify the Parties, in writing, of the name of the designated Investigator at the time the CRC issues the notice of Formal Resolution. 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 CRC will evaluate whether the objection is substantiated. The CRC will remove and replace any Investigator the CRC finds to have a 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, if an objection is made, and the CRC determines the objection is not substantiated, from the time the CRC notifies the objecting Party of the determination). The Investigator, in consultation with the CRC, will establish a timeline and process for conducting the Investigation. The Investigator will conduct the Investigation in three stages, with recommended timelines as follows: (1) Preliminary Investigation (twenty-five (25) business days from commencement of Investigation); (2) Notice Of Findings And Response (eight (8) business days from completion of Preliminary Investigation); and (3) Final Report (five (5) business days from completion of Notice of Findings and Response). The complainant and Respondent will be notified in writing of any delays and the new timeframes/deadlines. Each stage proceeds as follows:

#### **1. Preliminary Investigation**

The Investigator will begin with a Preliminary Investigation, with a recommended timeline of twenty-five (25) business days. The purpose of a Preliminary Investigation is two-fold: *first*, to identify and gather all relevant facts; and *second*, to provide the Parties with an opportunity to develop, and respond to, the allegations and evidence presented before the Investigator makes findings. Generally, the Investigator will conduct the Preliminary Investigation in the following order:

- **Step One: Initial Fact-Gathering.** The Investigator will interview both 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 the opportunity to correct or comment on any statements made in the Interview Summary. If the interviewee has no corrections to, or comments on, the Interview Summary, the interviewee will sign an acknowledgement that the interviewee has reviewed the

Interview Summary and agrees that it 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 timely received from the interviewee, the Interview Summary shall be deemed to be undisputed and may be included in the report. In all instances where the Investigator includes the Interview Summary as an exhibit to a report, the Investigator will also include any response.

- **Step Two: Rebuttal Fact-Gathering.** The Investigator may conduct follow-up interviews with both Parties and witnesses based upon testimonial and documentary evidence gathered in Step One. 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 Step Two, the Investigator will (in the Investigator's discretion) conduct additional interviews and gather additional evidence consistent with the procedures outlined in Step One. Step Two may be repeated as necessary to ensure a complete gathering of evidence.
- **Step Three: Preliminary Report.** The Investigator will prepare a Preliminary Report. The Preliminary Report is a written summary of the evidence gathered in the course of the Preliminary Investigation. The Investigator will make factual findings in the Preliminary Report. The standard for determining each factual finding is "preponderance of the evidence," i.e., that it is more likely than not that the factual finding is true. The Investigator will not, in this Preliminary Report, make ultimate findings as to whether the Respondent has, or has not, violated one or more of the College's policies. The Investigator will attach as exhibits to the Preliminary Report all Interview Summaries and any documentary evidence gathered and relied upon in the Preliminary Investigation. When the Investigator determines that the Preliminary Investigation is complete, the Investigator will submit the Preliminary Report to the CRC. The CRC may require the Investigator to conduct additional investigation; if so, the Investigator will do so consistent with the procedures outlined above.

## **2. Notice of Findings and Response**

Once the CRC has confirmed that the Preliminary Investigation is complete, the CRC will make the Preliminary Report available to the Parties for review within three (3) business days of receipt of the agreed-upon Preliminary Report from the Investigator. Given the sensitive nature of the matter, the CRC will provide the information in a secure manner (e.g., by providing view-only access to hard-copy materials in an office designated by the CRC, or by providing digital copies of the materials through a protected, "read-only" web portal). Neither the Complainant nor the Respondent (or any of 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 honor these restrictions may be excluded from further participation in the process. A Party (student or employee) who fails to honor these restrictions will be subject to discipline for violating College policy.

The Parties may respond to the Preliminary Report by submitting a response within five (5) business days of being notified of their opportunity to review the report. The Parties may respond in one or both of the following ways:

- The Parties may provide a written response to the Preliminary Report, or any portion of it, including each Interview Summary. The Investigator will consider any written response provided by the Parties in preparing the Final Determination.
- The Parties may submit a written request for additional investigation. Such requests may include, but are not limited to, the following: (1) requests for follow-up interviews with existing witnesses to clarify or provide additional information, including offering questions to the investigator to pose to witnesses (which the Investigator may, but is not required to ask); (2) requests for interviews with new witnesses; or (3) requests to consider new evidence. Any request for additional investigation shall explain the reason for the request.

If neither of the Parties requests additional investigation, the Investigator will prepare the Final Report. If either (or both) Parties request additional investigation, the Investigator will review the requests in consultation with the CRC. The Investigator will conduct the requested additional investigation if the Investigator (in consultation with the CRC) determines that the requests will assist the Investigator in completing the investigation. The Investigator and CRC will assess whether investigation of the additional information requires a substantial deviation from the recommended time frame for completion of the investigation; if so, the CRC will notify the Parties in writing with an anticipated revised timeframe.

If the Investigator conducts additional investigation, the Investigator will prepare an Addendum to the Preliminary Report (“Addendum”). The Addendum will include: (1) a summary of the additional investigation; (2) a statement as to whether the additional investigation changed any finding in the Preliminary Report (and, if it did, the Investigator will identify which finding(s) changed); and (3) exhibits, to the extent the supplemental investigation resulted in additional documentary evidence or Interview Summaries. The Investigator will submit the Addendum to the CRC. The CRC may require the Investigator to conduct additional investigation before the Addendum is complete. Once the CRC has confirmed that the Addendum is complete, the CRC will provide the Addendum to the Parties for review within three (3) business days.

The Parties will have an opportunity to respond to the Addendum; any response must be submitted within five (5) business days of receipt of the Addendum. At the time that the Parties respond to the Addendum, the Parties will have already had the opportunity to respond to the Preliminary Report in full. Therefore, the Parties shall limit the scope of their Addendum response to the effect (or lack thereof) of additional

evidence on the findings as stated in the Addendum.

### **3. Final Report**

As noted above, if neither of the Parties requests additional investigation, the Investigator will prepare a Final Report. If one or both Parties requests additional investigation, and the request is granted, the Investigator will prepare a Final Report once both Parties have had the opportunity to respond to the Addendum, and the Investigator and CRC are satisfied that no further investigation is required.

The Final Report will state: (1) the ultimate findings (i.e., whether the Respondent did or did not, violate the College's Policy); (2) the specific factual findings in support of the Investigator's ultimate findings; and (3) the specific evidence upon which the Investigator relied in making each factual finding. The standard for determining the ultimate finding (of responsibility or non-responsibility) is the "preponderance of the evidence," i.e., more likely than not. The Final Report will have attached as exhibits the testimonial and documentary evidence from the Preliminary Investigation, the Preliminary Report, the Addendum (if applicable), and all of the Parties' responses throughout the Formal Resolution proceeding. The Investigator will submit the Final Report to the CRC. The CRC will review the report and determine 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 finding of responsibility or non-responsibility. The CRC may require the Investigator to revise the Final Report if the report is incomplete.

Once the CRC has confirmed that the Final Report is complete, the CRC will provide the Final Report to the Parties for review. Given the sensitive nature of the matter, the manner in which the CRC provides the information must be secure (e.g., by providing view-only access to hard-copy materials in an office selected by the CRC, or by providing digital copies of the materials through a protected, "read-only" web portal). Again, neither the Complainant nor the Respondent (or any of their advisors, including but not limited to advocates, support persons, family members, legal counsel, and/or others who may serve as advisors) may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. An advisor who fails to honor these restrictions may be excluded from further participation in the process. A Party (student or employee) who fails to honor these restrictions will be subject to discipline for violating College policy. The CRC, in collaboration with the Investigator, will seek to provide the Final Report to the Parties within five (5) business days of the Parties' responses to the Preliminary Report (or, if the Parties requested additional investigation, within ten (10) business days of the Parties' responses to the Addendum).

If the Respondent is found responsible for a violation of the College's DHR Policy, the Formal Resolution process concludes with Sanctions, described in Section C. If the Respondent is found not to have violated any DHR Policy, the Formal Resolution has concluded. At the conclusion of the Formal Resolution Process, either Party may appeal upon the grounds described in Section D.

## B. Informal Resolution

As an alternative to Formal Resolution, and *only* if the CRC determines that it is appropriate, the Parties may choose to resolve complaints through Informal Resolution. Informal Resolution is not an option in cases involving allegations of physical assault or violence motivated by a protected class. The Parties may proceed to Informal Resolution only if the following occurs: *first*, the CRC determines that the complaint may be resolved through Informal Resolution; *second*, the Complainant agrees to Informal Resolution; and *third*, the Respondent agrees to Informal Resolution. If *any* of the three conditions is not met, the CRC will proceed to Formal Resolution. If all three conditions are met, the CRC will notify the Parties within five (5) business days and proceed through Informal Resolution.

The nature of Informal Resolution is flexible, and not all complaints resolved through Informal Resolution will proceed in the same way. Typically, however, the CRC will ask the Complainant to prepare a written report, which sets out the factual basis for the grievance and any proposed resolution. The Complainant will be asked to provide the written report to the CRC within five (5) business days after the Intake Meeting has concluded. The CRC will share the written report with the Respondent, and will instruct the Respondent to provide a written response to the report within five (5) business days of reviewing the Complainant's report. The CRC will then meet separately with both Parties to discuss potential alternative resolutions based on the Parties' statements and (if applicable) other information available. The CRC is not a fact-finder; rather, the CRC identifies possible alternative resolutions to the complaint. Examples of alternative resolutions include, *but are not limited to*:

- 1) Permanent no-contact order between the Complainant and Respondent;
- 2) Academic or residential reassignment;
- 3) Written apology and/or explanation of the circumstances surrounding the grievance;
- 4) Educational remedies; and
- 5) Community service.

If the CRC and the Parties reach agreement, the matter is closed. If not, the CRC will proceed with Formal Resolution set forth in Section B.1., above. Any Party (including the CRC) may terminate the Informal Resolution process at any time. In that event, the CRC will so notify the Parties in writing and will describe next steps and timeframes for the Formal Resolution. Any resolution reached through an informal process will be confirmed in writing and provided to the parties within five (5) calendar days of reaching a resolution.

## C. Sanctions

If the report proceeds through Formal Resolution and the Respondent is found responsible for one or more violations of the College's DHR Policy, the College will issue sanctions commensurate with the violations. The CRC will designate three trained individuals to serve on a panel ("Review Panel") to determine sanctions. The CRC will notify the Parties, in writing, of the name of the designated Review Panelists within three (3) **calendar** days after

receipt of the final report. *[Note that the time lines in this section are calculated in calendar dates, not business days.]* Both Parties will have three (3) calendar days to object to each Review Panelist on the basis of bias or conflict of interest. If either of the Parties objects, the CRC will evaluate whether the objection is substantiated. The CRC will remove and replace any Review Panelist the CRC finds (in the CRC's discretion) to have a bias or conflict of interest against either Party.

The CRC will notify the Parties that they have the opportunity to submit statements ("Impact Statement") to the Review Panel within five (5) calendar days after the receipt of the final report. The Review Panel will review the Parties' Impact Statements, and all other materials in the case, including the Final Report and attached exhibits, in assessing the appropriate sanction. The Review Panel does not have the power or ability to alter the findings (factual or policy violation) by the Investigator.

The Review Panel has the discretion to recommend a variety of sanctions. However, if the Investigator has found that the Respondent physically assaulted the Complainant in violation of the College's DHR Policy, the Review Panel must recommend, at a minimum, a suspension of one semester. If the Review Panel recommends sanctions that do not meet this minimum, the Review Panel must provide an explanation to the CRC, in writing, of the exceptional circumstances in the case that warrant a lesser sanction. The Review Panel will issue a recommendation to the CRC regarding sanctions within eight (8) calendar days of receiving all materials in the case, including any Impact Statements. The CRC will issue final sanctions within three (3) calendar days of receipt of the Review Panel Recommendation. The CRC will issue the sanctions recommended by the Review Panel unless the Review Panel recommends sanctions that the CRC believes are not appropriately tailored to stop the alleged discrimination, prevent its recurrence, or remedy its effects.

The CRC will notify the Parties of the sanctions simultaneously in writing. If the CRC departs from the Review Panel's recommended sanctions, the notification shall explain the basis for the deviation.

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 DHR Policy. Additional or alternate sanctions may be imposed by, the Review Panel and/or the CRC. Sanctions are assessed in response to the specific violations and any prior discipline history of the Respondent. **Sanctions may become effective immediately (if so recommended by the Review Panel and/or decided by the CRC). If the Respondent appeals the findings in the Final Report, immediate 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.**

Possible sanctions include, but are not limited to:

- 1) **Warning:** Notice, in writing, that continuation or repetition of prohibited conduct may be cause for additional disciplinary action.

- 2) **Censure:** A written reprimand for violating the DHR Policy or other College policies. This conduct status specifies a period of time during which the good standing of a student or organization may be in jeopardy. The student is officially warned that continuation or repetition of Prohibited Conduct or other misconduct may be cause for additional conduct action including probation, suspension, or expulsion from the College.
- 3) **Disciplinary Probation:** Exclusion from participation in privileged activities for a specified period of time (privileged activities 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 including suspension, or expulsion from the College.
- 4) **Restitution:** Repayment to the College or to an affected Party for damages resulting from a violation of this College policy (amount to be determined solely by the College). To enforce this sanction, the College may withhold transcripts and degrees or to deny a student participation in graduation ceremonies and privileged events.
- 5) **Removal from Campus Housing:** Students may be removed from College housing and/or barred from applying for campus housing.
- 6) **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. Conditions for readmission may be specified in the suspension notice.
- 7) **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.
- 8) **Revocation of Admission:** Admission to the College may be revoked if a student is found to have engaged in Prohibited Conduct prior to enrollment.
- 9) **Withholding Degree:** The College may withhold awarding a degree otherwise earned until the completion of the process set forth in this Code, including the completion of all sanctions imposed, if any.
- 10) **Other:** Other sanctions may be imposed instead of, or in addition to, those specified here. Service, education or research projects may also be assigned.
- 11) **Multiple Sanctions:** More than one of the sanctions listed above may be imposed for any single violation.

#### Remedies and Non-Disciplinary, Administrative Measures

The CRC has the discretion to take non-disciplinary administrative action to stop harassment, prevent its recurrence, and remedy its effects. This may include action addressed toward the



Respondent, the campus community, and/or the Complainant, as follows:

Respondent: Any student found to have engaged in Prohibited Conduct, who is not permanently separated from the College, will be required to, in addition to other sanctions, complete non-disciplinary, educational initiatives at the discretion of the CRC.

Campus Community: In all instances where a student is found to have engaged in Prohibited Conduct, the CRC 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, targeted assessment of high-risk campus areas, or other appropriate measures.

Complainant: The CRC will continue to provide support to the Complainant as appropriate, including the ongoing provision of appropriate accommodations.

#### D. Appeal

Both Complainant and Respondent have a limited right to appeal from the findings set out in the Final Determination as follows:

*Complainant*: If the Investigator's Final Report concludes that the Respondent did not violate the College's DHR Policy, the Complainant may submit a written appeal to the CRC within five (5) business days from receiving written notice of the Final Report. If the Respondent has been found responsible for one or more policy violations, but not others, the Complainant may submit a written appeal to the CRC within five (5) business days of notice of the sanction.

*Respondent*: If the Investigator's Final Determination is that the Respondent did violate one or more policies, the Respondent may submit a written appeal to the CRC within five (5) business days from receiving written notice of the sanction.

The Party who submits the written appeal will be the "Appellant," and the responding Party will be the "Appellee." The Appellant's written appeal must be based on one of two grounds: (1) Significant Procedural Error; or (2) New Information. Each ground is explained in greater detail:

- 1) ***Significant Procedural Error***: A procedural error occurred that significantly impacted the outcome of the investigation as it applies to the Appellant (e.g. substantiated bias, material deviation from established procedures). A description of the error and its impact on the outcome of the case must be included in the written appeal.
- 2) ***New Information***: New information has arisen that was not available or known to the Appellant during the investigation and that could significantly impact the findings. Information that was known to the Appellant during the investigation but which they chose not to present is not new information. A summary of this new evidence and its potential impact on the investigation findings must be included in the written appeal.

Appellee will have five (5) business days from receipt of the appeal to submit a response. At the conclusion of these time periods, the CRC will refer the written appeal, including the Final Report, exhibits attached to the Final Report, Impact Statements and any response by Appellee (the “Appeal Record”), to an Appeal Officer.

The CRC will appoint the Appeal Officer from a member of the trained Appeals Panel and will notify both Parties of that appointment within five (5) business days of receipt of the written appeal. Both Parties will have five (5) business days to object to the Appeal Officer’s selection on the basis of bias or conflict of interest. The CRC will consider any objection on the grounds of bias or conflict of interest. If the CRC determines that an Appeal Officer may have bias or conflict of interest, the CRC will remove the Appeal Officer and designate a new Appeal Officer.

The role of the Appeal Officer is limited. Appeals are not intended to be a rehearing of the complaint. Appeals are confined to a review of the Appeal Record for the grounds stated above. The findings contained in the Investigator’s Final Report are presumed to have been decided reasonably and appropriately. The Appellant carries the burden of proof to demonstrate by a preponderance of the evidence that either the alleged error, or the proposed new evidence, would significantly and materially impact the outcome of the proceeding.

The Appeal Officer will determine whether any grounds for the appeal are substantiated. If the Appeal Officer determines that the Request for Appeal does not meet the standards for an Appeal under this Grievance Process, the Appeal Officer will notify both Parties of that outcome within ten (10) business days after receipt of both the Appellant’s appeal, and any response by Appellee. If the Appeal Officer determines that the Request for Appeal does meet the standards for an Appeal under this Grievance Process, the Appeal Officer will take appropriate action as indicated below

- 1) **Procedural Error:** If it is determined that a procedural error occurred that was substantially prejudicial to the outcome of the investigation, the Appeal Officer may return the complaint to the Investigator with instructions to correct the error, and to reconsider the findings as appropriate. In rare cases where the procedural error cannot be corrected by the original Investigator (as in cases of bias), the Appeal Officer may order a new investigation with a new Investigator. The results of a reconvened investigation process cannot be appealed.
- 2) **New Information:** If the Appeal Officer determines that new information should be considered, the complaint will be returned to the Investigator to reconsider the complaint in light of the new information only, and to reconsider the original findings as appropriate. The Investigator will prepare an Addendum to the Final Report, and provide the Parties with an opportunity to respond to the Addendum consistent with the opportunity to do so in the Notice of Findings and Response stage. The findings of the Final Report upon reconsideration are not appealable.

#### *Notification of Appeal Outcome*

Appellant and Appellee will generally be notified in writing of the outcome of the appeal

within ten (10) business days after receipt of any response by Appellee. The Appeal Officer's decision is final and is not subject to further appeal.

E. Additional Provisions

1. **Students: Advisor of Choice**

Any Complainant or Respondent to this Grievance Process is permitted to bring an Advisor of their own choosing, including a family member or an attorney, to provide support. The Advisor may accompany the student to any and all portions of the Grievance Process. However, the Advisor may not speak for the student or otherwise participate directly in, or interfere with, the proceedings. Although reasonable attempts will be made to schedule proceedings consistent with advisors' availability, the process will not be unreasonably delayed to schedule the proceedings at the convenience of the advisor. The CRC has the discretion to remove the Advisor from the proceedings (or the Grievance Process altogether) if the Advisor interferes with the proceedings.

2. **Timelines**

Unless otherwise expressly stated, all references in this procedure to "days" are to business days, excluding holidays when the College is closed. Any deadline that falls on a weekend or other day when the College is closed, shall be extended to the next business day.

3. **Training**

The College provides training to all individuals within the community who are involved in responding to, investigating, or resolving reports of Prohibited Conduct. If the College retains an individual outside the community to respond to, investigate, or resolve reports of Prohibited Conduct, the College requires that the retained individual have received adequate training consistent with the College's standards. All advisors, including those that are not members of the College community, shall be offered resources on the College's policy and the role of the advisor.

4. **Notifications**

The CRC will make reasonable efforts to ensure that the Complainant and the Respondent are simultaneously notified of the status of the Grievance Process, consistent with the processes described herein. Both Parties may, at any time, request a status update from the CRC.

5. **Modification Of Grievance Process**

The College will follow the Grievance Process in this Appendix barring exceptional circumstances. In rare instances, however, the College may be required to adapt or modify the Grievance Process (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 both Parties of any modifications to the Grievance

Process and, if appropriate, the exceptional circumstances requiring the College to adapt or modify the Grievance Process.

#### **6. Alcohol And Substance Use**

The purpose of this Grievance Process is to resolve reports of Prohibited Conduct. It is not the purpose of this Grievance Process to subject individuals to disciplinary action for their own personal consumption of alcohol or drugs. Consistent with the purpose of the Grievance Process, the College will not subject individuals who participate in good faith in the Grievance Process to disciplinary action for information revealed in the course of the Grievance Process, provided that the individual's behavior did not, and does not, place the health and safety of others at risk. In all instances, the College may pursue educational initiatives or remedies related to an individual's consumption of alcohol or drugs.

The use of alcohol or other drugs will never function as a defense for engaging in Prohibited Conduct.

#### **7. Respondent's Prior Conduct History**

Where there is evidence of a pattern of similar misconduct by the Respondent, either prior, or subsequent, to the conduct in question, regardless of whether there has been a finding of responsibility, this information may be deemed relevant and probative to the Investigator's determination of responsibility, and/or the Review Panel's determination of sanction. The CRC will make a determination of relevance based on an assessment of whether the previous incident was substantially similar to the reported misconduct and whether the incidents reflect a pattern of misconduct.

The College, through the CRC, may choose to provide this information to the Investigator, with appropriate notice to the Parties. Alternatively, a Party may request in writing that such information be admitted. A request to admit such information must be submitted to the CRC. The CRC will assess the relevance of this information and determine if it is appropriate for inclusion in the investigation report.

#### **8. Consolidation of Investigations**

Subject to applicable law, the CRC has the discretion to consolidate into one Formal Resolution multiple reports against a Respondent and/or cross-complaints between a Complainant and a Respondent, if the evidence related to each incident would be relevant and probative in reaching a determination on the other incident. Matters may be consolidated where they involve multiple Complainants, multiple Respondents, or related conduct that would regularly have been heard under the Code of Student Conduct.

#### **9. Failure to Comply with Investigation and Disciplinary Process**

If an Advisor fails to comply with the procedures set forth herein, including through a material breach of confidentiality, 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, including through a material breach of confidentiality, the College reserves the right to bring charges of misconduct against the participant.

The CRC is responsible for interpreting and applying this provision, and will not terminate a process or exclude a participant from further participation without providing advance written notice and an opportunity for that participant to respond in writing.

#### **10. Integrity of Proceeding**

These procedures are entirely administrative in nature designed to address policy violations and are not considered legal proceedings. No Party or other participant may audio, video or otherwise record the proceedings, nor is legal representation allowed. Advisors may not speak for, or on behalf of, Parties.

#### **11. Records**

The CRC will retain records of all reports and complaints, regardless of whether the matter is resolved by means of Initial Assessment, Informal Resolution or Formal Resolution. Complaints resolved by means of an Initial Assessment or Informal Resolution are not part of a student's conduct file or academic record unless they are introduced into another complaint that is resolved through Formal Resolution.

Affirmative findings of responsibility in matters resolved through Formal Resolution are part of a student's conduct record. Such records shall be used in reviewing any further conduct, or developing sanctions, and shall remain a part of a student's conduct record.

Expulsion, suspension, and withdrawal pending disciplinary action are noted on a student's transcript. In addition to records kept by the CRC, the conduct files of students who have been suspended or expelled from the College are maintained in the Office of Student Conduct 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 about record retention should be directed to the Dean of Students Office.

**APPENDIX B**

**RESOLUTION OF DISCRIMINATION GRIEVANCE AGAINST  
ADMINISTRATOR, STAFF MEMBER, OR FACULTY MEMBER (WHERE  
DELEGATED BY FACULTY HANDBOOK) FOR DISCRIMINATION, HARASSMENT  
AND RETALIATION**

This document outlines the procedures the College follows in resolving a grievance by any member of the campus community (“Complainant”) who alleges that an administrator, staff member, or faculty member (where the authority to resolve grievances against faculty members is delegated to the administration by the Faculty Handbook) (“Respondent”) engaged in discrimination, harassment and retaliation in violation of the Discrimination, Harassment and Retaliation Policy and/or the Sexual Misconduct Policy.

- [Discrimination, Harassment and Retaliation Policy](#)
- [Sexual Misconduct Policy](#)

**I. OVERVIEW**

An individual who wishes to file a complaint involving allegations of discrimination, harassment, or retaliation based on a protected status, such as age, sex, race, disability, or veteran status by an administrator, staff member, or faculty member is encouraged to do so. If the allegation is based upon sex or gender, gender identity, gender expression discrimination, or conduct otherwise prohibited by the Sexual Misconduct Policy, the individual should file a complaint directly to the Title IX Office. Complaints about all other forms of discrimination should be filed with the Department of Human Resources.

<b><i>Discrimination, Harassment or Retaliation Prohibited by the Sexual Misconduct Policy</i></b>	<b><i>Other Discrimination, Harassment, or Retaliation</i></b>
<b><i>Title IX Office</i></b> Jody Shipper, Interim Title IX Coordinator (323) 259-1338 AGC 111 <a href="mailto:jshipper@oxy.edu">jshipper@oxy.edu</a> Web: <a href="http://www.oxy.edu/office-title-ix">http://www.oxy.edu/office-title-ix</a>	<b><i>Department of Human Resources</i></b> Jacalyn Feigelman, Associate Director of Human Resources for Employee Relations and Training (323) 259-2614 <a href="mailto:jacalynf@oxy.edu">jacalynf@oxy.edu</a> Web: <a href="http://oxy.edu/human-resources">http://oxy.edu/human-resources</a>
<b><i>Deputy Title IX Coordinators</i></b>  Alison Haehnel – Athletics <a href="mailto:haehnel@oxy.edu">haehnel@oxy.edu</a> ; (323) 259-2632 Heather Lukes – Faculty <a href="mailto:lukes@oxy.edu">lukes@oxy.edu</a> ; 323-259-1312	<b><i>Grievances Against Human Resources</i></b>  Amos Himmelstein Vice President and Chief Operating Officer <a href="mailto:himmelstein@oxy.edu">himmelstein@oxy.edu</a> ; 323-259-1347

The College will identify, based upon the nature of the allegations, the appropriate office to coordinate resolution of the complaint through the Grievance Process. The office that

coordinates resolution of the complaint will identify a Civil Rights Grievance Process Coordinator (“Civil Rights Coordinator” or “CRC”) to monitor the Grievance Process as follows:

- The Office of Title IX, and the Title IX team, will coordinate resolution of all complaints of Prohibited Conduct defined in the Sexual Misconduct Policy, including complaints of sex discrimination, sexual harassment, and/or retaliation.
- The Department of Human Resources will coordinate resolution of all complaints of Prohibited Conduct defined in the Discrimination, Harassment, and Retaliation Policy, including complaints of discrimination, harassment, and/or retaliation not otherwise described in the Sexual Misconduct Policy.

The Complainant has the right to request that the CRC take no action to investigate and/or resolve the complaint. In that event, the CRC will balance the Complainant’s privacy interests against the College’s obligation to provide a safe and nondiscriminatory environment for all College community members, and to remain true to principles of fundamental fairness that require the College to provide the Respondent with notice of the allegations and an opportunity to respond before action is taken against the Respondent. The CRC will make this determination consistent with the following considerations, namely (1) the severity of the conduct; (2) the respective ages and roles of the Complainant and the Respondent; (3) whether there have been other reports or complaints of discrimination or other policy violations against the Respondent; (4) the right of the Respondent to receive notice and relevant information before any disciplinary action is sought; and (5) possible risks to the College Community and (6) existing legal obligations including a duty to investigate, if any, under Title VII of the Civil Rights Act of 1964. Should the CRC determine that, in response to the Complainant’s request, the College can satisfy its obligations to the Complainant, the College community members, and the Respondent lawfully without proceeding through the Grievance Process described herein, the CRC has the discretion to do so.

## **II. COMPLAINT RESOLUTION PROCEDURES**

### **A. Complaint Intake**

1. Members of the College community may file a complaint against an administrator, staff or faculty member by contacting the Title IX Coordinator for sex discrimination, harassment or retaliation claims and the Human Resources Director for all other forms of discrimination, harassment or retaliation. Contact information is provided on page 16 of this handbook Appendix.
2. The CRC will conduct an Intake Meeting as soon as possible after receiving a complaint. At that meeting, the CRC will ascertain the basic facts of the complaint including details concerning the conduct that gives rise to the complaint, the name of the person(s) against whom the complaint is made, and the names of witnesses; provide an overview of the options for resolving a complaint, including Informal Resolution and Formal Resolution and explain that the Complainant has a right to an advisor of their choice during the process.

3. In addition to providing information about options for resolution, the CRC will inform the Complainant about available sources of further assistance, such as counseling services available to students at Emmons Wellness Center Counseling and employees via the Employee Assistance Program (“EAP”).
4. After receiving the complaint, the CRC will determine whether the complaint describes a potential violation of one or more of the College’s antidiscrimination policies. This determination is *not* intended to screen complaints from the Grievance Process. Rather, its purpose is to determine whether the conduct as stated *could* constitute a violation of one or more of the College’s antidiscrimination policies.
5. If the CRC determines that the complaint does not describe facts that would under any circumstances constitute a violation of one or more of the College’s antidiscrimination policies, the Complainant may nevertheless make a complaint to the federal Office for Civil Rights (“OCR”), the California Department of Fair Employment and Housing (“DFEH”), the Equal Employment Opportunity Commission (“EEOC”), and/or the police, and may seek available civil remedies through the judicial system. The Complainant also may re-file the complaint with the College upon the discovery of additional facts.

[United States Department of Education](#): Inquiries or complaints concerning the College’s compliance with Title IX and Title VI may be referred to the U.S. Department of Education’s Office for Civil Rights.

Office for Civil Rights, San Francisco Office  
50 United Nations Plaza  
San Francisco, California 94102  
(415) 486-5555  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)

[DFEH Los Angeles Office](#): Any employee may pursue any charge of discrimination or harassment with the California Department of Fair Employment and Housing (“DFEH”).

320 West 4<sup>th</sup> Street, 10<sup>th</sup> Floor  
Los Angeles, CA 90013  
(213) 439-6799

[EEOC Los Angeles District Office](#): Any employee may pursue any charge of discrimination or harassment with the federal Equal Opportunity Employment Commission (“EEOC”).

255 East Temple Street, 4<sup>th</sup> Floor  
Los Angeles, California 90012  
(213) 894-1000



6. If the CRC determines that the complaint does not allege a potential violation of one or more of the College's antidiscrimination policies but, nevertheless, alleges other policy violations or unprofessional behavior, the CRC shall refer the concern to the appropriate College administrator (*e.g.*, Human Resources, the Dean of the College, and/or the Dean of Students) to consider further action to identify and, if necessary, address the inappropriate or unprofessional behavior.

## B. Informal Resolution Procedures

1. Individuals who believe they have been or may be the victim of discrimination and harassment, not involving physical or sexual violence, may request to use these informal resolution procedures. Complaints alleging physical or sexual violence addressed under Section II must be resolved through formal resolution. Use of the informal procedures described below is not a prerequisite to resolving a complaint through the formal resolution process.
2. Informal resolution procedures do not involve a formal investigation or finding of responsibility. They are designed to correct, rather than punish, behavior. To the extent discipline is imposed through informal resolution, it will be imposed consistent with the procedures outlined below. Informal resolutions may include, but are not limited to, changes in residence arrangements, changes in classes, changes in schedules or work hours, changes in work assignment/location, or "no contact" agreements.
3. The CRC has discretion to determine whether the complaint may proceed through informal resolution as an alternative to the formal resolution process. If the CRC determines that the complaint may appropriately be resolved through informal resolution, the CRC will ask the Complainant and Respondent, separately, whether they wish to attempt informal resolution. If either Party declines, or if the Complainant, Respondent, or CRC, at any time, determines that Informal Resolution is no longer appropriate, the CRC will promptly inform the Complainant and Respondent in writing that the Informal Resolution process has stopped and that the complaint will proceed through Formal Resolution in accordance with this policy.
4. Requests for assistance under these informal procedures will be dealt with, to the greatest extent practical and possible, on a confidential basis. Disclosure of information related to such requests for assistance will be limited to those who need to know the information in order to provide assistance, ensure fairness, comply with existing law, and/or allow the College to meet its obligations to provide a safe or nondiscriminatory work, educational or living environment.
5. If resolution is reached by this process, no further actions will be taken and the matter will be considered closed. If the matter cannot be resolved informally, the CRC will accept a complaint for formal resolution.

## C. Formal Resolution Procedures

1. Initial Stages

- a. Individuals who believe they have been the victim of discrimination, harassment or retaliation, including individuals who have begun or completed an unsuccessful informal resolution process, may file a formal complaint. If the complaint meets the threshold determinations described in sections A.4 and A.5, such a complaint will result in an investigation, the purpose of which shall be to determine whether a violation of one of the antidiscrimination policies has occurred. If the CRC determines the complaint alleges a possible violation of one or more of the antidiscrimination policies, the CRC will notify the Complainant and the Respondent, in writing, of the decision. In certain circumstances, the College may initiate an investigation without a formal complaint from any individual.
  - b. When appropriate, prior to or during an investigation, the College may take interim measures to protect the safety and well-being of the Complainant and/or members of the College community. Interim measures may be applied with respect to either the Complainant or Respondent. Such measures include, but are not limited to, changes in work schedules or work hours, changes in work assignment/location, a “no contact” order, or suspension.
  - c. The Complainant and Respondent may be accompanied by an advisor of their choice during all phases of the complaint process. The advisor must not be otherwise involved in the incident or in any other role in the investigation (including as a witness). The role of the advisor at any meeting during the resolution process is that of an observer, not an advocate. The advisor cannot speak on the Complainant’s or Respondent’s behalf.
2. Notice of the Allegations to the Respondent

The CRC’s written notification to the Respondent will state facts sufficient to apprise the Respondent of the nature of the allegations, including, specifically:

- a. Complainant’s name
- b. Nature of the complaint
  - i. Specific policy violations alleged (e.g., sexual assault, racial harassment, retaliation)
  - ii. Dates of alleged policy violations
  - iii. Approximate times of alleged policy violations
  - iv. Locations of alleged policy violations
  - v. Brief description of the incident/alleged misconduct
- c. An overview of the procedural options and process, including Informal Resolution and Formal Resolution
- d. The availability of an advisor of their choice.

- e. A description of the College’s policy prohibiting retaliation.

In the notice to the Respondent, the CRC shall request a meeting within three (3) business 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.

### 3. Formal Investigation

- a. The CRC 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 CRC will notify the Parties, in writing, of the name of the Investigator within three business days of the Investigator’s selection. That notification will also include the name of the assigned CRC. Both Parties will have three business days to object to the Investigator’s and/ or CRC selection on the basis of bias or conflict of interest. If either of the Parties objects, the CRC or other College Administrator if the objection is against the CRC, will evaluate whether the objection is substantiated. The CRC will remove and replace any Investigator the CRC finds to have a bias or conflict of interest against either party.
- b. Reasonable effort shall be made to complete the investigation within (60) calendar days of the date the formal complaint is made or as soon thereafter as practical under the circumstances. The CRC will provide the Complainant and the Respondent with notice of any delays and give them a new timetable for completion of the investigation.
- c. 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 may also gather of any relevant documents. 4. The Investigator will prepare a Report for the CRC. 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 exhibits 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 CRC. The CRC 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.

- d. Once the Report is finalized, the CRC will issue a resolution letter to the Complainant and Respondent. The resolution letter will briefly describe how the investigation was conducted, as well as the ultimate finding(s) (i.e., whether the Respondent did, or did not, violate College policy) and the specific factual findings in support of the Investigator's ultimate finding(s).
- e. 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 Section III, below.
- f. If the Respondent is found responsible for a violation of one or more of the antidiscrimination policies, the Formal Resolution process concludes with the imposition of discipline. If the Respondent is found not to have violated any antidiscrimination policy, the Formal 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 in subsections 1-5 in Section III, below. At the conclusion of the Formal Resolution Process, either party may appeal only upon the grounds described in Section IV.

### **III. REMEDIES AND DISCIPLINARY ACTIONS**

#### **A. 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 "no contact" order.

#### **B. 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 shall 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 shall have any rights to contest the imposition of discipline as may otherwise exist under applicable College rules, policies or procedures.

Discipline shall be imposed by the Operative Vice President in consultation with the Director of Human Resources or the Title IX Coordinator if there is a violation of the sexual misconduct policy. The Operative Vice President has the discretion to implement a variety of disciplinary actions. If the Investigator has found that the Respondent sexually assaulted the Complainant in violation of the College's Sexual Misconduct Policy, or physically assaulted the Complainant in violation of the College's Discrimination, Harassment, and Retaliation Policy, it is expected that the Operative Vice President will terminate the Respondent's employment (absent extenuating circumstances). The CRC will notify the

Parties of the disciplinary actions within five business days of receipt of the Operative Vice President's Decision.

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 CRC. Disciplinary actions are assessed in response to the specific violation(s) and any prior discipline history of the Respondent.

Possible disciplinary actions include, *but are not limited to*:

1. **Warning:** Notice, in writing, that continuation or repetition of prohibited conduct may be cause for additional disciplinary action.
2. **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.
3. **Restitution:** Repayment to the College or to an affected party for damages resulting from a violation of one or more of the College's antidiscrimination policies. The amount of any restitution is determined by the College.
4. **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 shall be clearly defined and may include, but are not limited to, presence in certain buildings or locations on campus.
5. **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 exhibit 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.
6. **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.
7. **Termination of Employment:** Permanent separation of the employee from the College.
8. **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.

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

Accommodations and Non-Disciplinary, Administrative Measures

In addition to, and independent of, the results of the investigation and disciplinary process, the CRC, 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 CRC will continue to provide for the care and support of the Parties as appropriate, including the ongoing provision of appropriate accommodations.

**IV. APPEAL**

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. Assuming one or both of these disciplinary actions are acknowledged by the CRC to be appropriate for the alleged conduct, each party's limited right to appeal from the Report is as follows:

- Complainant. If the finding is that concludes that the Respondent did not violate a policy that the Complainant believes the Respondent violated, the Complainant has five calendar days from receiving written notice of the Report to submit a written appeal to the CRC. If the Respondent has been found responsible for one or more policy violations, but not others that may have resulted in suspension without pay or termination of employment, the Complainant may submit a written appeal to the CRC within five calendar days of notice of the disciplinary action.
- Respondent. If the finding is that the Respondent did violate one or more policies and, as a result, has been disciplined in the form of suspension without pay or termination of employment, the Respondent has five calendar days from receiving written notice of the disciplinary action to submit a written appeal to the CRC.

The party who submits the written appeal will be the "Appellant," and the responding party will be the "Appellee." The Appellant's written appeal must be based on at least one of two grounds: (1) Significant Procedural Error; or (2) New Information. Each ground is explained in greater detail:

- Significant Procedural Error. A procedural error occurred that significantly impacted the outcome of the investigation as it applies to the Appellant (e.g. substantiated bias, material deviation from established procedures). A description of the error and its impact on the outcome of the case must be included in the written appeal.
- New Information. Information has come to light that was not available or known to the Appellant during the investigation and that could significantly impact the findings. Information that was known to the Appellant during the investigation but which s/he chose not to present does not constitute new information. A summary of this new evidence and its potential impact on the investigation findings must be included in the written appeal.

Appellee will have five calendar days to submit a response. At the conclusion of these time periods, the CRC will refer the written appeal, including the report, exhibits attached to the report, (the “Appeal Record”), to an Appeal Officer

The CRC will appoint the Appeal Officer from a member of the trained Appeals Panel and notify both Parties of that appointment within five calendar days of receipt of the written appeal. Both Parties will have five calendar days to object to the Appeal Officer’s selection on the basis of bias or conflict of interest. The CRC will consider any objection on the grounds of bias or conflict of interest. If the CRC determines that an Appeal Officer may have bias or conflict of interest, the CRC will remove the Appeal Officer and designate a new Appeal Officer.

The role of the Appeal Officer is limited. Appeals are not intended to be a full rehearing of the complaint. Appeals are confined to a review of the Appeal Record for the grounds stated above. The findings contained in the Investigator’s Report are presumed to have been decided reasonably and appropriately. The Appellant carries the burden of proof to demonstrate that either the alleged error, or the proposed new evidence, would significantly and materially impact the outcome of the proceeding.

The Appeal Officer will determine whether any grounds for the appeal are substantiated. If the Appeal Officer determines that the Request for Appeal does not meet the standards for an Appeal under this Grievance Process, the Appeal Officer will notify both parties of that outcome within ten business days of receipt of both the Appellant’s appeal, and the Appellee’s response. If the Appeal Officer determines that the Request for Appeal does meet the standards for an Appeal under this Grievance Process, the Appeal Officer will take appropriate action as indicated below.

- **Procedural Error:** If it is determined that a procedural error occurred that was substantially prejudicial to the outcome of the investigation, the Appeal Officer may return the report to the Investigator with instructions to correct the error, and to reconsider the findings as appropriate. In rare cases, where the procedural error cannot be corrected by the original Investigator (as in cases of bias), the Appeal Officer may order a new investigation with a new Investigator. The results of a reconvened investigation process cannot be appealed.
- **New Information:** If the Appeal Officer determines that new information should be considered, the report will be returned to the Investigator to reconsider the complaint in light of the new information only, and to reconsider the original findings as appropriate. The Investigator will prepare an Addendum to the report, and provide the Parties with an opportunity to respond to the Addendum consistent with the opportunity to do so in the Notice of Findings and Response stage. The findings of the Report upon reconsideration are not appealable.

## V. Notification of Appeal Outcome

Appellant and Appellee will generally be notified in writing of the outcome of the appeal within ten business days of receipt of Appellee’s response statement. The Appeal Officer’s decision is final and is not subject to appeal.

