

California Western School of Law

Title IX Policy

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I. GENERAL POLICIES

California Western School of Law (“CWSL” or “School”) seeks to ensure that no students or employees are excluded from participation in, or denied the benefits of, any School program or activity on the basis of sex. Members of the School community, as well as guests and visitors, have a right to be free from sexual harassment, violence and gender-based harassment. When an allegation of sexual misconduct is investigated, and a responding community member is found to have violated the Sexual Harassment and Discrimination Policy (“Policy”) or to have engaged in other inappropriate conduct, discipline or corrective measures may be imposed.

II. PURPOSE

CWSL has established the procedures outlined in this Policy in order to: 1) educate and promote awareness of the School policies against sexual harassment and misconduct; 2) provide all members of the School community with a process for promptly reporting any concerns regarding potential sexual harassment or related inappropriate conduct; and 3) provide guidelines for prompt and effective responses to any reports of sexual harassment.

III. NOTICE OF NON-DISCRIMINATION

CWSL expressly prohibits discrimination on the basis of age; ancestry; citizenship status; color; creed; disability or medical condition; gender; pregnancy, childbirth or related medical conditions; gender identity or expression; marital, military or parental status; national origin; race; religion; sexual orientation, or any other basis prohibited by law. For questions about discrimination on the basis of a disability or to file a Section 504 complaint alleging discrimination on the basis of a disability, contact the Vice Dean for Academic and Student Affairs at TitleIXCoordinator@cwsl.edu.

IV. TITLE IX AND THE TITLE IX COORDINATOR

Title IX of the Education Amendments of 1972 (“Title IX”), 20 U.S.C. § 1681 et seq., and its implementing regulations, 34 C.F.R. Part 106, prohibit discrimination on the basis of sex in education programs or activities operated by recipients of federal financial assistance. Title IX states:

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

A. Title IX Coordinator

The School has designated the Vice Dean for Academic & Student Affairs to serve as the School's Title IX Coordinator ("Title IX Coordinator"). The Title IX Coordinator is responsible for implementing and monitoring Title IX compliance on behalf of CWSL. The Title IX Coordinator's specific responsibilities include, but are not limited to, coordination of training, education, communications, providing prompt and effective response to reports of Sexual Misconduct in accordance with this Policy, initiating investigations of alleged Sexual Misconduct, maintaining records of reports of Sexual Misconduct including records of investigations, voluntary resolutions, and disciplinary action, as appropriate, and identifying and addressing any patterns or systemic problems that arise during the review of Sexual Misconduct complaints.

When students or employees feel they have been subjected to discrimination on the basis of sex, which includes but is not limited to sexual harassment or gender discrimination, they should contact the Title IX Coordinator or utilize the grievance procedures in this Policy, see *infra* at Section IX to XIII, to bring concerns forward for the purpose of obtaining a prompt and equitable resolution.

Any inquiries regarding Title IX or this Policy should be directed to either the Title IX Coordinator or any of the Deputy Title IX Coordinators identified in the following Section.

The Title IX Coordinator can be reached at the following:

Vice Dean for Academic & Student Affairs
California Western School of Law
225 Cedar Street
San Diego, CA 92101-3046
619-515-1567
TitleIXCoordinator@cwsl.edu

B. Deputy Title IX Coordinators

Deputy Title IX coordinators ("Deputy Coordinators") are responsible for implementing and monitoring Title IX compliance at CWSL and for notifying the Title IX Coordinator of any alleged or suspected violations of this Policy and the resolution of such alleged or suspected violations, regardless of whether a complaint is filed.

Students and employees who have a complaint against any individual involving allegations of Sexual Misconduct in violation of this Policy should contact the Title IX Coordinator or one of the Deputy Coordinators. The Deputy Coordinators are listed below.

Complaints Against Students:

Assistant Dean for Student &
Diversity Services
California Western School of Law
225 Cedar Street
San Diego, CA 92101-3046
619-515-1576
DeputyCoordinator-Students@cwsl.edu

Complaints Against Employees:

Vice President of Administration
California Western School of Law
225 Cedar Street
San Diego, CA 92101-3046
619-515-1593
DeputyCoordinator-
Employees@cwsl.edu

C. External Resources

Additional inquiries about Title IX or CWSL's application of Title IX may be made to the United States Department of Education's Office for Civil Rights:

San Francisco Office
Office for Civil Rights
U.S. Department of Education
50 Beale Street, Suite 7200
San Francisco, CA 94105-1813
415-486-5555
ocr.sanfrancisco@ed.gov

The federal Equal Employment Opportunity Commission ("EEOC") and the California Department of Fair Employment and Housing ("DFEH") investigate complaints of unlawful harassment in employment. The U.S. Department of Education Office for Civil Rights ("OCR") investigates complaints of unlawful Sexual Misconduct by students in educational programs or activities.

In some circumstances, these agencies may serve as neutral fact finders and attempt to facilitate the voluntary resolution of disputes. For more information, contact the nearest office of the EEOC, DFEH or OCR.

V. POLICY SCOPE

A. General

This Policy prohibits Sexual Misconduct as defined herein. The School will respond promptly and effectively to reports of Sexual Misconduct and will take appropriate action to prevent, to correct, and when necessary, to discipline behavior that violates this Policy.

B. Prohibited Acts

CWSL strives to provide an educational, employment, and business environment free of all forms of sex discrimination, including, but not limited to unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communications constituting Sexual Misconduct, as defined in this Policy, the Code of Student Professional Conduct (“Honor Code”), the Student Handbook, the Employee Handbook, and as otherwise prohibited by state and federal statutes.

C. Scope of Policy and Jurisdiction

This Policy applies to all CWSL community members, including students, faculty, staff and third parties, such as volunteers, contractors and visitors. Alleged misconduct subject to this Policy (“Sexual Misconduct”) includes both Title IX Sexual Harassment (which is defined by law) and Community Standards Sexual Harassment (which includes alleged conduct that does not meet the definitions under Title IX, but nonetheless violate CWSL’s community standards), as discussed further in the Definitions (Section VI) below.

This Policy applies regardless of the complainant’s or respondent’s sexual orientation, sex, gender identity, age, race, nationality, religion or ability.

Sexual Misconduct by an employee that violates this Policy is considered to be outside the normal course and scope of employment.

This Policy applies to students, employees, volunteers, independent contractors and vendors. Except as to Title IX Sexual Harassment (where the jurisdiction is defined below), this Policy shall apply to conduct that occurs on School-owned or leased property and at School sponsored events, and to events on or off-campus that have sufficient ties to the School. Students shall be responsible for their conduct from the time of application for admission through the awarding of a degree, as well as

during periods between terms of actual enrollment, study abroad and leaves of absence or suspension. Employees shall be responsible for their conduct from the time of application until their employment ends.

The School has the authority to combine violations of different policies, like those in the Honor Code, the Student Handbook, or the Employee Handbook, that are related to the same incident subject to review under this policy, even though they may not be directly related to Sexual Misconduct. Generally, once a complaint or investigation is initiated under this Policy, it will supersede all other policies and will be used to resolve any and all other ancillary complaints arising out of the same or related incidents or allegations.

D. Discipline and Corrective Actions

The School will take reasonable steps to prevent the recurrence of any Sexual Misconduct and to minimize the impact on the complainant (and others, if appropriate). Any member of the School community who is found to have engaged in Sexual Misconduct will be subject to appropriate discipline, up to and including expulsion, termination of employment or termination of their relationship with the School. The School also may take any other corrective action that it deems appropriate under the circumstances.

E. False Reports

The submission of knowingly false information is prohibited and will be addressed under CWSL's Code of Conduct for students and employment policies for faculty and staff. This provision does not apply to reports made and other information submitted in good faith, even if the facts alleged are not substantiated by an investigation and/or Hearing decision.

F. Free Speech and Academic Freedom

This Policy is intended to define School standards and to outline the investigation and grievance processes when those standards are violated. The prohibitions against discrimination and harassment do not extend to statements and written materials that are otherwise protected by principles of freedom of speech or academic freedom.

G. Distribution of Policy

As part of the School's commitment to providing a working and learning environment free from Sexual Misconduct, this Policy shall be distributed widely to the School community. The School will distribute this Policy to the students and employees by appropriate channels of communications, including posting it on an internet or intranet web site and directly notifying all students and employees of how to access the Policy by an exact URL address or link, and that they may request a paper copy. The School will make preventive educational materials available to all members of the community and will provide incoming students with a copy of this Policy along with an informational pamphlet at a scheduled Title IX informational session as part of their orientation.

H. Education and Training Programs

The School provides programming to educate student and employees about Sexual Misconduct, domestic violence, dating violence, and stalking. Educational programming consists of primary prevention and awareness programs for all incoming students and new employees and ongoing awareness and prevention campaigns for students, faculty and employees. Any individual serving as CWSL's Title IX Coordinator and deputies, Investigator, Informal Resolution Facilitator, Hearing Officer or Appeal Officer will receive training on the this Policy, the scope of CWSL's education program or activity, how to conduct an investigation and Formal Resolution Processes (including Hearings, Appeals and Informal Resolution, as applicable), and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest and bias. Further, they will receive training on questions of relevance, and on preparing an Investigation Report, Hearing Outcome Letter or Appeal decision, as appropriate.

VI. DEFINITIONS

Terms used in this Policy have the following meanings:

Advisor: An Advisor is a person who has agreed to provide support and advice to a Complainant or Respondent, subject to the provisions of Section XI.C below.

Appeal Officer: The individual responsible for determining an appeal under Section XIII. The Appeal Officer may be CWSL's employee or an external contractor. The Appeal Officer shall not be the Institution's Title IX Coordinator, nor the Investigator or Hearing Officer who were assigned to the matter that is the subject of the Appeal.

Community Standards Sexual Harassment: Conduct that does not meet the definition of Title IX Sexual Harassment, but includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, on or off campus, when: 1) submission to such conduct is made either explicitly or implicitly a condition of an individual's employment or academic standing or progress; or 2) submission to or rejection of such conduct is used as the basis for employment decisions or for academic evaluation, grades, or advancement; or 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating or hostile academic or work environment. Community Standards Sexual harassment may take many forms. Sexual Harassment may consist of repeated actions or may even arise from a single incident if sufficiently extreme.

Community Standards Sexual Harassment may include incidents between any members of the School community, including faculty and other academic appointees, staff, student employees, students, interns, and non-student or non-employee participants in School programs (e.g., vendors, contractors, or visitors). Sexual harassment may occur in hierarchical relationships, between peers, or between individuals of the same sex or opposite sex. To determine whether the reported conduct constitutes sexual harassment, consideration shall be given to the record of the conduct as a whole and to the totality of the circumstances, including the context in which the conduct occurred.

Examples of Community Standards Sexual Harassment include, but are not limited to: subtle or persistent pressure for sexual activity; unnecessary touching, pinching or brushing against a person; requesting or demanding sexual favors concerning employment, academic activities or other school activities; unwelcome communications (verbal, written, electronic, etc.) of a sexual nature; and failure to accept the termination of a consensual relationship with repeated and persistent requests and behavior.

For this Policy, Community Standards Sexual Harassment specifically includes the following acts, *unless* the conduct meets the definition of Title IX Sexual Harassment.

Non-Title IX Rape is forced sexual intercourse that is perpetrated against the will of a person or when the person is unable to give consent (i.e., unconscious, asleep, or under the influence of alcohol or drugs) and may involve physical violence, coercion, or the threat of harm to the individual.

Non-Title IX Sexual Assault includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's mental or physical incapacitation. The conduct may include physical force, violence, threat or intimidation, duress, menace, or fear of immediate and unlawful bodily injury on the person or another.

Non-Title IX Sexual Battery is any incident in which the victim's intimate part is touched without consent of the victim, and with specific intent to achieve sexual arousal, gratification, or sexual abuse.

Non-Title IX Sexual Exploitation refers to a situation in which a person takes or attempts to take non-consensual or abusive sexual advantage of another. Examples of sexual exploitation include, but are not limited to:

- Sexual voyeurism (such as watching a person undressing, using the bathroom or engaged in sexual acts without the consent of the person observed); and
- Taking pictures, video, or audio recording another in a sexual act or in any other private activity without the consent of all involved in the activity or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent).

Non-Title IX Dating Violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship will be determined based on a consideration of the following factors: 1) the length of the relationship, 2) the type of relationship, and 3) the frequency of interaction between the persons involved in the relationship.

Non-Title IX Domestic Violence is defined as abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship.

Non-Title IX Stalking includes conduct directed at a specific person that would cause a reasonable person to— 1) fear for his or her safety or the safety of others; or 2) suffer substantial emotional distress. Such behaviors or activities may include, but are not limited to non-consensual communications (i.e., face-to-face, telephone, email, and social media), threatening or obscene gestures, surveillance, or showing up outside the targeted individual's classroom, residence or workplace. Under California law, stalking means "any person who willfully, maliciously, and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family is guilty of the crime of stalking..."

Gender, Gender Identity or Sexual Orientation Discrimination: Harassment that is not sexual in nature but is based on gender, gender identity, sex- or gender-stereotyping, or sexual orientation is also prohibited by the School's nondiscrimination policies if it denies or limits a person's ability to participate in or benefit from educational programs, employment, or services. While discrimination based on these factors may be distinguished from sexual harassment, these types of discrimination may contribute to the creation of a hostile work or academic environment. Thus, in determining whether sexual harassment exists, the School may take into account acts of discrimination based on gender, gender identity, sex- or gender-stereotyping, or sexual orientation.

Complainant: An individual who is alleged to be the victim of Sexual Misconduct.

Consent: A knowing, affirmative, conscious, voluntary and mutual decision among participants to engage in sexual activity, as discussed further in Section VIII.

Formal Complaint: A document submitted by a Complainant and bearing the Complainant's physical or digital signature, or otherwise indicating that the Complainant is the one filing the Formal Complaint, requesting that the CWSL investigate the allegations of Sexual Misconduct. The Title IX Coordinator also may sign a Formal Complaint, as discussed in Section XI, but does not become the Complainant by doing so. In order to file a Formal Complaint relating to Title IX Sexual Harassment, a Complainant must be participating in or attempting to participate in CWSL's education program or activity at the time a Formal Complaint is filed.

Hearing Officer: The individual responsible for conducting the Hearing under Section XII.E, reaching a decision on responsibility and assigning sanctions, if appropriate. The Hearing Officer may be CWSL's employee or an external contractor. The Hearing Officer shall not be the Institution's Title IX Coordinator, nor the Investigator who investigated the matter that is the subject of the Hearing. CWSL will appoint a single Hearing Officer

Informal Resolution Facilitator: The individual responsible for facilitating Informal Resolution, as discussed in Section XI.D. The Informal Resolution Facilitator may be CWSL's employee or an external contractor.

Investigator: The individual responsible for conducting the investigation of alleged Sexual Misconduct, as discussed in Sections XII.A-C.. The Investigator may be CWSL's employee or an external contractor. The Title IX Coordinator may serve as the Investigator.

Party or Parties: Party refers to a Complainant or a Respondent. Parties refers to Complainant and Respondent collectively.

Respondent: An individual who has been reported to have engaged in any form of Sexual Misconduct or an organization that has been reported to have engaged in Community Standards Sexual Misconduct.

Sexual Misconduct: Sexual Misconduct includes Title IX Sexual Harassment and Community Standards Sexual Misconduct.

Title IX Sexual Harassment: (a) Definition. Title IX Sexual Harassment means conduct on the basis of sex that involves an employee of CWSL conditioning the provision of an aid, benefit, or service of CWSL on an individual's participation in unwelcome sexual conduct; or an individual engaging in unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to CWSL's education program or activity. Title IX Sexual Harassment also specifically includes the following:

- **Title IX Sexual Assault:** Title IX Sexual Assault includes any of the following Sexual Misconduct:
 - Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the alleged victim.
 - The touching of the private body parts of another person for the purpose of sexual gratification without the consent of the alleged victim.
 - Non–forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - Non–forcible sexual intercourse with a person who is under the statutory age of consent.
- **Title IX Dating Violence:** Violence, including sexual or physical abuse or the threat of such abuse, committed by a person (a) who is or has been in a social relationship of a romantic or intimate nature with the alleged victim; and (b) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship, (ii) the type of relationship, and (iii) the frequency of interaction between the persons involved in the relationship.
- **Title IX Domestic Violence:** Violence committed by a current or former spouse or intimate partner of the alleged victim, by a person with whom the alleged victim shares a child in common, by a person who is cohabitating with or has cohabitated with the alleged victim as a spouse or intimate partner, by a person similarly

situated to a spouse of the alleged victim under the domestic or family violence laws of [state where Institution is located], or by any other person against an adult or youth alleged victim who is protected from that person's acts under the domestic or family violence laws of California.

- **Title IX Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress. For purposes of this definition, (a) course of conduct means two or more acts, including, but not limited to, acts in which the alleged stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property; (b) reasonable person means a reasonable person under similar circumstances and with similar identities to the victim; and (c) substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

(b) Jurisdiction. In order to constitute Title IX Sexual Harassment, the alleged misconduct must have occurred (i) in the United States, and (ii) in CWSL's education program or activity, which is defined as locations, events or circumstances over which CWSL exercised substantial control over both Respondent and the context in which the misconduct occurred, or any building owned or controlled by a student organization officially recognized by Institution.

VII. RETALIATION

Retaliation against an individual for participating in any way in a report, investigation, hearing or other proceeding under this Policy is strictly prohibited. No one may intimidate, threaten, coerce or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy. In evaluating whether retaliation has occurred, CWSL may consider whether the conduct in question constituted the exercise of rights protected under the First Amendment or was covered by another Institution policy, including with respect to freedom of expression or academic freedom. CWSL will address allegations of Retaliation under this Policy which will be treated as a form of Sexual Misconduct, and handled Under Sections XII through XIII, below.

VIII. CONSENT

A person who wants to engage in a specific sexual activity is responsible for obtaining Affirmative Consent for that activity. Affirmative consent requires an affirmative, conscious and voluntary agreement to engage in sexual activity. Neither the lack of protest nor resistance nor silence constitutes consent, and consent may be withdrawn at any time. Affirmative consent must be given by all parties to sexual activity.

Consent is *informed*. Consent is an affirmative, unambiguous, and conscious decision by each participant to engage in mutually agreed-upon sexual activity.

Consent is *voluntary*. It must be given without coercion, force, threats, or intimidation. Consent means positive cooperation in the act or expression of intent to engage in the act pursuant to an exercise of free will.

Consent is *revocable*. Consent to some form of sexual activity does not imply consent to other forms of sexual activity. Consent to sexual activity on one occasion is not consent to engage in sexual activity on another occasion. A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be mutual consent to engage in sexual activity. Consent must be ongoing throughout a sexual encounter and can be revoked at any time. Once consent is withdrawn, the sexual activity must stop immediately.

Consent cannot be given when a person is *incapacitated*. A person cannot consent if s/he is unconscious or coming in and out of consciousness. A person cannot consent if s/he is under the threat of violence, bodily injury or other forms of coercion. A person cannot consent if his/her understanding of the act is affected by a physical or mental impairment. For purposes of this Policy, the age of consent is eighteen (18).

Related Definitions:

Coercion is the practice of forcing another party to act in an involuntary manner by use of intimidation or threats or some other form of undue pressure or force. Coercion may include the use of emotional manipulation to effectively remove that person's free will to engage in sexual activity. Being coerced into having sex or performing sexual acts is not consenting sex and may be considered Sexual Misconduct.

Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation and coercion that overcomes resistance or produces consent.

Incapacitation is the state where someone cannot make rational, reasonable decisions due to a lack of capacity to give knowing consent (e.g., to understand the “who, what, when, where, why, and how” of the sexual interaction). Sexual activity with someone who is, or based on circumstances should reasonably have known to be, mentally or physically incapacitated (i.e., by alcohol or other drug use, unconsciousness or blackout) constitutes a violation of this Policy. A person whose incapacity results from mental disability, sleep, involuntary physical restraint, inability to communicate due to mental or physical condition and/or from the consumption (voluntary or otherwise) of incapacitating drugs cannot give consent. In evaluating incapacitation, the Respondent will be found responsible if they knew or reasonably should have known that the Complainant was incapacitated, from the perspective of a reasonably sober person. It is not a valid excuse that the Respondent believed the Complainant consented if the Respondent’s belief arises from his or her own intoxication or recklessness or the Respondent did not take reasonable steps to ascertain whether the complaint affirmatively consented.

IX. REPORTING SEXUAL MISCONDUCT

Any person may report conduct constituting possible Sexual Misconduct to the Title IX Coordinator in person, by mail, by telephone, or by email. The School encourages individuals who believe they have been subject to any Sexual Misconduct to clearly and promptly notify the Title IX Coordinator. The Title IX Coordinator will promptly contact the Complainant to discuss the availability of Supportive Measures (see Section xxx) and to explain the process for filing a Formal Complaint.

Complainants are encouraged, but not required, to proceed with a Formal Complaint. If the Complainant desires to proceed with a Formal Complaint, the Title IX Coordinator or designee will begin the Formal Complaint Processes (see Section XII). If the Complainant decides not to submit a Formal Complaint, the Title IX Coordinator may sign a Formal Complaint when the Title IX Coordinator deems doing so necessary to address the possible Sexual Misconduct, including in order to provide a safe and nondiscriminatory environment for all members of CWSL’s community. In deciding whether to sign a Complaint if the Complainant elects not to do so, the Title IX Coordinator will consider the factors set out in Section IX.D below. A Complainant is not required to submit a Formal Complaint in order to receive Supportive Measures.

A. Prompt Reporting Encouraged

Complainants of Sexual Misconduct may report incidents at any time, but are strongly encouraged to make reports promptly in order to best preserve evidence for a potential legal or disciplinary proceeding. Complainants are strongly encouraged to report incidents to the local police department and campus security. Complainants are also encouraged to contact the local victim/survivor services office, counseling centers, and health care providers for appropriate action. In general, there is no time limit for students to make a report, but an undue delay in reporting may affect the quality or preservation of evidence or witness testimony that would have been available.

B. Reports to Authorized and Responsible Employees

There may be instances when a student or employee discloses alleged Sexual Misconduct to an employee of CWSL. Whether that disclosure constitutes actual notice to CWSL, triggering its response obligations under this Policy, depends on the role of the employee to whom the disclosure is made, as follows:

Authorized Employees: A disclosure or report of Sexual Misconduct made to an Authorized Employee (regardless of whether the disclosure is made by the Complainant or a third party) constitutes a report to Institution (i.e., actual knowledge), triggering a response under this Policy. All Authorized Employees are required to promptly report disclosures of Sexual Misconduct to the Title IX Coordinator, including all information that has been disclosed to the Authorized Employee, such as the names of those involved, the location of the incident, the alleged Sexual Misconduct, etc. The Title IX Coordinator and Deputy Title IX Coordinators are CWSL's Authorized Employees.

Responsible Employees: A disclosure or report of Sexual Misconduct made to a Responsible Employee (regardless of whether the disclosure is made by the Complainant or a third party) does not constitute a report to the Institution (i.e., is not "actual knowledge") triggering a response under this Policy. CWSL, as a matter of policy, requires Responsible Employees to promptly report disclosures of Sexual Misconduct to the Title IX Coordinator, including all information that has been disclosed to the Responsible Employee, such as the names of those involved, the location of the incident, the alleged Sexual Misconduct, etc. All CWSL faculty and administrative staff, with the exception of Confidential Employees, are considered Responsible Employees. The School requires reporting of all incidents of Sexual Misconduct, regardless of the alleged offender's identity or position.

All other members of the community, including students, even if not Authorized or Responsible Employees, are encouraged to report instances of possible Sexual Misconduct to the Title IX Coordinator.

Confidential Reporting: Professional counselors, when acting as such, are not considered to be Responsible Employees. Please note that professional counselors are not required to disclose knowledge of crimes reported to them except when necessary to prevent harm. For a list of confidential and non-confidential resources, please review the CWSL Notice re Sexual Assault and Harassment Resources. It includes a list of off-campus counselors, advocates, and health care providers that will generally maintain confidentiality and not share information with the School unless the complainant requests the disclosure and signs a consent or waiver form.

C. Anonymous Reports

With the exception of Authorized and Responsible Employees, discussed in Section IX.B, any individual may anonymously report allegations of Sexual Misconduct by completing the Anonymous Reporting Form located on campus security's website: <https://www.cwsl.edu/campus-security>. Depending on the information provided, CWSL's ability to take action in response to an anonymous report may be limited.

D. Privacy, Confidentiality and Considerations of Requests Not to Proceed

CWSL respects the privacy of individuals involved in any report of alleged Sexual Misconduct, meaning the Title IX Coordinator and others responsible for carrying out this Policy will disclose information only as required to implement this Policy or by law. If a Complainant requests that a report of Sexual Misconduct remain confidential (*i.e.*, with the Complainant's identity not being disclosed to the Respondent and an investigation not being commenced), the Title IX Coordinator will evaluate that request in the context of CWSL's responsibility to provide a safe and nondiscriminatory environment for all members of its community. When weighing a complainant's request for confidentiality or that no investigation, hearing or discipline be pursued, and in considering whether the Title IX Coordinator will file a Formal Complaint on their own, the Title IX Coordinator will consider a range of factors, including the following:

1. Whether there have been other Sexual Misconduct complaints about the same respondent, whether the respondent has a history of

violence, and whether the respondent threatened further Sexual Misconduct or other violence against the complainant or others.

2. Whether the Sexual Misconduct was committed by multiple perpetrators.
3. Whether the Sexual Misconduct was perpetrated with a weapon.
4. Whether the School possesses other means to obtain relevant evidence of the Sexual Misconduct (e.g. security cameras or personnel, physical evidence).
5. Whether the complainant's report reveals a pattern of perpetration (e.g. via illicit use of drugs or alcohol) at a given location or by a particular group.

E. Required Notice for Reports of Sexual Misconduct

The School will provide a written explanation of available rights and options, including procedures to follow, when the School receives a report that a student or employee has been a victim of Sexual Misconduct, whether the offense has occurred on- or off-campus or in connection with any School program. The written information shall include:

- To whom the alleged offense should be reported.
- Options for reporting to law enforcement and campus authorities, including the option to notify local law enforcement authorities; the right to be assisted by campus authorities in notifying law enforcement authorities if the complainant so chooses and the right to decline to notify such authorities.
- The rights of the parties regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by criminal or civil courts and the School's responsibilities regarding such orders.
- The importance of preserving evidence as may be necessary to prove Sexual Misconduct, or to obtain a protection order.
- Existing campus and community services available for the parties including counseling, health, mental health, victim advocacy, legal assistance, and other services.

- Options for, and available assistance to, change academic, and working situations, if requested by the one of the parties and if reasonably available. These options are available regardless of whether the victim chooses to report the crime to campus police or local law enforcement.
- Any applicable procedures for institutional disciplinary action.
- Rights under the California Victims' Bill of Rights, including the right to assistance and comprehensive services for victims and restitution from California Victim Compensation Program.

F. Initial Response to Report and Assessment

Upon receipt of a report of a Policy violation, the Title IX Coordinator (or a designee) will promptly contact the Complainant to discuss the availability of Supportive Measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of Supportive Measures with or without the filing of a Formal Complaint, and explain to the Complainant the process for filing a Formal Complaint. The Title IX Coordinator will conduct an initial assessment, including a preliminary meeting to gain a basic understanding of the nature and circumstances of the report; this is not intended to be a formal interview. This initial assessment will proceed to the point where a reasonable determination of the safety of the individual and of the campus community can be made and to determine whether the Complainant wishes to file a Formal Complaint.

If the Complainant decides to file a Formal Complaint, the process set out in Section I will apply. Individuals who wish to make a complaint at a later date may contact any of the Coordinators at any time. Please note that a delay in reporting could affect the School's ability to gather information and evidence to determine whether a person is responsible for Sexual Misconduct.

G. Reluctance to Report Based on Potential Violations

Students may be reluctant to report incidents because of concerns that their own behavior may be a violation of School policies. The School's primary concern is student safety. CWSL strongly encourage students to immediately report Sexual Misconduct to the Colleges or law enforcement. A bystander acting in good faith or a Complainant acting in good faith that discloses any incident of Sexual Misconduct to the CWSL or law enforcement will not be subject to disciplinary action under the CWSL's policies for minor misconduct violations, such as alcohol and/or drug use

policies, based on conduct that occurs at or near the time of the reported Sexual Misconduct.

Other individuals present will also not be subject to disciplinary action under the CWSL's policies for minor misconduct violations, including alcohol and/or drug use policies, occurring at or near the time of the reported Sexual Misconduct.

H. Supportive Measures

At any time during the process, the Title IX Coordinator (or a designee) may impose reasonable and appropriate interim measures designed to eliminate the reported hostile environment and protect the parties involved ("Supportive Measures"). Supportive Measures are non-disciplinary, non-punitive individualized services that may be provided to Complainants or Respondents upon request to the Title IX Coordinator, and where the Title IX Coordinator deems them appropriate.. Supportive Measures are designed to restore or preserve equal access to CWSL's educational programs and activities, without unreasonably burdening the other party. Supportive Measures may be of any duration and may be modified at the discretion of the Title IX Coordinator, as circumstances warrant. Supportive Measures will be kept confidential to the extent doing so does not impair CWSL's ability to provide them.

Supportive Measures may be imposed regardless of whether a Formal Complainant is filed. All individuals are encouraged to report concerns about the failure of another individual to abide by any restrictions imposed by an Supportive Measure. The School will take responsive action to enforce the Supportive Measures

At any time during the investigation, CWSL may implement the following Supportive Measures:

- Providing access to counseling services.
- Issuing on-campus No Contact Orders.
- Modifying course schedules, rescheduling of exams and assignments.
- Reasonable, non-punitive limitations on time and access to campus (including reduced access to the library and other School buildings).
- Changing class schedules, work schedules or job assignments.
- Voluntary leave of absence.

- Providing an escort to ensure safe movement between classes and activities.
- Any other remedy tailored to the involved individuals to achieve the goals of this Policy.

The School may use these Supportive Measures in any combination thereof, or create new measures as needed. The School will take responsive action to enforce the Supportive Measures.

In cases involving allegations solely of Community Standards Sexual Harassment, CWSL may also impose an immediate interim suspension (for students) or administrative leave (for employees), or take other appropriate interim action, even if it may have a burden or impact on the Respondent or may otherwise be deemed to temporarily separate the Respondent from an educational program or activity and without following the procedures for Emergency Removals in Section xxx.

I. Sexual Misconduct Involving Bodily Harm

In the event that the Title IX Coordinator has received a report of Sexual Misconduct involving bodily harm, the Title IX Coordinator must determine, consistent with state or local law, whether appropriate law enforcement or other authorities should be notified. The victim of Sexual Misconduct also may choose to file a criminal complaint against the respondent. CWSL reserves the right to commence and/or complete its own investigation prior to the completion of any criminal investigation or criminal proceeding.

X. EMERGENCY REMOVALS FOR TITLE IX SEXUAL HARASSMENT

If at any point following the receipt of a report of Title IX Sexual Harassment, CWSL determines that the Respondent poses an immediate threat to the physical health or safety of the Complainant or any other person(s), including the Respondent, CWSL may temporarily remove the Respondent from any or all of its programs or activities. The imposition of an Emergency Removal does not suggest a finding of responsibility for any Sexual Misconduct.

Before imposing an Emergency Removal, the Assistant Dean for Student & Diversity Services (for students) or Vice President of Administration (for employees) will designate an individual in its office to undertake an individualized safety and risk analysis concerning Respondent at the request of the Title IX Coordinator. An Emergency Removal will be

imposed only if the designated individual concludes that the threat to physical health or safety arises from the allegations of Sexual Misconduct and warrants the removal.

An Emergency Removal may involve the denial of access to some or all of CWSL's campus facilities, academic program, or other programs or activities. While CWSL may provide alternative academic or employment opportunities during an Emergency Removal, it is not required to do so. Non-punitive actions taken as Supportive Measures (*e.g.*, changes in housing) do not constitute Emergency Removals.

The Title IX Coordinator will notify Respondent of the terms imposed in connection with an Emergency Removal. Respondent has the opportunity to challenge the Emergency Removal upon receipt of that notice. In order to challenge the Emergency Removal, Respondent shall submit an appeal via email to TitleIXCoordinator@cwsl.edu for students and DeputyCoordinator-Employees@cwsl.edu for employees, within three (3) calendar days from the date of the notice of Emergency Removal, explaining why Emergency Removal is not appropriate. In evaluating the appeal, the Vice Dean for Academic and Student Affairs, as appropriate, may seek additional information from Respondent or any other individual. The Emergency Removal will remain in place while the appeal is pending. The Vice Dean for Academic and Student Affairs shall issue a decision as soon as possible under the circumstances. The decision is final and not subject to further appeal.

Separate from the Emergency Removal process, the Title IX Coordinator may request that Vice President of Administration place an employee-Respondent on an administrative leave, with or without pay.

XI. FILING A FORMAL COMPLAINT

In order to commence Formal Complaint Processes, a Complainant must file a Formal Complaint with the Title IX Coordinator. Alternatively, if the Title IX Coordinator has received a report of Sexual Misconduct, but the Complainant elects not to submit a Formal Complaint or the Complainant is unknown, the Title IX Coordinator has the discretion to sign the Complaint if the Title IX Coordinator deems doing so necessary to address Sexual Misconduct, including in order to provide a safe and nondiscriminatory environment for all members of its community. In doing so, the Title IX Coordinator does not become the Complainant.

There is no time limit within which a Complainant must file a Formal Complaint. However, to file a Formal Complaint based on Title IX Sexual Harassment, at the time a Formal Complaint is filed, the Complainant must be participating or attempting to participate in CWSL's programs or activities.

Pursuing a Formal Complaint does not preclude a Complainant from pursuing the filing of criminal charges. However, it is important to understand that the standard for criminal prosecution is different from that used in student and employee conduct proceedings. As a result, decisions rendered in either forum are not determinative of what will happen in the other.

If the Title IX Coordinator receives Formal Complaints against more than one Respondent or by more than one Complainant against one or more Respondents, or by one Party against the other Party (i.e., “counterclaims”), where the allegations of sexual harassment arise out of the same facts or circumstances and are so intertwined that the allegations directly relate to all of the Parties, the Title IX Coordinator has the discretion to consolidate the Formal Complaints. If Formal Complaints are consolidated, all Parties must receive the same version of the written determination.

A. Written Notice

Upon the submission of a Formal Complaint, the Title IX Coordinator will provide written notice to the Complainant and Respondent, if known, including the following:

- A copy of this Policy.
- Notice of the allegations of conduct that may constitute Sexual Misconduct, with sufficient detail for the Respondent to prepare a response before any initial interview, including, if known, the identities of the Parties involved and the date and location of the incident.
- The presumption that the Respondent is not responsible for the alleged Sexual Misconduct unless a determination of responsibility is reached at the conclusion of the Formal Resolution Process.
- Notice of the Parties’ entitlement to an Advisor of choice at any meeting, interview or other proceeding related to the Formal Complaint, as discussed in Section XI.C..
- The identity of the Investigator as described in Section XII.A.
- Notice that the Parties may inspect and review evidence gathered during the investigation as discussed in Section XII.A..
- Notice that CWSL’s prohibits knowingly making false statements or knowingly submitting false information during the Formal Complaint Processes.

If additional allegations of conduct that might constitute Sexual Misconduct are identified during the course of the investigation and will be included in the Formal Complaint Processes, the Title IX Coordinator will issue an updated notice.

B. Dismissal for Purposes of Title IX Sexual Harassment

If any of the following circumstances are met, the Title IX Coordinator will dismiss the Formal Complaint for purposes of any form of Title IX Sexual Harassment:

- Even if proved, the misconduct alleged in the Formal Complaint would not constitute Title IX Sexual Harassment as defined in Section VI;
- The misconduct alleged in the Formal Complaint did not occur in CWSL's education program or activity, which is defined as locations, events or circumstances over which CWSL exercised substantial control over both Respondent and the context in which the misconduct occurred, or any building owned or controlled by a student organization officially recognized by CWSL; or
- The misconduct alleged in the Formal Complaint is not alleged to have occurred in the United States.

Further, if any of the following circumstances are met, the Title IX Coordinator may dismiss the Formal Complaint, in the Title IX Coordinator's sole discretion:

- Complainant notifies the Title IX Coordinator in writing that Complainant wishes to withdraw the Formal Complaint or any allegation in it;
- Respondent is no longer enrolled or employed at CWSL; or
- Specific circumstances prevent CWSL from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegation.

The Title IX Coordinator will promptly send notice of the dismissal, including the reasons for dismissal, to the Complainant and Respondent via email. The notice will advise the parties whether the Formal Complaint will proceed as possible Community Standards Sexual Misconduct. Both the Complainant and Respondent may appeal any decision to dismiss the Formal Complaint for purposes of Title IX Sexual Misconduct by submitting a request for appeal to the Title IX Coordinator by email within three (3) calendar days of the date of the Title IX Coordinator's email. The appeal will be determined using the procedures set forth in Section XIII and the standard for reviewing the appeal will be whether the Title IX Coordinator followed this Policy in dismissing the Complaint.

The decision whether the matter will proceed as potential Community Standards Sexual Misconduct is not subject to appeal.

C. Advisors

The Parties are entitled to identify an Advisor of their choice, who may accompany them to all investigative interviews, Hearings and other meetings or proceedings held in connection with a Formal Complaint (“Formal Complaint Process Proceedings”). An Advisor is a person who has agreed to provide support and advice to a Complainant or Respondent. The Parties are responsible for identifying their own Advisor, if they wish to have one.

As discussed in Section XII.E.5, the Parties must have an Advisor for purposes of conducting cross-examination at a Hearing. If a Party has not identified an Advisor to accompany them to the Hearing for purposes of conducting cross-examination, CWSL will provide one for that limited purpose.

Except when conducting cross-examination as discussed in Section XII.E.5, Advisors may not speak aloud during any Formal Complaint Process Proceedings, including by addressing anyone other than the individual for whom they are an Advisor. The Advisor may confer with the individual whom they are advising quietly or by means of written notes. Parties may request a brief recess to consult with their Advisor, which may be granted at the sole discretion of the CWSL representative conducting the Formal Complaint Process Proceeding. An Advisor whose presence is deemed at that individual’s sole discretion to be improperly disruptive or inconsistent with Rules of Decorum established by CWSL, as discussed in Section XII.E.8, will be required to leave and may be prohibited from participating in future Formal Complaint Process Proceedings.

While CWSL may consider short delays in scheduling to reasonably accommodate an Advisor’s availability, whether to grant such a request is in the sole discretion of the [Institution] representative responsible for the event in question.

D. Informal Resolution

Informal Resolution presents the opportunity for the Complainant and Respondent to resolve allegations of Sexual Misconduct without an investigation or hearing. Participation in Informal Resolution in lieu of the Formal Resolution Process is purely voluntary. As to Title IX Sexual Harassment, Informal Resolution is available only when a Formal Complaint has been filed and the Parties agree to its use in writing. Informal Resolution may be used only with the approval of the Title IX Coordinator,

who may deem its use inappropriate based on the specific allegations involved or other factors. Informal resolution is not available to resolve a student–Complainant’s allegations that an employee has engaged in Title IX Sexual Harassment. Prior to initiating Informal Resolution, the Title IX Coordinator will provide the Parties with written notice disclosing the allegations, the requirements of the process, the right to withdraw from Informal Resolution to pursue formal resolution, and any consequences of participation (*e.g.*, as it relates to any subsequent formal resolution if Informal Resolution is not achieved).

Informal Resolution can be commenced at any point prior to a finding as to responsibility. It is conducted by an Informal Resolution Facilitator appointed by the Title IX Coordinator. The Complainant, Respondent, Title IX Coordinator or Facilitator may terminate Informal Resolution at any time prior to its completion. If Informal Resolution is terminated, the Formal Resolution Process will promptly commence or resume, as appropriate.

Informal Resolution may take many forms as agreed to between the Complainant, Respondent and Title IX Coordinator, including, but not limited to:

- Mediation: Mediation may involve the Complainant and Respondent being in the same or different rooms, but they will never be required to be in the same room. Mediation typically does not require an admission of responsibility for the Sexual Misconduct by the Respondent.
- Restorative Justice: Restorative Justice may involve the Complainant and Respondent being in the same or different rooms, but they will never be required to be in the same room. Restorative Justice typically requires an admission of responsibility for the Sexual Misconduct, or certain allegations, by the Respondent.

If the Informal Resolution is terminated such that the matter resumes the Formal Resolution Processes, no information shared or utilized during informal resolution may be used during the Formal Complaint process and the Informal Resolution Facilitator may not be called as a witness.

The outcome of the Informal Resolution will be documented in an agreement or other form that is signed by both the Complainant and the Respondent. If the Respondent accepts responsibility and it is part of the Parties’ agreement, the outcome will be part of the Respondent’s disciplinary / employment record.

The Informal Resolution process typically should be completed within thirty (30) calendar days of the Parties documenting their agreement to participate. That period may be extended at the discretion of the Title IX Coordinator.

XII. FORMAL RESOLUTION PROCESS

CWSL strives to resolve Formal Complaints within ninety (90) calendar days of the submission of a Formal Complaint, but balances its desire to achieve a prompt resolution with the need to conduct a thorough and complete investigation, which may delay that timeframe. Delays might also result from a number of factors, including but not limited to the appeal of a dismissal as discussed in Section XI.B, impacts of concurrent criminal processes, or an attempt at Informal Resolution. The Title IX Coordinator may extend the time for completion of the Formal Resolution Process for good cause as determined in the sole discretion of the Title IX Coordinator, and will provide written notice to the Parties of the reason for extension or delay.

A. Investigation

The written notice described in Section XI.A will identify the appointed Investigator. Either Party may object to the Investigator on the grounds of conflict of interest or bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent, by submitting an objection to the Title IX Coordinator in writing within three (3) calendar days of receipt of the issuance of the written notice. The Title IX Coordinator, in their sole discretion, shall determine whether a different Investigator should be appointed.

The Investigator will conduct an investigation of the allegations in the Formal Complaint, and is responsible for interviewing the Parties and witnesses, and gathering relevant inculpatory and exculpatory evidence. The Investigator may not access, consider, disclose or otherwise use records that are made or maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional in connection with the provision of treatment to the Complainant or Respondent, unless the Investigator obtains the Complainant's or Respondent's, as appropriate, voluntary written consent to do so.

All Parties will have an equal opportunity to identify witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence, for the Investigator. Parties will be provided with written notice of the date, time, location, participants and purpose of all investigative interviews in which they are expected to

participate. Parties may be accompanied by an Advisor of their choice at any investigative interview, as described in Section XI.C.

B. Investigation Report for Allegations of Cases That Will Go to a Hearing

For cases involving allegations that include Title IX Sexual Harassment, or for cases against students where the sanction may result in suspension or expulsion, the Investigator will prepare an investigation report summarizing all relevant evidence. The report will exclude all non-relevant evidence, as well as any evidence not subject to disclosure for reasons set forth herein (*e.g.*, medical records regarding which the Party has not authorized disclosure).

Prior to completing the investigation report, the Investigator will send to both Complainant and Respondent, and their Advisors, if any, all evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, regardless of whether it is anticipated that the evidence will be used at the hearing or in connection with any decision on responsibility. The Parties are strictly prohibited from disclosing or disseminating the evidence to any third parties and from using it for purposes other than carrying out the Formal Resolution Processes. Complainant and Respondent will have ten (10) calendar days to provide a written response concerning the evidence to the Investigator, including identifying additional evidence for the Investigator's consideration prior to completing the investigation report. The response must be by the Party, not the Party's Advisor. A Party's response will be shared with the other Party.

After receipt of the Parties' responses concerning the evidence and at least ten (10) calendar days before the hearing, the Investigator will provide the Complainant and Respondent, and their Advisors, if any, a copy of the investigation report. The Complainant and Respondent may, but are not required to, provide written responses to the investigation report. Any response must be by the Party, not the Party's Advisor. A Party's response will be shared with the other party.

C. Investigation Report for Allegations of Community Standards Sexual Harassment and Cases that Are Not Eligible for a Hearing

For cases involving solely allegations of Community Standards Sexual Harassment, and where a student will not be subject to suspension or expulsion, the Investigator will prepare an investigation report summarizing all relevant evidence. The report

will contain a separate section in which the Investigator analyzes the evidence, makes credibility determinations and makes a finding as to whether the policy has been violated. The standard used to determine responsibility will be the preponderance of evidence standard. The report will exclude all non-relevant evidence, as well as any evidence not subject to disclosure for reasons set forth herein (*e.g.*, medical records regarding which the Party has not authorized disclosure).

Prior to completing the investigation report, the Investigator will send to both Complainant and Respondent, and their Advisors, if any, all evidence considered by the Investigator during the investigation, including any interview memoranda or statements of the other party and witnesses. The Parties are strictly prohibited from disclosing or disseminating the evidence to any third parties and from using it for purposes other than carrying out the Formal Resolution Processes. Complainant and Respondent will have ten (10) calendar days to provide a written response concerning the evidence to the Investigator, including identifying additional evidence for the Investigator's consideration prior to completing the investigation report. The response must be by the Party, not the Party's Advisor. A Party's response will be shared with the other Party.

After receipt of the Parties' responses concerning the evidence and at least ten (10) calendar days before the hearing, the Investigator will provide the Complainant and Respondent, and their Advisors, if any, a copy of the investigation report.

After receiving the report prepared by the Investigator, the Title IX Coordinator shall make the final determination as to whether a violation of this Policy has occurred, and what disciplinary actions or corrective measures, if any, should be taken. The Title IX Coordinator may take the following actions:

- Determine there has been no violation(s) under the Policy or that there is insufficient evidence to conclude that there has been a violation under the Policy.
- Determine that a violation has occurred; determine the appropriate discipline or corrective measure; and provide the respondent an opportunity to accept the findings of fact and discipline or corrective measure.
- Take other measures deemed necessary to determine whether a violation of the Policy has been established by a preponderance of the evidence;

additional steps may include a request that the Investigator conduct further inquiries.

- Notify the complainant and the respondent of the outcome as appropriate, in accordance with applicable privacy laws.

Either Party May File an Appeal with ten (10) calendar days under the provision set out in Section XIII.

D. Hearing Notice

For cases that will be subject to a hearing, after the investigation report has been provided to the Parties and their Advisors, if any, and not fewer than seven (7) calendar days before the hearing, the Title IX Coordinator will issue a Hearing notice via email advising the Parties of the following:

- The date, time and location of the Hearing.
- The specific charges of Sexual Misconduct subject to disposition at the Hearing and a brief description of the conduct resulting in the charges;
- The individual to serve as the Hearing Officer; and
- That at the request of either party, the Hearing will take place with parties located in separate rooms with technology enabling the parties to simultaneously see and hear the party/witness answering questions. Requests for separate rooms must be submitted to the Title IX Coordinator via email at least three (3) calendar days before the Hearing.

Any Party may object to the Hearing date or challenge the appointment of the Hearing Officer for bias or conflict of interest by submitting a written objection to the Title IX Coordinator via email within three (3) calendar days of the Title IX Coordinator issuing the Hearing Notice. The Title IX Coordinator, in their sole discretion, shall determine whether the Hearing Officer should be removed and/or the Hearing rescheduled. Once the Hearing Officer is confirmed, the Title IX Coordinator will provide the Hearing Officer with a copy of the investigation report.

E. Hearing

Hearings for Title IX Sexual Harassment (or cases otherwise requiring a hearing) are governed by the procedures set forth below. The formal Rules of Evidence that may

apply to any courtroom proceeding do not apply to Hearings conducted under this Policy.

The only individuals who may appear at a Hearing are the Complainant and Advisor, Respondent and Advisor, and witnesses called by the Hearing Officer. The Parties and their Advisors may be present throughout the Hearing, with the exception of any recesses for which they are excused by the Hearing Officer. Witnesses are permitted to be present only when providing testimony. The Investigator and Title IX Coordinator may be present throughout the Hearing, as may other CWSL representatives at the discretion of the Hearing Officer. If a Party fails to attend a Hearing, the Hearing may be held in the Party's absence, at the discretion of the Hearing Officer.

1. Witnesses

At least four (4) days before the Hearing, the Hearing Officer will advise the Parties which witnesses will be requested to provide testimony at the Hearing. No later than two (2) calendar days after such notice, the Parties may request that additional witnesses be requested to be present at the Hearing. The request must be submitted to the Hearing Officer in writing, including a brief description of why the information is relevant to the determination of responsibility. Whether or not to approve such request as potentially providing relevant information shall be in the sole discretion of the Hearing Officer, who will advise the requesting Party of the final decision. If the request is approved, the Hearing Officer will advise the other Party as well.

2. Documents

All documentary evidence provided to the parties under Sections XII.A–C will be made available at the Hearing, as well as all evidence produced by the Parties in their response. The availability of such evidence does not suggest a determination on relevance, which shall be made by the Hearing Officer.

3. Relevance

The Hearing Officer is responsible for making all determinations of relevance as to witnesses, questions and documentary evidence presented at the Hearing. For purposes of this Policy, "relevant" means that the evidence is probative of any material fact.

Evidence that is not relevant will be excluded at the Hearing and may not form the basis for any decision by the Hearing Officer. Evidence that is duplicative of evidence already in the Hearing record may be deemed not relevant. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the alleged conduct or if the questions and evidence concern a specific incident of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

4. Standard of Proof

The Hearing Officer will make decisions on responsibility using a preponderance of the evidence standard of proof.

5. Advisors at Hearings

The parties may be accompanied by their Advisor at the Hearing. As discussed in Section XI.C, the Advisor may not address the Title IX Coordinator, Investigator, Hearing Officer, other Advisors or any other individuals participating in the Hearing. The only exception is with respect to cross-examination as discussed below. Like the parties, Advisors are required to adhere to the Rules of Decorum applicable to Hearings, as outlined in Section XII.E.8. An Advisor who fails to do so may, at the sole discretion of the Hearing Officer, be required to leave the Hearing.

6. The parties shall inform the Title IX Coordinator whether they will be accompanied at the Hearing by their Advisor of choice by no later than five (5) days before the Hearing. If a party has not identified an Advisor, CWSL will provide one for the sole purpose of conducting cross-examination as discussed below. The Parties may not conduct cross-examination themselves; cross-examination must be performed by an Advisor. If an Advisor is required to leave a Hearing for failure to adhere to the Rules of Decorum or for any other reason, the Hearing Officer shall recess the Hearing until CWSL appoints an Advisor for purposes of cross-examination. Advisors provided by CWSL will be adults with an understanding of the purpose of cross-examination, but will not necessarily be attorneys or have training commensurate to attorneys with respect to conducting cross-examination. Because CWSL is a law school, the advisor provided by

CWSL may, but is not required to be, trained and licensed as an attorney. In those situations, the individual is acting solely as an advisor as defined herein, not as an attorney or legal representative of the party being advised. There is no attorney–client relationship existing between the advisor and the party being advised.

7. Hearing Procedures

The procedures here provide the general framework for any Hearing. The Title IX Coordinator or Hearing Officer may alter certain procedures as deemed appropriate in their sole discretion to aid in the equitable resolution of the matter.

a) Recording

The Hearing will be recorded by means of audio, audio–visual, or transcript. Recesses taken or approved by the Hearing Officer, including for the Hearing Officer to consult with the Title IX Coordinator, Investigator or any other CWSL representative, will not be recorded.

b) Opening Statements

Each Party will have the opportunity to make a brief opening statement not to exceed five minutes. The Parties will make any statements themselves, not through their Advisor.

c) Parties

Generally, the Hearing Officer will hear from the Complainant first, followed by the Respondent. Each Party will have the opportunity to provide relevant evidence to the Hearing Officer. The Hearing Officer will ask relevant follow–up questions of each party. Each Party’s Advisor will have the opportunity to ask cross–examination questions of the other Party. Advisors are reminded of the importance of adhering to the Rules of Decorum in cross–examining the Parties and any witnesses. If a Party does not submit to cross–examination, the Hearing Officer must not rely on any statement of that Party in reaching a determination regarding responsibility, regardless of where, when or in what forum the statement was made. The Hearing Officer cannot draw an inference regarding responsibility based solely on a Party’s absence from the Hearing or refusal to answer questions.

With respect to cross-examination, Advisors are limited to asking only relevant questions. The Hearing Officer will determine whether questions are relevant prior to the Party answering the question. If the question is deemed not relevant, the Hearing Officer will provide a brief explanation and the question will be precluded. The Hearing Officer's decision is not subject to challenge or objection during the Hearing.

d) Witnesses

A similar process and the same rules that apply to Parties will apply to the testimony of witnesses. Like the Parties, any witness may appear remotely, with technology allowing the Hearing participants to simultaneously see and hear the witness.

If a witness does not submit to cross-examination, the Hearing Officer must not rely on any statement of that witness in reaching a determination regarding responsibility, regardless of where, when or in what forum the statement was made. The Hearing Officer cannot draw an inference regarding responsibility based solely on a witness's absence from the Hearing or refusal to answer questions.

The Investigator may be called as a witnesses. At the Hearing Officer's discretion, the Investigator may be asked to testify before the Parties to facilitate an efficient presentation of evidence.

e) Closing Statement

Each Party will have the opportunity to make a brief closing statement. The Parties will make any statements themselves, not through their Advisor.

8. Rules of Decorum

The following Rules of Decorum apply to parties, Advisors and witnesses participating in any Hearing. Individuals failing to follow the Rules of Decorum may be directed to leave the Hearing, at the Hearing Officer's sole discretion. Although the Hearing Officer may provide warnings or reminders of the Rules of Decorum before such removal, a pre-removal warning or reminder will not necessarily be provided depending on the nature of the conduct in question.

- Questions must be conveyed in a neutral tone.
- Parties and Advisors will refer to other parties, witnesses, Advisors, and institutional staff using the name and gender used by the person and shall not intentionally mis-name or mis-gender that person in communication or questioning.
- No party may act abusively or disrespectfully during the hearing toward any other party or to witnesses, Advisors, or Adjudicators.
- While an Advisor may be an attorney, no duty of zealous advocacy should be inferred or enforced within this forum.
- The Advisor may not yell, badger, or physically “lean in” to a party or witness’s personal space. Advisors may not approach the other party or witnesses without obtaining permission from the Adjudicator.
- The Advisor may not use profanity or make irrelevant ad hominem attacks upon a party or witness. Questions are meant to be interrogative statements used to test knowledge or understand a fact; they may not include accusations within the text of the question.
- The Advisor may not ask repetitive questions. This includes questions that have already been asked by the Adjudicator, the Advisor in cross-examination, or the party or Advisor in direct testimony. When the Adjudicator determines a question has been “asked and answered” or is otherwise not relevant, the Advisor must move on.
- Parties and Advisors may take no action at the hearing that a reasonable person in the shoes of the affected party would see as intended to intimidate that person (whether party, witness, or official) into not participating in the process or meaningfully modifying their participation in the process.

9. Hearing Outcome Letter

Within ten (10) business days of the conclusion of the Hearing, the Hearing Officer will issue the Hearing Outcome Letter via email to the Parties.

The Hearing Outcome Letter will include:

- A description of the allegations that lead to the Hearing, as potentially constituting Sexual Misconduct.
- A description of the procedural steps taken from the receipt of the Formal Complaint through the determination.
- A statement of factual findings supporting the determination.
- A statement of the conclusions regarding the application of this Policy to the facts.
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility.
- An explanation of the disciplinary sanctions imposed on the Respondent, if any.
- A statement of whether remedies designed to restore or preserve equal access to [Institution]’s education program or activity will be provided to the Complainant. Specific remedies will be identified in the Hearing Outcome Letter only to the extent those remedies directly affect the Respondent. The Title IX Coordinator is responsible for implementing such remedies.
- The procedures and permissible bases for the Complainant and Respondent to appeal.

The Hearing Outcome becomes final following the determination of the appeals, if any, or upon the date following the deadline for filing an appeal, if no appeal is pursued. No further appeals of any kind are permitted.

F. Sanctions and Remedies

1. Sanctions

If the Respondent is found responsible for any Sexual Misconduct, the Title IX Coordinator will provide the Hearing Officer with the Respondent’s prior conduct record for consideration in the Hearing Officer’s assignment of a sanction or sanctions. The range of available sanctions, whether imposed as a result of this formal process, Informal Resolution, or otherwise includes:

Students who are found to have violated this Policy will be subject to disciplinary action, up to and including expulsion or dismissal in accordance (i) with the provisions of any applicable Honor Code or other comparable policy; and (ii) with the additional provisions set forth in this Policy.

Employees who are found to have violated this Policy will be subject to disciplinary action, up to and including termination in accordance (i) with any applicable policies or procedures governing disciplinary action against faculty and staff, including Faculty Bylaws Article VII – Faculty Termination for Cause and Other Dispute Settlement Procedures and; (ii) with the additional provisions set forth in this Policy, to the extent these additional provisions are applicable.

Guests and other third parties who are found to have violated this Policy will be subject to corrective action deemed appropriate by the School, which may include removal from the campus and termination of any applicable contractual or other arrangements.

In instances where the School is unable to take disciplinary action in response to a violation of this Policy because a complainant insists on confidentiality or for some other reason, the School will nonetheless pursue other steps to limit the effects of the conduct at issue and prevent its recurrence.

2. Remedies

The Title IX Coordinator is responsible for the implementation of remedies designed to restore or preserve equal access to CWSL's education program or activity. While remedies might constitute Supportive Measures, they also might be in the form of Sanctions.

XIII. RIGHT TO APPEAL

Once written notification of the resolution has been provided, either the complainant or the respondent will have the opportunity to appeal the outcome. Any appeal must be submitted in writing to the Title IX Coordinator within ten (10) calendar days of being notified of the outcome of the investigation or hearing and must set forth the grounds upon which the appeal is based. The only grounds for appeal are as follows:

- A procedural irregularity that affected the determination of responsibility;

- The existence of new evidence that was not reasonably available at the time of the Hearing that could affect the outcome of the matter; and
- The Title IX Coordinator, Investigator or Hearing Officer had a conflict of interest or bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent, that affected the outcome of the matter.
- the sanctions imposed are substantially disproportionate to the severity of the violation

The Title IX Coordinator will refer the appeal to the Dean or other designated School official who shall resolve the appeal. Neither the complainant nor the respondent will be entitled to a hearing in connection with any appeal. Both parties will be informed in writing of the outcome of any appeal within fourteen (14) days of the date by which all requested information is received, unless the School determines that additional time is required. The appeal decision is final.

XIV. RETENTION OF RECORDS

The Title IX Coordinator is responsible for maintaining records relating to Sexual Misconduct, investigations, and resolutions. Records shall be maintained in accordance with School records policies.

CWSL will retain records created in connection with a Formal Complaint for seven (7) years. Such records include those relating to any Informal Resolution, the investigation, any determination regarding responsibility (including any audio or audiovisual recording or transcript), any disciplinary sanction imposed, any appeal and any remedies provided to the Complainant designed to restore or preserve equal access to [Institution]'s education program or activity

CWSL will also document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the education program or activity. If CWSL provides no Supportive Measures to the Complainant, it will additionally document why such a response was not clearly unreasonable in light of all the known circumstances.