

California Western School of Law

Title IX Policy

Effective January 2025

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

The purpose of California Western School of Law’s Title IX Policy (“**Policy**”) is to prohibit sex discrimination, which includes sex-based harassment as defined by the U.S. Department of Education’s regulations construing Title IX of the Education Amendments Act of 1972 (*See* 34 C.F.R. § 106, *et seq.*) (“**Title IX**” or “**Title IX regulations**”), and sexual harassment as defined by California Education Code 66262, *et seq.*, as amended (“**State Law**”).¹

California Western School of Law (“CWSL” or “School”) is committed to maintaining safe learning, living and working environments free of discrimination, harassment, sexual violence, and other forms of sexual misconduct that undermine the School’s educational mission. In pursuit of that goal, this Policy provides individuals with the appropriate process for reporting and redressing individual reports of sex discrimination, sex-based harassment, and 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

¹ Under the California Equity in Higher Education Act, the sexual harassment of students, including certain defined acts of sexual violence, is a form of sex discrimination prohibited by Title IX.

complaint alleging discrimination on the basis of a disability, contact the Dean of Students at TitleIXCoordinator@cwsu.edu.

California Western Law School's Nondiscrimination Policy and grievance procedures can be located in the Student and Employee Handbooks. To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please refer to this Policy.

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 Dean of Students 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:

Lisa Ferreira
Dean of Students
California Western School of Law
225 Cedar Street
San Diego, CA 92101-3046
619-515-1588
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:

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

Complaints Against Employees:

Mercedez Wallace
Senior Director of Human Resources &
Operations
California Western School of Law
225 Cedar Street
San Diego, CA 92101-3046
619-515-1563
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. SCOPE AND APPLICABILITY

A. General

Consistent with longstanding CWSL policy, Title IX regulations, California law, and other applicable state and federal statutes prohibit the School from discriminating on the basis of sex in all School educational programs or activities, and this requirement against discrimination extends to admission and employment.

This Policy addresses sex discrimination and sex-based harassment (including the sexual harassment of students, as defined by state Law). There are other School policies (e.g., Code of Student Conduct and Discipline, Anti-Harassment, Discrimination and Bullying Policy, and Student Concern Policy) that address different forms of misconduct that may, or may not, constitute discrimination and/or harassment. If the Title IX Coordinator receives a report about misconduct that is not sex discrimination or sex-based harassment, the Title IX Coordinator

will not adjudicate that complaint. The conduct may be adjudicated by other individuals under the relevant School policy(ies).

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 Conduct and Discipline (“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).

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. Applicability

While the School strives to prevent and address all forms of harassment and discrimination in its education programs and activities, as well as in the workplace, the provisions contained within this Policy apply specifically to students and employees who have been subjected to conduct that could constitute sex discrimination (including sex-based harassment and sexual harassment) under Title IX or applicable State Law, as well as other individuals who have been subjected to conduct that could constitute sex discrimination (including sex-based harassment and sexual harassment) under Title IX or applicable State Law while participating, or attempting to participate, in CWSL's education program or activity at the time of the alleged misconduct. Other School resources and policies, such as the Honor Code, Student Handbook, or the Employee Handbook, may govern conduct that does not fall under Title IX or corresponding State Law.

Alleged misconduct subject to this Policy includes sex discrimination, sex-based harassment, and sexual harassment as defined by Title IX and State Law in the "Definitions" section (Section VI).

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

Sex-based harassment and sexual harassment by an employee that violate this Policy are considered to be outside the normal course and scope of employment.

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.

CWSL has the authority to combine violations of federal, state, and local statutes, as well as other School policies, such as 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 prohibited acts, as defined in this Policy. 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.

E. 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.

F. False Reports

The submission of knowingly false information is prohibited and will be addressed under CWSL's Code of Student Conduct and Discipline (Honor Code) 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.

G. 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.

H. 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 (which includes students and employees, volunteers who will regularly interact with students, and individuals or entities under contract with the School to perform any service involving regular interaction with students at the School). 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.

I. 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, Investigators, Informal Resolution Facilitators, or Appeal Officers will receive appropriate training.

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.

Affirmative Consent. The term "affirmative consent" is defined as affirmative, conscious, and voluntary agreement to engage in sexual activity, as discussed further in Section VIII of this Policy.

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.

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

Complaint. The term "complaint" means an oral or written request to the School that objectively can be understood as a request for the School to investigate and make a determination about alleged discrimination or harassment.

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 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.D, 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.

Sexual Misconduct: Sexual Misconduct includes Title IX Sexual Harassment.

Sexual harassment. Unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:

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

Sexual harassment includes "sexual battery," "sexual violence," and "sexual exploitation." For purposes of this Policy, such terms have the following meanings:

(1) “Sexual violence” means physical sexual acts perpetrated against a person without the person’s affirmative consent. *Physical sexual acts* include both of the following:

- (A) “Rape,” defined as penetration, no matter how slight, of the vagina or anus with any part or object, or oral copulation of a sex organ by another person, without the consent of the victim.
- (B) “Sexual battery,” defined as below.

(2) “Sexual battery” means the intentional touching of another person’s intimate parts without consent, intentionally causing a person to touch the intimate parts of another without consent, or using a person’s own intimate part to intentionally touch another person’s body without consent.

(3) “Sexual exploitation” means a person taking sexual advantage of another person for the benefit of anyone other than that person without that person’s consent, including, but not limited to, any of the following acts:

- (A) The prostituting of another person.
- (B) The trafficking of another person, defined as the inducement of a person to perform a commercial sex act, or labor or services, through force, fraud, or coercion.
- (C) The recording of images, including video or photograph, or audio of another person’s sexual activity or intimate parts, without that person’s consent.
- (D) The distribution of images, including video or photograph, or audio of another person’s sexual activity or intimate parts, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to the disclosure.
- (E) The viewing of another person’s sexual activity or intimate parts, in a place where that other person would have a reasonable expectation of privacy, without that person’s consent, for the purpose of arousing or gratifying sexual desire.

- **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.

Supportive Measures. The term "supportive measures" means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to:

- (1) Restore or preserve that Party's access to the School's education program or activity, including measures that are designed to protect the safety of the Parties or the School's educational environment; or
- (2) Provide support during the School's grievance procedures for resolution of complaints of sex discrimination, sex-based harassment, or sexual harassment or during the informal resolution process.

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.

VIII. CONSENT

1. Additional Considerations Regarding Affirmative Consent.

Affirmative consent is an affirmative, conscious, and voluntary agreement to engage in sexual activity.

It is the responsibility of each person involved in the sexual activity to ensure that the person has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent.

Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time.

The existence of a dating relationship between the parties involved, or the fact of past sexual relations between them, should never, by itself, be assumed to be an indicator of consent.

In the evaluation of complaints in the School's grievance processes, it shall not be a valid excuse to alleged lack of affirmative consent that the respondent believed that the complainant consented to the sexual activity under either of the following circumstances:

- The respondent's belief in affirmative consent arose from the intoxication or recklessness of the respondent.
- The respondent did not take reasonable steps, in the circumstances known to the respondent at the time, to ascertain whether the complainant affirmatively consented.

Additionally, it shall not be a valid excuse that the respondent believed that the complainant affirmatively consented to the sexual activity if the respondent knew or reasonably should have known that the complainant was unable to consent to the sexual activity under any of the following circumstances:

- The complainant was asleep or unconscious.
- The complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the complainant could not understand the fact, nature, or extent of the sexual activity.

- The complainant was unable to communicate due to a mental or physical condition. For purposes of this Policy, the age of consent is eighteen (18).

The standard used in determining whether the elements of the complaint against the respondent have been demonstrated is the preponderance of the evidence. 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.

2. 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 IX.H 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 XI). 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. A Complainant is not required to submit a Formal Complaint in order to receive Supportive Measures.

CWSL students may report sexual harassment by a third-party. The School will respond to those reports to address or prevent a hostile educational environment or to ensure students' access to education.

Nothing in this subsection shall establish any duty or obligation owed by the School to non-student parties that does not already exist by statute or agreement.

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

A disclosure or report of Sexual Misconduct may be made to any member of the CWSL community (regardless of whether the disclosure is made by the Complainant or a third party). Any individual to whom such a report is made must promptly, in writing, notify 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.

Confidential Reporting: Off-campus professional counselors, when acting as such, do not constitute a responsible CWSL community member. Please note that professional counselors are not generally required to disclose knowledge of crimes reported to them.

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/student_life/services_and_resources/safety_security.html. 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

If a Complainant requests confidentiality, which could preclude a meaningful investigation or potential discipline of the potential respondent, or that no investigation or disciplinary action be pursued to address alleged sexual harassment, the School will take the request seriously, while at the same time considering its responsibility to provide a safe and nondiscriminatory environment for all students, including for the complainant.

If the School determines that it can honor the student's request for confidentiality, it will still take reasonable steps to respond to the complaint, consistent with the request, to limit the effects of the alleged sexual harassment and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the complainant.

If the School determines that it must disclose the complainant's identity to the respondent or proceed with an investigation, it shall inform the complainant prior to

making this disclosure or initiating the investigation. The School will also take immediate steps to provide for the safety of the complainant where appropriate. In the event the complainant requests that the School inform the respondent that the student asked the School not to investigate or seek discipline, the School shall honor this request.

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 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 XI 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 School 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 Complaint 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.

No-Contact Directives. When requested by a complainant or otherwise determined to be appropriate, the School will issue an interim no-contact directive prohibiting the respondent from contacting the complainant during the pendency of the investigation. The School will not issue an interim mutual no-contact directive automatically, but instead shall consider the specific circumstances of each case to determine whether a mutual no-contact directive is necessary or justifiable to protect the non-complaining party’s safety or well-being, or to respond to interference with an investigation. A no-contact directive issued after a decision of responsibility has been made shall be non-mutual and only apply against the party found responsible.

Upon the issuance of a mutual no-contact directive, the School will provide the parties with a written justification for the directive and an explanation of the terms of the directive. Upon the issuance of any no-contact directive, the School will provide the parties with an explanation of the terms of the

directive, including the circumstances, if any, under which violation could be subject to disciplinary action.

- 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.

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 X.

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 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 Title IX Coordinator, 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 Title IX Coordinator 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 the Senior Director of Human Resources and Operations 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 information on the complaint, CWSL policies and hearing procedures, potential interim measures, as well as resources and services.

B. Dismissal for Purposes of Title IX Sexual Harassment

If any of the following circumstances are met, the Title IX Coordinator may dismiss the Formal Complaint for purposes of any form of Title IX Sexual Harassment which may include but not be limited to written notice from Complainant wishes to formally withdraw complaint, alleged misconduct that occurred outside of CWSL's campus and activities, occurred outside of the United States, or respondent is no longer enrolled or employed.

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. 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.

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. The School does not require that the complainant enter a voluntary resolution agreement or any other form of resolution as a prerequisite to receiving supportive measures which safeguard the complainant's access to education.

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 or any allegation of Sexual Violence.

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. The School will provide notice in writing to the parties regarding any extension of a time period granted in the investigation and fact-finding

process that would change the prospective timeframes for the major stages of the complaint process, and the reason for that extension.

The School will provide for periodic status updates on the investigation consistent with the timelines referenced above to the complainant and respondent.

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. 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.

D. 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.

Evidence will be admitted at the discretion of the Hearing Officer with admissibility guided by federal and state rules of evidence, as well as any applicable laws.

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 witness. 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 Officer will use the preponderance of the evidence standard of proof to determine whether sex discrimination (including sex-based harassment or sexual harassment) occurred. The preponderance of the evidence standard is met if the Hearing Officer determines that it is more likely than not that the alleged misconduct occurred, based on the facts available at the time of the decision. This standard of proof requires the Hearing Officer to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the Decision-maker is not persuaded under the applicable standard by the evidence that sex discrimination (including sex-based harassment or sexual harassment) occurred, whatever the quantity of the evidence is, the Decision-maker will not determine that such misconduct occurred.

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.

E. 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.