



<b>Policy Number</b>	604.004
<b>Policy Title</b>	<b>COLUMBIA INTERNATIONAL UNIVERSITY TITLE IX NONDISCRIMINATION POLICY</b>
<b>Responsible Officer</b>	Executive Vice President
<b>Responsible Office</b>	Executive Vice President
<b>Summary</b>	
<b>Definitions</b>	See in Document Body
<b>Approving Body</b>	The Academic Council; The Administrative Council
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<b>Last Revision</b>	October 2024
<b>Re-evaluation Date</b>	Pending ongoing government policy guidance
<b>Departmental Impact</b>	All Departments of the University

*Failure to follow the following policy may result in disciplinary action, including termination of employment.*

**COLUMBIA INTERNATIONAL UNIVERSITY TITLE IX NONDISCRIMINATION POLICY, NOTICE OF NONDISCRIMINATION, AND GRIEVANCE PROCEDURES FOR (A) COMPLAINTS OF SEX DISCRIMINATION; AND (B) COMPLAINTS OF SEX-BASED HARASSMENT INVOLVING A STUDENT COMPLAINANT OR RESPONDENT**

**I. Nondiscrimination Policy**

Columbia International University (CIU) does not discriminate on the basis of sex and prohibits sex discrimination in any Education Program or Activity that it operates, as required by Title IX, including in admission and employment. Sex discrimination includes discrimination based on sex and pregnancy or related conditions.

**II. Notice of Nondiscrimination**

CIU, in compliance with and as required by Title IX of the Education Amendments Act of 1972 and its implementing regulations (“Title IX”) and other civil rights laws, as well as in furtherance of its own values as a higher education institution, does not discriminate in any Education Program or Activity that it operates on the basis of race, color, national origin, sex, pregnancy or related conditions, disability, age, veteran status, or any other characteristic or status protected by applicable local, state, or federal law in admission, treatment, access to, or employment in, its programs and activities.

Discrimination and harassment are antithetical to the values and standards of the CIU community; are incompatible with the safe, healthy environment that the CIU community expects and deserves; and will not be tolerated. CIU is committed to providing programs, activities, and an education and work environment free from discrimination and harassment within the context of its sincerely held, faith-based tenets of belief. CIU is also committed to fostering a community that promotes prompt reporting and fair and timely resolution of those behaviors.

Inquiries about Title IX may be referred to CIU's Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights, or both.

CIU's Title IX Coordinator is Rick Christman, Executive Vice President, 7435 Monticello Rd, Columbia, SC 29016, [TitleIXCoordinator@ciu.edu](mailto:TitleIXCoordinator@ciu.edu), 803-807-5002.

CIU's nondiscrimination policy and grievance procedures can be located at <https://www.ciu.edu/title-ix>.

To report information about conduct that may constitute sex discrimination or make a Complaint of sex discrimination under Title IX, please refer to <https://www.ciu.edu/title-ix>.

Individuals also may make inquiries regarding discrimination or harassment to the U.S. Department of Education's Office for Civil Rights by contacting the District of Columbia Office, 400 Maryland Avenue, SW, Washington, DC 20202-1475; Phone: 800-421-3481; email: [OCR@ed.gov](mailto:OCR@ed.gov).

### **III. Provisions Applicable to Both Section IV. and Section V. Grievance Procedures**

#### **Reporting and Period of Limitations**

Any person may report sex discrimination or Sex-Based Harassment in person, by mail, by telephone, or by electronic mail, using the contact information for the Title IX Coordinator listed in this document, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours).

CIU requires all employees and other members of the CIU community to promptly report concerns regarding suspected or known sex discrimination and/or Sex-Based Harassment to the Title IX Coordinator.

Additionally, CIU has designated the following employees as Confidential Employees: Licensed mental health counselors employed or contracted by CIU, the University nurse, Student Life employees providing services relating to sex discrimination with respect to information received about sex discrimination in connection with providing those services, and employees conducting an Institutional Review Board-approved human subjects research study designed to gather information about sex discrimination, but only with respect to information received while conducting the study.]

Information about sex discrimination or harassment shared with these Confidential Employees typically will not be reported to other CIU personnel (including the Title IX Coordinator), to the Respondent, or to others, unless the disclosing individual gives their consent to the disclosure or the law requires it (as may be the case with abuse involving a minor or under conditions involving imminent physical harm, for example). Confidential Employees may report non-identifying statistical information to the Title IX Coordinator for recordkeeping and compliance purposes.

CIU requires Confidential Employees to explain to any person who informs them of conduct that reasonably may constitute sex discrimination: (1) the employee's status as confidential, including the circumstances in which the employee is not required to notify the Title IX Coordinator about conduct that reasonably may constitute sex discrimination; (2) how to contact CIU's Title IX Coordinator and how to make a Complaint of sex discrimination; and (3) that the Title IX Coordinator may be able to offer and coordinate Supportive Measures, as well as initiate an informal resolution process or an investigation under CIU's Title IX grievance procedures.

CIU will address allegations of sex discrimination and Sex-Based Harassment appropriately no matter the length of time that has passed since the alleged conduct. However, CIU strongly encourages prompt reporting to preserve evidence for a potential legal or disciplinary proceeding. Delay may compromise the ability to investigate, particularly if the individuals involved in the alleged conduct are no longer CIU Students or employees.

### **Public Awareness Events**

To the extent information about conduct that reasonably may constitute sex discrimination (including Sex-Based Harassment) under Title IX was provided by a person during a public event to raise awareness about sex discrimination that was held either on campus or through an online platform sponsored by CIU, CIU is not obligated to act in response to the information, unless it indicates an imminent and serious threat to the health or safety of a Complainant, any Students, employees, or other persons. CIU will use this information, however, to inform its efforts to prevent sex discrimination, including by providing tailored training to address alleged sex discrimination in a particular part of its Education Program or Activity or at a specific location when information indicates there may be multiple incidents of sex discrimination.

### **Effect of Respondent Withdrawal, Graduation, or Resignation During Grievance Process**

At the discretion of CIU, a Respondent who withdraws or resigns from CIU during the pendency of a grievance process under the grievance procedures set forth below may be barred from CIU property and CIU activities and events and may be ineligible for re-enrollment or to be re-hired. If a Respondent completes all requirements to graduate during the grievance process, CIU may hold the Respondent's diploma until full resolution of the Complaint.

### **Privacy and Disclosure**

Except as may be permitted by FERPA or as required by law or to carry out any investigation or resolution of sex discrimination and/or Sex-Based Harassment allegations, CIU will keep private the identity of any individual who has made a report or Complaint of sex discrimination and/or Sex-Based Harassment, any Complainant, any Respondent, and any witness.

CIU may report alleged sex discrimination (including Sex-Based Harassment) to local law enforcement if warranted by the nature of the allegations at issue, and CIU administrators will share information regarding alleged sex discrimination, as appropriate and necessary, in order to address and resolve the allegation(s) at issue, prevent the recurrence of similar sex discrimination, and address the effects of the Sex-Based Harassment. Additionally, information regarding alleged sex discrimination may be used as a statistical, anonymous report for data collection purposes under the Clery Act.

To comply with FERPA, Title IX, and other applicable laws and to provide an orderly process for the presentation and consideration of Relevant information without undue intimidation or pressure, grievance processes carried out under these Title IX Grievance Procedures are not open to the general public. Accordingly, documents prepared in connection with such processes; documents, statements, or other information introduced in interviews, meetings, and proceedings; and the final outcome letter may not be disclosed outside of those processes, except as may be required or authorized by law.

As permitted by and subject to the limitations of FERPA, CIU reserves the right to notify parent(s) or guardian(s) of a Student Respondent of the outcome of any investigation involving that Respondent, redacting names of any other Students who do not consent to the disclosure of their information. At the written request of a Party, CIU may include a Party's advisor on communications and share access to documents, including the investigation report. This access is subject to the advisor's acknowledgment and agreement to maintain the confidentiality of the documents.

While CIU strongly encourages Parties to maintain privacy in connection with a grievance process, CIU does not prohibit Parties from discussing the allegations under investigation or in any way inhibit the Parties from gathering or presenting Relevant evidence. In addition, CIU's policy does not prohibit disclosure of the final outcome letter by either the Complainant or the Respondent.

### **Academic Freedom**

CIU affirms its commitment to academic freedom but notes that academic freedom does not allow any form of sex discrimination, including Sex-Based Harassment. CIU recognizes that an essential function of education is a probing of opinions and an exploration of ideas, some of which, because they are controversial, may cause Students and others discomfort. This discomfort, as a product of free academic inquiry within a faculty member's area(s) of expertise, shall in no way be considered or construed to constitute sex discrimination or Sex-Based Harassment. Academic inquiry may involve teaching, research, and extramural speech. Furthermore, nothing in this document shall be interpreted to prohibit bona fide academic requirements for a specific CIU program or activity. When investigating Complaints that a Party or the Title IX Coordinator believes may involve issues of academic freedom, the Title IX Coordinator will consult with the Provost and Vice President for Academic and Enrollment Services with respect to contemporary academic practices and standards.

### **Documentation**

CIU will retain documentation (including but not limited to any Complaint, notifications, recording or transcripts of interviews, investigative report, written findings of fact, petitions for appeal, notifications of decisions (including the final outcome letter), audio recordings of hearings, and written communication with the Complainant and Respondent), for no less than seven years.

### **Amnesty**

CIU considers the reporting and adjudication of sex discrimination and Sex-Based Harassment to be of paramount importance. CIU prohibits student drinking or the use of illegal drugs; however, CIU may extend amnesty to Complainants, Respondents, witnesses, and others involved in a Title IX grievance process from punitive sanctioning for illegal use of drugs and/or alcohol when evidence of such use is discovered or submitted in the course of a Title IX grievance process. Similarly, CIU may, in its discretion, provide amnesty for other conduct code violations that are discovered in the course of a grievance process.

### **Individuals with Disabilities**

CIU will make arrangements to ensure that individuals with disabilities are provided appropriate adjustments, to the extent necessary and available, to participate in CIU's grievance processes. All requests for accommodation must be made to Academic Success Center.

## **IV. Grievance Procedures for General Complaints of Sex Discrimination<sup>1</sup>**

CIU has adopted grievance procedures that provide for the prompt and equitable resolution of Complaints made by Students, employees, or other individuals who are participating or attempting to participate in its Education Program or Activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations.

### **Complaints**

The following people have a right to make a Complaint of sex discrimination, including Complaints of Sex-Based Harassment, requesting that CIU investigate and make a determination about alleged discrimination under Title IX:

- A "Complainant," which includes:

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<sup>1</sup> This Section IV. addresses CIU's grievance procedures for Complaints of sex discrimination *other than* Complaints of Sex-Based Harassment involving a Student Complainant or Student Respondent. The grievance procedures for Complaints of Sex-Based Harassment involving a Student Complainant or Student Respondent are addressed in Section V. and are similar to, but different in important respects from, those in Section IV. CIU's Title IX Coordinator is responsible for determining whether Section IV. or Section V. applies to a given Complaint, based on the identities of the Parties and on how the allegations of the Complaint compare to the specific definition of Sex-Based Harassment contained in this document's Appendix.

- a Student or employee of CIU who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
- a person other than a Student or employee of CIU who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in CIU's Education Program or Activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant; or
- CIU's Title IX Coordinator.

Note that a person is entitled to make a Complaint of Sex-Based Harassment only if they themselves are alleged to have been subjected to the Sex-Based Harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a Complaint.

With respect to Complaints of sex discrimination other than Sex-Based Harassment, in addition to the people listed above, the following persons have a right to make a Complaint:

- Any Student or employee of CIU; or
- Any person other than a Student or employee who was participating or attempting to participate in CIU's Education Program or Activity at the time of the alleged sex discrimination.

### **Initiation of Complaint by Title IX Coordinator**

In the absence of a Complaint or the withdrawal of any or all of the allegations in a Complaint, and in the absence or termination of an informal resolution process, the Title IX Coordinator will determine whether to initiate a Complaint of sex discrimination.

To make this fact-specific determination, the Title IX Coordinator must consider, at a minimum, the following factors:

- (1) The Complainant's request not to proceed with initiation of a Complaint;
- (2) The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- (3) The risk that additional acts of sex discrimination would occur if a Complaint is not initiated;
- (4) The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another Disciplinary Sanction to end the discrimination and prevent its recurrence;
- (5) The age and relationship of the Parties, including whether the Respondent is an employee of CIU;
- (6) The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;

(7) The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and

(8) Whether CIU could end the alleged sex discrimination and prevent its recurrence without initiating its Title IX grievance procedures.

If, after considering these and other Relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct as alleged prevents CIU from ensuring equal access on the basis of sex to its Education Program or Activity, the Title IX Coordinator may initiate a Complaint.

If initiating a Complaint, the Title IX Coordinator will notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing Supportive Measures and, regardless of whether a Complaint is initiated, taking other appropriate prompt and effective steps, in addition to steps necessary to effectuate the Remedies provided to an individual Complainant, if any, to ensure that sex discrimination does not continue or recur within CIU's Education Program or Activity.

A Title IX Coordinator is not required to consider initiating a Complaint upon being notified of conduct that may constitute sex discrimination if the Title IX Coordinator reasonably determines that the conduct as alleged could not constitute sex discrimination under Title IX.

### **Complaint Consolidation**

CIU may consolidate Complaints of sex discrimination against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against another Party, when the allegations of sex discrimination arise out of the same facts or circumstances; provided, however, that the affected Parties consent to the disclosure of their education records in accordance with FERPA requirements. When more than one Complainant or more than one Respondent is involved, references below to a Party, Complainant, or Respondent include the plural, as applicable.

### **Complaint Processing Parameters**

CIU will treat Complainants and Respondents equitably.

CIU requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

While the 2024 Rule allows the investigator and decisionmaker to be the same person in the grievance procedure, CIU separates these roles between different persons in an attempt to ensure fairness and objectivity. As set forth below, the Parties have an opportunity to challenge the participation of investigators/decisionmakers for alleged conflict of interest or bias.

CIU presumes that the Respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

CIU has established the following timeframes for the major stages of the grievance procedures:

- decision whether to dismiss or investigate a Complaint within 15 business days after the Title IX Coordinator's receipt of the Complaint;
- completion of any investigation within 45 business days after the Title IX Coordinator's receipt of the Complaint;
- issuance of any responsibility determination within 60 business days after the Title IX Coordinator's receipt of the Complaint; and
- decision on any appeal within 15 business days after the Title IX Coordinator's receipt of the Party's appeal materials.

The timelines set forth above may be altered for good cause with written notice to the Parties of any delay or extension and the supporting reasons. Good cause may include considerations such as the absence of a Party, a Party's advisor, or a witness; concurrent law enforcement activity; natural disasters, pandemic restrictions, and similar occurrences; or the need for language assistance or accommodation of disabilities.

Either Party may request an extension of any deadline by providing the Title IX Coordinator with a written request that includes the length of the proposed extension and the basis for the request. The Title IX Coordinator will review the request and make a determination to grant or deny within three business days.

CIU will take reasonable steps to protect the privacy of the Parties and witnesses during its grievance procedures. These steps will not restrict the ability of the Parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, Confidential Employees, or advisors; or otherwise prepare for or participate in the grievance procedures. The Parties cannot engage in Retaliation, including against witnesses.

### **Evidentiary Issues**

CIU will objectively evaluate all evidence that is Relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by CIU to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are Relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a Confidential Employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;



- A Party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or witness, unless CIU obtains that Party's or witness's voluntary, written consent for use in its grievance procedures; and
- Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove Consent to the alleged Sex-Based Harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's Consent to the alleged Sex-Based Harassment or preclude determination that Sex-Based Harassment occurred.

### **Notice of Allegations**

Upon initiation of CIU's Title IX grievance procedures, CIU will notify the Complainant, or if the Complainant is unknown, the individual who reported the conduct, and the Respondent of the following:

- CIU's Title IX grievance procedures and informal resolution process
- Sufficient information available at the time to allow the Parties to respond to the allegations, including the identities of the Parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited, and allegations of Retaliation in connection with a Title IX grievance process will be addressed under this document's Section IV. grievance procedures; and
- The Parties are entitled to an equal opportunity to access the Relevant and not otherwise impermissible evidence or an accurate description of this evidence. If CIU provides a description of the evidence, the Parties are entitled to an equal opportunity to access the Relevant and not otherwise impermissible evidence upon the request of any Party.

If, in the course of an investigation, CIU decides to investigate additional allegations of sex discrimination by the Respondent toward the Complainant that are not included in the notice provided or that are included in a Complaint that is consolidated, CIU will notify the Parties of the additional allegations.

### **Complaint Dismissal**

CIU may dismiss a Complaint of sex discrimination if:

- CIU is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in CIU Education Program or Activity and is not employed by CIU;

- The Complainant voluntarily withdraws any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a Complaint, and CIU determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- CIU determines the conduct alleged in the Complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the Complaint, CIU will make reasonable efforts to clarify the allegations with the Complainant.
- Upon dismissal, CIU will promptly notify the Complainant of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then CIU will also notify the Respondent of the dismissal and the basis for the dismissal promptly following notification to the Complainant, or simultaneously if notification is in writing. CIU will provide the Complainant with an opportunity to appeal the dismissal of a Complaint. And, if the dismissal occurs after the Respondent has been notified of the allegations, then CIU will also notify the Respondent that the dismissal may be appealed. Dismissals may be appealed on the following bases:
  - Procedural irregularity that would change the outcome;
  - New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and/or
  - The Title IX Coordinator had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

When a Complaint is dismissed, CIU will, at a minimum:

- Offer Supportive Measures to the Complainant as appropriate;
- If the Respondent has been notified of the allegations, offer Supportive Measures to the Respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within CIU Education Program or Activity.

### **Investigation Parameters**

CIU will provide for adequate, reliable, and impartial investigation of Complaints.

The burden is on CIU—not on the Parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

CIU will provide an equal opportunity for the Parties to present fact witnesses and other inculpatory and exculpatory evidence that are Relevant and not otherwise impermissible.

CIU will review all evidence gathered through the investigation and determine what evidence is Relevant and what evidence is impermissible regardless of relevance.

CIU will provide each Party with an equal opportunity to access the evidence that is Relevant to the allegations of sex discrimination and not otherwise impermissible.

CIU will provide each Party a reasonable opportunity to respond to the evidence; and

CIU will take reasonable steps to prevent and address the Parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the Complaint of sex discrimination are authorized.

### **Appointment of the Investigator and Challenging of the Same**

Unless a Complaint is dismissed or the Parties elect to participate in informal resolution, the Title IX Coordinator will promptly appoint an investigator. The investigator may be an CIU employee or a non-employee contractor.

The Title IX Coordinator will contemporaneously share the investigator name with the Complainant and/or Respondent. Within two business days of that notification the Complainant or the Respondent may identify to the Title IX Coordinator in writing any alleged conflicts of interest or bias on the part of the assigned investigator.

The Title IX Coordinator will consider such statements and will promptly assign a different investigator/decisionmaker if the Title IX Coordinator determines that a material conflict of interest or material bias exists.

### **The Investigator's Activities, Including Questioning of Parties and Witnesses**

The investigator will take steps such as interviewing the Complainant, the Respondent, and witnesses (including expert witnesses, where applicable); recording, transcribing, and/or summarizing such interviews in writing; collecting and reviewing relevant documents; visiting, inspecting, and taking or reviewing photographs of Relevant sites; and collecting and reviewing other Relevant and not impermissible evidence.

The investigator will question the Parties and witnesses in individual meetings to gather evidence and also to assess credibility to the extent credibility is both in dispute and Relevant to one or more allegations of sex discrimination.

### **Evidence Review**

The investigator will compile all Relevant and not inadmissible evidence (including items such as the Complaint, written statements of position, summaries or transcripts of all interviews conducted, photographs, descriptions of Relevant evidence, and summaries or copies of Relevant electronic records) and send to each Party an electronic or hard copy of such evidence.

The Parties then will have ten business days from the time that the evidence is provided to submit to the investigator a written response to the evidence. In the response, the Parties may address the relevancy of any evidence that the Parties believe should be included in or excluded from the investigator/decisionmaker's analysis and may also address any further investigation activities or

questions that they believe are necessary. If a Party wishes to submit additional evidence at this stage, they should explain how the evidence is Relevant and why it was not previously provided.

Due to the sensitive nature of the evidence in question, the Parties may not copy, publish, photograph, print, image, record, or in any other manner duplicate the evidence or any part thereof. Parties who violate these restrictions may be disciplined. Nothing in this document restricts the ability of either Party to discuss the allegations under investigation or to gather, preserve, and/or present Relevant evidence.

### **Appointment of the Decisionmakers and Challenging of the Same**

Unless a Complaint is dismissed or the Parties elect to participate in informal resolution, the Title IX Coordinator will appoint a hearing board composed of three CIU faculty and/or staff members who have received training on their role and responsibility in deciding whether a violation of this Policy has occurred.

The Title IX Coordinator will contemporaneously share the names of the hearing board with the Complainant and/or Respondent. Within two business days of that notification the Complainant or the Respondent may identify to the Title IX Coordinator in writing any alleged conflicts of interest or bias on the part of any proposed hearing board member.

The Title IX Coordinator will consider such statements and will promptly select a different hearing board members if the Title IX Coordinator determines that a material conflict of interest or material bias exists.

### **Determination Whether Sex Discrimination Occurred**

Following an investigation and evaluation of all Relevant and not otherwise impermissible evidence, the hearing board will:

- Use the clear and convincing evidence standard of proof, as is employed in other disciplinary matters, to determine whether sex discrimination occurred by (1) evaluating Relevant and not otherwise impermissible evidence for its persuasiveness and, (2) determining whether the evidence demonstrates that the complaint that sex discrimination occurred is highly and substantially more likely to be true than untrue. If the hearing board is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the hearing board will not determine that sex discrimination occurred.
- Will notify the Parties in writing through the Title IX Coordinator, of the determination whether sex discrimination occurred under Title IX, including the rationale for such determination and the procedures and permissible bases for the Complainant and Respondent to appeal.
- Not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the Respondent engaged in prohibited sex discrimination.
- If there is a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:

- o Coordinate the provision and implementation of Remedies to a Complainant and other people CIU identified as having had equal access to CIU's Education Program or Activity limited or denied by sex discrimination;
- o Coordinate the imposition of any Disciplinary Sanctions on a Respondent, including notification to the Complainant of any such Disciplinary Sanctions; and
- o Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within CIU's Education Program or Activity.
- Comply with the grievance procedures before the imposition of any Disciplinary Sanctions against a Respondent; and
- Not discipline a Party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.<sup>2</sup>

### **Appeal of Dismissal and/or Determination**

The Complainant or the Respondent may appeal Complaint dismissal and/or the investigator/decisionmaker's determination.

The following are the only permissible grounds for appeal: (1) procedural irregularity that affected the outcome; (2) new evidence that was not reasonably available at the time of the dismissal or determination and that could affect the outcome; and (3) the Title IX Coordinator, the investigator, or a decisionmaker had a conflict of interest or bias that affected the outcome.

Appeals must be submitted in writing to the Title IX Coordinator within three business days of the Party's receipt of notification of the dismissal or determination. The Title IX Coordinator will promptly inform the other Party of the filing of the appeal, and the other Party will have three business days from such notification to submit a written response to the appeal.

Upon receipt of an appeal, the Title IX Coordinator will appoint an appeal officer, who is someone other than any of the persons who made the dismissal or determination in question, and will notify the Parties of that appointment.

Within two business days of receiving notification of the appointment, the Complainant or the Respondent may identify to the Title IX Coordinator in writing alleged conflicts of interest or bias posed by assigning that appeal officer. The Title IX Coordinator will carefully consider such statements and will promptly assign a different appeal officer if the Title IX Coordinator determines that a material conflict of interest or material bias exists.

Within ten business days of the receipt of the appeal or the written response to such appeal, whichever is later, the appeal officer will determine (a) that the dismissal or determination should stand; or (b) that the dismissal or determination should be overturned and will issue a written

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<sup>2</sup> CIU may address false statements by initiating a disciplinary process under its code of conduct so long as there is evidence of such independent of the determination whether sex discrimination occurred.

explanation of that result and the rationale behind it. The decision of the appeal officer will be final.

### **Informal Resolution**

In lieu of resolving a Complaint through CIU's Title IX grievance procedures, the Parties may instead elect to participate voluntarily in an informal resolution process facilitated by the Title IX Coordinator or the Coordinator's designee. CIU has discretion to determine whether it is appropriate to offer an informal resolution process and, even when such process may be applicable to conduct that reasonably may constitute sex discrimination under Title IX, may decline to offer informal resolution despite one or more of the Parties' wishes.

CIU does not offer informal resolution to resolve a Complaint that includes allegations that an employee engaged in Sex-Based Harassment of an elementary or secondary school Student or when such a process would conflict with Federal, State, or local law.

Before the initiation of an informal resolution process, CIU will explain in writing to the Parties:

- The allegations;
- The requirements of the informal resolution process;
- That any Party has the right to withdraw from the informal resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;
- That if the Parties agree to a resolution at the end of the informal resolution process, they cannot initiate or resume grievance procedures arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the Parties;
- That measures the Parties agree to in the informal resolution process may include (but are not limited to): alcohol education classes for the Respondent; completion of online sexual harassment training; completion of an intervention program; regular meetings with an appropriate individual, unit or resource; permanent or temporary no contact order; restrictions for participation in certain activities, organizations, programs or classes; change in residential assignment or restrictions on access to certain residence halls or apartments; restriction of participation in certain events; reflection paper or written apology; counseling sessions; and/or Respondent's completion of an educational or behavioral plan; and
- The fact that any statements that the Parties make during the informal resolution process cannot be introduced in any other investigative or adjudicative proceeding, including if informal resolution is terminated and formal Complaint processing resumes under CIU's Title IX grievance procedures.

A resolution reached pursuant to the informal resolution process is final and not subject to appeal.

### **Supportive Measures**

The Title IX Coordinator will offer and coordinate Supportive Measures as appropriate for the Complainant and/or Respondent to restore or preserve that person's access to CIU's Education Program or Activity or provide support during CIU's Title IX grievance procedures or during the informal resolution process.

Supportive Measures will vary depending on specific circumstances and may include but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more Parties; leaves of absence; changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to sex discrimination.

Supportive Measures will not unreasonably burden either Party and are designed to protect the safety of the Parties or CIU's educational environment and/or to provide support during Title IX grievance procedures or informal resolution. Such measures may, as appropriate, be modified or terminated at the conclusion of the grievance procedures or informal resolution process.

Complainants or Respondents may seek modification or reversal of Supportive Measures applicable to them by submitting a written request—within three business days of notification of the measure(s) in question—to the Title IX Coordinator, who will assign an impartial CIU employee to evaluate and respond to the request.

CIU will not disclose information about any Supportive Measures to persons other than the person to whom they apply, including informing one Party of Supportive Measures provided to another Party, unless necessary to provide the supportive measure or restore or preserve a Party's access to the Education Program or Activity.

If any Party has a disability, the Title IX Coordinator may consult, as appropriate, with CIU's Academic Success Center in the implementation of Supportive Measures.

### **Emergency Removal**

CIU may remove a Respondent from its Education Program or Activity on an emergency basis, provided that CIU undertakes an individualized safety and risk analysis; determines that an imminent and serious threat to the health or safety of a Complainant or any Students, employees, or other persons arising from the allegations of sex discrimination justifies removal; provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal; and does so in accordance with the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act, as applicable.

### **Administrative Leave**

CIU may place an employee Respondent on administrative leave from employment responsibilities during the pendency of the grievance procedures, provided that it does so in accordance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

### **Disciplinary Sanctions and Remedies**

Following a determination that sex discrimination occurred, CIU may impose Disciplinary Sanctions. Sanctions depend upon the nature and gravity of the misconduct, any record of prior discipline, or both.

Sanctions for employees may include, but are not limited to, withholding a promotion or pay increase, reassigning employment, terminating employment, temporary suspension without pay, and compensation adjustments.

Sanctions for Students may include, but are not limited to, expulsion or suspension, disciplinary probation, social restrictions, expulsion or suspension from campus housing, suspension or revocation of admission, suspension or revocation of degree, written warning, mandated counseling, completion of an intervention program, completion of violence risk assessment, parental notification, and/or education sanctions (such as community service, reflection paper(s), and/or fines).

CIU may also provide Remedies to the Complainant and others affected by the sex discrimination in question. Those Remedies will vary depending on specific circumstances and may include, but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more Parties; leaves of absence; changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs.

## **V. Grievance Procedures for Complaints of Sex-Based Harassment Involving a Student Complainant or Student Respondent**

CIU has adopted Title IX grievance procedures that provide for the prompt and equitable resolution of Complaints made by Students, employees, or other individuals who are participating or attempting to participate in its Education Program or Activity, or by the Title IX Coordinator.

These Section V. grievance procedures address Complaints of Sex-Based Harassment that involve a Student Party.

When a Party is both a Student and an employee, CIU's Title IX Coordinator will make a fact-specific inquiry to determine whether the Section IV. grievance procedures or Section V. grievance procedures apply. In making this determination, the Title IX Coordinator will, at a minimum, consider whether the Party's primary relationship with CIU is to receive an education and whether the alleged Sex-Based Harassment occurred while the Party was performing employment-related work.

### **Complaints**

The following people have a right to make a Complaint of sex discrimination, including Complaints of Sex-Based Harassment, requesting that CIU investigate and make a determination about alleged discrimination under Title IX:

- A "Complainant," which includes:



- a Student or employee of CIU who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
- a person other than a Student or employee of CIU who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in CIU's Education Program or Activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant; or
- CIU's Title IX Coordinator.

Note that a person is entitled to make a Complaint of Sex-Based Harassment only if they themselves are alleged to have been subjected to the Sex-Based Harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a Complaint.

### **Initiation of Complaint by Title IX Coordinator**

In the absence of a Complaint or the withdrawal of any or all of the allegations in a Complaint, and in the absence or termination of an informal resolution process, the Title IX Coordinator will determine whether to initiate a Complaint of Sex-Based Harassment.

To make this fact-specific determination, the Title IX Coordinator must consider, at a minimum, the following factors:

- (1) The Complainant's request not to proceed with initiation of a Complaint;
- (2) The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- (3) The risk that additional acts of Sex-Based Harassment would occur if a Complaint is not initiated;
- (4) The severity of the alleged Sex-Based Harassment, including whether the Sex-Based Harassment, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
- (5) The age and relationship of the Parties, including whether the Respondent is an employee of CIU;
- (6) The scope of the alleged Sex-Based Harassment, including information suggesting a pattern, ongoing sex discrimination, or Sex-Based Harassment alleged to have impacted multiple individuals;
- (7) The availability of evidence to assist a decisionmaker in determining whether Sex-Based Harassment occurred; and
- (8) Whether CIU could end the alleged Sex-Based Harassment and prevent its recurrence without initiating its Title IX grievance procedures.

If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the

Complainant or other person, or that the conduct as alleged prevents CIU from ensuring equal access on the basis of sex to its Education Program or Activity, the Title IX Coordinator may initiate a Complaint.

If initiating a Complaint, the Title IX Coordinator will notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing Supportive Measures and, regardless of whether a Complaint is initiated, taking other appropriate prompt and effective steps, in addition to steps necessary to effectuate the Remedies provided to an individual Complainant, if any, to ensure that Sex-Based Harassment does not continue or recur within CIU's Education Program or Activity.

A Title IX Coordinator is not required to consider initiating a Complaint upon being notified of conduct that may constitute Sex-Based Harassment if the Title IX Coordinator reasonably determines that the conduct as alleged could not constitute Sex-Based Harassment under Title IX.

### **Complaint Consolidation**

CIU may consolidate Complaints of Sex-Based Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against another Party, when the allegations of Sex-Based Harassment arise out of the same facts or circumstances; provided, however, that the affected Parties consent to the disclosure of their education records in accordance with FERPA requirements. When more than one Complainant or more than one Respondent is involved, references below to a Party, Complainant, or Respondent include the plural, as applicable.

### **Complaint Processing Parameters**

CIU will treat Complainants and Respondents equitably.

CIU requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

And, as set forth below, the Parties have an opportunity to challenge the participation of the investigator or decisionmaker for alleged conflict of interest or bias.

CIU presumes that the Respondent is not responsible for the alleged Sex-Based Harassment until a determination is made at the conclusion of its grievance procedures.

CIU has established the following timeframes for the major stages of the grievance procedures:

- decision whether to dismiss or investigate a Complaint within 15 business days after the Title IX Coordinator's receipt of the Complaint;
- completion of any investigation within 45 business days after the Title IX Coordinator's receipt of the Complaint;
- issuance of any responsibility determination within 60 business days after the Title IX Coordinator's receipt of the Complaint; and

- decision on any timely-filed appeal within 15 business days after the Title IX Coordinator's receipt of the Party's appeal materials.

The timelines set forth above may be altered for good cause with written notice to the Parties of any delay or extension and the supporting reasons. Good cause may include considerations such as the absence of a Party, a Party's advisor, or a witness; concurrent law enforcement activity; natural disasters, pandemic restrictions, and similar occurrences; or the need for language assistance or accommodation of disabilities.

Either Party may request an extension of any deadline by providing the Title IX Coordinator with a written request that includes the length of the proposed extension and the basis for the request. The Title IX Coordinator will review the request and make a determination to grant or deny within three business days.

CIU will take reasonable steps to protect the privacy of the Parties and witnesses during its grievance procedures. These steps will not restrict the ability of the Parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The Parties cannot engage in Retaliation, including against witnesses.

### **Evidentiary Issues**

CIU will objectively evaluate all evidence that is Relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by CIU to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are Relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a Confidential Employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A Party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or witness, unless CIU obtains that Party's or witness's voluntary, written consent for use in its grievance procedures; and
- Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove Consent to the alleged Sex-Based Harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's Consent to the alleged Sex-Based Harassment or preclude determination that Sex-Based Harassment occurred.

### **Written Notice of Allegations**

Upon initiation of these Sex-Based Harassment Title IX grievance procedures, CIU will notify the Parties in writing of the following with sufficient time for the Parties to prepare a response before any initial interview:

- CIU's Title IX grievance procedures and any informal resolution process;
- Sufficient information available at the time to allow the Parties to respond to the allegations, including the identities of the Parties involved in the incident(s), the conduct alleged to constitute Sex-Based Harassment, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited, and allegations of Retaliation in connection with a Title IX grievance process will be addressed under this document's Section IV. grievance procedures;
- The Respondent is presumed not responsible for the alleged Sex-Based Harassment until a determination is made at the conclusion of these grievance procedures. Prior to such a determination, the Parties will have an opportunity to present Relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- The Parties may have an advisor of their choice who may be, but is not required to be, an attorney. Parties must provide the name and contact of their advisor to the Title IX Coordinator in writing as soon as reasonably possible and must provide updated information if their advisor changes. All advisors will be required to assent to CIU's Expectations for Advisors;
- The Parties are entitled to an equal opportunity to access the Relevant and not otherwise impermissible evidence or an investigative report that accurately summarizes this evidence. [If CIU provides access to an investigative report: The Parties are entitled to an equal opportunity to access the Relevant and not impermissible evidence upon the request of any Party]; and
- The Investigative/Grievance Process of the CIU Student Handbook prohibits knowingly making false statements or knowingly submitting false information during the grievance procedures.<sup>3</sup>

If, in the course of an investigation, CIU decides to investigate additional allegations of Sex-Based Harassment by the Respondent toward the Complainant that are not included in the written notice or that are included in a consolidated Complaint, it will provide written notice of the additional allegations to the Parties.

### **Complaint Dismissal**

CIU may dismiss a Complaint if:

- CIU Is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in CIU's Education Program or Activity and is not employed by CIU;

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<sup>3</sup> CIU may address false statements by initiating a disciplinary process under its code of conduct so long as there is evidence of such independent of the determination whether sex discrimination occurred.

- CIU obtains the Complainant's voluntary withdrawal in writing of any or all of the allegations, the Title IX Coordinator declines to initiate a Complaint, and CIU determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- CIU determines the conduct alleged in the Complaint, even if proven, would not constitute sex discrimination under Title IX.

Before dismissing the Complaint, CIU will make reasonable efforts to clarify the allegations with the Complainant. Upon dismissal, CIU will promptly notify the Complainant in writing of the basis for the dismissal.

If the dismissal occurs after the Respondent has been notified of the allegations, then CIU will notify the Parties simultaneously in writing.

CIU will notify the Complainant that a dismissal may be appealed on the bases outlined in the Appeals section of this Section V.

If dismissal occurs after the Respondent has been notified of the allegations, then CIU will also notify the Respondent that the dismissal may be appealed on the same bases. If a dismissal is appealed, CIU will follow the procedures outlined in the Appeals section of this Section V.

When a Complaint is dismissed, CIU will, at a minimum:

- Offer Supportive Measures to the Complainant as appropriate;
- If the Respondent has been notified of the allegations, offer Supportive Measures to the Respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within CIU's Education Program or Activity.

### **Investigation Parameters**

CIU will provide for adequate, reliable, and impartial investigation of Complaints.

The burden is on CIU—not on the Parties—to conduct an investigation that gathers sufficient evidence to determine whether Sex-Based Harassment occurred.

CIU will provide to a Party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the Party to prepare to participate.

CIU will provide the Parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney.

- CIU will not limit the choice or presence of the advisor for the Complainant or Respondent in any meeting or proceeding.
- CIU may establish restrictions regarding the extent to which the advisor may participate in these grievance procedures, as long as the restrictions apply equally to the Parties.

CIU will provide the Parties with the same opportunities, if any, to have people other than the advisor of the Parties' choice present during any meeting or proceeding.

CIU does not allow the Parties to present expert witnesses.

CIU will provide an equal opportunity for the Parties to present fact witnesses and other inculpatory and exculpatory evidence that is Relevant and not otherwise impermissible.

CIU will review all evidence gathered through the investigation and determine what evidence is Relevant and what evidence is impermissible regardless of relevance.

CIU will provide each Party and the Party's advisor, if any, with an equal opportunity to access the evidence that is Relevant to the allegations of Sex-Based Harassment and not otherwise impermissible, in the following manner:

- CIU will provide an equal opportunity to access either the Relevant and not otherwise impermissible evidence, or the same written investigative report that accurately summarizes this evidence. If CIU provides access to an investigative report, it will further provide the Parties with an equal opportunity to access the Relevant and not otherwise impermissible evidence upon the request of any Party;
- CIU will provide a reasonable opportunity to review and respond to the evidence or the investigative report; and

CIU will take reasonable steps to prevent and address the Parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the Sex-Based Harassment grievance procedures.

### **Appointment of the Investigator and Challenging of the Same**

Unless a Complaint is dismissed or the Parties elect to participate in informal resolution, the Title IX Coordinator will promptly appoint an investigator. The investigator may be an CIU employee or a non-employee contractor.

The Title IX Coordinator will contemporaneously share the investigator name with the Complainant and/or Respondent. Within two business days of that notification the Complainant or the Respondent may identify to the Title IX Coordinator in writing any alleged conflicts of interest or bias on the part of the assigned investigator.

The Title IX Coordinator will consider such statements and will promptly assign a different investigator if the Title IX Coordinator determines that a material conflict of interest or material bias exists.

### **The Investigator's Activities, Including Questioning of Parties and Witnesses**

The investigator will take such steps as interviewing the Complainant, the Respondent, and witnesses (including expert witnesses, where applicable); recording, transcribing, and/or summarizing such interviews in writing; collecting and reviewing Relevant documents; visiting, inspecting, and taking or reviewing photographs of Relevant sites; and collecting and reviewing other Relevant and not impermissible evidence.

The investigator will question the Parties and witnesses in individual meetings to gather evidence and also to assess credibility to the extent credibility is both in dispute and Relevant to one or more allegations of sex discrimination.

CIU's process for proposing and asking Relevant and not otherwise impermissible questions and follow-up questions of Parties and witnesses, including questions challenging credibility, will:

- Allow the investigator to ask such questions during individual meetings with a Party or witness;
- Allow each Party to propose such questions that the Party wants asked of any Party or witness and have those questions asked by the investigator during one or more individual meetings, including follow-up meetings, with a Party or witness, subject to the procedures for evaluating and limiting questions discussed below; and
- Provide each Party with an audio or audiovisual recording or transcript with enough time for the Party to have a reasonable opportunity to propose follow-up questions.

### **Procedures for the Investigator to Evaluate the Questions and Limitations on Questions**

The investigator will determine whether a proposed question is Relevant and not otherwise impermissible before the question is posed and will explain any decision to exclude a question as not Relevant or otherwise impermissible. Questions that are unclear or harassing of the Party or witness being questioned will not be permitted. The decisionmaker will give a Party an opportunity to clarify or revise a question that the investigator determines is unclear or harassing. If the Party sufficiently clarifies or revises the question, the question will be asked.

### **Appointment of the Decisionmakers and Challenging of the Same**

Unless a Complaint is dismissed or the Parties elect to participate in informal resolution, the Title IX Coordinator will appoint a hearing board composed of three CIU faculty and/or staff members who have received training on their role and responsibility in deciding whether a violation of this Policy has occurred.

The Title IX Coordinator will contemporaneously share the names of the hearing board with the Complainant and/or Respondent. Within two business days of that notification the Complainant or the Respondent may identify to the Title IX Coordinator in writing any alleged conflicts of interest or bias on the part of any proposed hearing board member.

The Title IX Coordinator will consider such statements and will promptly select a different hearing board member if the Title IX Coordinator determines that a material conflict of interest or material bias exists.

### **Refusal to respond to questions and inferences based on refusal to respond to questions**

The decisionmakers may choose to place less or no weight upon statements by a Party or witness who refuses to respond to questions deemed Relevant and not impermissible. The decisionmakers will not draw an inference about whether Sex-Based Harassment occurred based solely on a Party's or witness's refusal to respond to such questions.

### **Evidence Review**

The investigator will compile all Relevant and not inadmissible evidence (including items such as the Complaint, written statements of position, summaries or transcripts of all interviews conducted, photographs, descriptions of Relevant evidence, and summaries or copies of Relevant electronic records) and send to each Party an electronic or hard copy of such evidence and also provide each Party with an audio or audiovisual recording or transcript of Party and witness interviews with enough time for the Party to have a reasonable opportunity to propose follow-up questions.

The Parties then will have ten business days from the time that the evidence is provided to submit to the investigator/decisionmaker a written response to the evidence. In their responses, the Parties may address the relevancy of any evidence that the Parties believe should be included in or excluded from the investigator's analysis and may also address any further investigation activities or questions that they believe are necessary. If a Party wishes to submit additional evidence at this stage, they should explain how the evidence is Relevant and why it was not previously provided.

Due to the sensitive nature of the evidence in question, the Parties may not copy, publish, photograph, print, image, record, or in any other manner duplicate it. Parties who violate these restrictions may be disciplined. Nothing in this document restricts the ability of either Party to discuss the allegations under investigation or to gather, preserve, and/or present Relevant evidence.

#### **Post-Evidence-Review Follow-Up Meetings**

Following the Parties' review of and response to the evidence, the investigator may need to meet again with the Parties (and with witnesses, as necessary and appropriate) to ask follow-up questions, including those raised by the Parties' response to the evidence and/or specifically suggested by the Parties in that response.

#### **Written Determination Whether Sex-Based Harassment Occurred**

Following an investigation and evaluation of all Relevant and not otherwise impermissible evidence, the hearing board will:

- Use the clear and convincing evidence standard of proof, as is employed in other disciplinary matters, to determine whether Sex-Based Harassment occurred by (1) evaluating Relevant and not otherwise impermissible evidence for its persuasiveness and, (2) determining whether the evidence demonstrates that the complaint that sex discrimination occurred is highly and substantially more likely to be true than untrue. If the decisionmakers are not persuaded under the applicable standard by the evidence that Sex-Based Harassment occurred, whatever the quantity of the evidence is, the decisionmakers will not determine that Sex-Based Harassment occurred.
- Notify the Parties simultaneously in writing of the determination whether Sex-Based Harassment occurred under Title IX including:
  - o A description of the alleged Sex-Based Harassment;
  - o Information about the policies and procedures that CIU used to evaluate the allegations;



- o The decisionmakers' evaluation of the Relevant and not otherwise impermissible evidence and determination whether Sex-Based Harassment occurred;
- o When the decisionmakers find that Sex-Based Harassment occurred, any Disciplinary Sanctions CIU will impose on the Respondent, whether Remedies other than the imposition of Disciplinary Sanctions will be provided by CIU to the Complainant, and, to the extent appropriate, other Students identified by CIU to be experiencing the effects of the Sex-Based Harassment; and
- o CIU's procedures and permissible bases for the Complainant and Respondent to appeal.
- CIU will not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the Title IX grievance procedures that the Respondent engaged in prohibited Sex-Based Harassment.
- If there is a determination that sex discrimination occurred, as appropriate, the Title IX Coordinator will:
  - o Coordinate the provision and implementation of Remedies to a Complainant and other people CIU identifies as having had equal access to CIU's Education Program or Activity limited or denied by Sex-Based Harassment;
  - o Coordinate the imposition of any Disciplinary Sanctions on a Respondent, including notification to the Complainant of any such Disciplinary Sanctions; and
  - o Take other appropriate prompt and effective steps to ensure that Sex-Based Harassment does not continue or recur within CIU's Education Program or Activity.
- Comply with the Title IX grievance procedures before the imposition of any Disciplinary Sanctions against a Respondent; and
- Not discipline a Party, witness, or others participating in the Title IX grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether Sex-Based Harassment occurred.

The determination regarding responsibility becomes final either on the date CIU provides the Parties with the written determination of the result of any appeal, or, if no Party appeals, the date on which an appeal would no longer be considered timely.

### **Appeal of Dismissal and/or Determination**

The Complainant or the Respondent may appeal Complaint dismissal and/or the decisionmakers' determination whether Sex-Based Harassment occurred.

The following are the only permissible grounds for appeal: (1) procedural irregularity that would change the outcome; (2) new evidence that would change the outcome and was not reasonably available at the time of the dismissal or determination; and (3) the Title IX Coordinator, the investigator, or a decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.

Appeals must be submitted in writing to the Title IX Coordinator within three business days of the Party's receipt of notification of the dismissal or determination. The Title IX Coordinator will promptly inform the other Party in writing of the filing of the appeal, and the other Party will have three days from such notification to submit a written response to the appeal.

Upon receipt of an appeal, the Title IX Coordinator will appoint an appeal officer who is someone other than the persons who investigated and made the dismissal or determination in question and will notify the Parties of that appointment.

Within two business days of receiving notification of the appointment, the Complainant or the Respondent may identify to the Title IX Coordinator in writing alleged conflicts of interest or bias posed by assigning that appeal officer. The Title IX Coordinator will carefully consider such statements and will promptly assign a different appeal officer if the Title IX Coordinator determines that a material conflict of interest or material bias exists.

Within ten business days of the receipt of the appeal the appeal officer will determine (a) that the dismissal or determination should stand; or (b) that the dismissal or determination should be overturned and will issue a written explanation of that result and the rationale behind it. The decision of the appeal officer will be final.

### **Informal Resolution**

In lieu of resolving a Complaint through CIU's Title IX grievance procedures, the Parties may instead elect to participate voluntarily in an informal resolution process facilitated by the Title IX Coordinator or the Coordinator's designee. CIU has discretion to determine whether it is appropriate to offer an informal resolution process and, even when such process may be applicable to conduct that reasonably may constitute sex discrimination under Title IX, may decline to offer informal resolution despite one or more of the Parties' wishes.

CIU does not offer informal resolution to resolve a Complaint that includes allegations that an employee engaged in Sex-Based Harassment of an elementary or secondary school student or when such a process would conflict with Federal, State, or local law.

Before the initiation of an informal resolution process, CIU will explain in writing to the Parties:

- The allegations;
- The requirements of the informal resolution process;
- That any Party has the right to withdraw from the informal resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;
- That if the Parties agree to a resolution at the end of the informal resolution process, they cannot initiate or resume grievance procedures arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the Parties;

- That measures the Parties agree to in the informal resolution process may include (but are not limited to): alcohol education classes for the Respondent; completion of online sexual harassment training; completion of an intervention program; regular meetings with an appropriate individual, unit or resource; permanent or temporary no contact order; restrictions for participation in certain activities, organizations, programs or classes; change in residential assignment or restrictions on access to certain residence halls or apartments; restriction of participation in certain events; reflection paper or written apology; counseling sessions; and/or Respondent's completion of an educational or behavioral plan; and
- The fact that any statements that the Parties make during the informal resolution process cannot be introduced in any other investigative or adjudicative proceeding, including if informal resolution is terminated and formal Complaint processing resumes under CIU's Title IX grievance procedures.

A resolution reached pursuant to the informal resolution process is final and not subject to appeal.

### **Supportive Measures**

The Title IX Coordinator will offer and coordinate Supportive Measures as appropriate for the Complainant and/or Respondent to restore or preserve that person's access to CIU's Education Program or Activity or provide support during CIU's Title IX grievance procedures or during the informal resolution process. For Complaints of Sex-Based Harassment, these Supportive Measures may include counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more Parties; leaves of absence; changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to Sex-Based Harassment.

Supportive Measures will not unreasonably burden either Party and are designed to protect the safety of the Parties or CIU's educational environment and/or to provide support during Title IX grievance procedures or informal resolution. Such measures may, as appropriate, be modified or terminated at the conclusion of the grievance procedures or informal resolution process.

Complainants or Respondents may seek modification or reversal of Supportive Measures applicable to them by submitting a written request—within three business days of notification of the measure(s) in question—to the Title IX Coordinator, who will assign an impartial CIU employee to evaluate and respond to the request.

CIU will not disclose information about any Supportive Measures to persons other than the person to whom they apply, including informing one Party of Supportive Measures provided to another Party, unless necessary to provide the supportive measure or restore or preserve a Party's access to the Education Program or Activity.

### **Emergency Removal**

CIU may remove a Respondent from its Education Program or Activity on an emergency basis, provided that CIU undertakes an individualized safety and risk analysis, determines that an imminent and serious threat to the health or safety of a Complainant or any Students, employees,

or other persons arising from the allegations of Sex-Based Harassment justifies removal, provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal, and does so in accordance with the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act, as applicable.

### **Administrative Leave**

CIU may place an employee Respondent on administrative leave from employment responsibilities during the pendency of the grievance procedures, provided that it does so in accordance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

### **Disciplinary Sanctions and Remedies**

Following a determination that Sex-Based Harassment occurred, CIU may impose Disciplinary Sanctions which may include: expulsion or suspension, disciplinary probation, social restrictions, expulsion or suspension from campus housing, suspension or revocation of admission, suspension or revocation of degree, written warning, mandated counseling, completion of an intervention program, completion of violence risk assessment, parental notification, and/or education sanctions (such as community service, reflection paper(s), and/or fines).

CIU may also provide Remedies which may include: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more Parties; leaves of absence; changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs.

## **Appendix: Definitions**

**Complainant** means: (1) A Student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or (2) A person other than a Student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in CIU's Education Program or Activity at the time of the alleged sex discrimination.

**Complaint** means an oral or written request to CIU that objectively can be understood as a request for CIU to investigate and make a determination about alleged discrimination under Title IX or its regulations.

**Confidential Employee** means: (1) An employee whose communications are privileged or confidential under Federal or State law. The employee's confidential status, for purposes of this part, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; (2) An employee whom the recipient has designated as confidential under this part for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services; or (3) An employee who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination-but the employee's confidential status is only with respect to information received while conducting the study.

**Consent** is informed, freely and actively given, mutually understandable words or actions that indicate a willingness and readiness to participate in mutually agreed upon sexual activity. Consent is mutually understandable when a reasonable person would consider the words or actions of the Parties to have manifested a clear and unambiguous agreement between them to engage in certain conduct with each other. Consent cannot be gained by ignoring or acting in spite of the objections of another.

Consent cannot be inferred from: silence, passivity, or lack of resistance alone; a current or previous dating or sexual relationship alone (or the existence of such a relationship with anyone else); attire; the buying of dinner or the spending of money on a date; or Consent previously given (i.e., Consenting to one sexual act does not imply Consent to another sexual act).

Consent is not effective if it is obtained through the use of physical force, violence, duress, deception, intimidation, coercion, or the threat, expressed or implied, of bodily injury. Whether a Party used any of these means to obtain Consent will be determined by reference to the perception of a reasonable person found in the same or similar circumstances.

Consent may never be given by the following individuals: minors, even if the other participant did not know the minor's age; mentally disabled persons, if their disability was reasonably knowable to a person who is not mentally disabled; or persons who are Incapacitated. The use of alcohol or drugs does not diminish one's responsibility to obtain Consent and does not excuse conduct that constitutes Sex-Based Harassment.

If at any time during a sexual act any confusion or ambiguity is or should reasonably be apparent on the issue of Consent, it is incumbent upon each individual involved in the activity to stop and clarify the other's willingness and readiness to continue and capacity to Consent. Neither Party should make assumptions about the other's willingness and readiness to continue.

**Disciplinary Sanctions** means consequences imposed on a Respondent following a determination under Title IX that the Respondent violated CIU's prohibition on sex discrimination.

**Education Program or Activity** means all of CIU's operations and includes conduct that (1) occurs in any building owned or controlled by a student organization that is officially recognized by CIU, and (2) is subject to CIU's disciplinary authority. The obligation to address a Sex-based hostile environment under CIU's Education Program or Activity may extend to some conduct that occurred outside CIU's Education Program or Activity or outside the United States, if such conduct is alleged to be contributing to the hostile environment.

**Incapacitated** means lacking the physical and/or mental ability to make informed, rational judgments. A person may be Incapacitated for a variety of reasons, including but not limited to being asleep or unconscious, having consumed alcohol or taken drugs, or experiencing blackouts or flashbacks.

**Party** means a Complainant or Respondent.

**Relevant** means related to the allegations of sex discrimination under investigation as part of these grievance procedures. Questions are Relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is Relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

**Remedies** means measures provided, as appropriate, to a Complainant or any other person CIU identifies as having had their equal access to CIU's Education Program or Activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to CIU's Education Program or Activity after CIU determines that sex discrimination occurred.

**Respondent** means a person who is alleged to have violated CIU's prohibition on sex discrimination.

**Retaliation** means intimidation, threats, coercion, or discrimination against any person by CIU, a Student, or an employee or other person authorized by CIU to provide aid, benefit, or service under the CIU's Education Program or Activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.

**Sex-Based Harassment** is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including pregnancy or related conditions that is:

(1) Quid pro quo harassment. An employee, agent, or other person authorized by CIU to provide an aid, benefit, or service under CIU's Education Program or Activity explicitly or impliedly

conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

(2) Hostile environment harassment. Unwelcome Sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from CIU's Education Program or Activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

(i) The degree to which the conduct affected the Complainant's ability to access CIU's Education Program or Activity;

(ii) The type, frequency, and duration of the conduct;

(iii) The Parties' ages, roles within CIU's Education Program or Activity, previous interactions, and other factors about each Party that may be Relevant to evaluating the effects of the conduct;

(iv) The location of the conduct and the context in which the conduct occurred; and

(v) Other Sex-Based Harassment in the CIU's Education Program or Activity; or

(3) Specific offenses.

(i) "Sexual Assault" means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. As of the effective date of this Policy, those offenses are defined as follows:

(i) Forcible sex offense: any sexual act, including rape, sodomy, sexual assault with an object or fondling, directed against another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent. (1) Forcible rape (except statutory rape (defined below)) — the carnal knowledge of a person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving Consent because of their temporary or permanent mental or physical incapacity. (2) Forcible sodomy — oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving Consent because of their youth or because of their temporary or permanent mental or physical incapacity. (3) Sexual assault with an object — to use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving Consent because of their youth or because of their temporary or permanent mental or physical incapacity. (4) Forcible fondling — the touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving Consent because of their youth or because of their temporary or permanent mental or physical incapacity.

(ii) Nonforcible sex offense: unlawful, nonforcible sexual intercourse. (1) Incest — nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. (2) Statutory rape — nonforcible sexual intercourse with a person who is under the statutory age of Consent.

(ii) Dating violence meaning violence committed by a person:

(A) Who is or has been in a social relationship of a romantic or intimate nature with the victim;  
and

(B) Where the existence of such a relationship shall 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;

(iii) Domestic violence meaning felony or misdemeanor crimes committed by a person who:

(A) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of CIU or a person similarly situated to a spouse of the victim;

(B) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;

(C) Shares a child in common with the victim; or

(D) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or

(iv) Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(A) Fear for the person's safety or the safety of others; or

(B) Suffer substantial emotional distress.

**Student** means a person who has gained admission to CIU.

**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 CIU's Education Program or Activity, including measures that are designed to protect the safety of the Parties or CIU's educational environment;  
or

(2) Provide support during CIU's grievance procedures or during an informal resolution process.