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CSU Nondiscrimination Policy – Employee and Third-Party Procedures

I. Statement of Values

The California State University ("the CSU" or "the University") provides procedures to ensure the prompt and equitable resolution of Complaints made by Students, Employees, or other individuals who are participating or attempting to participate in its education programs, activities, or employment, or by the Title IX Coordinator/DHR Administrator, alleging any action that would be prohibited by Title IX, the Title IX regulations, Title VI, Title VII, and other applicable state and federal laws.

Any questions about these Procedures should be directed to the Title IX Coordinator/DHR Administrator.

II. Terminology

Capitalized Terms: Capitalized terms in these Procedures are defined in Article V of the CSU Nondiscrimination Policy. For brevity, the following terms below are used throughout these Procedures:

- A. **Sex-based Harassment** is a form of sex discrimination and means Sexual Harassment and other Harassment on the basis of Sex or Gender, including Gender Expression, Gender Identity, Pregnancy or related conditions, Sex Stereotypes, Sex Characteristics, or Sexual Orientation, including:
 - 1. Hostile environment or Quid Pro Quo Harassment (e.g., when an Employee conditions a benefit on a Complainant's participation in unwelcome sexual conduct);
 - 2. Specific offenses (e.g., Dating Violence, Domestic Violence, Sexual Exploitation, and Stalking); and/or
 - 3. Sexual Misconduct.
- B. **Discrimination, Harassment, Retaliation.** For brevity, the phrase "Discrimination, Harassment,

Effective August 1, 2024

or Retaliation" used throughout these Procedures to mean all forms of Prohibited Conduct outlined in the Nondiscrimination Policy, including Sex-based Harassment.

III. Procedure Scope and Applicability

These Procedures are effective August 1, 2024, and are not retroactive. The Procedures below should be used for alleged misconduct that occurs on or after August 1, 2024.

These Procedures are only used to address conduct that may violate the Nondiscrimination Policy. Alleged misconduct by Employees or Third-Parties that does not fall under the Nondiscrimination Policy should be directed to the appropriate administrator in Human Resources or Faculty Affairs. Alleged misconduct by Students that does not fall under the Nondiscrimination Policy is addressed under the [Student Conduct Procedures](#).¹

The University will respond in a timely and appropriate manner to all Complaints and will take appropriate action to prevent continuation of, and correct, Nondiscrimination Policy violations. Depending on the circumstances, the University's response may or may not include a formal investigation.

- A. **Individuals Who May Make a Complaint:** While any person may be a Reporting Party for alleged violations of the Nondiscrimination Policy, only the following people have a right to file a Complaint of Discrimination, Harassment, or Retaliation and request that the University investigate and make a determination about alleged misconduct under Title IX and the Title IX regulations, Title VI, Title VII, and other applicable state and federal laws:
 - 1. A Student or Employee of the University;
 - 2. A person other than a Student or Employee of the University who is alleged to have been subjected to conduct that could constitute Discrimination, Harassment, or Retaliation, including Sex-based Harassment under Title IX at a time when that individual was participating or attempting to participate in an education program or activity of the University;
 - 3. An individual with the legal right to act on behalf of a Complainant; or
 - 4. The University's Title IX Coordinator / DHR Administrator.
- B. **When these Procedures Are Used:** The Procedures below are used for Complaints where an **Employee or Third-Party** is alleged to have engaged in Discrimination, Harassment, or Retaliation in violation of the Nondiscrimination Policy **against another Employee** ("Procedures").
- C. **When the Student Procedures Are Used:** The *Interim CSU Nondiscrimination Policy – Student Procedures* are used for Complaints:
 - 1. Made by a Student against an Employee or Third-Party alleging Sex-based Harassment, or
 - 2. Made by an Employee or Third-Party against a Student alleging Sex-based Harassment, or
 - 3. Made by an Employee against a Student-Employee alleging Sex-based Harassment when the alleged conduct arose out of the Respondent's status as a **Student** and not

Effective August 1, 2024

as an Employee.

- D. Complaints Against Public Safety Officers:** All Complaints and related investigations against Respondents who are sworn University public safety officers shall be governed by these Procedures, the applicable collective bargaining agreement, and by the Public Safety Officers Procedural Bill of Rights Act (POBRA) to the extent that they do not conflict with Federal law.
- E. Complaints against a President, Title IX Coordinator/DHR Administrator, the Chancellor, or member of the Board of Trustees:**
1. Complaints against a President, Title IX Coordinator/DHR Administrator, the Chancellor, or member of the Board of Trustees are governed by the *Interim CSU Nondiscrimination Policy – Employee or Third-Party Procedures*. However, if the Complaint is made by a Student **and** involves allegations of Sex-based Harassment, then the *Interim CSU Nondiscrimination Policy – Student Procedures* will apply.
 2. Complaints against the Chancellor or member of the Board of Trustees shall be made to the Title IX Coordinator/DHR Administrator at the Chancellor's Office.
 - a. If it is alleged that the Chancellor or a member of the Board of Trustees directly engaged in conduct that violates this Nondiscrimination Policy, the Title IX Coordinator/DHR Administrator at the Chancellor's Office shall inform the chair or vice chair of the Board.
 - b. Any other Complaints against the Chancellor or a member of the Board of Trustees (for example, that the Chancellor or member of the Board of Trustees had no substantial involvement in other than to rely on or approve a recommendation made by another administrator) will be made to and addressed by the Office of Civil Rights Programming & Services at CO-Complaints@calstate.edu.
 3. Complaints alleging violations of this Nondiscrimination Policy against a President or Title IX Coordinator/DHR Administrator shall be made to the Office of Civil Rights Programming & Services at CO-Complaints@calstate.edu.
 - a. If the President or Title IX Coordinator/DHR Administrator's role in the alleged incident was limited to a decision on a recommendation made by another administrator, and the President or Title IX Coordinator/DHR Administrator had no other substantial involvement in the matter, the Complaint shall be processed by the Campus.
 4. When circumstances warrant, the Chancellor, Vice Chancellor for Human Resources, or Associate Vice Chancellor for Civil Rights Programming & Services may determine in other cases that a Complaint will be addressed by the Office of Civil Rights Programming & Services at the Chancellor's Office rather than the Campus.
- F. Applicability of Provisions to Sex-based Harassment and Other Forms of Discrimination:** There are certain sections of these Procedures that apply only to certain Sex-based Harassment Complaints, including Sexual Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, and Stalking, and do not apply to other Complaints. Those sections include the note "Applies only to Complaints of Sex-based Harassment."

IV. Disciplinary Sanctions and Remedies

The University will not impose discipline on a Respondent for violations of the Nondiscrimination Policy unless: 1) there is a determination at the conclusion of the formal complaint resolution process (including appeals) that the Respondent engaged in prohibited Discrimination, Harassment, or Retaliation; or 2) where discipline is agreed to as part of an informal resolution process.

Conduct that does not violate the Nondiscrimination Policy may be referred to an appropriate office on Campus for review and determination as to whether corrective and/or disciplinary action is warranted.

If there is a determination that Discrimination, Harassment, or Retaliation occurred, the Title IX Coordinator/DHR Administrator will, as appropriate:

- A. Coordinate the provision and implementation of Remedies to a Complainant and any other individuals who the University identifies as also having been deprived of equal access to the University's education programs, activities, or employment due to Discrimination, Harassment, or Retaliation;
- B. Coordinate the imposition of any Disciplinary Sanctions on a Respondent, including notification to the Complainant of any such Disciplinary Sanctions;
- C. Take other appropriate prompt and effective steps to ensure that Discrimination, Harassment, or Retaliation does not continue or recur within the University's education programs, activities, or employment; and
- D. Comply with these Procedures and any applicable Collective Bargaining Agreements before the imposition of any Disciplinary Sanctions against a Respondent.

Employees who are found to have violated the Nondiscrimination Policy will be subject to discipline that is appropriate for the violation and in accordance with state and federal requirements and other CSU policies and applicable collective bargaining agreements. The possible sanctions for Employees determined to have violated the Nondiscrimination Policy are education, training, counseling, reprimand, unpaid suspension of varying lengths, demotion, and/or termination.

Students who are found to have violated the Nondiscrimination Policy will be subject to discipline in accordance with state and federal requirements, student conduct rules, and other CSU policies. Sanctions for Students determined to have violated the Nondiscrimination Policy are identified in the Student Conduct Process: restitution, loss of financial aid, educational and remedial sanctions, denial of access to campus or persons, disciplinary probation, suspension, and expulsion. The University may also temporarily or permanently withhold a degree. Other sanctions and remedies may be agreed upon through the Informal Resolution process.

Good Faith and Honesty

All Parties, witnesses, or others participating in the investigation process under these Procedures are expected to participate in good faith and provide truthful information. Submitting or providing deliberately false or misleading information in bad faith or with a view to personal gain or intentional harm to another person in connection with the investigation process under these Procedures is prohibited and subject to Disciplinary Sanctions. This provision does not apply to reports made or

Effective August 1, 2024

information provided in good faith, even if the facts alleged in the report are erroneous or are not later substantiated. An unsubstantiated finding alone does not indicate that statements made in an investigation process were false or misleading.

V. Making a Report

- A. **How to Report:** The campus Title IX Coordinator/DHR Administrator is the designated administrator to receive reports of all misconduct prohibited by the Nondiscrimination Policy. The contact information for each University's Title IX Coordinator/DHR Administrator can be found on the respective Campus website and via the Systemwide Office for Civil Rights Programming & Services [website](#).
- B. **Individuals Who May Make a Report:** Any person may report an alleged violation of the Nondiscrimination Policy.
- C. **Timeframe for Making a Report:** Reports may be made at any time, and individuals are encouraged to report an alleged violation of the Nondiscrimination Policy regardless of how much time has passed. The University's ability to interview witnesses and otherwise investigate or act, however, may be limited by various factors, including the passage of time, fading witness memories, and/or preservation of evidence. In all cases, the Title IX Coordinator/DHR Administrator is available to discuss Supportive Measures with the Complainant at any time, regardless of how much time has passed since the incident described in the report.
- D. **Addressing Concerns About Reporting:** The University's primary concern is the safety of the campus community. Any person who reports an alleged violation of the Nondiscrimination Policy should discuss any concerns about safety with the Title IX Coordinator/DHR Administrator.
 1. ***Concerns about Retaliation for Reporting:*** The Nondiscrimination Policy prohibits Retaliation. If an Employee is reluctant to report because they fear Retaliation, they should discuss their concerns with the Title IX Coordinator/DHR Administrator as soon as possible.
- E. **Delivery Methods for Campus Communication with Parties:** Communication with the Parties regarding a Complaint or investigation will be sent to their designated CSU campus email address, unless the Party has specifically requested in writing to the Title IX Coordinator/DHR Administrator or Investigator that communication be sent to a different email address. Communication with Parties who are neither Students nor Employees will be sent to an email address that they provide. Any communications relating to the outcome of an investigation, including any changes to the outcome or when the outcome becomes final, will be provided in writing to the Complainant and the Respondent at the same time.

VI. University Procedures for Responding to a Report

Regardless of whether a Complaint has been made, when the University becomes aware of possible Discrimination, Harassment, or Retaliation, the Title IX Coordinator/DHR Administrator will investigate, or otherwise respond.

Effective August 1, 2024

- A. **Outreach to Complainant:** After receiving a report, the Title IX Coordinator/DHR Administrator will assess the report and provide outreach to the possible Complainant named in the report. This outreach will include the following:
1. A statement that the University has received a report of conduct that may be prohibited by the Nondiscrimination Policy (e.g., Discrimination, Harassment, Sex-based Harassment, Sexual Misconduct, Sexual Harassment, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, Prohibited Consensual Relationship, or Retaliation).
 2. A description of the role of the Title IX Coordinator/DHR Administrator.
 3. A request for the Complainant to meet with the Title IX Coordinator/DHR Administrator, or other designated employee, to discuss the Complainant's options and next steps. This includes the availability of Supportive Measures (even in the absence of a Complaint), informal resolution, and a formal complaint resolution process.
 4. A statement that the Complainant can be accompanied by one Advisor of their choice during any meeting relating to the report and any subsequent Complaint process.
 5. Information regarding counseling, resources, and potential Supportive Measures.
 6. An explanation of how the University responds to reports of Nondiscrimination Policy violations and a description of potential disciplinary consequences.
 7. A summary of the investigation procedures
 8. A statement regarding the importance of preserving evidence
 9. A statement that the Complainant may, but is not required to, report to law enforcement any allegations that could constitute criminal behavior.
 10. A statement that Retaliation for making a Complaint or participating in a Complaint process is prohibited by the Nondiscrimination Policy.
- B. **Written Information Regarding Rights and Options for Complainants Reporting Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, or Stalking:** In addition to the information provided in the outreach communication, the Title IX Coordinator/DHR Administrator will provide Complainants alleging Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, or Stalking, with the information in Attachment D – Rights and Options for Victims of Sexual Misconduct/Sexual Assault, Sexual Exploitation, Dating and Domestic Violence, And Stalking.
- C. **Initial Assessment & Intake Meeting:** The Title IX Coordinator/DHR Administrator will offer to conduct an intake meeting with any Complainant who responds to outreach communication, or otherwise makes a report of a potential Nondiscrimination Policy violation to discuss the Complainant's options, explain the available processes (including informal resolution and the formal complaint resolution process), and provide information about Supportive Measures. The Title IX Coordinator/DHR Administrator will consider the need for a follow-up meeting with the Complainant, as appropriate. Any subsequent investigation will include an interview with the Complainant conducted by the assigned investigator. The investigatory interview will be intended to build upon and clarify the information provided during intake.

Effective August 1, 2024

D. **Advisors:** The Complainant and Respondent may choose to be accompanied by one Advisor of their choice, who may be, but is not required to be, an attorney or a union representative during meetings or any stage of the Complaint process.

1. The University will not limit the choice or presence of the Advisor for the Complainant or Respondent in any meeting or proceeding. However, the unavailability of a specific Advisor will not unreasonably delay scheduling.
2. A Party's Advisor may not answer questions regarding the subject matter of the investigation for the Complainant or the Respondent. However, the Advisor may observe and consult with the Complainant or Respondent.
3. The Parties also have the right to consult with an attorney, at their own expense, or a union representative at any stage of the process if they wish to do so.

E. **Confidentiality Requests and Requests Not to Investigate**

1. Confidentiality Requests: The University will maintain confidentiality of reports, Complaints, and associated processes whenever possible. When necessary, to protect the campus community and to facilitate investigations and/or Supportive Measures, certain information may be shared on a "need-to-know" basis. Therefore, the University cannot guarantee confidentiality.
2. Requests Not to Investigate: When a Complainant requests that no investigation occur, the Title IX Coordinator/DHR Administrator will balance the request against the University's duty to provide a safe and non-discriminatory environment for all members of the campus community. In cases where the Complainant does not want to pursue an investigation, the Title IX Coordinator/DHR Administrator should inform the Complainant that the ability to take corrective action may be limited. The Title IX Coordinator/DHR Administrator will consider, **at a minimum**:
 - a. The Complainant's request not to proceed with initiation of a Complaint;
 - b. The Complainant's reasonable safety concerns regarding initiation of a Complaint;
 - c. The risk that additional acts of Discrimination, Harassment, or Retaliation would occur if a Complaint is not initiated;
 - d. The severity of the alleged Discrimination, Harassment, or Retaliation including whether the conduct, if established, would require the removal of a Respondent from campus or imposition of another Disciplinary Sanction to end the Discrimination, Harassment, or Retaliation and prevent its recurrence;
 - e. Whether the Respondent poses an imminent threat to the campus community, which may include violence, threats of violence, use of a weapon, physical restraints, or unwanted physical contact.
 - f. The age and relationship of the Parties, including power imbalance and whether the Respondent is an Employee of the University;
 - g. The scope of the alleged conduct, including information suggesting a pattern (such as multiple or prior reports of misconduct against the Respondent), ongoing conduct, or conduct alleged to have impacted

Effective August 1, 2024

multiple individuals;

- h. Whether the University is able to conduct a thorough investigation and obtain relevant evidence without the Complainant's cooperation;
 - i. The availability of evidence to assist a decisionmaker (Investigator) in determining whether Discrimination, Harassment, or Retaliation occurred;
 - j. Whether the University could end the alleged Discrimination, Harassment, or Retaliation and prevent its recurrence without initiating the formal complaint resolution process; and
 - k. For Employee Complainants, the University will also consider its obligation to maintain a safe work environment in determining whether an investigation is necessary.
 - The Title IX Coordinator/DHR Administrator will document the basis for the decision to initiate or to not initiate the investigation based on this assessment criteria.
3. *Decision to Proceed with Complaint*: Based on the assessment criteria above, the Title IX Coordinator/DHR Administrator has discretion to initiate an investigation without the Complainant's participation.
- a. When the Title IX Coordinator/DHR Administrator decides to proceed with an investigation without a Complainant's participation, the Title IX Coordinator/DHR Administrator will make the Complaint on behalf of the University. The Title IX Coordinator/DHR Administrator will remain neutral in applying the Nondiscrimination Policy and these Procedures. In these cases, the Title IX Coordinator/DHR Administrator will provide the impacted party with the same notices, updates, and opportunities to participate as the Respondent throughout the investigation, unless the impacted party confirms in writing that they do not want to receive these communications and do not wish to participate in the process. The impacted party may rescind this notice at any time in writing to the Title IX Coordinator/DHR Administrator.
 - b. When the Title IX Coordinator/DHR Administrator initiates an investigation without the Complainant's participation, the Complainant will be informed in advance of the Title IX Coordinator/DHR Administrator disclosing the Complainant's identity and details of the Complaint or report to the Respondent, or initiating an investigation. The Title IX Coordinator/DHR Administrator will work with campus partners to take steps to arrange reasonable safety measures for the Complainant if appropriate. At the Complainant's request, the Title IX Coordinator/DHR Administrator will inform the Respondent that the Complainant asked the University not to investigate or seek discipline.
4. *Decision not to proceed with investigation*: If a request for confidentiality or no investigation is granted, the Title IX Coordinator/DHR Administrator will nevertheless take reasonable steps to limit the effects of the alleged Discrimination, Harassment, or Retaliation, and prevent its recurrence without initiating formal action against the

Effective August 1, 2024

Respondent or revealing the identity of the Complainant. Examples include increased temporary monitoring, supervision, or security at locations or activities where the alleged misconduct occurred; providing additional training and education materials for students and employees; or conducting climate surveys. Reasonable steps will be taken to provide for the safety of a Complainant while keeping the Complainant's identity confidential as appropriate and if possible. These steps may include changing work assignments, supervisors, or work schedules. The Complainant will be notified that the steps the campus will take may be limited by the request for confidentiality.

VII. Supportive Measures

The University will offer and coordinate Supportive Measures as appropriate for the Complainant and/or Respondent to restore or preserve that person's access to the University's education programs, activities, employment, or to provide support during the University's formal complaint resolution process or during the informal resolution process. Supportive Measures may include, but are not limited to: counseling; extensions of deadlines and other course-related adjustments; changes to employee reporting line; 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 Discrimination, Harassment, and Retaliation.

The Title IX Coordinator/DHR Administrator will describe and offer Supportive Measures to Complainants during the initial assessment (even if no Complaint is made or the Complaint is ultimately not investigated), and to Respondents during an initial meeting.

The Title IX Coordinator/DHR Administrator is responsible for coordinating the effective implementation of Supportive Measures if requested and reasonably available.

- A. **Review of Supportive Measures – Applies only to Reports or Complaints of Sex-based Harassment:** A Complainant or Respondent may request modification or reversal of a decision to provide, deny, modify, or terminate Supportive Measures applicable to them.
 1. This request will be reviewed by an appropriate and impartial Employee:
 - a. If the original decision about Supportive Measures was made by a person with authority delegated by the Title IX Coordinator/DHR Administrator, the review will be conducted by the Title IX Coordinator/DHR Administrator.
 - b. If the original decision about Supportive Measures was made by the Title IX Coordinator/DHR Administrator, the review will be conducted by a Systemwide Director for Civil Rights.
 2. If the reviewer determines that the decision to provide, deny, modify, or terminate the Supportive Measure was inconsistent with the Nondiscrimination Policy's requirements, expectations, or standards for Supportive Measures, they may modify or reverse the decision. In making this determination, the reviewer should consider:
 - a. Do the Supportive Measures unreasonably burden a Complainant or Respondent?

Effective August 1, 2024

- b. Are the Supportive Measures punitive?
 - c. Are the Supportive Measures reasonably available and restore access to the CSU's programs, activities, or employment?
 - d. Are the Supportive Measures being offered or provided during the informal resolution process or formal complaint resolution process?
 3. A Complainant or Respondent may also seek additional modification or termination of a Supportive Measure applicable to them if circumstances change materially by contacting the Title IX Coordinator / DHR Administrator.
 4. The University will not share information about any Supportive Measures with anyone other than the person to whom they apply, including informing one Party of Supportive Measures provided to another Party, unless necessary to arrange or provide the Supportive Measure or restore or preserve a Party's access to the CSU's education programs, activities, or employment, or when otherwise required by state or federal law.
 - B. **No-Contact Directives:** No-contact directives may be issued as a Supportive Measure, Remedy, or in connection with an Informal Resolution Agreement, with or without an investigation. When reasonably requested by a Complainant or otherwise needed to protect health and safety or to preserve the integrity of the investigation, the University will issue an interim no-contact directive, which may be unilateral (prohibiting the Respondent from contacting the Complainant) or mutual (prohibiting the Parties from contacting each other) while the investigation is pending.
 1. No-contact directives that are not part of an Informal Resolution Agreement must meet the following requirements:
 - a. No-contact directives that limit an individual's movement on a University campus may only be issued where the conduct alleged is egregious or where an objective threat of physical harm exists.
 - b. A mutual no-contact directive (applicable to both Parties) may only be issued prior to an investigation outcome. Mutual no-contact directives will not be issued automatically. The Title IX Coordinator/DHR Administrator must consider, based on the circumstances of each case, whether a mutual no-contact directive is necessary or justifiable to protect the Respondent's safety or well-being, or to address concerns about interference with an investigation.
 - c. If there is a finding that the Nondiscrimination Policy has been violated and a mutual no-contact directive is already in effect, unless there are extenuating circumstances, the no-contact directive will promptly be converted to a unilateral no-contact directive (applicable only to the Respondent).
 - d. Any no-contact directive (whether mutual or unilateral) will be delivered to both Parties in writing and will be accompanied by a written explanation of the terms of the directive and the consequences for violating the no-contact directive. A no-contact directive is intended to be temporary and should be periodically assessed to confirm the continued need for, and

Effective August 1, 2024

appropriateness of, its specific terms (conditions), including whether it should be mutual (applicable to both Parties), or unilateral (only applicable to the Respondent).

- e. Violations of no-contact directives will be addressed by Human Resources or Faculty Affairs. If the alleged violation of the no-contact directive is itself a violation of the Nondiscrimination Policy, the matter will be referred to the Title IX Coordinator/DHR Administrator.
2. In considering the reasonableness and terms of a requested no-contact directive, the Title IX Coordinator/DHR Administrator may consider various factors, including the need expressed by the Complainant or Respondent; the ages of the Parties involved; the nature of the allegations and their continued effects on the Complainant or Respondent; whether the Parties continue to interact directly in the University's education program or activity, including through employment, shared residence or dining facilities, class, or campus transportation; and whether steps have already been taken to mitigate the harm from the Parties' interactions, such as implementation of a civil protective order.
- C. **Criminal Complaints and Concurrent Investigations:** Complainants will be informed during the intake meeting of their right to make a criminal complaint with University police or other appropriate law enforcement agencies. The Title IX Coordinator/DHR Administrator will offer to assist the Complainant and will assure them that filing a criminal complaint will not unreasonably delay the University's investigation. The University will typically not wait until the conclusion of a criminal investigation to begin its own investigation. Although it may be necessary to temporarily delay the investigation while law enforcement is gathering evidence, once notified that law enforcement has completed the fact gathering portion of their investigation, the University will promptly resume and complete its own investigation. Individuals who first report to University police will be encouraged to also make a Complaint with the Title IX Coordinator/DHR Administrator.
- D. **Administrative Leave:** A campus may place an Employee on Administrative Leave (sometimes referred to as Temporary Suspension) in accordance with applicable Collective Bargaining Agreements or CSU policies while the Complaint process is pending.

VIII. Complaints

When the Title IX Coordinator/DHR Administrator receives a Complaint, they will determine whether to open an investigation after making a preliminary inquiry into the allegations. An investigation may not be warranted where the reported information does not allege facts with enough specificity or include conduct that would, even if true, constitute a violation of the Nondiscrimination Policy. These determinations will be documented in writing by the Title IX Coordinator/DHR Administrator and maintained in accordance with systemwide records retention policies.

When more than one Complainant or more than one Respondent is involved, references in these Procedures to a Party, Complainant, or Respondent include the plural, as applicable.

- A. **Complaint Accepted for Investigation:** Within 10 Working Days of the date of an intake meeting or receipt of a request for investigation from the Complainant (whichever is later), or

Effective August 1, 2024

making a determination that an investigation is necessary without a request from or participation by the Complainant, the Title IX Coordinator/DHR Administrator will send a Notice of Investigation to the Complainant and Respondent.

- B. Complaint Not Accepted for Investigation:** If the Title IX Coordinator/DHR Administrator determines that the Complaint does not allege a violation of the Nondiscrimination Policy, the Title IX Coordinator/DHR Administrator will, within 10 Working Days of the date of the intake or receipt of a written request for investigation (whichever is later), notify the Complainant in writing that the Complaint will not be investigated without further information. The Title IX Coordinator/DHR Administrator may refer the Complaint to another campus office if appropriate and will notify the Complainant of any referral. The Title IX Coordinator/DHR Administrator will retain a record of the Complaint, the written determination and any referrals made to another campus office.
- C. Discretionary Dismissal:** At any time after a Complaint has been accepted for investigation, it is within the discretion of the Title IX Coordinator/DHR Administrator to dismiss a Complaint, or any part of a Complaint, if:
1. The Complainant notifies the Title IX Coordinator/DHR Administrator in writing that they would like to withdraw the Complaint or any part of it, or
 2. If the specific circumstances prevent the University from reasonably gathering evidence necessary to reach a determination as to the Complaint or part of the Complaint.
- D. Dismissal of a Complaint - Applies only to Complaints of Sex-based Harassment:**
1. The Title IX Coordinator/DHR Administrator may dismiss a Complaint of Sex-based Harassment if:
 - a. The University is unable to identify the Respondent after taking reasonable steps to do so;
 - b. The Respondent is not participating in the University's education program or activity and is not employed by the University;
 - c. The Complainant voluntarily withdraws any or all of the allegations in the Complaint, the Title IX Coordinator/DHR Administrator declines to initiate a Complaint, and the University determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute Sex-based Harassment even if proven; or
 - d. The University determines the conduct alleged in the Complaint, even if proven, would not constitute Sex-based Harassment. Before dismissing the Complaint, the University will make reasonable efforts to clarify the allegations with the Complainant. Complaints that are dismissed on this basis may be referred to another process or another campus office for review under other potentially applicable policies or codes of conduct (such as through an employee grievance procedure, ADA process, as unprofessional conduct, the grade appeal process, student code of conduct, etc.).
 2. When a Complaint is dismissed, the University will promptly notify the Complainant of the basis for the dismissal in writing. If the dismissal occurs after the Respondent

Effective August 1, 2024

has been notified of the allegations, then the University will also notify the Respondent of the dismissal in writing and the basis for it. When a Complaint is dismissed, the University will, **at a minimum**:

- a. Offer Supportive Measures to the Complainant as appropriate;
 - b. If the Respondent has been notified of the allegations, offer Supportive Measures to the Respondent as appropriate; and
 - c. Take other prompt and effective steps, as appropriate, through the Title IX Coordinator/DHR Administrator to ensure that Sex-based Harassment does not continue or recur within the University's education program or activity.
3. The University will notify the Complainant that a dismissal may be appealed and will provide the Complainant with an opportunity to appeal the dismissal of a Complaint. If the dismissal occurs after the Respondent has been notified of the allegations, then the University will also notify the Respondent that the dismissal may be appealed. The appeal must be submitted within 10 Working Days from the date of the notice of dismissal. Dismissals may be appealed on the following bases:
- a. Procedural irregularity occurred that would have likely changed the outcome of the decision to dismiss;
 - b. New evidence that was not reasonably available at the time of the dismissal and would have likely changed the outcome of the decision to dismiss; or
 - c. The Title IX Coordinator, investigator, or decision-maker 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.
4. Appeals will be submitted to the Civil Rights Appeals Unit at the Chancellor's Office and will be addressed to:

Civil Rights Appeals Unit
Office of the Chancellor
401 Golden Shore
Long Beach, California 90802
CO-Appeals@calstate.edu

- a. If a Party is unable to submit an appeal or a response to an appeal electronically, they should contact the campus Title IX Coordinator/DHR Administrator for assistance.
- b. When an appeal is submitted, the Civil Rights Appeals Unit will notify the other Party and the campus Title IX Coordinator/DHR Administrator in writing. The non-appealing Party may submit a written statement in support of or challenging the dismissal no later than 5 Working Days after the notice of appeal. Within 10 Working Days of the Civil Rights Appeals Unit's receipt of the appeal, the Civil Rights Appeals Unit will notify the Parties (via email and at the same time) of its decision.
- c. The Civil Rights Appeals Unit will not consider evidence that was not

Effective August 1, 2024

introduced to the campus during the Complaint review process unless the new evidence was not reasonably available at the time of the Complaint review.

- d. The Civil Rights Appeals Unit has discretion to extend the timelines for the dismissal appeal process for good cause or for any reasons deemed to be legitimate by the Civil Rights Appeals Unit. This includes the time for filing an appeal and the time for the Civil Rights Appeals Unit to respond to the appeal. The Civil Rights Appeals Unit will notify the Parties and the Title IX Coordinator/DHR Administrator of any extensions of time granted pertaining to any portion of the appeal process.
 - e. The Civil Rights Appeals Unit appeal response is final and concludes the discretionary dismissal process under these Procedures.
- E. **Consolidation:** The University may consolidate Complaints of Discrimination, Harassment, or Retaliation 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 Discrimination, Harassment, or Retaliation arise out of the same or substantially similar facts or circumstances. The Title IX Coordinator/DHR Administrator will determine whether a Complaint should be consolidated (subject to FERPA and other applicable privacy laws). In addition, during the course of the investigation, the investigation may reveal the existence of additional or different violations of the Nondiscrimination Policy, which may also be consolidated following notification to the Parties. Depending on the timing and circumstances, the Title IX Coordinator/DHR Administrator retains discretion to resolve Complaints using the same investigator or following the resolution of the initial Complaint, such as through appropriate Disciplinary Sanctions.

IX. Alternative Resolution Processes

- A. **Informal Resolution:** The Parties may voluntarily choose to participate in an informal resolution process to resolve an alleged violation of the Nondiscrimination Policy. The filing of a formal Complaint is not required to initiate the informal resolution process.
1. General Principles
 - a. The Title IX Coordinator / DHR Administrator has discretion to determine whether it is appropriate to offer an informal resolution process and may decline to allow informal resolution despite the request of one or more of the Parties. Circumstances when the Title IX Coordinator/DHR Administrator may decline to allow informal resolution include but are not limited to:
 - i. When they determine that the alleged conduct would present a future risk of harm to others.
 - ii. When the Complaint involves allegations made by a Student against an Employee. Informal resolution in these cases is generally discouraged and may be permitted with the approval of the Systemwide Director for Civil Rights assigned to the University following a request by the Title IX Coordinator/DHR Administrator. In addition, any informal resolution agreement

Effective August 1, 2024

between a Student and an Employee will be reviewed by the assigned Systemwide Director for Civil Rights prior to being finalized.

- b. The Title IX Coordinator/DHR Administrator will conduct or oversee the informal resolution process, and conduct an initial and on-going assessment as to whether the process should continue.
 - c. Prior to approving an informal resolution, the Title IX Coordinator/DHR Administrator will consult with the appropriate administrator responsible for discipline.
 - d. The Title IX Coordinator/DHR Administrator will make the final determination on all informal resolution processes regarding whether the terms agreed to by the Parties are appropriate considering all of the circumstances of the Complaint.
 - e. When the informal resolution process is offered, and to the extent necessary, the Title IX Coordinator/DHR Administrator will also take other appropriate prompt and effective steps to ensure that the alleged violations of the Nondiscrimination Policy do not continue or recur within the University's education programs, activities, or employment.
 - f. Neither Party will be required or pressured to participate in an informal resolution process. The Title IX Coordinator/DHR Administrator must obtain the Parties' voluntary written consent to participate in the informal resolution process and must not require waiver of the right to an investigation and determination of a Complaint as a condition of enrollment or continuing enrollment, employment or continuing employment, or exercise of any other right.
 - g. The person facilitating the informal resolution process must not be the same person as the Investigator in the formal complaint resolution process. A Title IX Coordinator/DHR Administrator may facilitate the informal resolution process. When the Title IX Coordinator/DHR Administrator facilitates the informal resolution process, they cannot serve as the Investigator. In addition, any informal resolution agreements facilitated by the Title IX Coordinator/DHR Administrator must be signed by the assigned Systemwide Director for Civil Rights.
 - h. Any person facilitating an informal resolution process will receive appropriate training and must be free from a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.
2. *Notice of Informal Resolution Process*: Before beginning the informal resolution process, the Title IX Coordinator/DHR Administrator will explain in writing to the Parties:
- a. The allegations;
 - b. The requirements of the informal resolution process;
 - c. That any Party has the right to withdraw from the informal resolution

Effective August 1, 2024

- process and begin or continue with the formal complaint resolution process at any time before agreeing to a resolution;
 - d. The Parties' right to consult with an Advisor;
 - e. Any resolution must be in writing and signed by both Parties and the Title IX Coordinator/DHR Administrator;
 - f. That if the Parties agree to a resolution at the end of the informal resolution process, they cannot begin or continue with the formal complaint process in relation to the same allegations;
 - g. 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; and
 - h. What information the University will maintain and whether and how the University could disclose such information for use in the formal complaint resolution process if such procedures begin or resume.
3. Potential Terms: Potential terms that may be included in an informal resolution agreement include, but are not limited to:
- a. Apology, written or verbal;
 - b. Relocation or removal from a residence hall or other University provided housing, subject to availability;
 - c. Changes in academic arrangements, such as changing class sections or locations;
 - d. Changes in work schedules or locations;
 - e. Limitations on or agreements related to participation in and/or presence in/at events, extracurricular activities, student organizations, recreational facilities, athletics, etc.
 - f. Participation in and/or successful completion of alcohol or drug education or counseling;
 - g. Participation in counseling services for mental or behavioral health;
 - h. Participation in specific educational opportunity or training;
 - i. Voluntary educational, mentoring, coaching, or counseling sessions, which may or may not include stipulations, such as proof of successful completion or statement of active participation from the mentor / coach / counselor;
 - j. Verbal counseling or warnings;
 - k. Collaborative agreements on behavioral or institutional changes;
 - l. No-contact directives, or other restrictions on contact, communication, and/or interactions between the Parties;
 - m. Restrictions on Respondent's movement or access to specific locations at the University;

Effective August 1, 2024

- n. Alternative seating arrangements for graduation;
 - o. Complainant sharing of an impact statement with the Respondent;
 - p. Admission or acceptance of responsibility for causing harm and/or the alleged conduct;
 - q. Community service;
 - r. Voluntary participation in formal disciplinary action for Respondent;
 - s. Restrictions on the Respondent's participation in one or more University programs or activities or attendance at specific events, including restrictions the University could have imposed as Remedies or Disciplinary Sanctions had it determined at the conclusion of the formal Complaint resolution process that a violation of the Nondiscrimination Policy occurred; or
 - t. Other mutually agreed upon outcomes or resolutions.
 - Any agreed-upon Remedies and Disciplinary Sanctions agreed to in an informal resolution have the same effect as Remedies given and Disciplinary Sanctions imposed following an investigation.
4. ***Timeframe***: The informal resolution process may take place at any time before a determination of responsibility is made, but no later than 60 Working Days after both Parties provide voluntary, written consent to participate in the informal resolution process. The Parties and the Title IX Coordinator / DHR Administrator may agree to one or more extensions of the 60 Working Day deadline, which will be confirmed in writing. The timeline of the formal complaint resolution process will be paused during the pendency of any informal resolution process.
 5. ***Written Agreement***: – **Not Subject to Appeal**: The terms of any informal resolution must be in writing and signed by the Parties and the Title IX Coordinator/DHR Administrator. Use of electronic signatures is permitted. A signed agreement to an Informal Resolution is final and is not appealable by either Party.
 6. ***Mediation Between the Parties – Applies only to Complaints of Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, or Stalking***: Mediation between the Parties cannot be used, even on a voluntary basis, to resolve Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, or Stalking Complaints.
- B. **Acceptance of Responsibility**: The Respondent may, at any time during the investigation process, prior to an Investigator issuing their determination, choose to accept responsibility for the alleged conduct prohibited under the Nondiscrimination Policy.
1. Before a Respondent accepts responsibility for the alleged misconduct, the Title IX Coordinator / DHR Administrator or designee will discuss with the Respondent that the matter will be referred to the University president or designee for a decision regarding an appropriate Disciplinary Sanction, and that the acceptance of responsibility could – but will not necessarily – be regarded as a mitigating factor that results in less severe sanctions.

Effective August 1, 2024

2. Acceptance of responsibility will only be recognized if the Respondent accepts responsibility by signing a written document prepared by the Title IX Coordinator/DHR Administrator that describes the range of Disciplinary Sanctions that the president or designee will consider in reaching a decision about Disciplinary Sanctions.
3. If the Respondent has accepted responsibility in writing, the Title IX/DHR office will issue a brief written summary of the allegations and a statement that the Respondent has accepted responsibility. The written summary will be sent to both the Complainant and the Respondent.
4. Within 5 Working Days of receiving the written summary from the Title IX/DHR Office, each Party may submit to the Title IX Coordinator/DHR Administrator an impact statement or other statement regarding discipline that is no more than 2000 words in length. The document is an opportunity for each Party to suggest disciplinary outcomes and to provide information that they believe is important for the president or designee to consider when reaching a sanction decision. Human Resources, Faculty Affairs, and/or Title IX Coordinator/DHR Administrator will also submit a written statement regarding aggravating and mitigating factors (that is, factors that would warrant a more severe or less severe sanction), including whether the Respondent was previously found to have violated the Nondiscrimination Policy or other CSU policies and procedures. These written statements will be provided to the president or designee who will decide an appropriate sanction.
5. The Parties may appeal the sanction only on the grounds that the sanction(s) imposed was objectively unreasonable, or arbitrary based on the conduct for which the Respondent accepted responsibility. The appeal process will otherwise be in accordance with Article XI and Addendum A.
6. Where there is an acceptance of responsibility regarding some but not all of the alleged conduct, the investigation process will continue to conclusion, unless otherwise resolved through Informal Resolution.

X. Investigations – The Formal Complaint Resolution Process

- A. **Purpose of the Investigation and Resolution Process:** The investigation and resolution of Complaints under these Procedures is not intended to be an adversarial process between the Complainant, the Respondent, and witnesses. Rather, it is a process and opportunity for the University to educate students, provide an environment free from Discrimination, Harassment, and Retaliation, and comply with its obligations under law. The University will provide for adequate, reliable, and impartial investigation of Complaints. The University will treat Complainants and Respondents equitably.
 1. Cooperation in the Investigation Process: All Employees, and Students who are not Parties to the Complaint, are required to cooperate with the investigation and other processes set forth in these Procedures, including but not limited to, attending meetings and interviews, and being forthright and honest during the process.
 2. Written Notices: The University will provide a Party whose participation is invited or

Effective August 1, 2024

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.

3. **Prohibition on Retaliation**: The University strictly prohibits Parties or witnesses from engaging in Retaliation against anyone for reporting or filing a Complaint, assisting or participating in an investigation, interfering with a Party's or witness's rights or privileges under the Nondiscrimination Policy, or for assisting someone else in reporting or opposing conduct prohibited by the Nondiscrimination Policy. Any acts of Retaliation are subject to disciplinary action.

- B. **Privacy**: The University will take reasonable steps to protect the privacy of the Parties and witnesses, including ensuring compliance with the Family Educational Rights and Privacy Act (FERPA) and other applicable privacy laws. During the formal complaint resolution process, beginning with the Notice of Investigation and concluding when the deadline for an appeal has passed or the Civil Rights Appeals Unit has issued its final response, the Parties and witnesses are prohibited from using or disclosing the information or records obtained through the formal complaint resolution process. This prohibition shall not restrict the ability of the Parties to obtain and present evidence, including by speaking to witnesses, consulting with family members, confidential resources, or Advisors, or otherwise preparing for or participating in the formal complaint resolution process. These restrictions also do not apply to information learned through other means, such as personal experience, or to disclosures made during another administrative proceeding or through litigation. For especially sensitive materials, including but not limited to recordings and medical records, the University will provide such records for viewing or inspection only – and not for copying or possessing. The Parties and their Advisors may be asked to sign written acknowledgements agreeing to these restrictions on disclosure and re-disclosure. Whether or not such acknowledgements are signed, violations of these prohibitions, including disregarding any restrictions on the use of records (such as re-disclosing records to unauthorized individuals or copying records that are provided for viewing only), may subject a Student or Employee to discipline.
- C. **Standard and Burden of Proof**: The standard of proof for investigations under these Procedures is the Preponderance of the Evidence. Preponderance of the Evidence is a standard of proof that determines whether alleged conduct more likely than not occurred based on the evidence presented or facts available at the time of the decision. The responsibility is not on the Parties – but on the University – to conduct an investigation that gathers sufficient evidence to determine whether Discrimination, Harassment, or Retaliation occurred. The Complainant does not have the burden to prove, nor does the Respondent have the burden to disprove, the underlying allegation or allegations of misconduct. The University presumes that the Respondent is not responsible for the alleged conduct until a determination is made at the conclusion of the formal complaint resolution process.
- D. **Role of the Title IX Coordinator/DHR Administrator in the Investigation Process**: The Title IX Coordinator/DHR Administrator will either investigate the Complaint or assign this task to an Investigator. If assigned to an Investigator, the Title IX Coordinator/DHR Administrator will supervise and oversee the investigation, including reviewing all draft investigation reports before they are final to ensure that the investigation complies with these Procedures. If the Title IX Coordinator/DHR Administrator investigates the Complaint, a Systemwide Director or other appropriately trained administrator will review all draft investigation reports in the place of the Title IX Coordinator/DHR Administrator.

Effective August 1, 2024

- E. **Neutrality of Process:** The University requires that any Title IX Coordinator/DHR Administrator, investigator, or decisionmaker not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. A decisionmaker may be the same person as the Title IX Coordinator/DHR Administrator or investigator. The Title IX Coordinator/DHR Administrator will take affirmative steps to ensure that anyone involved in conducting investigations, finding facts, and making disciplinary decisions in a matter will be impartial, neutral, and free from actual conflicts of interest. A conflict of interest exists if a person has a personal relationship with one of the Parties or witnesses, has a reporting employment relationship with a Party, or has demonstrated actual bias towards a Party or witness or towards Complainants or Respondents in general. Mere belief or opinion does not constitute evidence of bias or conflict of interest.
- F. **Investigation Where a Party Does Not Participate:** The Respondent will not be found to have violated the Nondiscrimination Policy solely because the Respondent did not participate in the investigation process. Nor will the Respondent be found not to have violated the Nondiscrimination Policy solely because a Complainant or other witness did not participate in the investigation process.
- G. **Timeframe, Extensions, and Status Updates:** The University has established the following timeframes for the major stages of the formal complaint resolution process:

Stage	Timeframe
Complaint accepted or not accepted for investigation	Within 10 Working Days of the date of the intake or receipt of a written request for investigation (whichever is later)
Investigation – Review of Evidence Response Submission	10 Working Days from date Preliminary Investigation Report sent to Parties
Investigation – Final Investigation Report	100 Working Days from the date the Notice of Investigation is sent to Parties
Appeal Submission	10 Working Days from date Notice of Investigation Outcome is sent to the Parties
Appeal Determination	30 Working Days after receipt of the written appeal

1. The University has also established the following process that allows for the reasonable extension of timeframes in these Procedures on a case-by-case basis for good cause. A Party or Investigator may request a reasonable extension of the timeframes in these Procedures at any time from the Title IX Coordinator/DHR Administrator. The Title IX Coordinator/DHR Administrator may also initiate a reasonable extension of the timeframes in these Procedures at any time. For an extension to be granted, the following process must be followed:
 - a. Good cause for the extension must exist. Good cause may include:
 - i. To ensure the integrity and thoroughness of the investigation;
 - ii. The reasonable absence of a Party, Party's advisor, or witness;
 - iii. To comply with a request by law enforcement, including a

Effective August 1, 2024

- concurrent law enforcement investigation;²
 - iv. Based on the need to provide language assistance, disability accommodations, or other modifications to allow the full participation of a Party or witness;
 - v. A particularly complex investigation, such as one involving multiple Complainants, multiple Respondents, a large number of witnesses, voluminous evidence, or length of the written record;
 - vi. The severity and extent of the alleged misconduct; or
 - vii. Other extenuating or unforeseen circumstances that are not within the control of the University, Party, witnesses, or Investigator.
- b. The Title IX Coordinator/DHR Administrator is the final decisionmaker with respect to all extensions.
 - c. The Parties receive written notice from the Title IX Coordinator/DHR Administrator or designee that an extension is necessary and an explanation for the delay. The notice will indicate if the extension alters the timeframes for the major stages of the Complaint process and provide a new estimated timeline.
2. Requests for Extensions: While requests for delays by the Parties and witnesses may be considered, the University cannot unduly or unreasonably delay the prompt resolution of a Complaint under the Nondiscrimination Policy. The fact that an Employee is off contract or between semesters, without more, does not excuse an Employee from their expected participation in the Complaint resolution process.
3. Status Updates: In addition to the communications at each major stage of the process, the University will provide a status update to the Complainant and Respondent every 30-days, beginning from the date that the Notice of Investigation is issued until the Notice of Investigation Outcome is issued to the Parties, unless a Party requests in writing not to receive these updates.
- a. For cases of Sex-based Harassment, the Title IX Coordinator/DHR Administrator shall notify the Complainant of any Disciplinary Sanctions imposed against a Respondent.
 - b. The Civil Rights Appeals Unit will provide status updates to the Parties and Title IX Coordinator/DHR Administrator as required by the timelines in these Procedures.
 - c. In addition, either Party may, at any time, request from the Title IX Coordinator/DHR Administrator a status updates regarding investigation and appeal timeframes.
- H. **Reasonable Accommodations**: Any person with a Disability who seeks reasonable accommodations to participate in the Complaint submission or investigation process will be referred to the appropriate campus administrator (the appropriate human resources administrator) who may consult with the Title IX Coordinator/DHR Administrator to determine the reasonableness of a requested accommodation.

Effective August 1, 2024

- I. **Notices of Investigation:** The University will prepare Notices of Investigation for the Parties upon initiation of the formal complaint resolution process. The Notices of Investigation must be issued to the Parties in writing, at the same time, and with sufficient time and information for the Parties to prepare a response before any initial interview. A Notice of Investigation must include the following information:
 1. An overview summary of the Complaint allegations (e.g., "who," "what," "when," and "where"), including the identities of the Parties, the conduct alleged to constitute Discrimination, Harassment, or Retaliation, and the date(s) and location(s) of the alleged incident(s);
 2. A copy of, or internet link to, these Procedures and the Nondiscrimination Policy, as well as a summary of the alleged Nondiscrimination Policy violations;
 3. A summary of the Nondiscrimination Policy formal complaint resolution process, including the right to appeal and the informal resolution process;
 4. That Retaliation is prohibited;
 5. The Respondent is presumed not responsible for the alleged conduct until a determination is made at the conclusion of the formal complaint resolution process. Prior to such a determination, the Parties will have an opportunity to provide Relevant evidence to a trained, impartial decisionmaker (Investigator);
 6. The estimated timeline for completion of the investigation;
 7. Information regarding counseling and other Supportive Measures;
 8. The Parties may have one Advisor of their choice who may be, but is not required to be, an attorney or union representative;
 9. The Parties will have an equal opportunity to access the Relevant and not otherwise impermissible evidence used in the investigation;
 10. A statement that the Complainant and Respondent will have equal opportunities to identify Relevant witnesses and evidence in connection with the investigation, including the ability to:
 - a. Submit documentary information to the Investigator;
 - b. Submit a list of potential witnesses to the Investigator; or
 - c. Request that the Investigator attempt to collect additional relevant evidence;
 11. A statement that any evidence available, but not disclosed during the investigation might not be considered in any findings made, and likely will not be considered for purposes of appeal;
 12. A statement that the Complainant and Respondent will be provided with periodic status updates in accordance with the timelines established in these Procedures; and
 13. A statement regarding the possible range of Disciplinary Sanctions. If new but related allegations are raised during the investigation that are materially different from those described in the Notice of Investigation, the Title IX Coordinator / DHR Administrator will issue a revised Notice of Investigation to the Parties, along with a

Effective August 1, 2024

corresponding revised timeline for completion, if appropriate.

- J. **Respondent Initial Meeting:** In the Notice of Investigation, the Title IX Coordinator/DHR Administrator will offer to have an initial meeting with the Respondent. This meeting is not intended to be investigatory in nature. At this meeting, the Title IX Coordinator/DHR Administrator will explain the allegations against the Respondent, as well as the investigation process and the Respondent's rights during the process. The Title IX Coordinator/DHR Administrator will also explain that during the investigation process the Respondent and the Complainant will have the opportunity to present evidence, identify witnesses, and review evidence.
- K. **Gathering Evidence:** During the investigation, the Investigator will take reasonable steps to gather all Relevant evidence from the Parties, witnesses, or other sources, including interviews with the Complainant, the Respondent, and Relevant witnesses. The University will provide an equal opportunity for the Parties to present fact witnesses and other inculpatory (meaning that it shows or tends to show a person's involvement in the alleged conduct) and exculpatory (meaning that it shows or tends to show that a person was not involved in the alleged conduct) evidence that is Relevant.
1. *Opportunity to Submit Evidence and Identify Witnesses:* The Complainant and Respondent will be asked to identify witnesses and provide other Relevant information, such as documents, communications, and other available evidence. The Parties are encouraged to provide all Relevant information as soon as possible to facilitate a prompt resolution to the Complaint. The Investigator may receive any information presented by the Parties, but the Investigator, not the Parties, is responsible for gathering Relevant evidence. If a Party or witness declines to voluntarily provide material information or delays in doing so, the University's ability to conduct a prompt, thorough, and equitable investigation may be impacted. The University will not restrict the ability of either Party to discuss the allegations under investigation or to gather and present Relevant evidence. Parties and witnesses must not engage in actions that could be considered Retaliation, including confronting, threatening, intimidating, attempting to influence, or otherwise taking inappropriate actions against any Party, witness, or anyone else participating in the investigation process. The Investigator will document the steps taken to gather evidence, even when those efforts are not successful.
 2. *Bases for Declining a Request to Gather Evidence:* The Investigator will gather evidence and ask questions proposed by the Parties, except as follows:
 - a. The Investigator determines that the questions are repetitive, irrelevant, or harassing.
 - b. The request seeks information that can be reasonably and adequately obtained by the requesting Party from other independent or publicly available sources.
 - c. The burden of obtaining the information is likely to substantially outweigh the benefit that the evidence bears on a disputed issue.
 - d. The requested information can be reasonably obtained through other means less likely to intrude on a person's privacy.

Effective August 1, 2024

- L. **Investigations Involving Allegations of Sex-based Harassment:** The University will review all evidence gathered through the investigation and determine what Relevant evidence may be considered. Questions are Relevant when they seek evidence that may aid in showing whether or not the alleged conduct occurred, and evidence is Relevant when it may aid a decisionmaker in determining whether or not the alleged conduct occurred.
1. Impermissible evidence is evidence that is not allowed to be accessed, considered, or otherwise used by the University, except to determine if one of the exceptions listed below applies. The following types of evidence, and questions seeking that evidence, are impermissible, regardless of whether they are Relevant:
 - a. Evidence protected by a privilege recognized by state or federal law (unless waived by the Party or witness holding the privilege);
 - b. A Party's or witness's private medical records maintained by a physician, psychologist, or other recognized professional or paraprofessional (unless the Party or witness voluntarily consents to its use in writing); or
 - c. Evidence that relates to the Complainant's or Respondent's sexual interests or prior or subsequent sexual conduct (unless offered to prove someone other than the Respondent committed the alleged conduct or offered to prove how the Parties communicated consent in prior or subsequent consensual, sexual relations).
 - i. Where the Investigator allows consideration of evidence about a dating relationship or prior or subsequent consensual sexual relations between the Complainant and the Respondent, the fact that the Complainant and Respondent engaged in other consensual sexual relations with one another is never sufficient, by itself, to establish that the conduct in question was consensual.
 - ii. Prior consensual, sexual conduct between the Complainant and the Respondent does not prevent the University from finding that the conduct alleged in the Complaint constitutes Sex-based Harassment or otherwise violates the Nondiscrimination Policy.
 2. Before allowing the consideration of any evidence of sexual history of the Complainant or the Respondent under this section, the Investigator will provide a written explanation to the Parties as to why consideration of the evidence is permissible under this section.
- M. **Expert Witnesses:** In rare cases, an Investigator may need to consult medical, forensic, technological, or other experts when expertise on a topic is needed to achieve a fuller understanding of the issues under investigation. In such cases, the Investigator must consult with the Title IX Coordinator/DHR Administrator prior to engaging an expert witnesses.
- N. **Preliminary Investigation Report and Review of Evidence:** The University 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 Discrimination, Harassment, or Retaliation and not otherwise impermissible evidence.
1. Preliminary Investigation Report: Before finalizing the investigation, the Investigator

Effective August 1, 2024

will share with the Complainant and Respondent a preliminary investigation report, along with all Relevant evidence gathered. The preliminary investigation report will list any evidence offered by the Parties or any other witnesses that the Investigator concluded are not Relevant. This evidence will be available for review upon request. The preliminary investigation report will:

- a. Describe the allegations.
 - b. Describe the investigative process to date.
 - c. Set forth the relevant policy language and the Preponderance of Evidence Standard.
 - d. Describe the evidence presented and considered.
 - e. Identify the material facts – disputed and undisputed – with explanations as to why any material fact is disputed.
2. Access to Preliminary Investigation Report: The Investigator, in consultation with the Title IX Coordinator/DHR Administrator, will use discretion in determining how to provide the Parties with secure access to the preliminary investigation report. The University will take reasonable steps to prevent and address the Parties' and their Advisors' unauthorized disclosure of information and evidence obtained solely through the formal complaint resolution process.
 3. Review of Evidence: Each Party will be given a reasonable opportunity to respond to the preliminary investigation report and any attached evidence and ask questions. The opportunity to review and respond to the preliminary investigation report is known as the "review of evidence" process. The Parties will have 10 Working Days to review the evidence. Each Party may:
 - a. Respond to the evidence in writing.
 - b. Request that the Investigator gather additional evidence or ask specific questions to the other Party and other witnesses.
 - c. Identify additional witnesses.
 4. Conclusion of Review of Evidence: The Investigator will share with the Parties the answers to questions posed during the review of evidence and additional Relevant evidence gathered. This will be shared with all Parties, who may then respond to any new evidence and ask questions. The Investigator determines when it is appropriate to conclude the review of evidence process.

O. Final Investigation Report

1. Final Investigation Report: A final investigation report will be provided to the Parties along with a Notice of Investigation Outcome.
 - a. The final investigation report will include:
 - i. A summary of the allegations,
 - ii. The investigation process,
 - iii. The Preponderance of the Evidence standard,
 - iv. A detailed description of the evidence considered,

Effective August 1, 2024

- v. Analysis of the evidence including relevant credibility evaluations,
 - vi. Appropriate findings, and
 - vii. Relevant exhibits and documents attached to the written report.
- b. The Notice of Investigation Outcome will attach the final investigation report and include the following:
 - i. A summary of the allegations and the investigative process.
 - ii. That the Preponderance of the Evidence standard was employed.
 - iii. A summary of the findings of fact.
 - iv. A determination as to whether the Nondiscrimination Policy was violated, and if so, any Remedies to be afforded to the Complainant.
 - v. Notice of Parties' right to appeal under these procedures.
- c. The notice will usually be delivered to the Parties electronically. If the notice includes a determination that there was a violation of the Nondiscrimination Policy, the Title IX Coordinator/DHR Administrator will notify the appropriate University administrator responsible for discipline of the investigation outcome and provide a copy of the final investigation report. This notice will include the appeal rights available to the Respondent prior to the initiation of any Disciplinary Sanctions.

XI. Appeal Review – Civil Rights Appeals Unit

The process for appeals allowable under these Procedures is attached as Addendum A.

XII. Authority

This policy is issued pursuant to [Section II of the Standing Orders of the Board of Trustees of the California State University](#), and as further delegated by the [Standing Delegations of Administrative Authority](#).

XIII. Endnotes

1. Students are also separately subject to discipline in connection with any "conduct that threatens the safety or security of the campus community, or substantially disrupts the functions or operation of the University [...] regardless of whether it occurs on or off campus." (5 Cal. Code Regs. § 41301 (d).).
2. The University will not wait for the conclusion of a law enforcement investigation or proceeding to begin its own investigation. The University will take immediate steps to provide appropriate Supportive Measures for the Complainant and Respondent.

Effective August 1, 2024

All Revision Dates

8/1/2024, 1/3/2022, 10/12/2021, 8/14/2020, 3/29/2019, 10/5/2016, 6/23/2015, 6/3/2014, 10/23/2013, 1/6/2005, 10/31/2003, 5/17/2001, 1/19/1998, 7/1/1983, 6/1/1981, 2/27/1981

Attachments

[Nondiscrimination Policy_Employee Third Party Procedures-Addendum A.pdf](#)

Approval Signatures

Step Description	Approver	Date
VC	Leora Freedman: Interim Vice Chancellor for HR	8/1/2024
Area Manager	Andy Alvarez: Assoc Dir, SW Emp & Plcy Admin	8/1/2024
Owner	Hayley Schwartzkopf: Assoc VC Cvl Rights Prog & Svc	8/1/2024