



Reference: *Title IX Education Amendments of 1972; Title 5 Sections 59300-59362 et seq.*; California Education Code § 67386(a)(1); *Title VII of the Civil Rights Act of 1964, 42 U.S. Code Annotated Section 2000e* 20 US Code Sections 1681 et seq.; 34 Code of Federal Regulations Parts 106.1 et seq.; 34 C.F.R. § 668.46; California Penal Code § 240 for Assault; § 242 for Battery; §§ 261-263.1 for Rape, and 34 C.F.R. § 668.46 7 Sexual Offenses, Forcible; California Penal Code § 646.9 and 34 C.F.R. § 668.46 for stalking; California Education Code § 212.6 and § 66262.7 for sexual orientation; California Education Code § 67386(b)(10) for amnesty

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Overview

The District is committed to equal opportunity in educational programs, employment, and access to institutional programs and activities. The District embraces the principle of diversity and values community differences in age, disability (physical or mental), Gender (or sex), gender identity (including transgender status), gender expression, genetic information, marital status, medical condition, national origin, race or ethnicity (including color or ancestry), religion or religious creed, sexual orientation, veteran or military status, and other characteristics that make our communities unique. Students, staff, administrators, and faculty are entitled to an educational and working environment free from gender or sex-based discrimination and harassment. Sexual harassment, including sexual assault, dating violence, domestic violence, and stalking, is unlawful sex discrimination. These Title IX sexual harassment procedures and the related policy protect students, employees, applicants for employment, and applicants for admission.

In implementing these procedures below, the District shall also provide supportive measures, training, and resources in compliance with California law, unless they are preempted by the Title IX regulations.

Prohibited Conduct

In accordance with BP/AP 3433, The District prohibits:

- Gender-based (or sex-based) Discrimination or Harassment, including Sexual Harassment;
- Retaliation for filing a complaint, reporting misconduct, or for participating in any related investigation or proceeding;
- Dating and Domestic Violence, and Stalking; and
- Sexual Assault

The term Sexual Harassment is used throughout this Title IX procedure as an umbrella category, to include offenses of Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking (see definitions outlined in this procedure).

No provision of this Title IX procedure shall be interpreted to prohibit conduct that is protected under academic freedom as defined in BP 4030, or the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment.

Confidentiality

The District must keep confidential the identity of any Complainant, any Respondent, or any witness(es) except as may be permitted by FERPA, as required by law, or as necessary to carry out a Title IX proceeding under this Title IX procedure.

Jurisdictional Requirements

This procedure applies to the education programs and activities of the District/College. Education programs or activities refers to locations, events, or circumstances over which the District exercised substantial control over the context in which the Sexual Harassment occurred, including, but not limited to the District, the Colleges, its property (including offsite locations owned, rented, leased, or operated by the District or the Colleges), on-campus student housing facilities, through online services, and at District-sponsored/College-sponsored programs, activities, and travel. The Respondent must be a participant in the education program or activity of the District/College in order for this Title IX procedure to apply. This procedure only applies to conduct defined sexual harassment under Title IX and applicable federal regulations and that meets Title IX jurisdictional requirements. If the Respondent is unknown or is not a member of the District community, the Title IX Coordinator or Title IX Deputy Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local law enforcement if the individual would like to file a police report. This Title IX procedure can also be applicable to the effect of off-campus misconduct that effectively deprives someone of access to the District's educational program.

These procedures apply if the conduct meets the following three jurisdictional requirements:

- The conduct took place in the United States;

- The conduct took place in a District educational program or activity or office setting. This includes virtual and physical locations, events, or circumstances over which the District exercised substantial control over both the Respondent and the context in which the harassment occurred, including on-campus and off campus property and buildings the District owns or controls, or student organizations officially recognized by the District.
- The conduct meets the definition of Title IX “sexual harassment”.

Oversight of the Title IX Process and Contact Information

Questions concerning Title IX may be referred to the District or College Title IX Coordinator or Title IX Deputy Coordinators whose contact information is below.

West Hills Community College District
Associate Vice Chancellor of Human Resources, Title IX Coordinator
275 Phelps Avenue, Coalinga, CA 93210
(559) 934-2159
Email: humanresources@whccd.edu

Coalinga College/Firebaugh Center
Vice President of Student Services, Title IX Deputy Coordinator
300 Cherry Lane, Coalinga, CA 93210
(559) 934-2334
Email: angelatos@whccd.edu

Lemoore College
Vice President of Student Services, Title IX Deputy Coordinator
555 College Avenue, Lemoore, CA 93245
(559) 925-3127
Email: elmeraguilar@whccd.edu

A report of sexual harassment to the Title IX Coordinator or Title IX Deputy Coordinators does not necessarily lead to a full investigation, as discussed below. However, the Title IX Coordinator or Title IX Deputy Coordinator makes an assessment to determine if there is a safety risk to the campus. If the Title IX Coordinator or Title IX Deputy Coordinator finds there is a continued risk, the Title IX Coordinator or Title IX Deputy Coordinator will file the formal complaint without the Complainant's consent or cooperation.

The Title IX Coordinator or Title IX Deputy Coordinator is required to respond to reports of sexual harassment or misconduct. The Title IX Coordinator or Title IX Deputy Coordinator will manage information received with the utmost discretion and will share information with others on a need-to-know basis. For example, the Title IX Coordinator or Title IX Deputy Coordinator may need to address public safety concerns on campus, comply with state and federal legal requirements, or share information to implement supportive measures.

Independence and Conflict-of-Interest

The District's Title IX Coordinator, Title IX Deputy Coordinator(s), Title IX Investigators, the Hearing Chair (Decision-Maker), or any person designated by the District to facilitate an informal resolution process, will not have potential actual bias or conflict of interest in the investigatory, hearing, sanctioning, or appeal process or bias for or against Complainants or Respondents generally. Actual bias is an articulated prejudice in favor of or against one Party or position; it is not generalized concern about the personal or professional backgrounds, positions, beliefs, or interests of the Decision-Maker in the process. The District will ensure that the Title IX Team, and facilitator receive training on:

- The definition of sexual harassment in this procedure;
- The scope of the District's education program or activity;
- How to conduct an investigation;
- The grievance process including conducting hearings, appeals, and informal resolution processes; and
- How to serve impartially, including avoiding: prejudgment of the facts at issue; conflicts of interest; and bias.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator or Title IX Deputy Coordinator or report misconduct or discrimination committed by the Title IX Team, contact the District Chancellor or College Presidents.

Reasonable Accommodations of Disabilities

Accommodation requests are facilitated by Disabled Student Programs and Services ("DSPS"). A Student must be registered with DSPS to request accommodations, including but not limited to sign language or the use of assistive technology. Any student not currently registered with DSPS requesting any accommodation should first contact the College's respective DSPS which coordinates services for Students with disabilities.

Interpreters

An interpreter may be used to improve communications for Parties with limited language proficiency. The Parties may have an interpreter present during any meeting or proceeding at their own expense; the District/College is not obligated to provide one. An interpreter shall not be considered the Parties' Advisor. An interpreter may explain the meaning of words only to the Parties who requested them. An interpreter shall not expand or enhance the Parties' statements. If the Parties choose to have an interpreter present, the Parties must notify the Title IX Coordinator or Title IX Deputy Coordinator no later than five (5) days prior to any meeting and proceeding.

Employee Obligations

All district employees are mandatory reporters and are not confidential resources and are required to report allegations of sexual harassment to the Title IX Coordinator or Title IX Deputy Coordinator promptly.

All employees are required to report actual, suspected, and all relevant information they know about sexual harassment including the name of the Respondent, the Complainant, any other witnesses, and the date, time, and location of the alleged incident.

Reporting Options

The District strongly encourages prompt reporting of sexual harassment. Prompt reporting allows for the collection and preservation of evidence, including physical evidence, digital media, and witness statements. A delay may limit the District's ability to effectively investigate and respond.

Any person may report sex discrimination, including Sexual Harassment, (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or Sexual Harassment) at any time. Reports may be made using any of the following options:

- Report directly to the District Title IX Coordinator or the College Deputy Title IX Coordinator in person, by mail, by telephone, or by email using the contact information in Section III above;
- Submit an electronic reporting form available on the District or College websites;
 - [District Title IX Form](#)
 - [Coalinga College Title IX Form](#)
 - [Lemoore College Title IX Form](#)
- Report to any employee to institute corrective measures on behalf of the District.
- Report to the College Public Safety Officer (who will notify the College Title IX Deputy Coordinator);
- Report to District Human Resources (who will notify the College Title IX Coordinator); or
- Local law enforcement.

Response to Reports of Sexual Harassment

The District/College will provide prompt and equitable response to any report of Sexual Harassment made to the Title IX Coordinator, Title IX Deputy Coordinator, or District employee with authority to institute corrective measures.

Upon receiving a report of Sexual Harassment, the Title IX Coordinator, Title IX Deputy Coordinator, or designee will:

- Inform the Complainant of the availability of supportive measures, with or without the filing of a formal complaint;
- Consider the Complainant's wishes with respect to supportive measures; and
- Explain the process for filing a formal complaint.

Individuals have the opportunity to decide whether they want to pursue a formal Title IX complaint. Reporting sexual harassment to the Title IX Coordinator or Title IX Deputy Coordinator does not automatically initiate an investigation under these procedures. A report allows the District to provide a wide variety of support and resources to impacted individuals and to prevent the reoccurrence of the conduct. A Complainant or the Title IX Coordinator or Title IX Deputy Coordinator filing a formal complaint will initiate an investigation.

If there are parallel criminal and Title IX investigations, the District will cooperate with the external law enforcement agency and will coordinate to ensure that the Title IX process does not hinder legal process or proceedings.

The District will document reports of sexual harassment in compliance with the Clery Act, a federal law requiring data collection of crime within the campus geography. Under the Clery Act, the District does not document personal information; the District reports the type of conduct, and the time, date, and location. (Also see Board Policy and Administrative Procedure 3540, Sexual and Other Assaults on District Property)

Statement of Rights of the Parties

Throughout the process, the Parties shall have the following:

- The right to an educational and working environment free from Gender-based (or sex-based) Discrimination and Harassment, including Sexual Harassment, Retaliation, Sexual Assault, Dating Violence, Domestic Violence, and Stalking.
- The right to be treated with respect by District/College officials.
- The right to be informed of and have access to support services, including supportive measures to redress the harm to the Parties and the community and to prevent further violations.
- The right to be informed by District officials of options to report sexual harassment.
- The right to have reports responded to promptly and with sensitivity by District/College officials.
- The right to have the District/College policies and procedures followed without material deviation.
- The right to be fully informed of the nature and extent of the alleged violations contained with the formal complaint, applicable District Policies, and possible sanctions.
- The right to be accompanied by an Advisor of the Parties' choosing to all meetings or proceedings regarding the allegations.
- The right to a thorough, reliable, impartial, prompt, and fair investigation, hearing, and appeal process.

- The right to present relevant information, witnesses, and evidence regarding the alleged violations during the investigation and hearing process.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to inspect and review the evidence upon which the investigative findings will be based and given the opportunity to respond.
- The right to participate during the hearing and have questions facilitated through their advisor.
- The right to submit an impact statement.
- The right to be promptly informed of the hearing outcome and sanction of the resolution process in writing, without undue delay between the notifications to the Parties.
- The right to appeal.
- The right to have all Title IX Team members trained.
- The right to appeal that any District/College representative in the process be recused on the basis of demonstrated bias and/or conflict of interest.

Intake and processing of Report

- Receipt of Report. After receiving a report of sexual harassment, the Title IX Coordinator or Title IX Deputy Coordinator will contact the Complainant, Respondent, and reporting party to explain rights under this policy and procedure and invite the Complainant to an in-person meeting. The Title IX Coordinator or Title IX Deputy Coordinator will discuss supportive measures with the Parties.
- Timeframe for Reporting. To promote timely and effective review, the District strongly encourages individuals to report sexual harassment as soon possible because a delay in reporting may affect the ability to collect relevant evidence and may affect remedies the District can offer.

Supportive Measures

The Title IX Coordinator, Title IX Deputy Coordinator, or designee shall offer and implement appropriate and reasonable supportive measures to the Parties upon notice of alleged sexual harassment, including before or after the filing of a formal complaint and where no formal complaint has been filed.

Supportive measures are non-disciplinary, non-punitive individualized services offered free of charge to the Complainant or the Respondent regardless of whether a formal complaint has been filed. The District will provide the Complainant and Respondent with supportive measures as appropriate and as reasonably available to restore or preserve equal access to the District's education program or activities. These measures are designed to protect the safety of all Parties, protect the District's educational environment, or deter sexual harassment. The District will provide supportive measures on a confidential basis and will only make disclosures to those with a need to know to enable the District to provide the service.

Supportive Measures may include, but are not limited to:

- Academic assistance (e.g., excused absence, permit late assignments, retake assignments, grade change, withdraw, leaves of absence, tutoring) in consultation with the faculty/college dean;
- College/Public Safety escort;
- Education and training;
- Implementing contact limitations (no contact orders) between the parties;
- Increased security and monitoring of certain areas on campus;
- On-campus employment assistance (e.g., adjustments to work schedule or assignment) in consultation with District Human Resources;
- On-campus housing assistance (e.g., altering room assignment), if available;
- Other measures deemed appropriate by the Title IX Coordinator or Title IX Deputy Coordinator;
- Referral to counseling, medical, and/or other healthcare services;
- Referral to the Employee Assistance Program if an employee;
- Referral to off-campus community-based service providers;
- Safety planning;
- Timely warnings; and
- Trespass orders.

The District shall maintain the privacy of the Supportive Measures, provided that privacy does not impair the District's ability to provide the Supportive Measures. The District will act to ensure as minimal an academic impact on the Parties as possible. The District will implement Supportive Measures in a way that does not unreasonably burden the other Party.

Removal of Respondent Pending Final Determination

Upon receiving a report regarding sexual harassment, the Title IX Coordinator or Title IX Deputy Coordinator will make an immediate assessment concerning the health and safety of the

Complainant and campus community as a whole. The District has the right to order emergency removal of a Respondent, or if the Respondent is an employee, place the employee on administrative leave.

Emergency Removal

The District may act to remove a Respondent who is a non-employee entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal. The individualized safety and risk analysis is performed by the Title IX Coordinator or Title IX Deputy Coordinator in conjunction with the College's Behavioral Assessment Team using its standard violence risk assessment procedures.

In all cases in which an emergency removal is imposed, the Respondent will be given notice of the action and the option to request to meet with the Title IX Coordinator or Title IX Deputy Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible to show cause why the action/removal should not be implemented or modified.

This meeting is not a hearing on the merits of the allegations, but rather an administrative process intended to determine solely whether the emergency removal was appropriate. When this meeting is not requested (in a timely manner), objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator or Title IX Deputy Coordinator determines it is equitable to do so. Likewise, a Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator or Title IX Deputy Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal two (2) Business Days prior to the meeting to allow for adequate preparation. This Section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX. There is no appeal process for emergency removal decisions.

The Title IX Coordinator or Title IX Deputy Coordinator has the sole discretion under this Title IX procedure to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include suspension. The Title IX Coordinator or Title IX Deputy Coordinator will implement the least restrictive emergency action possible in light of the circumstances and safety concerns.

Administrative Leave

The District may place a Respondent who is a non-student employee on administrative leave during the pendency of a grievance process described in the formal complaint process below. The District shall follow any relevant policies, procedures, collective bargaining agreements, or state law in placing an employee on administrative leave.

Formal Complaint Grievance Process

A formal complaint is a document filed by the Complainant or signed by the Title IX Coordinator or Title IX Deputy Coordinator, alleging Sexual Harassment against a Respondent and requesting that the District/College investigate the allegations. A formal complaint may be filed with the Title IX Coordinator or Title IX Deputy Coordinator in person, by mail, or by email using the contact information listed in this procedure or through the electronic reporting form on the District's/College's website.

When a Complainant Does Not Wish to Proceed

If a Complainant does not wish for their name to be disclosed, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the District Title IX Coordinator or Title IX Deputy Coordinator.

Notice to Parties.

Upon receipt of a formal complaint, the Title IX Coordinator or Title IX Deputy Coordinator will provide the following notice in writing, to the Parties:

- Notice of the District's Title IX grievance process;
- Notice of the allegations of alleged sexual harassment with sufficient details known at the time and with sufficient time to prepare a response before any initial interview;
- Statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- Notice that the Parties may have Advisor of their choice, who may be, but is not required to be, an attorney;
- Notice that the Parties may inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence whether obtained from a Party or other source; and
- Inform the Parties of any provision in the District's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, the District decides to investigate allegations about the Complainant or Respondent that are not included in the notice provided above, the Title IX Coordinator or Title IX Deputy Coordinator will provide notice in writing of the additional allegations to the Parties.

Dismissal of Formal Complaint and Notifications

The District must investigate the allegations in a formal complaint. However, the District must dismiss the formal complaint and will not process the complaint under these procedures if any of the following three circumstances exist:

- If the conduct alleged in the formal complaint would not constitute Title IX sexual harassment as defined in this procedure;
- If the conduct alleged did not occur in the District's education program or activity;
- If the conduct alleged did not occur against a person in the United States.

The District has discretion to dismiss a formal complaint or any allegation under the following circumstances:

- If at any time during the investigation or hearing: a Complainant notifies the Title IX Coordinator or Title IX Deputy Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations;
- If the Respondent is no longer enrolled or employed by the District; or
- If there are specific circumstances that prevent the District from gathering evidence sufficient to reach a determination regarding responsibility as to the formal complaint or allegations.

If the District dismissed the formal complaint or any allegations, the Title IX Coordinator or Title IX Deputy Coordinator shall simultaneously provide the Parties with written notice of the dismissal and reason. The District will also notify the Parties of their right to appeal.

The District may commence proceedings under other policies and procedures after dismissing a formal complaint.

Consolidation of Formal Complaints

The District may, but is not required to, consolidate formal complaints as to allegations of sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, where the allegations of sexual harassment arise out of the same facts or circumstances.

Standard of Proof

The Preponderance of the Evidence is the standard for demonstrating facts and reaching conclusions in an investigation. Preponderance of the Evidence means the greater weight of the evidence (i.e., the evidence on one side outweighs, preponderates over, or is more than the evidence on the other side).

The Respondent will be found either responsible or not responsible for violating this Title IX procedure based on the Preponderance of the Evidence.

Correspondence to Participating Parties

The District/College shall deliver all correspondence to Students and Employees at their District-assigned email address. At the discretion of the District/College, students may be notified by another primary email address linked to the Student's account, mailing address, or by in-person delivery.

Statement of Presumption of Non-Responsibility

The investigation is a neutral, fact-finding process. The District presumes all reports are in good faith. Further, the District presumes the Respondent is not responsible for the alleged conduct. The District makes its determination regarding responsibility at the conclusion of the grievance process.

Law Enforcement

Any person has the right to file a civil or criminal complaint based on the same facts that constitute an alleged violation of this Title IX procedure. It is important to take steps to preserve and collect evidence; doing so preserves the full range of options available through the criminal process.

Under these circumstances, a local law enforcement criminal investigation is independent from proceedings of the District/College. A pending police investigation is a separate investigation, and it does not relieve the District/College of its responsibility to perform a timely investigation of a formal complaint. Thus, the District/College may not wait until the conclusion of a police investigation to commence its own investigation if a formal complaint is filed by a Complainant or signed by the Title IX Coordinator or Title IX Deputy Coordinator. Although it may be necessary to temporarily delay the District/College investigation while the police are gathering evidence, once notified that the police have completed the fact-gathering portion of their investigation, the District/College must promptly resume and complete its own investigation.

Amnesty

The District/College will not initiate student disciplinary proceedings with a Complainant or witness for violations of the Student Code of Conduct (e.g., underage drinking) that occur at or near the time of the incident. However, if the alleged violations of the Student Conduct Code were egregious, the District/College may initiate student disciplinary proceedings and impose sanctions pursuant to District BP/AP 5500.

Timeline for Completion

The District will undertake its grievance process promptly and as swiftly as possible. The District will complete the investigation and its determination regarding responsibility or the informal resolution process within 180 calendar days.

When appropriate, the Title IX Coordinator or Title IX Deputy Coordinator may determine that good cause exists to extend the 180-calendar day period to conduct a fair and complete investigation, to accommodate an investigation by law enforcement, to accommodate the unavailability of witnesses or delays by the Parties, to account for District breaks or vacations, or due to the complexity of the investigation. The District will provide notice of this extension to the Parties in writing and include the reason for the delay and anticipated timing of completion.

A Party may request an extension from the Title IX Coordinator or Title IX Deputy Coordinator in writing by explaining the reason for the delay and the length of the continuance requested. The Title IX Coordinator or Title IX Deputy Coordinator will notify the Parties and document the grant or denial of a request for extension or delay as part of the case recordkeeping.

The Role of the Advisor

The Parties may each elect to be accompanied by an Advisor to all meetings and proceedings regarding the allegations. The Parties may select an Advisor of their choice, who may be, but is not required to be, an attorney (e.g., a friend, family member, mentor, sexual assault/domestic violence advocate).

The role of the Advisor is to provide support and assistance in understanding and navigating the investigation process. The Advisor may inspect and review all evidence directly related to the allegations and the investigative report that summarizes relevant evidence.

The Advisor is responsible for conducting direct, oral questioning (cross-examination) on behalf of their Party during any hearing. Parties cannot conduct direct, oral questioning (cross-examination). This may include asking the other Party and witness(es) relevant questions and follow-up questions, including those challenging credibility.

The Advisor may not testify in or obstruct an interview or disrupt the process. The Title IX Coordinator or Title IX Deputy Coordinator has the right to determine what constitutes appropriate behavior of an Advisor and take reasonable steps to ensure compliance with this procedure.

The Parties must notify the Title IX Coordinator or Title IX Deputy Coordinator of their advisor seven (7) Business Days prior to any hearing so that the necessary arrangements can be made. If the Parties choose an attorney as their Advisor, notification of the attorney's name, address, phone number, and state bar number should be given to the Title IX Coordinator or Title IX Deputy Coordinator. If a Party does not have an Advisor for any hearing, the District shall provide District-appointed Advisor, without fee or charge, for the purpose of conducting questioning. The District must provide an Advisor of its choice, free of charge to any Party without an Advisor in order to conduct cross-examination. If an Advisor fails to appear at the hearing, the District will provide an Advisor to appear on behalf of the non-appearing Advisor. To limit the number of individuals with confidential information about the issues, each Party may identify one Advisor.

Confidentiality Agreements

To protect the privacy of those involved, the Parties and Advisors are required to sign a confidentiality agreement prior to attending an interview or otherwise participating in the

District's grievance process. The confidentiality agreement restricts dissemination of any of the evidence subject to inspection and review or use of this evidence for any purpose unrelated to the Title IX grievance process. The confidentiality agreement will not restrict the ability of either Party to discuss the allegations under investigation.

Use of Privileged Information

The District's formal complaint procedure does not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally-recognized privilege (e.g., attorney-client privilege, doctor-patient privilege, spousal privilege, etc.), unless the person holding the privilege provides voluntary, written consent to waive the privilege.

Informal Resolution

The informal resolution process is intended to resolve a formal complaint without a full investigation and adjudication process. The informal resolution process must not be used to resolve allegations that a District employee sexually harassed a student.

The District may offer an informal resolution process to the Parties only after a formal complaint has been filed. Both Parties must give their voluntary, informed, and written consent to the informal resolution process. Informal resolution options vary and may include, but are not limited to, facilitated discussions with the Parties, facilitated resolution by the Title IX Coordinator or Title IX Deputy Coordinator, separating the Parties, mediation, and conducting educational prevention and training programs. At any time prior to agreeing to a resolution, any Party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint. The informal resolution process is not available to resolve allegations that an employee sexually harassed a student.

Prior to initiating the informal resolution process, the District must provide the Parties with written notice of the following:

- The allegations within the formal complaint;
- The right to withdraw from the informal resolution process at any time prior to agreeing to a resolution; and
- That participation in the informal resolution process precludes the Parties from resuming a formal complaint arising from the same allegations.

If a resolution is reached, the matter shall be considered closed, and the terms will be put in writing and maintained by the District/College. The Title IX Coordinator or Title IX Deputy Coordinator may notify the College Disciplinary Officer if any sanctions were part of the resolution.

The Investigation Process

The Title IX Coordinator or Title IX Deputy Coordinator is responsible to oversee investigations to ensure timely resolution and compliance with Title IX and this procedure. Both Parties have the right to have an Advisor present at every meeting described in this section.

The District will investigate Title IX formal complaints fairly and objectively. Individuals serving as Title IX Investigators under this procedure will have adequate training on what constitutes sexual harassment and how the District's grievance procedures operate. The District will also ensure that Title IX Investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence and complies with this procedure.

Investigation Timeline

Investigations are completed expeditiously, normally within ninety (90) Business Days, however some investigations take more time depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc. The Title IX Coordinator or Title IX Deputy Coordinator may extend the timeline to complete an investigation for any reason deemed legitimate. The District will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the Parties to update them on the progress and timing of the investigation.

The Role of the Title IX Investigator

The Title IX Investigator(s) gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their investigative report. Prior to the completion of the investigative report, the Investigator(s) shall send the Parties and their respective Advisors (if so desired by the Parties) an electronic or hard copy of the evidence directly related to the allegations, including evidence upon which the Investigator(s) do not intend to rely in reaching a determination regarding responsibility, for a ten (10) Business Day review and written comment period so that each Party may meaningfully respond to the evidence. The Parties may elect to waive the full ten (10) Business Days.

The Title IX Investigator(s) will incorporate relevant elements of the Parties' written responses to the final investigative report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Title IX Investigator(s) may elect to respond in writing in the investigative report to the Parties' submitted responses and/or to share the responses between the Parties for additional responses. The Title IX Investigator(s) should document all rationales for any changes made after the review and comment period.

Notice of Investigative Interview

The Title IX Coordinator, Title IX Deputy Coordinator, or designee will provide written Notice of Investigation (NOI) to the Complainant and the Respondent upon commencement of the investigation process. The NOI shall contain the following information:

- A description of the District's grievance process, including any informal resolution process;
- A description of the alleged conduct constituting Sexual Harassment, including the date and location of the alleged incident and sufficient details of the misconduct being alleged;
- The identities of the Parties involved;
- A list of policies allegedly violated that are the subject of the investigation;
- A statement that the District presumes that the Respondent is not responsible until a determination regarding responsibility is made at the conclusion of the grievance process;
- The District's use of the Preponderance of Evidence standard;
- A statement that determinations of responsibility are made at the conclusion of the process, and that the Parties (and their Advisors) will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period;
- A statement of the potential sanctions/responsive actions that could result;
- Notification of the Parties' right to have an Advisor of their choice;
- A statement informing the Parties that District policy prohibits knowingly making false statements, including knowingly submitting false information during the grievance process;
- Notification of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator or Title IX Deputy Coordinator any conflict of interest;
- Date, time, and location of the investigatory interview or information and timeframe to schedule this interview.

All investigations are thorough, reliable, impartial, prompt, and fair. The Investigator(s) must gather sufficient evidence, including interviewing the Parties and witnesses and obtaining available, relevant evidence. The District may not restrict the ability of the Parties to discuss the allegations under investigation or to gather and present relevant evidence.

The Parties have a full and fair equal opportunity to present witnesses and expert witnesses (and suggest questions they wish the Investigator(s) to ask), inculpatory and exculpatory evidence, and to fully review and respond to all evidence. The Parties shall receive written notice of the date, time, location, and purpose of any investigation interview or meeting with sufficient time for the Parties to prepare and participate. The Investigator(s) may decline a Party's request to gather information if the request seeks

access to privileged information. Witnesses (as distinguished from the Parties) are expected to cooperate and participate in the investigation.

The investigation does not consider: (a) incidents not directly related to the possible violation, unless they evidence a pattern; (b) the character of the Parties; or (c) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

Investigative Report

The finalized investigative report that fairly summarizes relevant evidence shall be disclosed to the Parties and their respective Advisors (if so desired by the Parties) at least ten (10) Business Days prior to a Hearing for a review and written comment period so that each Party may meaningfully respond prior to the Hearing determining responsibility. The Title IX Coordinator or Title IX Deputy Coordinator shall review all investigative draft reports before they are final and disseminated to participating Parties.

The results of the investigation of a formal complaint will be set forth in a written report that will include at least all of the following information:

- A description of the circumstances giving rise to the formal complaint;
- A description of the procedural steps taken during the investigation, including all individuals contacted and interviewed;
- A summary of the testimony of each witness the investigator interviewed;
- An analysis of relevant evidence collected during the investigation, including a list of relevant documents;
- A specific finding as to whether the allegations occurred using a preponderance of the evidence standard;
- A table of contents if the report exceeds ten pages; and
- Any other information deemed appropriate by the District.

The Title IX Investigator will not make a determination regarding responsibility.

The Title IX Investigator may redact information not directly related to the allegations or privileged information. However, the Title IX Investigator will keep a log of information he/she/they do not produce to the Parties. The Title IX Investigator will provide this log only to the Title IX Coordinator or Title IX Deputy Coordinator. The Title IX Coordinator or Title IX Deputy Coordinator will not disclose the log to the Parties but will maintain the log in the Title IX Coordinator's or Title IX Deputy Coordinator's file, in the event it later becomes relevant.

The Hearing Process

Provided that the formal complaint is not resolved through Informal Resolution, once the final investigative report is disclosed to the participating Parties, the Title IX Coordinator or Title IX Deputy Coordinator will refer the matter for a live hearing and to provide the Complainant and Respondent an opportunity to respond to the evidence gathered before a Hearing Chair. Neither Party may choose to waive the right to a live hearing, but the Parties can choose whether to participate in the hearing or answer some or all cross-examination questions.

Notice of Hearing

The Title IX Coordinator, Title IX Deputy Coordinator, or designee will provide written Notice of Hearing (NOH) to the Complainant and Respondent no less than ten (10) Business Days prior to the hearing. The NOH shall contain the following information:

- A description of the alleged violations;
- A list of policies allegedly violated;
- A description of the District's grievance process with respect to the Hearing process;
- A statement of the potential sanctions/responsive actions that could result;
- Date, time, and location of the Hearing and a reminder that attendance is mandatory;
- A statement that if any Party or witness does not appear at the scheduled Hearing, the Hearing may be held in their absence, and the Party's or witness's testimony and any statements given prior to the Hearing will not be considered by the Hearing Chair. For compelling reasons, the Hearing Chair may reschedule the Hearing.
- Notification about the option for the Hearing to occur with the Parties located in separate rooms using technology that enables the Hearing Chair and Parties to see and hear each other. Such a request must be raised to the Title IX Coordinator or Title IX Deputy Coordinator at least five (5) Business Days prior to the hearing.
- Notification that the Parties are required to have an Advisor present at the Hearing to conduct questioning. The Parties' have the right to an Advisor of their choice. If a Party does not have an Advisor, they must notify the Title IX Coordinator or Title IX Deputy Coordinator who will appoint one.
- A statement informing the Parties to submit a written impact statement prior to the Hearing for the consideration of the Hearing Chair at the sanction stage of the process;
- Notification of the Hearing Chair, along with a process to identify, in advance of the Hearing, to the Title IX Coordinator or Title IX Deputy Coordinator any conflict of interest;
- Notification that the Hearing will be recorded; and
- A copy of all the materials provided to the Hearing Officer about the matter unless they have been provided already.

Hearing Location

Hearings may be conducted with the Parties physically present in the same geographic location or virtually, with technology enabling them to see and hear each other. If a Party prefers not to attend in person, the Party should request alternative arrangements from the Title IX Coordinator or Title IX Deputy Coordinator at least five (5) Business Days prior to the hearing. The Title IX Coordinator, Title IX Deputy Coordinator, or designee can arrange to use technology to allow remote testimony without compromising the fairness of the hearing.

The Title IX Coordinator or Title IX Deputy Coordinator will designate a Hearing Chair (decision-maker). The Hearing Chair will not have had any previous involvement with the investigation. Those who have served as Investigator(s) will be witnesses in the hearing and therefore may not serve as Hearing Chair. The Title IX Coordinator or Title IX Deputy Coordinator may not serve as a Hearing Chair but may serve as an administrative facilitator of the hearing if their previous roles in the matter do not create a conflict of interest.

The Hearing Chair

The Title IX Coordinator, Title IX Deputy Coordinator, or designee shall be responsible for managing the Hearing process and the necessary logistics (i.e., scheduling, notifying witnesses, providing the Parties and Hearing Chair with appropriate documentation and evidence, coordinating the location of the hearing, and any other support that is necessary for the hearing to run smoothly).

Pre-Hearing Preparation

The Title IX Coordinator or Title IX Deputy Coordinator will give the Hearing Chair a list of the names of all Parties, witnesses, and Advisors at least five Business Days in advance of the Hearing. Any Hearing Chair who cannot make an objective determination must recuse themselves from the proceedings. If the Hearing Chair is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator or Title IX Deputy Coordinator as soon as possible.

The Parties will receive the names of the persons who will be participating in the Hearing, all pertinent documentary evidence, and the final investigative report. During the ten Business Day period prior to the Hearing, the Parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be disclosed to the Hearing Chair at the Hearing and will be exchanged between each Party by the Hearing Chair.

The Hearing Chair may convene a pre-Hearing meeting with the Parties and their respective Advisors to invite them to submit the questions or topics they (the Parties and their Advisors) wish to ask or discuss at the Hearing, so that the Hearing Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the Hearing or provide recommendations for more appropriate phrasing. However, this

advance review opportunity does not preclude the Advisors from asking at the Hearing for a reconsideration based on any new information or testimony offered at the Hearing. The Hearing Chair must document and disclose their rationale for any exclusion or inclusion at this pre-Hearing meeting.

The Hearing Chair, only with full agreement of the Parties, may decide in advance of the Hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the investigative report or during the Hearing.

Hearing Format

Participants at the hearing will include the Hearing Chair, the Title IX Investigator(s) who conducted the investigation, the Parties, Advisors to the Parties, any called witnesses, the Title IX Coordinator or Title IX Deputy Coordinator and anyone providing authorized accommodations or assistive services.

The Hearing Chair is responsible for conducting an impartial Hearing and issuing a written determination regarding responsibility to the Parties without bias or conflict of interest. The Hearing Chair explains the procedures and introduces the participants. The Hearing Chair then conducts the Hearing according to the hearing script. During the Hearing, all logistics and administrative elements are managed by the Title IX Coordinator, Title IX Deputy Coordinator, or designee.

Hearings (but not deliberations) are recorded by the District for purposes of inspection and review. The Parties may not record the proceedings and no other unauthorized recordings are permitted.

The District will make the information reviewed during the evidence review available at the hearing for reference and consultation. The District will not restrict the ability of either Party to discuss the allegations under investigation or to gather and present relevant evidence.

Presentation of the Investigative Report

The Title IX Investigator(s) will present a summary of the final investigative report, including items that are contested and those that are not, and will be subject to questioning by the Hearing Chair and the Parties (through their Advisors). The Title IX Investigator(s) will be present during the entire hearing process, but not during deliberations.

Neither the Parties nor the Hearing Chair should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, Advisors, and Parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Hearing Chair will direct that it be disregarded.

Testimony and Questioning

Once the Title IX Investigator(s) present their report and are questioned, the Parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Hearing Chair. The Hearing Chair will permit each Party's Advisor to ask the other Party and any witnesses all relevant questions and follow-up questions, including those questions challenging credibility. The Party's Advisor must conduct cross-examination directly, orally, and in real time. A Party may never personally conduct cross-examination.

All questions are subject to a relevance determination by the Hearing Chair. The Advisor, never by a Party personally, will pose the question orally. The proceeding will then pause to allow the Hearing Chair to consider it and the Hearing Chair will determine whether the question will be permitted, disallowed, or rephrased.

The Hearing Chair may consider arguments regarding relevance with the Advisors, if the Hearing Chair so chooses. The Hearing Chair will then state their decision on the question for the record and advise the Party/witness to whom the question was directed, accordingly. The Hearing Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Hearing Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Hearing Chair has final say on all questions and determinations of relevance, subject to any appeal. The Hearing Chair may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the Hearing Chair has ruled on a question.

Presentation of Witnesses

The Hearing Chair will provide the Complainant and Respondent an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. Witnesses, like Parties, are not required to participate in the live hearing process.

Only relevant evidence will be admissible during the hearing. Relevant evidence means evidence, including evidence relevant to the credibility of a Party or witness, having any tendency in reason to prove or disprove any disputed fact material to the allegations under investigation.

Refusal to Submit to Questioning

If a Party or witness chooses not to submit to questioning (cross-examination) during the hearing, either because they do not attend the hearing, or they attend but refuse to participate in questioning, the Hearing Chair may not rely on any prior statements made by that Party or witness at the hearing (including those contained in the investigative report) in the ultimate determination of responsibility. The Hearing Chair must disregard

those statements. The Hearing Chair may not draw any inference solely from a Party's or witness's absence from the Hearing or refusal to answer cross-examination or other questions.

Deliberations, Determinations of Responsibility and Standards of Proof

The Hearing Chair will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. The Preponderance of the Evidence standard of proof is used.

When there is a finding of responsibility on one or more of the allegations, the Hearing Chair may consider the Party's impact statements and any pertinent conduct history in determining appropriate sanction(s).

The Hearing Chair will then prepare a written determination regarding responsibility and deliver it to the Title IX Coordinator or Title IX Deputy Coordinator, detailing the findings of fact, determination about whether the alleged violations occurred, the rationale, the evidence used in support of its determination, any evidence disregarded, and any sanction(s) imposed on the Respondent no later than forty-five (45) days after the date that the hearing ends.

Notice of Hearing Outcome

Using the written determination regarding responsibility, the Title IX Coordinator or Title IX Deputy Coordinator will work with the Hearing Chair to prepare a Notice of Hearing Outcome. The Notice of Hearing Outcome will be disclosed to the Parties simultaneously.

When determining responsibility, the Hearing Chair will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence. The Hearing Chair may not make credibility determinations based on an individual's status as a Complainant, Respondent, or witness. In evaluating the evidence, the Hearing Chair will use the preponderance of the evidence standard. Thus, after considering all the evidence it has gathered, the District will decide whether it is more likely than not that sexual harassment occurred.

The Notice of Hearing Outcome shall contain the following information:

- Identification of the allegations constituting Sexual Harassment;
- A description of the procedural steps taken by the District from the receipt of the formal complaint to the determination, including any and all notifications to the Parties, interviews with Parties and witnesses, site visits, methods used to gather other evidence, and Hearings held;
- Findings of fact that support the determination;
- Conclusions regarding the application of the District policy to the facts at issue;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;

- Any sanctions imposed on the Respondent, to the extent the District is permitted to disclose such information under California and federal law;
- Any remedies provided to the Complainant designed to restore and preserve equal access to the District's education program or activity, to the extent the District is permitted to disclose such information under California and federal law (this information is not typically disclosed to the Respondent unless the remedy directly relates to the Respondent);
- A statement that the results do not become final until the period of time to file an appeal has lapsed or an appeal has been exhausted; and

The District's procedures and permissible bases for the Complainant and Respondent to appeal.

Disciplinary Sanctions and Remedies

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s);
- The Respondent's disciplinary history in which they were found responsible;
- Previous allegations or allegations involving similar conduct;
- Consistency among the College's disposition of similar cases;
- The need to bring an end to the behavior, prevent future recurrences, and remedy the effects;
- The impact on the Parties; and
- Any other information deemed relevant by the Hearing Chair.

For Respondents that are a Student, the possible Sanctions are described in District BP/AP 5500. For Respondents who are an Employee, the Sanctions will conform to all relevant statutes, regulations, personnel policies, and procedures, including the provisions of any applicable collective bargaining agreement.

Remedies for the Complainant may include, but are not limited to:

- Providing an escort to ensure that the Complainant can move safely between classes and activities;
- Ensuring that the Complainant and Respondent do not attend the same classes or work in the same work area;
- Providing counseling services or a referral to counseling services;
- Providing medical services or a referral to medical services;
- Providing academic support services, such as tutoring;
- Arranging for a Complainant, if a student, to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the Complainant's academic record; and

- Reviewing any disciplinary actions taken against the Complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the Complainant's discipline.

Appeal

A Complainant or Respondent may appeal the District's determination regarding responsibility or the dismissal of a formal complaint or any allegations. A Complainant or Respondent must submit a written appeal within ten (10) days from the date of the notice of determination regarding responsibility or from the date of the District's notice of dismissal of a formal complaint or any allegations. Opposing the dismissal of a formal complaint or the determination of responsibility is not, by itself, grounds for appeal.

Grounds for Appeal

In filing an appeal of the District's determination regarding responsibility or the District's dismissal of a formal complaint, the Party must state the grounds for appeal and a statement of facts supporting those grounds. The grounds for appeal are as follows:

- A procedural irregularity affected the outcome;
- New evidence was not reasonably available at the time the District's determination regarding responsibility or dismissal was made, and this new evidence could affect the outcome; or
- The District's Title IX Team had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome.

Appeal Procedure

If the Complainant or Respondent submits an appeal to the District, the District will:

- Notify the other Party in writing within five (5) days of receiving a Party's appeal;
- Allow the non-appealing Parties at least ten () days from the date of receipt of the appeal to submit a written statement in support of, or challenging, the outcome.

The College President or designee will serve as the Decision-Maker on an appeal for cases that involve students exclusively. The Vice Chancellor of Business and Fiscal Services or designee will serve as Decision-Maker on an appeal in cases that involved employees exclusively. The appeal Decision-Maker will issue a written decision on whether to grant or deny the appeal, and the rationale for the decision, within forty-five (45) business days after the Decision-Maker on appeal receives the response to the appeal or the last day to provide a response. The District will provide the written decision simultaneously to both Parties.

The Decision-Maker on appeal may extend or otherwise modify the deadlines provided above. Either Party may seek an extension by submitting a written request to the appeal Decision-Maker explaining the need for the extension and the proposed length of the extension. The Decision-Maker will respond to the request within two (2) business days in writing and will inform the Parties simultaneously whether the extension is granted.

Retaliation

The District strictly prohibits retaliation against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual participated or refused to participate in any reporting, investigation, proceeding, or hearing under Title IX.

Retaliatory acts, may include (but are not limited to): (1) intimidation, (2) threats, (3) coercion, (4) discrimination, or (5) charging an individual with code of conduct violations that do not involve Sexual Harassment, but arise out of the same facts or circumstances as a report or formal complaint of Sexual Harassment are specifically prohibited by the District.

Materially False Statements: The District may charge an individual with a code of conduct violation for making a materially false statement in bad faith in the course of the grievance process. A determination regarding responsibility, alone, is not sufficient to conclude that any individual made a materially false statement.

A complaint of retaliation may be filed according to the District's Unlawful Harassment and Discrimination Prevention and Complaints policy and procedure (Refer to BP/AP 3435).

The exercise of rights under the First Amendment does not constitute retaliation for purposes of this Title IX procedure.

Dissemination of Policies and Procedures

The District will provide its policies and procedures related to Title IX on its website and in each handbook or catalog provided to applicants for admission and employment, students, employees, and all unions or professional organizations holding collective bargaining with the District.

When hired, employees are required to sign acknowledging that they have received the policy and procedures. The District will place the signed acknowledgment of receipt in each employee's personnel file.

Records and File Retention

In implementing this procedure, records of all allegations, investigations, and resolutions will be maintained by the Title IX Coordinator, Title IX Deputy Coordinator, or designee, in the District electronic database. In compliance with BP/AP 3310, the privacy of

records shall be held in accordance with the Family Educational Rights and Privacy Act (FERPA) and/or applicable laws and regulations related to employment records. Parties have the right to inspect and review their educational record maintained by the District/College. The District is not required to provide copies of records unless it is impossible for the Parties to review the records (e.g., great distance). The District may impose a reasonable fee for copies.

In accordance with AP/BP 3310, the District will retain on file for a period of at least seven (7) years after closing the case copies of:

- The original report or complaint;
- Any actions taken in response to the complaint, including supportive measures;
- The investigative report including all evidence gathered and any responses from the Parties;
- The District's determination regarding responsibility;
- Audio or audiovisual recording or transcript from a hearing;
- Records of any disciplinary sanctions imposed on the Respondent;
- Records of any remedies provided to the Complainant;
- Any appeal and the result;
- Any informal resolution and the result; and
- All materials used to train the Title IX Coordinator, Title IX Deputy Coordinator(s), Title IX Investigator(s), Decision-Maker(s), and any person who facilitates an informal resolution process. The District will make these training materials publicly available on its website.

The District will make these documents available to the U.S. Department of Education Office for Civil Rights upon request.

Prevention, Education, and Training

The District office and each College must implement prevention, education, and training programs for students and employees in the areas of gender-based (or sex-based) Discrimination and Harassment, including Sexual Harassment, Retaliation, Sexual Assault, Dating Violence, Domestic Violence, and Stalking.

Prevention and education programs shall be comprehensive, multi-pronged, and interconnected in a strategic way to increase awareness and influence a change in behavior. Prevention and education programs (e.g., educational workshops, empowerment programming, awareness raising campaigns, social marketing campaigns) are intended for (1) new students and employees (e.g., during orientation programs), (2) returning students and employees, (3) student athletes and coaches, (4) members of student organizations including the student organization's advisors, (5) students and employees who live or work in on-campus housing, and (6) Public Safety Officers.

Prevention and education programs for Students may include the following information:

- Rights and responsibilities under Title IX;
- Definitions of Affirmative Consent and the behaviors that violate this Policy;
- Common myths and facts about Sexual Assault and misconduct;
- How to recognize warning signs associated with Dating Violence, Domestic Violence and Stalking;
- Information on risk reduction, including considerations when alcohol, drugs, or medications are involved;
- What someone should do if they have experienced or witnessed any unwanted behavior described in this policy;
- Bystander intervention;
- Safe and effective strategies for bystanders to prevent harm or intervene when there is a potential risk;
- Available on-campus support services, including Supportive Measures, and off-campus community resources;
- Reporting options and confidential reporting;
- The District/College's obligation to take reasonable steps to eliminate the behavior, prevent future recurrence, remedy the effects, and the District/College procedure for processing reports; and
- Information regarding the potential consequences for violating this policy.

Employees shall receive training on how to appropriately respond to reports. All employees are expected to report actual or suspected Sexual Harassment to an appropriate official immediately. Their training should explain what information to include in a report and consequences for failing to report. Additional training components may include practical information on how to prevent and identify behavior, attitudes of bystanders, effects on the complainant (e.g., impact of trauma on victims), and appropriate methods for responding (e.g., nonjudgmental language).

Title IX Team, including but not limited to the Title IX Coordinator, Title IX Deputy Coordinators, Title IX Investigator(s), Hearing Chair, Appeal Designees, and District-appointed Advisors, must receive annual training in addressing and analyzing reports, the procedure for processing reports, how to conduct an investigation, confidentiality issues, and how to conduct the hearing process that protects the safety of the Parties and promotes accountability.

Title IX Team Duties and Responsibilities

Title IX Coordinator provides oversight and authority for district-wide implementation and compliance of Title IX and the West Hills Community College District Sexual Harassment policies and procedures. This includes coordination and monitoring of training, education, communications, investigations, and complaint procedures for employees, students, and third parties. The Title IX Coordinator advises the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this Title IX procedure. The members of the Title IX Team are trained to ensure they are not biased for or against

any Party in a specific case, or for or against complainants and/or respondents, generally. The Title IX Coordinator prepares reports and makes recommendations related to applicable laws and legal precedence; ensures investigations are timely, impartial, and thorough and conducted in a trauma-informed manner and appears in court as necessary.

The Title IX Coordinator's duties include:

- Coordinate training, education, and preventive programs in the areas of Gender-based (or sex-based) Discrimination or Harassment, including Sexual Harassment, Retaliation, Sexual Assault, Dating Violence, Domestic Violence, and Stalking.
- Provide annual training for Title IX Team, including the Investigators, District-appointed Advisors, Hearing Chair, and Appeal designees.
- Monitor, supervise, and oversee all complaints of Gender-based (or sex-based) Discrimination or Harassment, including Sexual Harassment, Retaliation, Sexual Assault, Dating Violence, Domestic Violence, and Stalking, including related investigations, reports, Supportive Measures, resolution, and appeals.
- Oversight and Coordination of prompt and equitable grievance procedures to stop the behavior, prevent future recurrence and remedy the effects.
- Review all investigation reports before they are final to ensure that they are prompt, adequate, reliable, and impartial and in compliance with this Title IX procedure.
- Provide reasonable Supportive Measures, if requested and available.
- Notify students, employees, applicants for admission and employment, all unions or professional organizing holding collective bargaining or professional agreements of the following:
 - Notice of the District's nondiscrimination policies that the District does not discriminate on the basis of sex in its education program or activity.
 - Notice of the Title IX Coordinator's contact information and prominently display on the website.
- Recommend appropriate revisions of policies and procedures.
- Recommend appropriate memoranda of understanding or other agreements with community-based organizations to make services and assistance available to students.
- Assist the College in developing a method to survey the school climate, coordinate the collection and analysis of information from that survey, and identify and address any systemic or other patterns and implement corrective measures, as appropriate.
- Maintain a website, publications, and other resources related to Title IX.
- Oversee gender equity in athletics in consultation with Athletic Director, or appropriate administrator, to measure participation compared to enrollment data in three distinct areas: (1) participation; (2) scholarships; and (3) other benefits, including the provision of equipment and supplies, scheduling, travel, tutoring, coaching, locker rooms, facilities, medical and training facilities, and services, publicity, recruiting, and support services.

- Serve as the point of contact for government inquiries regarding Gender-based (or sex-based) Discrimination and Harassment, including Sexual Harassment, Retaliation, Sexual Assault, Dating Violence, Domestic Violence, and Stalking.

Title IX Deputy Coordinator collaborates with college and the District Title IX coordinator and District Human Resources to develop and implement goals, objectives, and priorities for Title IX. Under the direction of the District Title IX Coordinator, the Title IX Deputy Coordinator oversees, coordinates, and conducts investigations of allegations and complaints of alleged unlawful discrimination, sexual harassment, and other violations of rights and forwards complaint that involve employees to District Human Resources. The Title IX Deputy Coordinator prepares reports and makes findings and recommendations related to applicable laws and legal precedence; ensures investigations are timely, impartial, and thorough and conducted in a trauma-informed manner.

Title IX Investigator is the college-designated person to investigate a formal complaint of Sexual Harassment. Referred as the Investigator(s) throughout this Title IX procedure, the Investigator shall not be within the administrative control or authority of the Parties.

Annual Reporting Requirements

The Title IX Coordinator or Title IX Deputy Coordinator will report the following annually to the District Chancellor, without disclosing any information that would reveal the identities of the Parties:

- The number of reports received during the academic year;
- The number of reports investigated, including whether the Respondent was found responsible and the final Sanction(s), if applicable;
- A description of the action taken for reports resolved without an investigation;
- A list of the College's Title IX personnel (i.e., Investigators, Hearing Chairs, District appointed Advisors, and Appeal Designees), including a description of their annual training; and
- A report of the various training, education, and preventive programs provided to students, staff, administrators, and faculty during the academic year.

Definitions

Advisor: Throughout the grievance process, the parties have a right to an Advisor of their choice to participate in any meetings or proceedings regarding the allegations. If a Party does not have an Advisor at the time of the hearing, the District shall provide the Party an Advisor of its choice, free of charge. The Advisor's role is to provide consultation and support to the Parties, inspect and review evidence, and pose questions on behalf of the Parties during any hearing. The District may establish restrictions regarding the extent to which the Advisor may participate in the proceedings as long as the restrictions apply equally to both Parties.

Affirmative Consent: Affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure they have the Affirmative Consent of the other participant(s) to engage in the sexual activity. Lack of protest, resistance, or silence does not mean Affirmative Consent.

Affirmative Consent must be ongoing throughout the sexual activity and can be withdrawn or revoked at any time. Once one party withdraws or revokes consent, the sexual activity must stop immediately. Affirmative Consent to one form of sexual activity (or one sexual act) does not constitute Affirmative Consent to other forms of sexual activity. Affirmative Consent given to sexual activity on one occasion does not constitute Affirmative Consent on another occasion. The existence of a dating or social relationship between those involved, or the fact of past sexual activities between them, should never by itself be assumed to indicate Affirmative Consent.

Affirmative Consent must be voluntary (an act of free will), and given without force, coercion, threats, or intimidation. For purposes of this definition:

- Force means the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion (unreasonable pressure for sexual activity) that overcomes free will or resistance or that produces consent.
- There is no requirement for a person to resist the sexual advance or request, but resistance is a clear demonstration of non-consent.

It shall not be a valid excuse that the Respondent believed that the Complainant consented to the sexual activity if the Respondent knew or reasonably should have known the Complainant was unable to consent to the sexual activity under any of the following circumstances:

- The Complainant was asleep or unconscious.
- The Complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the Complainant could not understand the fact, nature, or extent of the sexual activity.
- The Complainant was unable to communicate due to a mental or physical condition.

It shall not be a valid excuse that the Respondent believed that the Complainant consented to the sexual activity under either of the following circumstances:

- The Respondent's belief in Affirmative Consent arose from the intoxication or recklessness of the Respondent. A person's own intoxication or incapacitation from drugs, alcohol, or medication does not diminish that person's responsibility to obtain Affirmative Consent before engaging in sexual activity.

- The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented.

Sexual activity with a minor (under 18 years old) is never consensual because a minor is incapable of giving legal consent due to age.

This Title IX procedure is applicable regardless of the sexual orientation and/or gender identity of the participants engaging in the sexual activity.

Business Day: A day that the District or College are open for business to the public and excludes holidays and weekends.

Calendar Day: A timespan of exactly 24 hours, measured from one midnight to the next.

Complaint: A verbal or written report of sex discrimination, including Sexual Harassment, made in person, by mail, telephone, email, or through the District's online reporting form. Any person may submit a complaint at any time.

Complainant: An individual who alleges he/she/they is/are the victim of conduct that could constitute sexual harassment and/or misconduct. The District recognizes the legal rights of parents or guardians to act on behalf of the Complainant (including filing a Formal Complaint). Any person(s), other than the Complainant, who reports Sexual Harassment shall be identified as a Reporter, as defined herein.

College: Refers to any of the two colleges (i.e., Coalinga College, Lemoore College, Firebaugh Center) or other facilities owned and operated within the District.

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of a romantic or intimate relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

District: Refers to the West Hills Community College District and each of its colleges or other facilities owned and operated within the District.

Hearing Chair: referred to as the decision-maker (or designee), this person or group of people will oversee the live hearing and make a determination of responsibility. The District may have one Decision-Maker determine whether the Respondent is responsible, and another Decision-Maker determine the appropriate level of penalty for the conduct. The Decision-Maker cannot be the Title IX Coordinator, Title IX Deputy Coordinator, or the Title IX Investigator.

Domestic Violence: A felony or misdemeanor crime of violence committed by:

- A current or former spouse or intimate partner of the Complainant;
- A person with whom the Complainant shares a child in common;
- A person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
- A person similarly situated to a spouse of the Complainant under California law; or
- Any other person against an adult or youth Complainant who is protected from that person's acts under California law.

To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

Employee: A person hired by the District, under supervision, to perform work for a prescribed rate of pay.

Formal Complaint: A written complaint submitted by the Complainant or Title IX Coordinator or Title IX Deputy Coordinator, alleging sexual harassment and/or misconduct and requesting an investigation. If the Title IX Coordinator or Title IX Deputy Coordinator signs the formal complaint, he/she/they will not become a Party to the complaint.

Gender: Means sex, and includes a person's gender identity, gender expression, and transgender status. It also includes sex stereotyping.

- Sex: includes, but is not limited to pregnancy, childbirth, breastfeeding, or any related medical conditions.
- Gender identity: A person's identification as a man, woman, genderqueer, two-spirit, a gender different from the person's assigned sex at birth, or transgender.
- Gender expression: A person's gender-related appearance or behavior whether or not stereotypically associated with the person's assigned sex at birth.
- Sex stereotyping: An assumption about a person's appearance or behavior or about a person's ability or inability to perform certain kinds of work based on a myth, social expectation, or generalization about the person's sex.
- Transgender: A general term that refers to a person whose gender identity differs from the person's sex assigned at birth. A transgender person may or may not have a gender expression that is different from the social expectation of the sex assigned at birth.

Gender and sex are a protected status.

Not Responsible: Means, based on the Preponderance of Evidence standard, that the Respondent did not violate this Title IX procedure.

Party or Parties: As used in this procedure, this means the Complainant and Respondent. The term Parties means both the Complainant and Respondent collectively.

Preponderance of the Evidence: The greater weight of the evidence (i.e., the evidence on one side outweighs, preponderates over, or is more than the evidence on the other side). The Preponderance of the Evidence is the applicable standard for demonstrating facts and reaching conclusions in a hearing conducted pursuant to this Title IX procedure.

Protected Status: Includes age, disability (physical or mental), Gender (or sex), gender identity (including transgender), gender expression, genetic information, marital status, medical condition, national origin, race or ethnicity (including color or ancestry), religion or religious creed, Sexual Orientation, and veteran or military status.

Reporter: Any person(s), other than the Complainant, who reports alleged violation(s) of this Title IX procedure.

Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment and/or misconduct. The Respondent must be a participant in the education program or activity of the District/College. The District recognizes the legal rights of parents or guardians to act on behalf of the Respondent.

Responsible: Based upon the Preponderance of Evidence standard, that the Respondent violated this Title IX procedure.

Retaliation: The District strictly prohibits retaliation against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual participated or refused to participate in any investigation, proceeding, or hearing under Title IX.

Sanctions: The Decision-Maker or designee may impose on the Respondent following the determination of responsibility for violating this Title IX procedure.

Sexual Exploitation: In addition to the forms of Sexual Harassment (i.e., Sexual Assault, Dating Violence, Domestic Violence, and Stalking), which fall within the coverage of Title IX, the District additionally prohibits Sexual Exploitation, outside of Title IX, when the act is based upon the Complainant's actual or perceived membership in a protected status.

Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another person for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not

otherwise constitute one of the other Sexual Misconduct offenses. Examples of Sexual Exploitation include, but are not limited to the following:

- Invasion of sexual privacy;
- Non-consensual digital, video, or audio recording of nudity or sexual activity;
- Unauthorized sharing or distribution of digital, video, or audio recording of nudity or sexual activity;
- Prostituting another person;
- Engaging in voyeurism;
- Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent;
- Knowingly exposing someone to or transmitting a sexually transmitted infection, sexually transmitted disease, or human immunodeficiency virus to another person;
- Intentionally or recklessly exposing one's genitals in non-consensual circumstances or inducing another to expose their genitals;
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

Sexual Harassment: Acts committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved. Sexual Harassment, as an umbrella category, includes offenses of Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking, and is defined as:

- Quid Pro Quo: Criteria must include:
 - A District employee,
 - Conditions the provision of an aid, benefit, or service of the District,
 - On an individual's participation in unwelcome sexual conduct; and/or
- Hostile Environment: Criteria must include:
 - Unwelcome conduct,
 - Determined by a reasonable person,
 - To be so severe, and
 - Pervasive, and
 - Objectively offensive,
 - That it effectively denies a person equal access to the District's education program or activity.

Sexual assault: Any sexual act directed against another person, without consent of the Complainant, including instances where the Complainant is incapable of giving consent. Sex offenses and misconduct include forcible sex offenses and non-forcible sexual intercourse Under Title IX, and the California Penal Code, satisfying one or more of the following:

- **Sex Offenses:** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
- **Forcible Rape:** Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant;
- **Forcible Sodomy:** Forcible Sodomy: oral or anal sexual intercourse with another person, forcibly, and/or against that person's will (non-consensually, or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity);
- **Sexual Assault with an Object:** The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body or another person, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity.
- **Incest:** Non-Forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape:** Non-forcible sexual intercourse, with a person who is under the statutory age of consent of 18 years old.

Sexual Orientation: A person's preference in sexual partners and includes heterosexuality, homosexuality, or bisexuality. Sexual Orientation is a protected status.

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. For purposes of this definition:

- Course of conduct means two or more acts, including but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.

Student: Any person who has applied for admission, who is or has been enrolled, or who has expressed their intent to enroll for any program within the District, for the period in which the Sexual Harassment occurred.

Supportive Measures: Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Parties to restore

or preserve access to the District's education program or activity, including measures designed to protect the safety of the Parties or the District's educational environment, and/or deter Sexual Harassment.

Title IX Coordinator: The College designated person or designee who is responsible for oversight and coordination of Title IX, Board Policies and Administrative Procedures regarding Title IX, and other related state and federal laws prohibiting Discrimination, Harassment, and Retaliation based on Gender or sex. If the Title IX Coordinator delegates an investigation, they shall monitor, supervise, and oversee the investigation to ensure that it is conducted in accordance with the standards, procedures, and timelines set forth in this Title IX procedure.

Title IX Deputy Coordinator: The College designated person or designee who is responsible for oversight and coordination at the respective Colleges and supports the Title IX Coordinator with their associated job duties and responsibilities.

Title IX Investigator: The college designated person to investigate a formal complaint of Sexual Harassment. Referred as the Investigator(s) throughout this Title IX procedure, the Investigator shall not be within the administrative control or authority of the Parties.

Title IX Team: Includes (but not limited to) the Title IX Coordinator, Title IX Deputy Coordinators, Title IX Investigator(s), Decision-Maker, Appeal Designees, and District-appointed Advisors.

Board Approval Date: 12/15/2020
Reviewed/Revised: _____