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Nondiscrimination Policy & Notice of Nondiscrimination

ICO does not discriminate based on sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment.

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

Michael R Butz, MBA
Senior Director for Compliance, Risk Management and Quality Improvement
TitleX@ico.edu
[312-949-7311](tel:312-949-7311)

ICO's nondiscrimination policy and grievance procedures can be located at www.ico.edu ([Consumer Information page](#))

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

ICO prohibits sex discrimination in any education program or activity that it operates. Individuals may report concerns or questions to the Title IX Coordinator. The notice of nondiscrimination is located at www.ico.edu.

Grievance Procedures for Complaints of Sex Discrimination

ICO has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations.

Complaints:

The following people have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that ICO investigate and make a determination about alleged discrimination under Title IX:

A “complainant,” which includes:

- a student or employee of ICO who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
- a person other than a student or employee of ICO who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in ICO’s education program or activity;
- parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- ICO’s Title IX Coordinator.

Note that a person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements of the current Title IX guidelines (34 C.F.R. § 106.44(f)(1)(v).)

With respect to complaints of sex discrimination other than sex-based harassment, in addition to the people listed above, the following persons have a right to make a complaint:

- Any student or employee of ICO; or
- Any person other than a student or employee who was participating or attempting to participate in ICO’s education program or activity at the time of the alleged sex discrimination.

ICO may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

ICO's Title IX Grievance Procedures:

ICO will treat complainants and respondents equitably.

ICO requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. A decisionmaker may be the same person as the Title IX Coordinator or investigator.

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

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

Investigation Process:

Once a formal complaint is filed or when ICO has official notice of an incident, a campus investigation will begin as soon as possible. If a law enforcement investigation is also occurring, the campus investigation may temporarily be placed on hold if it could jeopardize the criminal investigation process. The campus investigation and resolution process will not wait for the outcome of a criminal proceeding since the campus policy, possible outcomes, and standard of proof are different than the criminal and legal standards. If the incident also appears to be a violation of the law, you may request that the police and ICO take a formal report together to promote a more efficient process for you; however, please be aware that the standards and outcomes of a campus disciplinary process and the criminal process are different, and this may not always be possible.

Investigations are typically conducted by the ICO Title IX Investigators.

If the College has notice of alleged misconduct that may threaten the health or safety of the campus or any members of its community, ICO reserves the right and has the obligation to initiate a complaint and/or investigation. In these cases, the Title IX

Coordinator will be the individual filing the formal complaint.

During any investigation or disciplinary process, appropriate interim remedies may also occur such as campus no-contact orders, adjusting class schedules, or limiting/prohibiting access to campus. The investigation stage of the process involves interviews with both parties (complainant and respondent), witnesses and other individuals deemed to have information about the incident. The investigation process is intended to be prompt, but the length of time is not specifically detailed.

Evidence Review:

At the conclusion of the investigation the evidence obtained is made available to both parties for review. Both parties and their advisors have **10 business days** to review, inspect and respond to all evidence gathered through the investigation. The final investigation report will be forwarded to the Hearing Panel to schedule the formal hearing in no less than **10 business days**.

Hearing Process:

No less than **ten (10) business days** prior to the hearing, the Title IX Coordinator or the Chair will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions or responsive actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Hearing Panel and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Hearing Panel member based on demonstrated bias. This must be raised with the Title IX Coordinator at least two (2) business days prior to the hearing.
- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- 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 Panel. For compelling reasons, the Chair may reschedule the hearing.

- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and ICO will appoint one. Each party must have an Advisor present. There are no exceptions.
- A copy of all the materials provided to the Hearing Panel, about the matter, unless they have been provided already. The final investigation report may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.
- An invitation to each party to submit to the Chair an impact statement pre-hearing that the Hearing Panel will review during any sanction determination.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.
- It will indicate that parties cannot bring mobile phones into the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by ICO and remain within the 60-90 business day goal for resolution.

In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal). A student facing charges under this Policy is not in good standing to graduate.

Pre-Hearing Preparation:

The Chair, after any necessary consultation with the parties, Investigator(s) and/or Title IX Coordinator, will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least ten (10) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s) or have made a written statement or answered written questions, unless all parties and the Chair agree to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. The Chair will delay the Hearing and instruct that the investigation needs to be reopened if new evidence is first presented at the Hearing.

The parties will be given a list of the names of the Hearing Panel members at least five (5) business days in advance of the hearing. All objections to any Hearing Panel member must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than one day prior to the hearing. Hearing Panel members will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial

hearing of the allegation(s).

The Title IX Coordinator will give the Hearing Panel members a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the hearing. Any Hearing Panel member who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

During the ten (10) 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 shared with the Chair at the pre-hearing meeting or at the hearing and will be exchanged between each party by the Chair.

Deliberation, Decision-making, and Standard of Proof:

The Hearing Panel members will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. A simple majority vote is required to determine the finding. The preponderance of the evidence proof is used.

When there is a finding of responsibility for one or more of the allegations, the Hearing Panel may then consider the previously submitted party impact statements in determining appropriate sanction(s).

The Hearing Chair will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). The Hearing Panel may – at their discretion – consider the statements, but they are not binding.

The Hearing Panel will review the statements and any pertinent conduct history provided by the appropriate Vice President (Dean for Academic Affairs, Dean of Student Affairs or VP of Administration) and will determine the appropriate sanction(s) in consultation with a Vice President who has no knowledge of the situation and/or the President, as required.

The Hearing Chair will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence disregarded, credibility assessments, and any sanctions.

This report typically should not exceed three (3) to five (5) pages in length and must be submitted to the Title IX Coordinator within two (2) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

Notice of Outcome:

Using the deliberation statement, the Title IX Coordinator will work with the Hearing Chair to prepare a Notice of Outcome. The Title IX Coordinator will then share the letter, including the final determination, rationale, and any applicable sanction(s)

with the parties and their Advisors within 5 business days of receiving the Hearing Panel's.

The Notice of Outcome will then be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official Recipient records, or emailed to the parties' official ICO email address. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

Appeals:

Any party may file a request for appeal ("Request for Appeal"), but it must be submitted in writing to the Title IX Coordinator within 3 days of the delivery of the Notice of Outcome.

A single Appeal Decision-maker will Chair the appeal. The Appeal Decision-maker will not have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process.

The Request for Appeal will be forwarded to the Appeal Decision-maker for Consideration to determine if the request meets the grounds for appeal.

This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

Grounds for Appeal

Appeals are limited to the following grounds:

- Procedural irregularity that affected the outcome of the matter.
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- The Title IX Coordinator, Investigator(s), or Hearing Panel members had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appeal Decision-maker and the parties, and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Decision-maker will notify the other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Hearing Panel Chair.

The other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and the original Hearing Panel Chair will be mailed, emailed, or provided a hard copy of the request with the approved grounds and then be given 5 business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Chair to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed for standing by the Appeal Chair and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or original Hearing Panel, as necessary, who will submit their responses in 5 business days, which will be circulated for review and comment by all parties.

Neither party may submit any new requests for appeal after this time period. The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses will render a decision in no more than 5 business days, barring exigent circumstances. All decisions apply the preponderance of the evidence standard.

A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which ICO is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent ICO is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' ICO-issued email or otherwise approved account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

ICO has also established the following process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay: Parties seeking delay should inform the Title IX Chair in writing / via email . The Chair may determine the ultimate need for delay and will communicate to both parties and describe the length of the intended delay.

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

including against witnesses.

ICO will objectively evaluate all evidence that is relevant and not otherwise impermissible including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

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

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

Notice of Allegations:

Upon initiation of ICO's Title IX grievance procedures, ICO will notify the parties of the following:

- ICO's Title IX grievance procedures;
- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited; and
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence.

If, in the course of an investigation, ICO decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the notice provided or that are included in a complaint that is consolidated, ICO will notify the parties of the additional allegations.

Dismissal of a Complaint:

ICO may dismiss a complaint of sex discrimination if:

- ICO is unable to identify the respondent after taking reasonable steps to do so;
- The respondent is not participating in ICO's education program or activity and is not employed by ICO;
- The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and ICO determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- ICO determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, ICO will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, ICO will promptly notify the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then ICO will also notify the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing.

ICO will notify the complainant that a dismissal may be appealed and will provide the complainant with an opportunity to appeal the dismissal of a complaint. If the dismissal occurs after the respondent has been notified of the allegations, then ICO will also notify the respondent that the dismissal may be appealed. Dismissals may be appealed on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If the dismissal is appealed, ICO will:

- Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;

- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
- Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties of the result of the appeal and the rationale for the result.

When a complaint is dismissed, ICO will, at a minimum:

- Offer supportive measures to the complainant as appropriate;
- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within ICO's education program or activity.

Investigation:

ICO will provide for adequate, reliable, and impartial investigation of complaints. The burden is on ICO—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

ICO will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible.

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

ICO will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, in the following manner:

- ICO will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence.
- ICO will provide a reasonable opportunity to respond to the; and
- ICO will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

Questioning the Parties and Witnesses:

ICO will provide a process that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex

discrimination.

Once the 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 Chair. The parties/witnesses will submit to questioning by the Hearing Panel and then by the parties through their Advisors (“cross-examination”).

All questions are subject to a relevance determination by the Chair. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Chair upon request or agreed to by the parties and the Chair), the proceeding will pause to allow the Chair to consider it, and the Chair will determine whether the question will be permitted, disallowed, or rephrased.

The Chair may explore arguments regarding relevance with the Advisors if the Chair so chooses. The 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 Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair has final say on all questions and determinations of relevance, subject to any appeal. The Chair may consult with legal counsel on any questions of admissibility. The 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 Chair has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an Investigator or Hearing Panel member at the hearing, the Chair may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not in issue at the hearing, the Chair should not permit irrelevant questions that probe for bias.

Determination Whether Sex Discrimination Occurred:

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, ICO will Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness.

If the decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination occurred.

- Notify the parties in writing of the determination whether sex discrimination occurred under Title IX including the rationale for such determination, and

the procedures and permissible bases for the complainant and respondent to appeal, if applicable;

- Not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex discrimination.

If there is a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:

- Coordinate the provision and implementation of remedies to a complainant and other people ICO identifies as having had equal access to ICO's education program or activity limited or denied by sex discrimination;
- Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
- Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within ICO's education program or activity.
- Comply with the grievance procedures before the imposition of any disciplinary sanctions against a respondent; and
- Not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

Appeal of Determinations

ICO offers the following process for appeals from a determination whether sex discrimination occurred: Any party may file a request for appeal ("Request for Appeal"), but it must be submitted in writing to the Title IX Coordinator within 3 days of the delivery of the Notice of Outcome.

- A single Appeal Decision-maker will Chair the appeal. The Appeal Decision-maker will not have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process.
- The Request for Appeal will be forwarded to the Appeal Decision-maker for consideration to determine if the request meets the grounds for appeal.
- This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

Grounds for Appeal

Appeals are limited to the following grounds:

- Procedural irregularity that affected the outcome of the matter.

- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and The Title IX Coordinator, Investigator(s), or Hearing Panel members had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appeal Decision-maker and the parties, and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Decision-maker will notify the other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Hearing Panel Chair.

The other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and the original Hearing Panel Chair will be mailed, emailed, or provided a hard copy of the request with the approved grounds and then be given 5 business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Chair to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed for standing by the Appeal Chair and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or original Hearing Panel, as necessary, who will submit their responses in 5 business days, which will be circulated for review and comment by all parties.

Neither party may submit any new requests for appeal after this time period. The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses will render a decision in no more than 5 business days, barring exigent circumstances. All decisions apply the preponderance of the evidence standard.

A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which ICO is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent ICO is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' ICO-issued email or otherwise approved account. Once mailed, emailed and/or received in-person, notice

will be presumptively delivered.

Sanctions Status During the Appeal

Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If any of the sanctions are to be implemented immediately post-hearing, then emergency removal procedures (detailed above) for a hearing on the justification for doing so must be permitted within 48 hours of implementation.

ICO will still place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation.

Appeal Considerations

Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.

Appeals are not intended to provide for a full re-hearing of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.

An appeal is not an opportunity for Appeal Decision-maker to substitute their judgment for that of the original Hearing Panel merely because they disagree with the finding and/or sanction(s).

The Appeal Decision-maker may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultations will be maintained.

Appeals granted based on new evidence should normally be remanded to the original Investigator(s) and/or Hearing Panel for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.

Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).

In rare cases where a procedural or substantive error cannot be cured by the original Hearing Panel (as in cases of bias), the appeal may order a new hearing with a new Hearing Panel.

The results of a remand to a Hearing Panel. The results of a new hearing can be

appealed, once, on any of the three available appeal grounds.

In cases in which the appeal results in reinstatement to ICO or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term. This appeal process will be, at a minimum, the same as ICO offers in all other comparable proceedings, including proceedings relating to other discrimination complaints.

Supportive Measures:

ICO will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to ICO's education program or activity or provide support during ICO's Title IX grievance procedures or during the informal resolution process. For complaints of sex-based harassment, these supportive measures may include

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies owed by ICO to the Respondent to ensure no effective denial of educational access.

ICO will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair ICO's ability to provide these services.

Disciplinary Sanctions and Remedies:

Following a determination that sex-based harassment occurred, ICO may impose disciplinary sanctions, which may include Factors considered when determining a sanction may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history Previous allegations or allegations

- involving similar conduct
- The need for sanctions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Hearing Panel

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed by external authorities.

Grievance Procedures for Complaints of Sex-Based Harassment Involving Student Complainants or Student Respondents

ICO has adopted Title IX grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator. These grievance procedures address complaints of sex-based harassment that involve a student party.

When a party is both a student and an employee of a postsecondary institution, the 2024 amendments require an institution to make a fact-specific inquiry to determine whether the requirements of §106.46 apply. In making this determination, a postsecondary institution must, at a minimum, consider whether the party's primary relationship with the postsecondary institution is to receive an education and whether the alleged sex-based harassment occurred while the party was performing employment-related work.

Complaints:

The following people have a right to make a complaint of sex-based harassment, requesting that ICO investigate and make a determination about alleged **sex-based harassment** under Title IX:

A "complainant," which includes:

- a student or employee of ICO who is alleged to have been subjected to

- conduct that could constitute sex-based harassment under Title IX; or
- a person other than a student or employee of ICO who is alleged to have been subjected to conduct that could constitute sex-based harassment under Title IX at a time when that individual was participating or attempting to participate in ICO's education program or activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- ICO's Title IX Coordinator.

Note that a person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements of 34 C.F.R. § 106.44(f)(1)(v).

ICO may consolidate complaints of sex-based harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex-based harassment arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

Basic Requirements of Title IX Grievance Procedures:

ICO will treat complainants and respondents equitably.

ICO requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. As long as there is no conflict of interest or bias, a decisionmaker may be the same person as the Title IX Coordinator or investigator.

ICO presumes that the respondent is not responsible for the alleged sex-based harassment until a determination is made at the conclusion of its grievance procedures.

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

ICO has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations.

Complaints:

The following people have a right to make a complaint of sex-based harassment, including complaints of sex-based harassment, requesting that ICO investigate and make a determination about alleged discrimination under Title IX:

A “complainant,” which includes:

- a student or employee of ICO who is alleged to have been subjected to conduct that could constitute sex-based harassment under Title IX; or
- a person other than a student or employee of ICO who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in ICO’s education program or activity;
- parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- ICO’s Title IX Coordinator.

Note that a person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements of the current Title IX guidelines (34 C.F.R. §106.44(f)(1)(v).)

ICO may consolidate complaints of sex-based harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

ICO’s Title IX Grievance Procedures:

ICO will treat complainants and respondents equitably.

ICO requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. A decisionmaker may be the same person as the Title IX Coordinator or investigator.

ICO presumes that the respondent is not responsible for the alleged sex-based harassment until a determination is made at the conclusion of its grievance procedures.

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

Investigation Process:

Once a formal complaint is filed or when ICO has official notice of an incident, a campus investigation will begin as soon as possible. If a law enforcement investigation is also occurring, the campus investigation may temporarily be placed on hold if it could jeopardize the criminal investigation process. The campus investigation and resolution process will not wait for the outcome of a criminal proceeding since the campus policy, possible outcomes, and standard of proof are different than the criminal and legal standards. If the incident also appears to be a violation of the law, you may request that the police and ICO take a formal report together to promote a more efficient process for you; however, please be aware that the standards and outcomes of a campus disciplinary process and the criminal process are different, and this may not always be possible.

Investigations are typically conducted by the ICO Title IX Investigators.

If the College has notice of alleged misconduct that may threaten the health or safety of the campus or any members of its community, ICO reserves the right and has the obligation to initiate a complaint and/or investigation. In these cases, the Title IX Coordinator will be the individual filing the formal complaint.

During any investigation or disciplinary process, appropriate interim remedies may also occur such as campus no-contact orders, adjusting class schedules, or limiting/prohibiting access to campus. The investigation stage of the process involves interviews with both parties (complainant and respondent), witnesses and other individuals deemed to have information about the incident. The investigation process is intended to be prompt, but the length of time is not specifically detailed.

Evidence Review:

At the conclusion of the investigation the evidence obtained is made available to both parties for review. Both parties and their advisors have **10 business days** to review, inspect and respond to all evidence gathered through the investigation. The final investigation report will be forwarded to the Hearing Panel to schedule the formal hearing in no less than **10 business days**.

Hearing Process:

No less than **ten (10) business days** prior to the hearing, the Title IX Coordinator or the Chair will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions or responsive actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Hearing Panel and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Hearing Panel member based on demonstrated bias. This must be raised with the Title IX Coordinator at least two (2) business days prior to the hearing.
- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- 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 Panel. For compelling reasons, the Chair may reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and ICO will appoint one. Each party must have an Advisor present. There are no exceptions.
- A copy of all the materials provided to the Hearing Panel, about the matter, unless they have been provided already. The final investigation report may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.
- An invitation to each party to submit to the Chair an impact statement pre-hearing that the Hearing Panel will review during any sanction determination.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.
- It will indicate that parties cannot bring mobile phones into the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by ICO and remain within the 60-90 business day goal for resolution.

In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any

appeal). A student facing charges under this Policy is not in good standing to graduate.

Pre-Hearing Preparation:

The Chair, after any necessary consultation with the parties, Investigator(s) and/or Title IX Coordinator, will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least ten (10) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s) or have made a written statement or answered written questions, unless all parties and the Chair agree to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. The Chair will delay the Hearing and instruct that the investigation needs to be reopened if new evidence is first presented at the Hearing.

The parties will be given a list of the names of the Hearing Panel members at least five (5) business days in advance of the hearing. All objections to any Hearing Panel member must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than one day prior to the hearing. Hearing Panel members will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

The Title IX Coordinator will give the Hearing Panel members a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the hearing. Any Hearing Panel member who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

During the ten (10) 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 shared with the Chair at the pre-hearing meeting or at the hearing and will be exchanged between each party by the Chair.

Deliberation, Decision-making, and Standard of Proof:

The Hearing Panel members will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. A simple majority vote is required to determine the finding. The preponderance of the evidence proof is used.

When there is a finding of responsibility for one or more of the allegations, the Hearing Panel may then consider the previously submitted party impact statements

in determining appropriate sanction(s).

The Hearing Chair will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). The Hearing Panel may – at their discretion – consider the statements, but they are not binding.

The Hearing Panel will review the statements and any pertinent conduct history provided by the appropriate Vice President (Dean for Academic Affairs, Dean of Student Affairs or VP of Administration) and will determine the appropriate sanction(s) in consultation with a Vice President who has no knowledge of the situation and/or the President, as required.

The Hearing Chair will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence disregarded, credibility assessments, and any sanctions.

This report typically should not exceed three (3) to five (5) pages in length and must be submitted to the Title IX Coordinator within two (2) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

Notice of Outcome:

Using the deliberation statement, the Title IX Coordinator will work with the Hearing Chair to prepare a Notice of Outcome. The Title IX Coordinator will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within 5 business days of receiving the Hearing Panel's.

The Notice of Outcome will then be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official Recipient records, or emailed to the parties' official ICO email address. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

Appeals:

Any party may file a request for appeal ("Request for Appeal"), but it must be submitted in writing to the Title IX Coordinator within 3 days of the delivery of the Notice of Outcome.

A single Appeal Decision-maker will Chair the appeal. The Appeal Decision-maker will not have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process.

The Request for Appeal will be forwarded to the Appeal Decision-maker for Consideration to determine if the request meets the grounds for appeal.

This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

Grounds for Appeal

Appeals are limited to the following grounds:

- Procedural irregularity that affected the outcome of the matter.
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- The Title IX Coordinator, Investigator(s), or Hearing Panel members had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appeal Decision-maker and the parties, and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Decision-maker will notify the other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Hearing Panel Chair.

The other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and the original Hearing Panel Chair will be mailed, emailed, or provided a hard copy of the request with the approved grounds and then be given 5 business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Chair to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed for standing by the Appeal Chair and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or original Hearing Panel, as necessary, who will submit their responses in 5 business days, which will be circulated for review and comment by all parties.

Neither party may submit any new requests for appeal after this time period. The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses will render a decision in no more than 5 business days, barring exigent circumstances. All decisions apply the preponderance of the evidence standard.

A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which ICO is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent ICO is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' ICO-issued email or otherwise approved account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

ICO has also established the following process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay: Parties seeking delay should inform the Title IX Chair in writing / via email . The Chair may determine the ultimate need for delay and will communicate to both parties and describe the length of the intended delay.

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

ICO will objectively evaluate all evidence that is relevant and not otherwise impermissible including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

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

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless ICO obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- Evidence that relates to the complainant's sexual interests or prior sexual

conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

Written Notice of Allegations:

Upon initiation of ICO's Title IX grievance procedures, ICO will notify the parties of the following:

- ICO's Title IX grievance procedures;
- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex-based harassment, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited; and
- The respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- The parties may have an advisor of their choice who may be, but is not required to be, an attorney;
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an investigative report that accurately summarizes this evidence.
- It would be considered a professional conduct and ethics violation to knowingly make false statements or knowingly submitting false statements during grievance procedures
- If, in the course of an investigation, ICO decides to investigate additional allegations of sex-based harassment by the respondent toward the complainant that are not included in the written notice or that are included in a consolidated complaint, it will provide written notice of the additional allegations to the parties.

If, in the course of an investigation, ICO decides to investigate additional allegations sex-based harassment by the respondent toward the complainant that are not included in the notice provided or that are included in a complaint that is consolidated, ICO will notify the parties of the additional allegations.

Dismissal of a Complaint:

ICO may dismiss a complaint of sex-based harassment if:

- ICO is unable to identify the respondent after taking reasonable steps to do so;
- The respondent is not participating in ICO's education program or activity and is not employed by ICO;
- The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and ICO determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex-based harassment under Title IX even if proven; or
- ICO determines the conduct alleged in the complaint, even if proven, would not constitute sex-based harassment under Title IX. Before dismissing the complaint, ICO will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, ICO will promptly notify the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then ICO will also notify the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing.

ICO will notify the complainant that a dismissal may be appealed on the bases outlined in the *Appeals* section. If dismissal occurs after the respondent has been notified of the allegations, then ICO will also notify the respondent that the dismissal may be appealed on the same bases. If a dismissal is appealed, ICO will follow the procedures outlined in the *Appeals* section.

When a complaint is dismissed, ICO will, at a minimum:

- Offer supportive measures to the complainant as appropriate;
- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within ICO's education program or activity.

Investigation:

ICO will provide for adequate, reliable, and impartial investigation of complaints. The burden is on ICO—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex-based harassment occurred.

ICO will provide to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with

sufficient time for the party to prepare to participate.

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

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

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

ICO will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

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

ICO will provide each party and the party's advisor, if any, with an equal opportunity to access the evidence that is relevant to the allegations of sex-based harassment and not otherwise impermissible, in the following manner:

- ICO will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or the same written investigative report that accurately summarizes this evidence
- ICO will provide a reasonable opportunity to review and respond to the evidence or the investigative report. and
- ICO will take reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the sex-based harassment grievance procedures.

Questioning the Parties and Witnesses:

ICO will provide a process that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment.

ICO's procedures for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will:

- Allow the investigator or decisionmaker to ask such questions during individual meetings with a party or witness;
- Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the investigator or

decisionmaker during one or more individual meetings, including follow-up meetings, with a party or witness, subject to the procedures for evaluating and limiting questions discussed below; and

- Provide each party with an audio or audiovisual recording or transcript with enough time for the party to have a reasonable opportunity to propose follow-up questions.

Procedures for the decisionmaker to evaluate the questions and limitations on questions:

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

Refusal to respond to questions and inferences based on refusal to respond to questions:

The decisionmaker may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The decisionmaker will not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

Determination Whether Sex-Based Harassment Occurred:

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, ICO will

- Use the preponderance of the evidence standard of proof to determine whether sex-based harassment occurred. The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that sex-based harassment occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex-based harassment occurred.
- Notify the parties simultaneously in writing of the determination whether sex-based harassment occurred under Title IX including:
- A description of the alleged sex-based harassment
- Information about the policies and procedures that [ABC College] used to evaluate the allegations;
- The decisionmaker's evaluation of the relevant and not otherwise impermissible

- evidence and determination whether sex-based harassment occurred;
- When the decisionmaker finds that sex-based harassment occurred, any disciplinary sanctions ICO will impose on the respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by ICO to the complainant, and, to the extent appropriate, other students identified by ICO to be experiencing the effects of the sex-based harassment;
- and ICO's procedures and permissible bases for the complainant and respondent to appeal.
- ICO will not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the Title IX grievance procedures that the respondent engaged in prohibited sex discrimination.

Appeals

ICO will offer an appeal from a dismissal or determination whether sex-based harassment occurred on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If a party appeals a dismissal or determination whether sex-based harassment occurred, ICO will:

Notify the parties in writing of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;

- Implement appeal procedures equally for the parties;
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
- Communicate to the parties in writing that [ABC College] will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties in writing of the result of the appeal and the rationale for the result.

Any additional procedures or bases for appeal ICO offers will be equally available to all parties.

Supportive Measures:

ICO will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to ICO's education program or activity or provide support during ICO's Title IX grievance. For complaints of sex-based harassment, these supportive measures may include

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies owed by ICO to the Respondent to ensure no effective denial of educational access.

ICO will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair ICO's ability to provide these services.

Disciplinary Sanctions and Remedies:

Following a determination that sex-based harassment occurred, ICO may impose disciplinary sanctions, which may include Factors considered when determining a sanction may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history Previous allegations or allegations involving similar conduct
- The need for sanctions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Hearing Panel

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed by external authorities.

Appendix: Definitions

Complainant means:

- (1) A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or
- (2) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination.

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

Disciplinary sanctions means consequences imposed on a respondent following a determination under Title IX that the respondent violated the recipient's prohibition on sex discrimination.

Party means a complainant or respondent.

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

Remedies means measures provided, as appropriate, to a complainant or any other person the recipient identifies as having had their equal access to the recipient's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the recipient's education program or activity after a recipient determines that sex discrimination occurred.

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

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

Sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

(1) *Quid pro quo harassment*. An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

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

(i) The degree to which the conduct affected the complainant's ability to access the recipient's education program or activity;

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

(iii) The parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;

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

(v) Other sex-based harassment in the recipient's education program or activity; or

(3) *Specific offenses*.

(i) Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;

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

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

2) Where the existence of such a relationship shall be determined based on a) consideration of the following factors:

b) The length of the relationship;

- c) The type of relationship; and
 - d) The frequency of interaction between the persons involved in the relationship;
- (iii) Domestic violence meaning felony or misdemeanor crimes committed by a person who:
- (A) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
 - (B) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - (C) Shares a child in common with the victim; or
 - (D) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or
- (iv) Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
- (A) Fear for the person's safety or the safety of others; or
 - (B) Suffer substantial emotional distress.

Supportive measures means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

- (1) Restore or preserve that party's access to the recipient's education program or activity, including measures that are designed to protect the safety of the parties or the recipient's educational environment; or
- (2) Provide support during the recipient's grievance procedures or during an informal resolution process.