



## **Policy Prohibiting Discrimination Based on Sex Under Title IX (Title IX Policy)**

Issuance Date: October 1, 2014  
Revised Date: August 3, 2016  
Revised Date: August 10, 2017  
Revised Date: July 19, 2018  
Revised Date: November 15, 2018  
Revised Date: October 21, 2019  
Revised Date: December 19, 2019  
Revised Date: August 6, 2021  
Revised Date: August 9, 2021  
Revised Date: April 21, 2022  
Revised Date: July 18, 2022  
Revised Date: August 1, 2024

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## I. INTRODUCTION

This Policy sets forth The Chicago School's obligations under the 2024 Title IX Regulations and incorporates the definitions and procedural requirements from the 2013 Clery Amendments pertaining to sexual assault, dating violence, domestic violence, and stalking. Because The Chicago School's primary campus is located in California, this Policy also sets forth The Chicago School's obligations pertaining to sex-based discrimination (including sex-based harassment) and related retaliation under the California Fair Employment & Housing Act and the California Education Code.

Pursuant to this Policy, The Chicago School will:

- Respond to all reports of sex-based discrimination and/or retaliation.
- Take necessary measures to end conduct that is in violation of this Policy, prevent its recurrence, and remedy its effect on individuals and the community.

Within any process related to this Policy, The Chicago School provides reasonable accommodations to persons with disabilities and reasonable religious accommodations, consistent with California and federal law.

Situations involving conduct that may be in violation of other school policies should be reported to a student's academic department for matters involving students, or Human Resources for matters involving employees. Situations involving other types of conduct by nonaffiliates should be reported to the Facilities department.

Any concerns related to conduct prohibited by this Policy should be reported to The Chicago School's Title IX Office at [titleix@thechicagoschool.edu](mailto:titleix@thechicagoschool.edu). The Title IX staff members are:

Title IX Coordinator  
Jennifer Stripe Portillo  
(213) 615-7264  
707 Wilshire Blvd, Los Angeles, CA 90017

Deputy Title IX Coordinator  
Daniel Esquivel  
(213) 283-4267  
707 Wilshire Blvd, Los Angeles, CA 90017

### A. Statement of Nondiscrimination and Applicability of this Policy

As set forth in this Policy, The Chicago School prohibits discrimination on the basis of sex in its programs and activities. As defined by Title IX and California law, discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

The Chicago School does not discriminate in its admissions practices, in its employment practices, or in its educational programs or activities on the basis of sex. The Chicago School also prohibits retaliation against any person opposing sex discrimination or participating in any sex discrimination investigation or complaint process, whether internal or external to The Chicago School. Sex-based harassment, sexual assault, dating and domestic violence, and stalking are forms of sex discrimination which are prohibited under Title IX, California law, and by this Policy.

California law prohibits coworkers, third parties (including students), as well as supervisors and managers with whom an employee (including a student employee, applicant for employment, contractor, volunteer, or intern) comes into contact, from engaging in conduct prohibited by the California Fair Employment and Housing Act.

When brought to the attention of The Chicago School, conduct prohibited by this Policy will be addressed by the institution according to the procedures set forth in this Policy. Discrimination on the basis of any other protected category will be addressed in accordance with the [Student Policy on Anti-Discrimination, Anti-Harassment, and Anti-Retaliation](#) (Student DHR Policy) or the Equal Employment Opportunity, Non-Discrimination, and Anti-Harassment Policy (employees) available on the intranet.

Complaint Type	Complainant	Respondent	Applicable Policy	Contact
Sex discrimination and sex-based harassment	Student or Employee	Student or Employee	<p><b>TX and LA Community Members:</b>  <a href="#">Anti-Discrimination, Anti-Harassment, and Title IX Policy</a> (Section C only)</p> <p><b>All other Community Members:</b>            This Policy</p>	<a href="mailto:titleix@thechicagoschool.edu">titleix@thechicagoschool.edu</a>
Protected Category other than sex discrimination and sex-based harassment	Student	Student or Employee	<a href="#">Student DHR Policy</a>	<a href="mailto:studentsuccess@thechicagoschool.edu">studentsuccess@thechicagoschool.edu</a>
Protected Category other than sex discrimination and sex-based harassment	Employee	Employee	Equal Employment Opportunity, Non-Discrimination, and Anti-Harassment Policy	<a href="mailto:National-hr@thechicagoschool.edu">National-hr@thechicagoschool.edu</a>

## **B. Statement of Equal Access**

The Chicago School shall provide certain support and modifications to people experiencing pregnancy and related conditions to ensure their equal access to the school's programs and activities. Pregnancy and related conditions means "pregnancy, childbirth, termination of pregnancy, and lactation," medical conditions related to pregnancy, childbirth, termination of pregnancy, and lactation or recovery therefrom.

The Chicago School treats pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions and must allow voluntary leaves of absence. Students, employees, or applicants should contact the Title IX Coordinator for more information. Employees or applicants for employment may also contact Human Resources ([National-HR@thechicagoschool.edu](mailto:National-HR@thechicagoschool.edu)) for more information, because additional workplace laws and policies apply. A student should refer to The Chicago School's [Student Policy on Pregnancy and Related Conditions](#).

## **C. Application of Section 504/Americans with Disabilities Act to this Policy**

The Chicago School complies with the requirements of the Americans with Disabilities Act of 1990, as amended 2008 ("ADAAA"); Sections 504 and 508 of the Rehabilitation Act of 1973, as amended; and all other federal and California laws and regulations prohibiting discrimination on the basis of disability. The Chicago School is committed to providing individuals with disabilities equal access to the school's programs and activities.

Parties may request reasonable accommodations for disabilities to the Title IX Coordinator at any point relating to the implementation of this Policy, including making a Disclosure or Report, and initiating a resolution procedure. Accommodations will be granted if they are reasonable and do not fundamentally alter the procedures established by this Policy. Please note that the Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the parties, even where the parties may be receiving accommodations in other school programs and activities.

With the consent of the impacted student or employee, the Title IX Coordinator will work collaboratively with the Disability Services and ADA Accommodations (students) or the Office of Human Resources (employees) to ensure that approved reasonable accommodations (disability-related) are implemented.

## **II. SCOPE AND JURISDICTION**

All members of The Chicago School's community, including, but not limited to, students, student organizations, faculty, administrators, and staff, whether on or off campus, and third parties such as contractors, interns, guests, visitors, volunteers, invitees, and

alumni when they are on campus or participating in Chicago School-sponsored activities, are subject to this Policy, though the procedures for resolving conduct prohibited by this Policy will vary based on one's status. This Policy applies to all students and employees and all other individuals participating in (or attempting to participate in) The Chicago School programs and activities, including school-sponsored events that take place off-campus.

This Policy may also pertain to instances in which the conduct occurred outside of the campus or school-sponsored activity if The Chicago School determines that the off-campus conduct is within the jurisdiction of its disciplinary authority or affects a substantial school interest, including access to the educational program or activity, safety and security, compliance with applicable law, and meeting its educational mission.

The Chicago School shall take reasonable steps to respond to each incident of Prohibited Conduct involving individuals subject to the school's policies that occur in connection with any educational activity or other program of The Chicago School, as well as incidents that occurred outside of those educational programs or activities, whether they occurred on or off campus to a student, if, based on the allegations, there is any reason to believe that the incident could contribute to a hostile educational environment or otherwise interfere with a student's access to education.

Any individual covered by this Policy is expected to provide truthful information in any report, meeting, or proceeding under this Policy. Any individual who provides untruthful information may be subject to discipline under the University Community Norms and Standards policies (students) or Code of Ethics (employees).

Unless otherwise specified in this Policy, any individual who is accused of engaging in conduct prohibited by this Policy who is not a student, faculty member, or staff member is generally considered a third party. The Chicago School's ability to take corrective action against a third party may be limited and will depend on the nature of the third party's relationship, if any, with The Chicago School. The status of a party may impact which resources and remedies are available to them under this Policy.

If there is a conflict between the provisions of this Policy and other Chicago School policies, procedures, rules, regulations, or terms or conditions of employment, the provisions of this Policy will govern unless otherwise stated. Any capitalized terms in this Policy are defined in the relevant section or as stated in Section XXI – Key Definitions.

### **III. PROHIBITED CONDUCT**

This Policy prohibits sex discrimination, including sex-based harassment, and Retaliation as defined below. These acts shall also be referred to as Prohibited Conduct under this Policy.

## **A. Discrimination on the Basis of Sex**

Except as permitted by Title IX, prohibited discrimination on the basis of sex (where sex includes sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity) is defined as actions that cause an individual to be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by The Chicago School.

Except as permitted by Title IX, Chicago School Community Members shall not engage in any of the following prohibited discriminatory actions on the basis of sex if it would cause more than *de minimis* harm:

1. Treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service;
2. Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner;  
Deny any person any such aid, benefit, or service;
3. Subject any person to separate or different rules of behavior, sanctions, or other treatment;
4. Aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex in providing any aid, benefit or service to students or employees;
5. Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

For the purposes of this definition, unless permitted by Title IX, adopting a policy or engaging in a practice that prevents a person from participating in an education program or activity consistent with the person's gender identity subjects a person to more than *de minimis* harm on the basis of sex and will be considered prohibited discrimination.

## **B. Sex-Based Harassment**

Sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, as defined by Title IX, including harassment on the basis of sex stereotypes, sex characteristics, pregnancy and related conditions, sexual orientation, and gender identity.

Under this Policy, prohibited Sex-based Harassment includes the following conduct:

### **1. Quid Pro Quo Harassment**

Quid Pro Quo Harassment occurs when someone from or in the work or educational setting, including 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 implicitly actually, attempts to, or purports to provide and condition an aid, benefit, or service under the recipient's education program or activity of The Chicago School on an individual's participation in unwelcome sexual conduct, which includes but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, including under any of the following conditions:

- Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress;
- Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual; or
- Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.

## **2. Sex-Based Hostile Environment Harassment in Programs and Activities**

Sex-based Hostile Environment Harassment in Programs and Activities is defined as:

1. Unwelcome sex-based conduct (where sex includes sex stereotypes, sex characteristics, pregnancy and related conditions, sexual orientation, and gender identity) 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 Chicago School's Education Program or Activity (i.e., creates a hostile environment); or
2. Unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting where the conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.

Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- The degree to which the conduct affected the individual's ability to access The Chicago School's Education Program or Activity;
- The type, frequency, and duration of the conduct;



- The parties' ages, roles within The Chicago School's Education Program or Activity, previous interactions, and other factors about a party that may be relevant to evaluating the effects of the conduct;
- The location of the conduct and the context in which the conduct occurred; and
- Other sex-based harassment in The Chicago School's Education Program or Activity.

### **3. California Sex-based Harassment in Employment**

Prohibited conduct is defined as any unwelcome behavior towards an employee (including a student employee in their capacity as an employee), applicant for employment, unpaid intern, contractor or volunteer, that is reasonably regarded as offensive that is based on sex that:

- Sufficiently offends, humiliates, distresses, or intrudes upon its victim, so as to disrupt the victim's emotional tranquility in the workplace, or
- Affects the victim's ability to perform the job as usual, or
- Otherwise interferes with and undermines the victim's personal sense of well-being.

For California Sex-based Harassment in Employment, a single incident of harassing conduct based on sex may create a hostile work environment if the harassing conduct has unreasonably interfered with the victim's work performance or created an intimidating, hostile, or offensive work environment. Whether or not the person meant to give offense or believed their comments or conduct were welcome is not significant. Rather, the Policy is violated when other individuals, whether recipients or mere observers, are actually offended by comments or conduct based on sex and the conduct is considered offensive by a reasonable person.

### **C. Sexual Assault and Interpersonal Violence**

#### **1. Sexual Assault**

Sexual Assault is defined as any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving Affirmative Consent.

Sexual Assault includes:

- a. Rape—The 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 Affirmative Consent of the victim. Attempted rape falls under this prohibition.

- b. Fondling—The touching of the private body parts of another for the purpose of sexual gratification, without the Affirmative Consent of the victim, including instances where the victim is incapable of giving Affirmative Consent because of their age or because of their temporary or permanent mental incapacity.
- c. Incest—Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- d. Statutory Rape—Sexual intercourse with a person who is under the statutory age of consent. The statutory age of consent in California is eighteen (18).

## **2. California Sexual Violence (Against Students)**

The Chicago School also prohibits Sexual Violence as defined by the California Education Code. Conduct defined as California Sexual Violence may be eligible for an alternative resolution except for mediation (a form of alternative resolution), which is never permitted for California Sexual Violence.

California Sexual Violence means physical sexual acts perpetrated against a person without the person's Affirmative Consent. Physical sexual acts include both of the following:

- a. Rape, defined as penetration, no matter how slight, of the vagina or anus with any part or object, or oral copulation of a sex organ by another person, without the consent of the victim.
- b. Sexual battery, defined as the intentional touching of another person's intimate parts without their Affirmative Consent, intentionally causing a person to touch the intimate parts of another without Affirmative Consent, or using a person's own intimate part to intentionally touch another person's body without Affirmative Consent.

## **3. Dating Violence**

This includes violence committed by a person:

- a. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- b. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - i. The length of the relationship;
  - ii. The type of relationship; and
  - iii. The frequency of interaction between the persons involved in the relationship.

Emotional and psychological abuse do not constitute violence for the purposes of this Title IX definition. A Chicago School Community Member experiencing emotional or psychological abuse committed by an intimate partner may be eligible for support under a different school policy. Review the Relationship Abuse definition in this Policy and contact Title IX with questions.

#### **4. Domestic Violence**

This includes felony or misdemeanor crimes of violence 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 Chicago School, 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 California.

Emotional and psychological abuse do not constitute violence for the purposes of this definition. A Chicago School Community Member experiencing emotional or psychological abuse committed by an intimate partner may be eligible for support under a different school policy. Review the Relationship Violence definition in this Policy and contact Title IX with questions.

#### **5. Stalking**

Stalking is defined as engaging in a course of conduct, on the basis of sex, 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.

#### **6. California Sexual Exploitation**

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

- a. The prostituting of another person;
- b. The trafficking of another person, defined as the inducement of a person to perform a commercial sex act, or labor or services, through force, fraud, or coercion;

- c. The recording of images, including video or photograph, or audio of another person's sexual activity or intimate parts, without that person's consent;
- d. The distribution of images, including video or photograph, or audio of another person's sexual activity or intimate parts, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to the disclosure.
- e. The viewing of another person's sexual activity or intimate parts, in a place where that other person would have a reasonable expectation of privacy, without that person's consent, for the purpose of arousing or gratifying sexual desire.

#### **D. Retaliation**

Retaliation is any materially adverse action taken against an individual because they were involved in the disclosure, reporting, investigation, or resolution of a report or complaint of Prohibited Conduct under this Policy. Retaliation includes threats, intimidation, harassment, coercion, discrimination, violence, or any other conduct by The Chicago School, a student, or an employee or other person authorized by The Chicago School to provide aid, benefit, or service under the school's education program or activity, for the purpose of interfering with any right or privilege secured by this Policy or by law, including Title IX or its regulations. Adverse action does not include perceived or petty slights or trivial annoyances.

The prohibition against Retaliation applies to any individuals who participate (or refuse to participate) in any manner in a proceeding or meeting under this Policy.

Retaliation may occur even where there is a finding of "not responsible" under this Policy. Good faith actions lawfully pursued in response to a report of Prohibited Conduct are not Retaliation.

#### **IV. DUTY TO RESPOND AND DELEGATION OF DUTIES UNDER THIS POLICY**

The Chicago School shall respond to all allegations of Prohibited Conduct, as defined above.

Obligations created by this Policy, including when responding to reports of Prohibited Conduct may be delegated by The Chicago School, including to external professionals. In addition, any reference to obligations in this Policy assigned to a particular title, such as Title IX Coordinator, may be delegated as appropriate by The Chicago School, including to external professionals.

#### **V. CONFLICTS OF INTEREST OR BIAS**

Any individual carrying out any part of this Policy shall be free from any actual conflict of interest or demonstrated bias that would impact the handling of a matter. Should the Title IX Coordinator have a conflict of interest, the Title IX Coordinator shall immediately notify the Vice President of Academic Affairs, who will either take, or reassign, the role of Title IX Coordinator for purposes of carrying out the handling and finalization of the matter at issue.

Should any Investigator, Decisionmaker, Sanctions Panel Member, or Appeals Officer have a conflict of interest, the Investigator, Decisionmaker, Sanctions Panel Member, or Appeals Officer shall notify the Title IX Coordinator upon discovery of the conflict so that the Title IX Coordinator may reassign the role as appropriate. This Policy will note where parties can challenge the participation of any individual implementing this Policy based on conflict of interest or shown bias.

## **VI. CRIME AND INCIDENT DISCLOSURE OBLIGATIONS**

The Clery Act is a federal crime and incident disclosure law. (Section 67380 of the California Education Code has similar requirements.) The Clery Act requires, among other things, that The Chicago School report the number of incidents of certain crimes, including some of the Prohibited Conduct in this Policy, that occur in particular campus-related locations. The Clery Act also requires The Chicago School to issue a warning to the community in certain circumstances.

In the statistical disclosures and warnings to the community, The Chicago School will ensure that a Complainant's name and other identifying information is not disclosed. When reporting to law enforcement under the Education Code, The Chicago School will not disclose personally identifiable information without a Complainant's consent. The Title IX Coordinator will refer information to the Office of the Chief Operating Officer when appropriate for a determination about Clery-related actions, such as disclosing crime statistics or sending campus notifications.

## **VII. REPORTING SEX DISCRIMINATION, INCLUDING SEX-BASED HARASSMENT**

### **A. Employee Reporting Obligations**

All employees are required to promptly provide to the Title IX Coordinator all complaints and/or reports of Prohibited Conduct and share all information reported or made available to the employee. As required by California law, if an employee in a supervisory capacity has knowledge of an incident of Prohibited Conduct directed toward any employee, that supervisor is required to bring the matter to the attention of the Title IX Coordinator.

When providing this information to the Title IX Coordinator, the employee must include their own name and contact information, and all known details about an incident, which

may include, if known, the dates, times, locations, names of involved individuals, and the nature of the incident.

Aside from this reporting obligation, employees will, to the fullest extent possible, maintain the privacy of an individual's information, consistent with FERPA.

## **B. How to Make a Report to The Chicago School**

All complaints of violations of this Policy will be taken seriously and in good faith. The Title IX Coordinator will provide information and guidance regarding how to file a complaint with The Chicago School and/or local law enforcement, as well as information and assistance about what course of action may best support the individual(s) involved and how best to address the complaint.

Every reasonable effort will be made to maintain the privacy of those making a report to the extent possible. In all cases, The Chicago School will give consideration to the party bringing forward a report with respect to how the matter is pursued. The Chicago School may, when necessary to protect the community, initiate an investigation or take other responsive actions to a report, even when the person identifying a concern chooses not to participate in a resolution process and/or requests that the school not initiate an investigation.

Employees, students, guests, or visitors who believe that this Policy has been violated should promptly contact Title IX:

Title IX Coordinator:  
Jennifer Stripe Portillo  
(213) 615-7264  
707 Wilshire Blvd, Los Angeles, CA 90017

Deputy Title IX Coordinator  
Daniel Esquivel  
(213) 283-4267  
707 Wilshire Blvd, Los Angeles, CA 90017

Email Contact Information  
Title IX: [titleix@thechicagoschool.edu](mailto:titleix@thechicagoschool.edu)

Or use this Title IX Incident Reporting form:  
[https://cm.maxient.com/reportingform.php?TheChicagoSchool &layout\\_id=1](https://cm.maxient.com/reportingform.php?TheChicagoSchool &layout_id=1)

There is no timeline for making a report of Prohibited Conduct. However, The Chicago School encourages the prompt reporting of a complaint as the ability of The Chicago School to pursue the complaint to conclusion may be hindered by the passage of time.

Individuals may also refer to Section XIX of this Policy for other reporting options.

**C. Amnesty for Student Conduct Charges When Reporting Prohibited Conduct**

A student who participates as a Complainant or witness in an investigation of Prohibited Conduct will not be subject to disciplinary sanctions for a violation of The Chicago School's student conduct policies at or near the time of the incident, unless The Chicago School determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

**D. Privacy and Confidentiality in the Process**

The Chicago School Title IX Office cannot guarantee confidentiality and will maintain privacy to the greatest extent possible, relaying information only as necessary to investigate or seek a resolution. The Title IX Coordinator is responsible for tracking patterns and spotting systemic issues related to privacy and confidentiality. The Chicago School will limit the disclosure of information as much as practicable.

While The Chicago School will take reasonable steps to protect the privacy of individuals involved in a complaint, it may be necessary to disclose information to individuals or offices to address a complaint. Thus, The Chicago School cannot, and does not, guarantee that all information related to complaints will be kept confidential.

To maintain the privacy of evidence gathered as part of any resolution process, access to materials under the procedures in this Policy will be provided only by a secure method and parties and Advisors are not permitted to make copies of any documents shared or make use of the documents outside of the processes described in this Policy. Parties may request to review a hard copy of materials, and The Chicago School will make that available in a supervised or monitored setting. Inappropriately sharing materials provided during this process may constitute Retaliation under this Policy.

**E. Options for Confidential Reporting**

Chicago School Community Members may speak with an external confidential resource.

The YWCA Metropolitan Chicago is a community-based sexual assault crisis center that offers free, confidential services that are available 24 hours per day, 7 days per week. A counselor is available by calling 888.293.2080. A Chicago School Community Member should identify themselves as a member of the school community and ask for a confidential counselor.

Phone: 888.293.2080

Website: <https://ywcachicago.org/advancing-healing-safety-and-belonging#rape-crisis-hotline>

*Students:* Student Solutions: Student Solutions is a free, confidential, around-the-clock counseling service available to all Chicago School students.

Phone: 855.460.6668

Website: [www.guidanceresources.com](http://www.guidanceresources.com)

Web identifier: TCSPP

*Employees:* Employee Assistance Program (EAP): Chicago School employees may receive counseling services through the EAP, which is available 24 hours per day, 7 days per week.

Phone: 800.272.7255

Website: [www.guidanceresources.com](http://www.guidanceresources.com)

Web identifier: COM589

## **F. Reporting to Law Enforcement**

Some Prohibited Conduct may constitute a violation of both the law and school policy. The Chicago School encourages students and employees to report alleged crimes promptly to local law enforcement agencies. All persons have the right to make a report to law enforcement, as well as the right to decline to make a report to law enforcement. The decision not to report to law enforcement shall not be considered as evidence that there was not a violation of The Chicago School policy. Local resources for community members located near a Chicago School campus can be found on the [Title IX website](#).

As a condition of participation in CalGrants, The Chicago School states the following pursuant to section 67380 of the California Education Code

*The Chicago School require any report made by a victim or an employee pursuant to Section 67383 of a Part 1 violent crime, sexual assault, or hate crime, as described in Section 422.55 of the Penal Code, received by a campus security authority and made by the victim for purposes of notifying the institution or law enforcement, to be immediately, or as soon as practicably possible, disclosed to the local law enforcement agency with which the institution has a written agreement pursuant to Section 67381 without identifying the victim, unless the victim consents to being identified after the victim has been informed of the victim's right to have the victim's personally identifying information withheld. If the victim does not consent to being identified, the alleged assailant shall not be identified in the information disclosed to the local law enforcement agency, unless the institution determines both of the following, in which case the institution shall disclose the identity of the alleged assailant to the local law enforcement agency and shall immediately inform the victim of that disclosure:*



*(i) The alleged assailant represents a serious or ongoing threat to the safety of students, employees, or the institution.*

*(ii) The immediate assistance of the local law enforcement agency is necessary to contact or detain the assailant.*

Criminal investigations may be useful in gathering relevant evidence, particularly forensic evidence. The standards for finding a violation of criminal law are different from the standards for finding a violation of this Policy. Conduct may constitute Prohibited Conduct under this Policy even if law enforcement agencies lack sufficient evidence of a crime and decline to prosecute.

Proceedings under this Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings. However, when a complaint is made to The Chicago School as well as to law enforcement, The Chicago School may delay its process for a reasonable amount of time to allow law enforcement to gather evidence of criminal misconduct if requested. Criminal or legal proceedings are separate from the processes in this Policy and do not determine whether this Policy has been violated.

All investigations and determinations under this Policy will be thorough, reliable, and impartial, and will seek to collect evidence and names of witnesses to gather information that is directly or substantially relevant to whether the alleged violation occurred and will not be based on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

In the case of an emergency, where the physical well-being of a member of The Chicago School community or the safety of The Chicago School as an institution is threatened, any individual with such knowledge should promptly contact local law enforcement. The Chicago School may take any immediate steps necessary and appropriate under the circumstances to ensure the well-being of the institution.

## **G. Consensual Relationships**

This Policy covers unwelcome conduct that is sexual in nature. While romantic relationships between Chicago School Community Members may begin as consensual, it is possible that they may evolve into situations that lead to misconduct in violation of this Policy. Voluntary consent from a supervised employee or a student is suspect given the asymmetrical nature of such relationships. In addition, other students and employees may be impacted.

Consensual personal relationships between Chicago School Community Members are subject to other policies and ethical considerations including but not limited to those contained in the Faculty and Staff Handbook, where applicable.

## **VIII. RESPONSE TO A REPORT**

The Chicago School's response to a report of Prohibited Conduct shall generally include the following:

### **A. Initial Contact**

Following receipt of a report alleging a potential violation of this Policy, the Title IX Coordinator will contact the Complainant to schedule a meeting for initial intake and assessment, and will provide the following:

1. An invitation to meet to offer assistance and explain their rights, resources, and options under this Policy as well as The Chicago School's response to reports;
2. Access to this Policy;
3. Information regarding available resources for counseling, health care, mental health, or victim advocacy. Upon request, information regarding legal assistance, visa and immigration assistance, student financial aid, and other available services may be provided, where relevant;
4. The availability of Supportive Measures regardless of whether a complaint is filed and/or any resolution process is initiated;
5. The options for resolution (no action, Support-Based Resolution, Agreement-Based Resolution, Investigation and Decision-Making Resolution) and how to initiate such resolution processes;
6. The right to notify law enforcement as well as the right not to notify law enforcement;
7. The importance of preserving evidence and, in the case of potential criminal misconduct, how to get assistance from local law enforcement in preserving evidence;
8. For cases of California Sexual Violence, the role of victim advocates, the plan for the victim interview, and a student's right to consult with an attorney, at their own expense, at any stage of the process if they wish to do so;
9. The opportunity for identification and location of witnesses;
10. The right to an Advisor of choice, if applicable, during The Chicago School proceedings under this Policy including the initial meeting with the Title IX Coordinator;
11. A statement that Retaliation for filing a complaint, or participating in the complaint process, is prohibited; and
12. Information on how to initiate the Resolution-Based Agreement process and Investigation and Decision-making process and how those procedures work, including contacting and interviewing the Respondent and seeking identification and location of witnesses and possible disciplinary consequences.

### **B. Initial Assessment**

The Initial Assessment process seeks to gather information about the nature and circumstances of the report to determine whether this Policy applies to the report and, if so, which resolution process may be appropriate, as well as which section of

the resolution procedures apply based on the conduct and the status of the parties. The primary concern shall be safety. For cases of California Sexual Violence, a victim-centered interview protocol shall be used.

The Title IX Coordinator may also determine that the provision of Supportive Measures only is the appropriate response under the Policy. If the initial complaint was not reported by the actual Complainant, the Title IX Coordinator will limit communication to general information on policies and processes.

Should the Complainant wish to initiate a resolution process, the Title IX Coordinator will determine whether this Policy applies and, if so, the appropriate process under this Policy. The Title IX Coordinator will communicate this determination to the Complainant. If the Complainant does not wish to initiate a resolution process, the Title IX Coordinator will assess whether to proceed as set forth below.

If the information provided does not suggest a potential violation of this Policy, the Title IX Coordinator will provide the Complainant written notice that the matter is being referred for handling under a different policy, to another appropriate office for handling, if applicable, or is being closed.

### **C. Requests for Confidentiality or No Further Action**

When a Complainant requests that The Chicago School not use their name as part of any resolution process, or that The Chicago School not take any further action, the school will generally try to honor those requests. However, there are certain instances in which The Chicago School has a broader obligation to the community and may need to act against the wishes of the Complainant. In such circumstances, the Title IX Coordinator will notify the Complainant in writing of the need to act. The factors the Title IX Coordinator will consider when determining whether to act against the wishes of a Complainant include:

1. The Complainant's request not to proceed with initiation of a complaint;
2. The Complainant's reasonable safety concerns regarding initiation of a Complaint;
3. The risk that additional acts of Prohibited Conduct would occur if a complaint is not initiated;
4. The severity of the alleged Prohibited Conduct, including whether the discrimination, if established, would require the removal of a Respondent from the school or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
5. The age and relationship of the parties, including whether the Respondent is an employee of The Chicago School;
6. The scope of the alleged discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
7. The availability of evidence to assist a Decisionmaker in determining whether sex discrimination occurred;

8. Whether The Chicago School could end the alleged sex discrimination and prevent its recurrence without initiating its resolution procedures under this Policy; and
9. Whether the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other persons, or that the conduct as alleged prevents The Chicago School from ensuring equal access on the basis of sex to its Education Program or Activity.

**D. Requests for Confidentiality or No Further Action for California Sex-Based Harassment in Programs and Activities and California Sexual Violence involving a Student**

California has specific requirements for The Chicago School's duty to respond to reports of California Sex-Based Harassment in Programs and Activities and/or California Sexual Violence and Sexual Exploitation where the conduct is not governed by Title IX ("California Misconduct"), regardless of whether or not a complaint has been filed under The Chicago School's resolution procedures. If the school knows, or reasonably should know, about possible California Misconduct against a student, involving individuals subject to the school's policies at the time, The Chicago School shall promptly investigate (as set forth in this Policy) to determine whether the alleged conduct more likely than not occurred, or otherwise respond if the school determines that an investigation is not required. If The Chicago School determines that the alleged conduct more likely than not occurred, it shall immediately take reasonable steps to end the harassment, address the hostile environment, if one has been created, prevent its recurrence, and address its effects.

For California Misconduct, if a student Complainant requests confidentiality, which could preclude a meaningful investigation or potential discipline of the potential Respondent, or that no investigation or disciplinary action be pursued to address alleged California Misconduct, The Chicago School shall take the request seriously, while at the same time considering its responsibility to provide a safe and nondiscriminatory environment for all students, including for the student Complainant. The Chicago School shall generally grant the request. In determining whether to disclose the student Complainant's identity or proceed to an investigation over the objection of the student Complainant, the school may consider whether any of the following apply:

1. There are multiple or prior reports of sexual misconduct against the Respondent.
2. The Respondent reportedly used a weapon, physical restraints, or engaged in battery.
3. The Respondent is a faculty or staff member with oversight of students.
4. There is a power imbalance between the student Complainant and the Respondent.

5. The student Complainant believes they will be less safe if their name is disclosed, or an investigation is conducted.
6. The Chicago School can conduct a thorough investigation and obtain relevant evidence in the absence of the student Complainant's cooperation.

If The Chicago School determines that it can honor the student Complainant's request for confidentiality, it shall still take reasonable steps to respond to the complaint, consistent with the request, to limit the effects of the alleged California Misconduct and prevent its recurrence without initiating formal action against the alleged Respondent or revealing the identity of the student Complainant. These steps may include increased monitoring, supervision, or security at locations or activities where the alleged misconduct occurred; providing additional training and education materials for students and employees; or conducting climate surveys regarding sexual violence. The Chicago School shall also take immediate steps to provide for the safety of the student Complainant while keeping the student Complainant's identity confidential as appropriate. These steps may include changing course schedules, assignments, or tests. The student Complainant shall be notified that the steps The Chicago School will take to respond to the complaint will be limited by the request for confidentiality.

If The Chicago School determines that it must disclose the student Complainant's identity to the Respondent or proceed with an investigation, it shall inform the student Complainant prior to making this disclosure or initiating the investigation. The Chicago School shall also take immediate steps to provide for the safety of the student Complainant where appropriate. In the event the student Complainant requests that The Chicago School inform the Respondent that the student asked the school not to investigate or seek discipline, the school shall honor this request.

#### **E. Emergency Removal**

For sex discrimination and sex-based harassment, The Chicago School retains the authority to remove a Respondent from the School's Education Program or Activity on an emergency basis, where The Chicago School:

1. Undertakes an individualized safety and risk analysis conducted by either the Title IX Coordinator or an external resource as determined by the Title IX Coordinator;
2. Determines that an immediate and serious threat to the health or safety of a Complainant or any student, employee, or other individual arising from the allegations of sex discrimination justifies a removal; and
3. Provides the Respondent with notice of and an opportunity to challenge the decision immediately following the removal.

The Respondent may challenge the decision immediately following the removal, by notifying the Title IX Coordinator in writing. The Chicago School will designate an

impartial individual, not otherwise involved in the case, to consider the challenge to the removal and determine if the emergency removal was reasonable. For all other Prohibited Conduct, The Chicago School may defer to its emergency removal policies for students and administrative leave for employees.

#### **F. Administrative Leave**

The Chicago School retains the authority to place an employee Respondent on administrative leave during a pending resolution process under this Policy, with or without pay, as appropriate. Administrative leave implemented as a Supportive Measure or as Emergency Removal is subject to the procedural provisions above, including the right to challenge the decision to implement that measure.

#### **G. Student or Employee Status Change While Matters Are Pending**

If a student Respondent or an employee Respondent leaves the institution while unresolved allegations are pending, the process will end as The Chicago School will no longer have jurisdiction over the Respondent. The Chicago School will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s) and any ongoing effects of the alleged Prohibited Conduct.

A student Respondent who withdraws while the process is pending may not return to The Chicago School. Such exclusion applies to all students in all programs. A hold will be placed on their ability to re-enroll. They may also be barred from Chicago School property and/or events.

If the student Respondent withdraws or takes a leave for a specified period (e.g., one term or semester), the resolution process may continue remotely, and that student is not permitted to return to The Chicago School unless and until all sanctions have been satisfied.

An employee Respondent who resigns with unresolved allegations pending is not eligible for rehire with The Chicago School and the records retained by Title IX will reflect that status.

#### **H. Dismissal of a Complaint**

Before dismissing a complaint, The Chicago School will make reasonable efforts to clarify the allegations with the Complainant.

Except for cases of California Misconduct or California Sex-Based Harassment in Employment, The Chicago School may dismiss a complaint if:

1. The Chicago School is unable to identify the Respondent after taking reasonable steps to do so;
2. The Respondent is not participating in the school's Education Programs or Activities and/or is not employed by The Chicago School;

3. The Complainant voluntarily withdraws their complaint in writing and the Title IX Coordinator declines to initiate a complaint;
4. The Complainant voluntarily withdraws some but not all allegations in a complaint in writing, and The Chicago School determines that the conduct that remains alleged in the complaint would not constitute Prohibited Conduct under this Policy; or
5. The Chicago School determines the conduct alleged in the complaint, even if proven, would not constitute Prohibited Conduct under this Policy.

Upon dismissal, The Chicago School will promptly notify the Complainant in writing of the basis for the dismissal.

If the dismissal occurs after the Respondent is notified of the allegations, the school will notify the parties simultaneously, in writing. If a dismissal of one or more allegations changes the appropriate decision-making process under these procedures, the Title IX Coordinator will include that information in the notification to the parties.

The Chicago School will notify the Complainant that a dismissal may be appealed based on the Appeals section. If dismissal occurs after the Respondent has been notified of the allegations, then The Chicago School will also notify the Respondent that the dismissal may be appealed on the same basis. If a dismissal is appealed, The Chicago School will follow the procedures outlined in the Appeals section of this Policy.

When a complaint is dismissed, The Chicago School will, at a minimum:

1. Offer supportive measures to the Complainant, as appropriate;
2. If the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and
3. Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within The Chicago School education program or activity.

A Complainant who decides to withdraw a complaint or any portion of it may later request to reinstate it or refile it.

Complaints of California Misconduct and California Sex-Based Harassment in Employment must be processed unless a Complainant's request for confidentiality pertaining to California Misconduct can be honored, as set forth in this Policy.

## **IX. REFERRALS FOR OTHER MISCONDUCT**

The Chicago School has the discretion to refer complaints of misconduct not covered by this Policy for handling under any other applicable policy or code. As part of any such referral for further handling, The Chicago School may use evidence already gathered through any process covered by this Policy.

## **X. CONSOLIDATION OF COMPLAINTS**

The Chicago School may consolidate Complaints of Prohibited Conduct under this Policy 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. Where a resolution process involves more than one Complainant or more than one Respondent, references in this section to the singular “party”, “Complainant”, or “Respondent” include the plural, as applicable. Where multiple policies may be implicated by the same set of facts or circumstances, The Chicago School may bifurcate the proceedings in accordance with the requirements of the individual policies.

The Chicago School reserves the right to use this Policy to adjudicate other allegations and conduct charges as defined by policies outside of the scope of this Policy in instances when the conduct is associated with an alleged issue of Prohibited Conduct under this Policy. The Title IX Coordinator will address these consolidated complaints in collaboration and coordination with other appropriate offices such as Human Resources. Allegations of a violation of a separate policy are not required to be handled using the procedural requirements set forth in this Policy.

## **XI. SUPPORTIVE MEASURES**

During the resolution of a complaint, the Title IX Coordinator will determine whether to implement reasonable Supportive Measures designed to assist all parties (Complainants and Respondents) and community members in maintaining access to and participation in The Chicago School’s Education Program and Activities during the resolution of the complaint.

Supportive Measures are 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 Chicago School’s Education Program or Activity, including measures that are designed to protect the safety of the parties or The Chicago School’s educational environment; or
2. Provide support during The Chicago School’s resolution procedures or during an alternative resolution process.

Supportive Measures may include but are not limited to: referral to counseling services; extensions of deadlines and other course-related adjustments; increased security and monitoring of certain areas of a campus; restrictions on contact applied to one or more parties; leaves of absence; changes in class, work, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; no-contact directives (which may be mutual or unilateral at the discretion of the Title IX Coordinator); and training and education programs related to sex-based harassment.



Supportive Measures are non-disciplinary and non-punitive. Supportive Measures will be offered to Respondents when they are notified of the allegations.

Any Supportive Measures put in place will be kept confidential, except when doing so impairs the ability of The Chicago School to provide the Supportive Measures.

The Chicago School will offer and coordinate Supportive Measures as appropriate for the parties as applicable to restore or preserve their access to the school's Education Program or Activity or provide support during The Chicago School's alternative resolution process or resolution procedures. Parties reporting Prohibited Conduct under this Policy have the right to request Supportive Measures from the school regardless of whether they desire to make a complaint or seek alternative resolution.

A party may challenge The Chicago School's decision to provide, deny, modify, or terminate Supportive Measures when such measures are applicable to them. An impartial employee will be designated to consider modification or reversal of The Chicago School's decision to provide, deny, modify, or terminate Supportive Measures. When the individual providing Supportive Measures is a Deputy Title IX Coordinator or other individual identified by the Title IX Coordinator to provide Supportive Measures, the Title IX Coordinator will be designated to consider the challenge regarding Supportive Measures. The impartial employee will typically respond to the challenge within five (5) Days.

The Title IX Coordinator has the discretion to implement or modify Supportive Measures. Violation of the parameters of Supportive Measures may violate other codes or policies.

## **XII. OPTIONS FOR RESOLUTION**

There are multiple ways to resolve a complaint or report of sex discrimination. This section includes information on (1) Support-Based Resolution, (2) Agreement-Based Resolution and (3) Investigation and Decision-Making Resolution.

A student Respondent with allegations pending for a violation of this Policy may have a hold placed on their ability to graduate and/or to receive an official transcript or diploma. The hold will remain on their account until the allegations have been resolved.

### **A. Support-Based Resolution**

A Support-Based Resolution is an option for a Complainant who does not wish The Chicago School to take any further steps to address their concern, and when the Title IX Coordinator determines that another form of resolution, or further action, is not required. Appropriate supports may include but are not limited to: adjustments or changes to course schedules; flexible due dates for projects or assignments; adjustments to a work schedule or arrangements; and/or access to counseling services.

Because Support-Based Resolution does not involve an investigation, there is not a determination made as to whether a Respondent violated this Policy.

A Support-Based Resolution does not preclude later use of another form of resolution, for example if new information becomes available to The Chicago School and the Title IX Coordinator determines there is need for additional steps to be taken, or the Complainant later decides to pursue an Agreement-Based Resolution or Investigation and Decision-Making Resolution.

## **B. Agreement-Based Resolution**

Agreement-Based Resolution is an alternative where parties each voluntarily agree to resolve the complaint in a way that does not include an investigation and does not include any finding of responsibility. Agreement-Based Resolution is a voluntary, structured interaction between or among affected parties that balances support and accountability. If The Chicago School offers Agreement-Based Resolution to the parties, and they voluntarily consent to engage in that process, the Title IX Coordinator must still take other prompt and effective steps as needed to ensure that sex discrimination, harassment, and Retaliation does not continue or recur within the Education Program or Activity. The parties and the Title IX Coordinator may agree to exit an Investigation and Decision-Making Resolution process to explore Agreement-Based Resolution.

Any party may design a proposed agreement between the parties. The Title IX Coordinator must approve of the use of the Agreement-Based Resolution process and approve the final agreement between the parties. Although not generally a part of Agreement-Based Resolution, under California law mediation is not permitted for California Misconduct. The Title IX Coordinator must specifically determine that it is permissible for resolving California Sex-Based Harassment in Employment.

Agreement-Based Resolution may be initiated at any time prior to the release of the final determination. Because Agreement-Based Resolution does not involve an investigation, there is no determination made as to whether a Respondent violated this Policy.

The Title IX Coordinator has the discretion to determine that Agreement-Based Resolution is not an appropriate way to address the reported conduct and that the matter must instead be resolved through an alternate process.

### Initiating the Agreement-Based Resolution Process

Prior to the initiation of Agreement-Based Resolution, the Title IX Coordinator will provide the Parties written notice that includes:

1. The specific allegation and the specific conduct that is alleged to have occurred;
2. The requirements of the Agreement-Based Resolution process;
3. Any consequences resulting from participating in the Agreement-Based Resolution process, including the records that will be maintained or could be

shared, and whether The Chicago School could disclose such information for use in a future Chicago School resolution process, including an investigation and resolution process arising from the same or different allegations, as may be appropriate;

4. Notice that an agreement resulting from the Agreement-Based Resolution process is binding only on the parties and is not subject to appeal;
5. Notice that once the Resolution Agreement is finalized and signed by the parties, they cannot initiate or continue an investigation procedure arising from the same allegations;
6. A statement indicating that the decision to participate in the Agreement-Based Resolution process does not presume that the Prohibited Conduct at issue has occurred;
7. A statement that the Respondent is presumed not responsible for violating this Policy, unless the Respondent admits to violations of this Policy;
8. An explanation that all parties may be accompanied by an Advisor of their choice;
9. A statement that any party has the right to withdraw from the Agreement-Based Resolution process and initiate or resume other resolution procedures at any time before agreeing to a resolution;
10. The date and time of the initial meeting of each party with the Title IX Coordinator, with a minimum of three (3) Days' notice;
11. Information regarding Supportive Measures, which are available equally to the parties; and
12. The potential terms that may be requested or offered in an Agreement-Based Resolution agreement.

#### Facilitating an Agreement

If all parties are willing to explore Agreement-Based Resolution, the Title IX Coordinator will then meet separately with each party to discuss the Agreement-Based Resolution process and facilitate an agreement. If an agreement cannot be reached, either because the parties do not agree, determine they no longer wish to participate in the Agreement-Based Resolution process, or the Title IX Coordinator does not believe that the terms of the agreement or continuing the Agreement-Based Resolution process is appropriate, the Title IX Coordinator may decide that the reported conduct will instead be addressed through the Investigation and Decision-Making Resolution. The Title IX Coordinator will inform the parties of such decision, in writing.

Agreement-Based Resolution processes are managed by facilitators who do not have a conflict of interest or bias in favor of or against Complainants or Respondents generally or regarding the specific parties in the matter. The Title IX Coordinator may serve as the facilitator, subject to these restrictions. The Investigator or Decisionmaker for the matter may not facilitate an Agreement-Based Resolution in that same matter.

Any party may craft or create the terms of their agreement and will be asked for their suggestions or ideas. Examples of agreements may include but are not limited to:

1. An agreement that the Respondent will change their course schedule;
2. An agreement that the parties will not communicate or otherwise engage with one another;
3. An agreement that the parties will not contact one another;
4. Completion of a training or educational project by the Respondent;
5. Completion of a community service project by the Respondent;
6. An agreement to engage in a restorative justice process or facilitated dialogue; and/or
7. Discipline agreed upon by all parties.

To facilitate Agreement-Based Resolution, information shared by any party will not be used in any related resolution process of the same Complaint under this Policy. No evidence concerning the allegations obtained within the Agreement-Based Resolution process may be disseminated to any outside person, provided that any party to the Agreement-Based Resolution process may generally discuss the allegations under investigation with an advisor or with an advocacy organization. An admission of responsibility made during an Agreement-Based Resolution process, however, cannot be incorporated into the investigation and adjudication proceeding.

#### Finalizing the Resolution Agreement

Once the final terms of the Resolution Agreement have been agreed upon by all parties, in writing, and approved by the Title IX Coordinator, the matter will be considered closed, and no further action will be taken. Once agreed upon, no appeal is permitted. The Agreement-Based Resolution process is generally expected to be completed within thirty (30) Days and may be extended by the Title IX Coordinator as appropriate. All parties will be notified, in writing, of any extension and the reason for the extension.

Records of an Agreement-Based Resolution process can be shared with other offices or officials as deemed appropriate by the Title IX Coordinator.

Any violations of the terms of the Resolution Agreement may result in disciplinary action.

### **XIII. INVESTIGATION AND DECISION-MAKING RESOLUTION**

This Policy includes two types of investigation and decision-making procedures.

1. Procedures covering all Prohibited Conduct matters **except for** sex-based harassment involving a student as a party (106.45 Procedures); and
2. Procedures covering sex-based harassment involving a student as a party (106.46 Procedures).

The following information applies to both types of the investigation and decision-making procedures:

#### Acceptance of Responsibility

If a Respondent accepts responsibility for all or part of the Prohibited Conduct alleged, appropriate sanction(s) or responsive action as to those violation(s) will be issued. The Title IX Coordinator will continue to process the remaining allegations of Prohibited Conduct, if any.

#### Assignment of the Investigator and/or Decisionmaker

The Chicago School will assign a trained Investigator and/or Decisionmaker to conduct an adequate, reliable, and impartial investigation and determination, as applicable, in a reasonably prompt timeframe. The Chicago School reserves the right to utilize internal or external Investigators and Decisionmakers. As required by California law, those involved in the process shall have undergone a comprehensive, trauma-informed training program for campus officials involved in investigating and adjudicating sexual assault, domestic violence, dating violence, and stalking cases.

All parties have the option to participate in the investigation, and each have the same rights during the resolution process including the right to an Advisor, to submit relevant witness names and evidence, and to review the evidence gathered by the Investigator prior to the Investigator providing a final report to the Decisionmaker.

The Investigator will establish deadlines for submission of names of relevant witnesses and submission of evidence and communicate those deadlines to the parties in writing.

#### Conflict of Interest or Bias

After a Notice of Investigation, as described below, is issued to all parties, any party may object to the participation of the Title IX Coordinator or designated Investigator on the grounds of a demonstrated bias or actual conflict of interest. All parties will have three (3) Days from the date of the Notice of Investigation to object to the selection of the Investigator or the Title IX Coordinator. Objections to the Title IX Coordinator are to be made, in writing, to the Vice President of Academic Affairs. Objections to the appointment of the Investigator are to be made in writing to the Title IX Coordinator. All objections will be considered, and changes made as appropriate. If the objection is substantiated as to either the Title IX Coordinator or the Investigator, that individual shall be replaced. Any change will be communicated in writing.

#### Nature of Process

The investigation and adjudication of alleged Prohibited Conduct under this Policy is not an adversarial process between a Complainant, a Respondent, and the

witnesses, but rather a process for The Chicago School to comply with its obligations under the law. The investigation and adjudication shall provide all parties with appropriate due process and reach reasonable conclusions based on the evidence collected.

### Timeline

The Chicago School strives to complete the investigation process within ninety (90) Days from the date of the Notice of Investigation and shall communicate with the parties regarding the anticipated timeline. The communicated timeline information shall include:

1. The period during which The Chicago School shall conduct any investigation.
2. The date by which the parties shall be notified of the outcome of any investigation.
3. The deadlines and process for parties to appeal.

The Investigator and/or Title IX Coordinator shall provide the Parties with periodic status updates, in writing.

### Timeline Extensions

The timeline for any part of the resolution process may be extended for good cause by the Title IX Coordinator, who shall provide for the prompt communication of that information to the parties. All parties shall be notified, in writing, of any extension to the timeline, the reason for the extension, and the new anticipated timeframes for the major stages of the resolution process, including the anticipated date(s) of conclusion of the investigation and decision-making. Good cause reasons for extension may include ensuring availability of witnesses and other participants and ensuring participants have sufficient time to review materials.

The Chicago School shall not unreasonably deny a student party's request for an extension of a deadline related to a complaint during school closures or times when classes are not in session.

### Burden of Evidence

The Chicago School has the burden of conducting an investigation that gathers sufficient evidence to determine whether Prohibited Conduct occurred. The Complainant does not have the burden to prove, nor does the Respondent have the burden to disprove, the underlying allegation or allegations of Prohibited Conduct. Any party may decide to limit their participation in part or all of the process, or to decline to participate. This does not shift the burden of proof away from The Chicago School and does not indicate responsibility.

### Standard of Proof

The standard of proof used in any investigation and decision-making process is the preponderance of the evidence standard, which means more likely than not that a violation of this Policy occurred.

### Written Notice of Meetings

The Chicago School will provide to a party or witness whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time to prepare to participate.

### Evidence Gathering

#### **A. Interviews**

The Investigator will interview all parties and relevant witnesses and gather relevant documentary evidence provided by the parties and any identified witnesses. Interviews may be conducted in person or via video conference. When a party meets with an Investigator, the Investigator will ask questions related to the allegations in the complaint, and a party will be given the opportunity to speak to the allegations and related events. Parties may identify fact witnesses and provide evidence that is relevant to the allegations and not otherwise impermissible. This will include inculpatory evidence (that tends to show it more likely that someone committed a violation) and exculpatory evidence (that tends to show it less likely that someone committed a violation). The Investigator ultimately determines whom to interview to determine the facts relevant to the complaint.

#### **B. Impermissible Evidence**

The following types of evidence, and questions seeking that evidence, are impermissible. This means this information will not be accessed or considered, except by The Chicago School to determine whether one of the exceptions listed below applies. This information will not be disclosed or otherwise used, regardless of relevance:

1. Evidence that is protected under a privilege recognized by Federal or State law, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
2. 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 The Chicago School obtains that party's or witness's voluntary, written consent for use in its resolution procedures; and
3. 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

alleged sex-based harassment. The fact of prior consensual sexual conduct between the parties does not by itself demonstrate or imply the Complainant's consent to other sexual activity or preclude a determination that Prohibited Conduct occurred.

4. For cases of California Misconduct and California Sex-Based Harassment in Employment, an Investigator or Decisionmaker shall not consider the past sexual history of Complainant or Respondent except in the limited circumstances. Specifically, they shall not consider:
  - i. Prior or subsequent sexual history between the Complainant and anyone other than the Respondent for any reason unless directly relevant to prove that physical injuries alleged to have been inflicted by the Respondent were inflicted by another individual.
  - ii. The existence of a dating relationship or prior or subsequent consensual sexual relations between the Complainant and Respondent unless the evidence is relevant to how the parties communicated consent in prior or subsequent consensual sexual relations. Where the Investigator or Decisionmaker allows consideration of evidence about a dating relationship or prior or subsequent consensual sexual relations between the Complainant and Respondent pursuant to this paragraph, the mere fact that the Complainant and Respondent engaged in other consensual sexual relations with one another is never sufficient, by itself, to establish that the conduct in question was consensual.

Before allowing the consideration of any evidence about the past sexual history of Complainant or Respondent in cases of California Misconduct and California Sex-Based Harassment in Employment, the Investigator or Decisionmaker shall provide a written explanation to the parties as to why consideration of the evidence meets the limited circumstances described above in this paragraph.

#### **XIV. INVESTIGATION & DECISION-MAKING PROCEDURES FOR ALL PROHIBITED CONDUCT UNDER THIS POLICY EXCEPT SEX-BASED HARASSMENT INVOLVING A STUDENT (106.45 Procedures)**

This procedure is for all allegations of Prohibited Conduct being investigated and determined under this Policy, except for sex-based harassment involving a student as a party.

##### **A. Notice of Allegations and Investigation**

Prior to the start of an investigation, the parties will be provided a written Notice of Investigation communicating the initiation of an investigation. Should additional allegations be brought forward, or new information regarding location or date of the incident(s), a revised written Notice of Investigation shall be provided to all parties.



The Notice shall include, at a minimum:

1. The Chicago School's resolution procedures, including the applicable resolution procedure, and any alternative resolution process;
2. Sufficient information available at the time to allow the parties to respond to the specific allegations, including the identities of the parties involved in the incident(s), a description of the facts alleged to constitute Prohibited Conduct, the type of Prohibited Conduct, and the date(s) and location(s) of the alleged incident(s);
3. A statement that Retaliation is prohibited;
4. Whether the Investigator, or another individual, shall serve as the Decisionmaker;
5. Contact information for the assigned Investigator and Decisionmaker, as well as the process for raising a challenge to the assigned Investigator, Decisionmaker, or Title IX Coordinator, and the deadline for doing so;
6. A statement indicating the expected length of the major stages of the resolution process, as well as any applicable deadlines;
7. A statement that the Respondent is presumed not responsible for Prohibited Conduct until a determination is made at the conclusion of the investigation and decision-making procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence;
8. A statement indicating that the parties may have an Advisor of their choice;
9. A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence, and to provide a response;
10. A statement that The Chicago School prohibits knowingly making false statements or knowingly submitting false information during resolution procedures, with a link to the relevant policy(ies); and
11. The date and time of the initial interview with the Investigator, with a minimum of five (5) Days' notice.

#### *No Contact Directive*

1. When requested by a Complainant or otherwise determined to be appropriate, The Chicago School shall issue an interim, unilateral no-contact directive prohibiting the Respondent from contacting the complainant during the pendency of the decision-making process under this Policy, including any appeal.
2. The Chicago School shall not issue an interim mutual no-contact directive automatically, but instead shall consider the specific circumstances of each case to determine whether a mutual No Contact Directive is necessary or justifiable to protect the noncomplaining party's safety or well-being, or to respond to interference with an investigation. Upon issuance of an interim mutual no-contact directive, The Chicago School

shall provide the parties with a written justification for the directive and an explanation of the terms of the directive, including the circumstances, if any, under which a violation could be subject to disciplinary action.

## **B. Individual Interviews**

The Investigator will hold individual interviews with parties and relevant witnesses to ask relevant and not otherwise impermissible questions and follow-up questions, including questions exploring credibility. Only the Investigator and the party or witness may attend each individual interview, and a party may be accompanied by their Advisor. Additional attendees may be permitted at the discretion of the Title IX Coordinator in connection with an approved disability-related accommodation. All persons present at any time during any part of the investigation or resolution process are expected to maintain the privacy of the proceedings and not discuss or otherwise share any information learned as part of those proceedings and may be subject to discipline for failure to do so.

The individual interviews will be conducted virtually through a video conferencing platform provided by The Chicago School. The Chicago School has the discretion to conduct interviews with all parties physically present in the same geographic location as determined by the Title IX Coordinator.

All parties and advisors must comply with the school's rules regarding codes of conduct and ethics. The Title IX Coordinator has the discretion to remove, with or without prior warning, from any meeting or proceeding any involved party, witness, or Advisor who does not comply with the codes of conduct and ethics or any other applicable school rules.

### *Advisor Decorum*

An Advisor may not represent, advocate, or speak on behalf of a Complainant or Respondent. An Advisor may not disrupt or impede any resolution proceeding. If the Advisor is an attorney, the attorney is required to act in a supportive role and may not serve as an advocate or formally represent the party, although the parties may consult with attorneys, at their own expense, at any stage in the process. An Advisor who steps out of their role in any meeting or hearing will be warned once and only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of their role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role and may require the party to use a different Advisor.

If a party's Advisor of choice refuses to comply with The Chicago School's established rules of decorum for the hearing, The Chicago School may require the party to use a different Advisor. The parties are expected to ask and respond

to questions on their own behalf throughout the investigation. While the Advisor generally may not speak on behalf of the Complainant or Respondent, the Advisor may consult with their advisee, either privately or quietly, by passing notes during any resolution process meeting or interview, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their Advisors should ask for breaks to step out of meetings to allow for private consultation.

The Investigator will then gather from parties, witnesses, and other sources, all relevant evidence.

### **C. Evidence Review**

At the conclusion of all fact-gathering, the Investigator will provide each party and their Advisor, if any, the opportunity to review all relevant and not otherwise impermissible evidence gathered during the investigation, as well as a description of that evidence.

The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation and to submit any additional relevant evidence, questions for parties or witnesses, or the names of any additional witnesses with relevant information. This is the final opportunity to offer evidence, or the names of witnesses. Given the sensitive nature of the information provided, The Chicago School will facilitate this review in a secure manner. None of the parties nor their Advisors may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. Any student or employee who fails to abide by this may be subject to discipline. Any Advisor who fails to abide by this may be subject to discipline and/or may be excluded from further participation in the process.

The parties will have a minimum of five (5) Days to inspect and review the evidence and submit a written response in writing to the Investigator. The Chicago School will provide access to copies of the parties' written responses to all parties and their Advisors, if any. The Title IX Coordinator shall have the discretion to extend the evidence review period based on the volume and nature of the evidence.

The Investigator shall then conduct any additional fact-gathering, as necessary. If new, relevant evidence is gathered during this second fact-gathering period, the new evidence will be made available for review by the parties and their Advisors. The parties shall have five (5) Days to provide a response to the newly gathered evidence. No new evidence will be accepted as part of any response, except that the Investigator shall have the discretion to accept relevant evidence that was not previously available or known to exist, and that was not previously discoverable with the exercise of reasonable diligence.

The Investigator will consider the parties' written responses before creating and finalizing the determination report, which will include a determination about whether this Policy was violated.

The parties may each submit a written impact statement prior to the conclusion of the resolution process. The impact statement is not evidence and will be reviewed only after a finding is reached.

#### **D. Determination**

The Investigator can also serve as the Decisionmaker. The Decisionmaker shall evaluate the relevant and not impermissible evidence and make a finding regarding each allegation and determine whether a violation of the Policy occurred. The Decisionmaker may choose to place less or no weight upon statements by a party or witness who refused to respond to questions deemed relevant and not impermissible or declined to participate. 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 questions. The Investigator shall prepare a determination report which shall include:

1. A description of the allegations of Prohibited Conduct;
2. Reference to the policies and procedures used to evaluate the allegations;
3. A summary of the procedural steps taken from the receipt of the complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, and methods used to gather other evidence;
4. Findings of fact for each allegation, with rationale, based on the evaluation the relevant and not otherwise impermissible evidence;
5. Conclusions regarding which section of this Policy or other school policy, if any, the Respondent has or has not violated, with rationale;
6. The Chicago School's procedures and the permitted reasons for the parties to appeal, including identifying the Appeals Officer; and
7. How to challenge participation of the Appeals Officer for bias or conflict of interest, which the Title IX Coordinator will resolve in their sole discretion.

This determination shall be provided to the Title IX Coordinator. In the event that the Decisionmaker has determined that a violation of this Policy has occurred, the Title IX Coordinator shall then provide the determination report and written impact statements, if provided, to the appropriate Sanctioning Officer to determine the sanction(s), and the Title IX Coordinator shall then determine the appropriate remedy(ies) for the Complainant and any impacted parties.

#### *Sanctioning Process for Student Respondents*

The Title IX Coordinator will convene a Sanctions Panel. The Sanctions Panel will include three members selected from a pool of administrators and faculty trained in sanctioning. One panel member shall be designated as the leader of the proceedings. The parties will receive written notice of the Sanctions Panel members and will have an opportunity to request a substitution if the participation of any of the individuals named poses a conflict of interest. The parties must submit their written request for substitution to the Title IX Coordinator within 24 hours of receiving panel member names.

After the Sanctions Panel has been convened, members will be provided with the Decisionmaker's findings and recommended sanctions.

Within five (5) Days of receipt of materials, the Sanctions Panel shall meet to determine what sanctions, if any, will be issued. In making such a determination, the Sanctions Panel will not reconsider the findings, but will determine what sanctions are appropriate to remedy the Policy violation and maintain or enhance safety from misconduct in The Chicago School's Education Programs and Activities.

All members of a Sanctions Panel must be trained annually on matters related to this Policy.

#### *Sanctioning Process for Employee Respondents*

If the Respondent is an employee, the matter will be referred to Human Resources to determine sanctions. Human Resources will be provided with the Decisionmaker's findings and recommended sanctions. Human Resources will issue its sanctions decision within 10 Days of receipt of the Decisionmaker's finding.

#### *Notice of Outcome*

The Title IX Coordinator shall then provide the parties and their Advisors, if any, with a written Notice of Outcome and a copy of the determination report.

The Notice of Outcome shall include:

1. Any disciplinary sanctions for the Respondent;
2. Whether remedies will be provided;
3. And the procedures for appeal.

The Title IX Coordinator will provide each party and their Advisor written communication regarding the decision, the sanction determination, and the procedures for appeal, along with a copy of the determination report. The Title IX Coordinator will also provide written communication to the Complainant regarding any appropriate remedies.

The determination regarding responsibility becomes final either on the date that The Chicago School provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

### **XV. INVESTIGATION & DECISION-MAKING PROCEDURES IN CASES OF SEX-BASED HARASSMENT INVOLVING A STUDENT (106.46 Procedures)**

This procedure is for all allegations of sex-based harassment involving a student as a party including Quid Pro Quo, Hostile Environment, California Sex-based Harassment in Employment (if a student is a party), Sexual Assault, Dating Violence, Domestic Violence, Stalking, California Sexual Violence, or California Sexual Exploitation, regardless of the status of the other party. This section shall refer to this type of Prohibited Conduct collectively as “Sex-Based Harassment Involving a Student.”

#### **A. Notice of Allegations and Investigation**

Prior to the start of an investigation, the parties will be provided a written Notice of Investigation communicating the initiation of an investigation. Should additional allegations be brought forward, or information regarding location or date of the incident(s), a revised written Notice of Investigation shall be provided to all parties.

The Notice shall include, at a minimum:

1. The Chicago School’s resolution procedures, including the applicable resolution procedure that will be used in this investigation;
2. Information about the Agreement-Based Resolution procedures, with a link to the full procedures;
3. 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), a description of the facts alleged to constitute Prohibited Conduct, the type of Prohibited Conduct, and the date(s) and location(s) of the alleged incident(s);
4. A statement that Retaliation is prohibited;
5. Whether the Investigator, or another individual, shall serve as the Decisionmaker. At the discretion of The Chicago School, the Investigator may serve as the Decisionmaker;
6. Contact information for the assigned Investigator and Decisionmaker, as well as the process for raising a challenge to the assigned Investigator, Decisionmaker, or Title IX Coordinator, and the deadline for doing so;
7. A statement indicating the expected length of the major stages of the resolution process, as well as any applicable deadlines;
8. A statement that the Respondent is presumed not responsible for Prohibited Conduct until a determination is made at the conclusion of the resolution process. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence;
9. A statement informing the parties that the Investigator will establish and communicate, in writing, all investigation deadlines including the deadlines for submitting names of witnesses, evidence, and relevant questions to ask a party or witness. These deadlines may be extended by the Title IX Coordinator for good cause, and any changes will be provided, in writing, to the parties, along with the rationale for the revised deadline(s);
10. A statement explaining the process for raising a challenge to the appointed Investigator, Decisionmaker, Sanctions Panel Member, or Title IX Coordinator, and the deadline for doing so;

11. A statement that the parties may have an Advisor of their choice;
12. A statement that the parties are entitled to an equal opportunity to review all relevant and not otherwise impermissible evidence gathered during the investigation, as well as a summary of the evidence;
13. A statement that The Chicago School's Code of Conduct prohibits knowingly making false statements or knowingly submitting false information during the resolution procedures; and
14. The date and time of the initial interview with the Investigator, with a minimum of five (5) days' notice.

### *No Contact Directive*

3. When requested by a Complainant or otherwise determined to be appropriate, The Chicago School shall issue an interim, unilateral no-contact directive prohibiting the Respondent from contacting the complaint during the pendency of the decision-making process under this Policy, including any appeal.
4. The Chicago School shall not issue an interim mutual no-contact directive automatically, but instead shall consider the specific circumstances of each case to determine whether a mutual No Contact Directive is necessary or justifiable to protect the noncomplaining party's safety or well-being, or to respond to interference with an investigation. Upon issuance of an interim mutual no-contact directive, The Chicago School shall provide the parties with a written justification for the directive and an explanation of the terms of the directive, including the circumstances, if any, under which a violation could be subject to disciplinary action.

## **B. Individual Interviews**

The Investigator will hold individual interviews with parties and witnesses to ask relevant and not otherwise impermissible questions and follow-up questions, including questions exploring credibility, and to request of the parties the names of relevant witnesses and relevant evidence. Only the Investigator and the party or witness may attend each individual interview, and a party may be accompanied by their Advisor. A party's Advisor may attend these meetings, subject to the rules described above. Additional attendees may be permitted at the discretion of the Title IX Coordinator in connection with an approved disability-related accommodation. All persons present at any time during any part of the investigation or resolution process are expected to maintain the privacy of the proceedings and not discuss or otherwise share any information learned as part of the resolution process and may be subject to further discipline for failure to do so.

The individual interviews will be conducted virtually through a video conferencing platform provided by The Chicago School. The Chicago School has the discretion to conduct interviews with all parties physically present in the same geographic location as determined by the Title IX Coordinator. All interviews will be recorded, and either an audio or audiovisual record or transcript of these meetings will be provided to the parties during evidence review.

All parties and Advisors must comply with the school's rules regarding codes of conduct and ethics. The Title IX Coordinator has the discretion to remove, with or without prior warning, from any meeting or proceeding an involved party, witness, or Advisor who does not comply with the codes of conduct and ethics or any other applicable school rules.

### *Advisor Decorum*

An Advisor may not represent, advocate, or speak on behalf of a Complainant or Respondent. An Advisor may not disrupt or impede any resolution proceeding. If the Advisor is an attorney, the attorney is required to act in a supportive role and may not serve as an advocate or formally represent the party, although the parties may consult with attorneys, at their own expense, at any stage in the process. An Advisor who steps out of their role in any meeting or hearing will be warned once and only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of their role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role and may require the party to use a different Advisor.

If a party's Advisor of choice refuses to comply with The Chicago School's established rules of decorum for the hearing, The Chicago School may require the party to use a different Advisor. The parties are expected to ask and respond to questions on their own behalf throughout the investigation. While the Advisor generally may not speak on behalf of the Complainant or Respondent, the Advisor may consult with their advisee, either privately or quietly, by passing notes during any resolution process meeting or interview, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their Advisors should ask for breaks to step out of meetings to allow for private consultation.

The Investigator will then gather from parties, witnesses, and other sources, all relevant evidence.

At the initial interview with each party, the Investigator will invite the parties to provide, in writing and in advance of the individual interviews, questions to ask of other parties and witnesses that are relevant and not otherwise impermissible, including questions exploring credibility. Upon receiving the question list, the Investigator will determine whether a proposed question is relevant and not otherwise impermissible and will explain, in writing in advance of the individual interview, any decision to exclude a question as not relevant or otherwise impermissible. The Investigator must give a party an opportunity to clarify or revise any question that the Investigator has determined is unclear or harassing and, if the party sufficiently clarifies or revises a question, the question will be asked.



An Investigator will not permit questions that are unclear or harassing of any party or witness to be questioned.

### **C. Investigator Determination of Relevance**

The Investigator will determine, in their sole discretion, whether parties and witnesses are likely to provide relevant information about the allegations and has sole discretion to determine which parties and witnesses to call to an interview or individual follow-up interview as they deem appropriate.

The Investigator will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance. Character evidence is not relevant evidence, and therefore will not be considered. If the Decisionmaker is not the Investigator, the Decisionmaker is not bound by the Investigator's determinations about relevance.

### **D. Evidence Review**

At the conclusion of all fact-gathering, the Investigator will provide each party and their Advisor, if any, the opportunity to review all relevant and not otherwise impermissible evidence gathered during the investigation, as well as a description of that evidence. If an audio or audiovisual recording is shared, the recording will only be played during a monitored meeting and will not otherwise be transmitted for review to maintain the privacy of those participating in the process.

The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation, to submit any additional relevant evidence or questions for witnesses or the other party, and to submit the names of any additional witnesses with relevant information. This is the final opportunity to offer evidence or names of witnesses. Evidence not provided during the investigation process will not be considered by the Decisionmaker. Given the sensitive nature of the information provided, The Chicago School will facilitate this review in a secure manner. None of the parties nor their advisors may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. Any student or employee who fails to abide by this may be subject to discipline. Any Advisor who fails to abide by this may be subject to discipline and/or may be excluded from further participation in the process.

The parties will have a minimum of five (5) Days to inspect and review the evidence and submit a written response in writing to the Investigator. The Chicago School will provide access to copies of the parties' written responses to all parties and their Advisors, if any. The Title IX Coordinator shall have the discretion to extend the review period based on the volume and nature of the information provided.

The Investigator shall then conduct any additional fact-gathering, as necessary. If new, relevant evidence was submitted as part of the previous review or is gathered during

this second fact-gathering period, the new relevant evidence will be made available for review by the parties and their Advisors. The parties shall have five (5) Days to provide a response to the newly gathered evidence. No new evidence will be accepted as part of any response, except that the Investigator shall have the discretion to accept relevant evidence that was not previously available or known to exist, and that was not previously discoverable with the exercise of reasonable diligence.

The Investigator will consider the parties' written responses before creating and finalizing the determination report, which will include a determination about whether this Policy was violated.

The parties may each submit a written impact statement prior to the conclusion of the resolution process. The impact statement is not evidence and will be reviewed only after a finding is reached.

### **E. Determination**

The Investigator can also serve as the Decisionmaker. The parties' written responses will be considered by the Decisionmaker. The Decisionmaker shall evaluate the relevant and not impermissible evidence and make a finding regarding each allegation and determine whether a violation of the Policy occurred. The Decisionmaker may choose to place less or no weight upon statements by a party or witness who refused to respond to questions deemed relevant and not impermissible or who declined to participate. 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 questions.

The Investigator shall prepare a determination report which shall include:

1. A description of the allegations of Prohibited Conduct;
2. Reference to the policies and procedures used to evaluate the allegations;
3. A summary of the procedural steps taken from the receipt of the complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, and methods used to gather other evidence;
4. Findings of fact for each allegation, with rationale, based on the evaluation of relevant and not otherwise impermissible evidence;
5. Conclusions regarding which section of this Policy or other school policy, if any, the Respondent has or has not violated, with rationale and recommended sanctions, if applicable;
6. The Chicago School's procedures and the permitted reasons for the parties to appeal, including identifying the Appeals Officer; and
7. How to challenge participation of the Appeals Officer for bias or conflict of interest, which the Title IX Coordinator will resolve in their sole discretion.

This determination shall be provided to the Title IX Coordinator. If the Decisionmaker has determined that a violation of this Policy has occurred, the Title IX Coordinator shall move the process to the sanctioning phase.

The Title IX Coordinator shall then determine the appropriate remedy(ies) for the Complainant and any impacted parties.

#### *Sanctioning Process for Student Respondents*

The Title IX Coordinator will convene a Sanctions Panel. The Sanctions Panel will include three members selected from a pool of administrators and faculty trained in sanctioning. One panel member shall be designated as the leader of the proceedings. The parties will receive written notice of the Sanctions Panel members and will have an opportunity to request a substitution if the participation of any of the individuals named poses a conflict of interest. The parties must submit their written request for substitution to the Title IX Coordinator within 24 hours of receiving panel member names.

After the Sanctions Panel has been convened, members will be provided with the Decisionmaker's findings and recommended sanctions.

Within five (5) Days of receipt of materials, the Sanctions Panel shall meet to determine what sanctions, if any, will be issued. In making such a determination, the Sanctions Panel will not reconsider the findings, but will determine what sanctions are appropriate to remedy the Policy violation and maintain or enhance safety from misconduct in The Chicago School's Education Programs and Activities.

All members of a Sanctions Panel must be trained annually on matters related to this Policy.

#### *Sanctioning Process for Employee Respondents*

If the Respondent is an employee, the matter will be referred to Human Resources to determine sanctions. Human Resources will be provided with the Decisionmaker's findings and recommended sanctions. Human Resources will issue its sanctions decision within 10 Days of receipt of the Decisionmaker's finding.

#### *Notice of Outcome*

The Title IX Coordinator shall then provide the parties and their Advisors, if any, with a written Notice of Outcome and a copy of the determination report.

The Notice of Outcome shall include:

4. Any disciplinary sanctions for the Respondent;
5. Whether remedies will be provided;
6. And the procedures for appeal.

The Title IX Coordinator will provide each party and their Advisor written communication regarding the decision, the sanction determination, and the procedures for appeal, along with a copy of the determination report. The Title IX Coordinator will also provide written communication to the Complainant regarding any appropriate remedies.

The determination regarding responsibility becomes final either on the date that The Chicago School provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

## **XVI. REMEDIES & SANCTIONS**

Remedies must be designed to restore or preserve equal access to The Chicago School's Education Program or Activity.

A student found responsible for a violation of this Policy will be subject to sanction(s) regardless of whether legal proceedings involving the same incident are underway or anticipated. An employee found responsible for a violation of this Policy will be subject to sanction(s), up to and including termination of employment, regardless of whether legal proceedings involving the same incident are underway or anticipated.

The form of sanction or discipline used will depend on the nature of the offense, as well as any prior disciplinary history. Such discipline or sanction will be imposed pursuant to and in accordance with any and all applicable school rules, policies, and procedures. Factors considered when determining a sanction may include:

1. The nature, severity of, and circumstances surrounding the violation;
2. An individual's disciplinary history;
3. Previous complaints or allegations involving similar conduct;
4. The need for sanctions/responsive actions to bring an end to the sex discrimination or Retaliation;
5. The need for sanctions/responsive actions to prevent the future recurrence of sex discrimination or Retaliation;
6. The need to remedy the effects of the sex discrimination or Retaliation on the victim and the campus community.

Sanctions for students may include but are not limited to:

- Formal written warning
- Professional Development Plan (a plan intended to require reflection and remediation of behavior found to be in violation of this Policy)
- No Contact Directive pertaining to certain Chicago School Community Members or physical locations
- Referral to counseling and/or Student Solutions

- Required training or education
- Community Service
- Dismissal from The Chicago School
- Withholding of degree conferral and/or issuance of a diploma

Sanctions for an employee may include but are not limited to:

- Formal written warning
- Performance Improvement Plan
- Referral for counseling and/or to the EAP
- Community Service
- Required training or education
- Probation
- Loss of variable pay increase
- Loss of supervisory duties
- Demotion
- Suspension with pay or without pay
- Termination from employment

Sanctions imposed are implemented when the decision is final (after an appeal, or, if there was no appeal, after the appeals period expires).

The Title IX Coordinator is responsible for effective implementation of any remedies.

### **Failure to Comply with or Complete Sanctions**

A Respondent is expected to comply with all sanctions within the timeframe specified by The Chicago School. A Respondent needing an extension to comply with sanctions must submit a written request to the Title IX Coordinator stating the reasons for needing additional time.

Failure to abide by the sanctions imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions including dismissal and/or termination from The Chicago School.

## **XVII. APPEALS**

Determinations may be appealed in writing by either party. Appeals will be sent to the Title IX Coordinator, who will then send the appeal to the designated Appeals Officer assigned to review the appeal(s) and to make a final determination. Appeals must be in writing and submitted within ten (10) days following the issuance of the Notice of Outcome.

When an appeal is submitted, the other party shall be notified and provided with a copy of the filed appeal within one (1) Day and have five (5) Days to respond to the

appeal in writing. Any party's decision not to submit a reply to an appeal is not evidence that the non-appealing party agreed with the appeal.

### *Students*

Any student who is a Complainant or Respondent under this Policy has the right to appeal the determination of a violation of the Policy and any sanctions decision by writing a letter of appeal to their College Dean within five (5) Days of issuance of the Notice of Outcome.

All appeals must be based on one or more of the following:

- New information that could not be presented at the time of the investigation or sanctions decision that would substantially change the outcome;
- The imposed sanction is disproportionate to the violation; or
- Evidence of improper procedure that may impact the outcome.

The student's written appeal must include:

- A specific statement of the decision that is being appealed;
- The student's desired outcome;
- All information that the student wishes the College Dean to take into account in consideration of the appeal; and
- A statement of the student's views as to how this information justifies the appeal based on the three grounds listed above.

The College Dean shall have had no prior involvement in the initial determination and finding and shall have no conflict of interest with either party. If there is a conflict of interest, the appeal will be heard by another College Dean who will be selected by the Title IX Coordinator.

If the College Dean determines that the appeal is without merit or does not meet the requirements set forth above, the College Dean will reject the appeal.

If the College Dean determines that the appeal is properly constituted, the College Dean will determine what next steps are appropriate. This may include remanding the matter to the Title IX Coordinator or the Sanctions Panel for further consideration. The College Dean will write an appeal outcome letter to both parties within five (5) Days of receipt of the written appeal.

### *Employees*

Any employee who is a Complainant or Respondent under this Policy has the right to appeal the determination of a violation and sanctions by writing a letter of appeal to the Chief Operating Officer within five (5) Days of issuance of the Notice of Outcome.

All appeals must be based on one or more of the following:

- New information that could not be presented at the time of the investigation or sanctions decision that would substantially change the outcome;
- The imposed sanction is disproportionate to the violation; or
- Evidence of improper procedure that may impact the outcome.

The employee's written appeal must include:

- A specific statement of the decision that is being appealed;
- The employee's desired outcome;
- All information that the employee wishes the Chief Operating Officer to take into account in consideration of the appeal; and
- A statement of the employee's views as to how this information justifies the appeal based on the three grounds listed above.

The Chief Operating Officer shall have had no prior involvement in the initial determination and finding and shall have no conflict of interest with either party. If there is a conflict of interest, the Title IX Coordinator will assign the appeal to another Cabinet-level administrator.

If the Chief Operating Officer determines that the appeal is without merit or does not meet the requirements set forth above, the Chief Operating Officer will reject the appeal.

If the Chief Operating Officer determines that the appeal is properly constituted, the Chief Operating Officer will determine what next steps are appropriate, which may include but are not limited to remanding the matter to the Title IX Coordinator or Human Resources for further consideration. The Chief Operating Officer will write an appeal outcome letter to both parties within five (5) business days of receipt of the written appeal.

Appeal decisions along with a rationale for the decision are sent to the Title IX Coordinator who will communicate the decision to the parties. The appeal decision is final.

## **XVIII. PROHIBITION AGAINST RETALIATION**

The Chicago School prohibits Retaliation. No one may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right established by this Policy or because the individual has made a report or complaint, or were involved in the disclosure, reporting, investigation or resolution of a report or complaint of Prohibited Conduct under this Policy.

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or complaint of sexual harassment, for the purpose of interfering with any right under this Policy, constitutes Retaliation.

The exercise of rights protected under the First Amendment does not constitute Retaliation prohibited under this section.

Complaints alleging Retaliation may be filed according to the resolution procedures for sex discrimination above (106.45 procedures).

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a resolution proceeding under this Policy does not constitute Retaliation prohibited under of this section, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

## **XIX. RECORD RETENTION**

In implementing this Policy, records of all reports and resolutions will be kept by the Title IX Coordinator in accordance with the applicable records retention schedule. All records will be afforded the confidentiality protections required by law, including but not limited to the Family Educational Rights and Privacy Act (FERPA) governing confidentiality of student information. This means The Chicago School will protect the party's privacy consistent with this Policy but may disclose information to those who have a legitimate need to know and to process complaints under this Policy.

## **XX. ADDITIONAL ENFORCEMENT INFORMATION**

Any person may report conduct prohibited by this Policy to the Title IX Coordinator. A complaint about the Title IX Coordinator may be made to the Vice President for Academic Affairs. Employees are not required to report concerns directly to their immediate supervisors.

Concerns about violations of this Policy may be reported to the United States Department of Education Office of Civil Rights (OCR):

United States Department of Education Office of Civil Rights (OCR)  
Customer Service Hotline: 800-421-3481  
TDD#: 877-521-2172  
Website: [www.ed.gov/ocr](http://www.ed.gov/ocr)  
E-mail: [ocr@ed.gov](mailto:ocr@ed.gov)  
400 Maryland Avenue SW, Washington, DC 20202-1100

The U.S. Equal Employment Opportunity Commission (EEOC) investigates reports of unlawful harassment, discrimination, and retaliation, including sex-based harassment, in employment.

United States Equal Employment Opportunity Commission (EEOC)  
<https://www.eeoc.gov/contact-eeoc>  
Telephone Number: 800-669-4000



## **XXI. POLICY REVIEW & REVISION**

These policies and procedures will be reviewed and updated regularly by the Title IX Coordinator. The Title IX Coordinator will submit modifications to this Policy in a manner consistent with institutional policy upon determining that changes to law, regulation, or best practices require policy or procedural alterations not reflected in this Policy and procedure. Procedures in effect at the time of its implementation will apply. The Policy definitions in effect at the time of the conduct will apply even if the Policy is changed subsequently, unless the parties consent to be bound by the current Policy.

This Policy may be revised at any time without notice. All revisions supersede prior policy and are effective immediately upon posting to The Chicago School website.

## **XXII. KEY DEFINITIONS**

**Advisor(s):** Each party has the right to choose and consult with one Advisor of their choice at their own expense. The Chicago School will not limit their choice of Advisor. Parties in this process may be accompanied by an Advisor of choice to any meeting or proceeding to which they are required or are eligible to attend. Except where explicitly stated by this Policy, a Advisor shall not participate directly in the process. The Chicago School will provide the parties equal access to an Advisor; any restrictions on Advisor participation will be applied equally.

**Affirmative Consent:** Means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that they have the affirmative consent of the other or others to engage in the sexual activity. Affirmative Consent must be ongoing throughout a sexual activity and can be revoked at any time.

1. Lack of protest or resistance does not mean consent;
2. Silence does not mean consent;
3. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent;

An alleged lack of Affirmative Consent is not a valid excuse for the sexual activity under either of the following circumstances:

- a. Respondent's belief in Affirmative Consent arose from the intoxication or recklessness of Respondent;
- b. Respondent did not take reasonable steps, in the circumstances known to Respondent at the time, to ascertain whether Complainant affirmatively consented.

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

- a. Complainant was asleep or unconscious.
- b. 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.
- c. Complainant was unable to communicate due to a mental or physical condition.

Affirmative Consent cannot be given if any of the following are present: Incapacitation, Force, or Coercion.

**Chicago School Community Members/Community:** All students, faculty, staff, vendors, contractors, community partners, and visitors.

**Coercion/Force:** Consent cannot be procured by physical force, compulsion, threats, intimidating behavior, or coercion. Sexual activity accompanied by coercion or force is not consensual.

1. Coercion refers to unreasonable pressure for sexual activity. When someone makes it clear that they do not want to engage in sexual activity or do not want to go beyond a certain point of sexual interaction, continued pressure beyond that point can be considered coercive. The use of coercion can involve the use of pressure, manipulation, substances, or force. Ignoring objections of another person is a form of coercion.
2. Force refers to the use of physical violence or imposing on someone physically to engage in sexual contact or intercourse. Force can also include threats, intimidation (implied threats), or coercion used to overcome resistance.

**Complaint:** A complaint means an oral or written request to Title IX Coordinator that objectively can be understood as a request for The Chicago School to investigate and make a determination about alleged sex discrimination under this Policy. A complaint may be filed with the Title IX Coordinator by email ([titleix@thechicagoschool.edu](mailto:titleix@thechicagoschool.edu)), by submitting an online form ([https://cm.maxient.com/reportingform.php?TheChicagoSchool&layout\\_id=1](https://cm.maxient.com/reportingform.php?TheChicagoSchool&layout_id=1)), by using the contact information listed on the Title IX website (<https://community.thechicagoschool.edu/titleix>), or as described in this Policy. Individuals who would like more information about filing a complaint are invited to contact the Title IX Coordinator for additional information.

**Complainant:** Any individual who has reported being or is alleged to be impacted by Prohibited Conduct as defined by this Policy, and who was participating or attempting to participate in The Chicago School's Education Program or Activity at the time of the alleged misconduct.

**Confidential Resources:** A designated external resource who receives information about conduct prohibited under this Policy in their confidential capacity and who are privileged under state law will not report prohibited conduct disclosed to them without written consent. Designation as a confidential resource under this Policy only exempts such individuals from disclosure to the Title IX Coordinator. It does not affect other mandatory reporting obligations under state child abuse reporting laws, the Clery Act as a campus security authority, or other laws that require reporting to campus or local law enforcement.

**Day(s):** Means Monday through Friday when the school is in normal operation and excludes any day that is a federal legal holiday in the United States or any day on which The Chicago School is closed due to a holiday.

**Decisionmaker:** Trained professional designated by The Chicago School to determine responsibility under this Policy. The Decisionmaker can also serve as the Investigator.

**Disclosure or Report:** A disclosure or report may be made by anyone, whether they learned about conduct potentially constituting sex discrimination under this Policy or whether they personally experienced such conduct. A person making a disclosure or report may or may not be seeking to initiate an investigation.

**Education Program or Activity:** Includes all campus operations, including off-campus settings that are operated or overseen by The Chicago School including, for example, field experience, study abroad, and online classes; conduct subject to The Chicago School's disciplinary authority that occurs off-campus; conduct that takes place via School-sponsored electronic devices, computer and internet networks and digital platforms operated by, or used in the operations of, The Chicago School. Conduct that occurs outside of the Education Program or Activity may contribute to a hostile environment within the program or activity.

**Finding:** A written conclusion by a preponderance of the evidence, issued by a Decisionmaker, that the alleged conduct occurred and whether it did or did not violate this Policy.

**Incapacitation:** Occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing and informed consent, e.g., to understand the "who, what, when, where, why, and how" of their sexual interaction. Incapacitation is determined through consideration of all relevant indicators of a person's state and is not synonymous with intoxication, impairment, or being under the influence of drugs or alcohol. This Policy also covers a person whose incapacity results from temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs, or who are sleeping.

**Investigator:** Trained professional designated by The Chicago School to administer this Policy. The Investigator can also serve as the Decisionmaker.

**No Contact Directive:** A No Contact Directive is a document issued by The Chicago School that is designed to limit or prohibit contact or communications between parties. A No Contact Directive may be mutual or unilateral, with the exception that a No Contact Directive issued as either a sanction or remedy shall be unilateral, directing that the Respondent not contact the Complainant.

**Notice:** All notices under this Policy are written and sent to the student or employee's assigned school email address via Maxient, the school's case management system.

**Prohibited Conduct:** This Policy prohibits sex discrimination, including sex-based harassment, and Retaliation.

**Relationship Abuse:** An act or a pattern of abuse committed by a person involved in a social, sexual, or romantic relationship, past or present, with the victim. Can encompass a broad range of behaviors and is defined as the use of physical force, coercion, threats, intimidation, isolation, or other forms of physical and sexual violence toward a partner in a current or former personal, social, or intimate relationship. Also includes manipulation or other forms of emotional abuse if they have the effect of creating fear, isolation, or restriction of access to resources, education, work or economic or financial resources.

**Remedies:** Remedies means measures provided, as appropriate, to a Complainant or any other person The Chicago School identifies as having had their equal access to The Chicago School's Education Program or Activity limited or denied by sex discrimination or other prohibited conduct covered by this Policy. These measures are provided to restore or preserve that person's access to the Education Program or Activity after the school determines that sex discrimination occurred. Only the Complainant will be informed of any remedies pertaining to them. Some examples are academic support and/or opportunity to retake a class or resubmit work or time extensions on course or degree completion, or non-academic support such as counseling, or changes to work assignments or locations. The Title IX Coordinator is responsible for the implementation of remedies.

**Resolution Agreement:** The outcome of an Agreement-Based Resolution procedure.

**Respondent:** An individual, or group of individuals (e.g., student organization), who has been reported to be the perpetrator of conduct that could constitute Prohibited Conduct under this Policy; or Retaliation for engaging in a protected activity.

**Retaliation:** Any materially adverse action taken against an individual because they were involved in the disclosure, reporting, investigation, or resolution of a report or complaint; includes threats, intimidation, harassment, coercion, discrimination, violence, or any other conduct by The Chicago School, a student, or an employee or other person authorized by The Chicago School to provide aid, benefit, or service

under the school's education program or activity; does not include perceived or petty slights or trivial annoyances.

**Sanctions:** One or more of the sanctions or disciplinary steps listed here may be imposed on a Respondent who is found responsible for a violation of The Chicago School's policies. Sanctions or disciplinary steps not listed here may be imposed in consultation with the Title IX Coordinator.

**Sexual Act:** A Sexual Act is defined as conduct between persons consisting of:

- Contact between the penis and the vulva or between penises and vulvas.
- Contact between the penis and the anus.
- Contact between the mouth and the penis.
- Contact between the mouth and the vulva.
- Contact involving any of the above or the buttocks or breasts

Private body parts include all the body parts specified above.

**Student:** Any person who has (or will have) attained student status by way of:

- Admission other service that requires student status.
- Registration for one or more credit hours.
- Enrollment in any degree program or certificate program offered by The Chicago School.

### **XXIII. RESOURCES**

Title IX resources are available on The Chicago School [Community Site](#).

#### *Private & Confidential Resources for Students*

Student Solutions: Student Solutions is a free, confidential, around-the-clock counseling service available to all Chicago School students.

Phone: 855.460.6668

Website: [www.guidanceresources.com](http://www.guidanceresources.com)

Web identifier: TCSPP

Counselors who provide services to Chicago School Community Members through Student Solutions are not required to disclose reports of sexual misconduct to The Chicago School's Title IX Coordinator. While professional and non-professional counselors and advocates may maintain a Complainant's confidentiality vis-à-vis The Chicago School, they may have reporting or other obligations under state law. A Complainant is encouraged to ask the counselor to explain their ability to protect the student's privacy and to maintain confidential communications.

#### *Privileged & Confidential Resources for Employees*

Employee Assistance Program (EAP): All employees have access to the Employee Assistance Program (EAP). ComPsych® GuidanceResources® benefit provides employees and their dependents 24/7 support, resources, and information to help with no-cost, confidential counseling and legal support, financial information, and personalized work-life resources.

Website: [www.guidanceresources.com](http://www.guidanceresources.com)

Web identifier: The Chicago School

#### **XXIV. POLICY DISSEMINATION**

The Chicago School shall disseminate this policy to:

- a. All employees.
- b. A volunteer who will regularly interact with students.
- c. An individual or entity under contract with the school to perform any service involving regular interaction with students at the institution.