



## **Anti-Discrimination, Anti-Harassment and 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, 2020<sup>1</sup>

### **Contact Information**

#### **Dean for Student Success/Title IX Coordinator**

**Jennifer Stripe Portillo:** (213) 615-7264; 707 Wilshire Blvd, Los Angeles, CA 90017

#### **Director for Student Success/Deputy Title IX Coordinator**

**Lauren Friedman:** (202) 706-5007; 901 15<sup>th</sup> St NW, Washington, DC 20005

#### **Email Contact Information**

Office of the Dean for Student Success: [studentsuccess@thechicagoschool.edu](mailto:studentsuccess@thechicagoschool.edu)

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

#### **Title IX Support Staff**

**Jill Glenn:** (312) 410-8991; 325 N. Wells St, Chicago, IL 60654

**Jennifer Hostutler:** (469) 941-8300; 2101 Waterview Pkwy, Richardson, TX 75080

**Wendy Schiffman:** (312) 329-6627; 325 N. Wells St, Chicago, IL 60654

Questions about Title IX may also be directed to:

#### **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

#### Table of Contents

---

<sup>1</sup> Sexual Misconduct Policy and Discrimination and Harassment Policy combined as of August 6, 2020.

A)	General Introduction.....	5
I)	Scope of this Policy.....	5
II)	Independence and Conflict of Interest .....	7
III)	Time Limits on Reporting .....	7
IV)	Prohibited Conduct - Discrimination & Harassment.....	7
V)	Prohibited Conduct – Retaliation .....	8
VII)	Reporting Discrimination, Harassment or Retaliation .....	9
VIII)	Privacy.....	9
B)	General Discrimination, Harassment and Retaliation Resolution Process.....	9
i)	Initial Assessment .....	10
ii)	Supportive Measures .....	10
iii)	Emergency Removal.....	11
iv)	Informal Resolution .....	11
v)	Administrative Resolution.....	11
vi)	Determination of Appropriate Sanctions .....	12
vii)	Appeal Process .....	13
C)	Title IX: Policy on Sexual Harassment.....	13
I)	Consensual Relationships.....	14
II)	Reporting Sexual Harassment .....	15
i)	Making a Report.....	15
ii)	Options for Reporting and Confidentially Disclosing Sexual Harassment.....	16
iii)	The Options.....	16
III)	How TCSPP Will Weigh and Respond to Requests for Confidentiality .....	19
IV)	Amnesty for Complainants and Witnesses .....	20
V)	False Allegations and Information.....	21
VI)	TCSPP’s External Reporting Obligations.....	21
i)	Federal Statistical Reporting Obligations.....	21
ii)	Federal Timely Warning Reporting Obligations .....	21
VII)	TCSPP’S TITLE IX FORMAL GRIEVANCE PROCESS.....	21
i)	Initial Assessment .....	22
ii)	Formal Complaint.....	23
iii)	Dismissal (Mandatory and Discretionary) .....	23
iv)	Supportive Measures .....	24
v)	Emergency Removal.....	25
VIII)	Options for Resolution.....	26
i)	Informal Resolution .....	26
ii)	Cross-claims.....	26

iii)	Respondent Admits Responsibility for Alleged Violation .....	27
IX)	Investigation .....	27
X)	Right to a Title IX Advisor.....	28
i)	Who Can Serve as a Title IX Advisor.....	29
ii)	Title IX Advisors in Hearings/TCSP-Appointed Advisor .....	29
iii)	Role of Title IX Advisor.....	29
iv)	Pre-Interview Meetings .....	30
v)	Sharing information with Title IX Advisor .....	30
vi)	Expectations of a Title IX Advisor .....	30
vii)	Expectations of the Parties with Respect to Title IX Advisors .....	30
viii)	Assistance in Securing a Title IX Advisor .....	30
XI)	Role and Participation of Witnesses .....	30
XII)	Steps in the Investigation .....	31
XIII)	Withdrawal While Investigation is Pending .....	33
XIV)	Standard of Proof .....	34
XV)	Evidentiary Considerations in the Investigation .....	34
XVI)	Referral for Hearing.....	34
XVII)	Decision-Maker .....	34
XVIII)	Evidentiary Considerations - Hearing .....	35
XIX)	Notice of Hearing .....	35
XX)	Pre-Hearing .....	36
XXI)	Pre-Hearing Meetings .....	37
XXII)	Alternative Hearing Options .....	37
XXIII)	Hearing Procedures .....	37
i)	Joint Hearings .....	38
XXIV)	The Order of the Hearing – Introductions and Explanation of Procedure.....	38
i)	Investigator Presents the Final Investigation Report .....	38
ii)	Testimony and Questioning .....	38
iii)	Deliberation, Decision-making, and Standard of Proof.....	40
iv)	Sanctions.....	41
v)	Sanctions Decisions.....	42
XXV)	Appeals of Dismissal of Formal Complaint, And Final Determination and Sanctions Decisions	42
i)	Appeal Grounds .....	43
ii)	Appeal Considerations .....	43
iii)	Sanctions Status during Appeal.....	44
iv)	Notice of Appeal Outcome .....	44
XXVI)	Long-Term Remedies/Actions.....	45

XXVII) Failure to Complete Sanctions/Comply with Interim and Long-term Remedies/Responsive Actions	45
XXVIII) Recordkeeping .....	45
XXIX) Disabilities Accommodations in the Resolution Process .....	46
D) Revision .....	46
APPENDIX A – GENERAL DEFINITIONS .....	48
APPENDIX B – TITLE IX DEFINITIONS .....	50
APPENDIX C – STATE LAW DEFINITIONS.....	55

## **A) General Introduction**

The core purpose of this policy is the prohibition of all forms of discrimination. To ensure compliance with federal and state civil rights laws and regulations and to affirm its commitment to promoting the goals of fairness and equity in all aspects of its educational programs and activities, The Chicago School of Professional Psychology (TCSPP) prohibits discrimination against and harassment of members of its community including but not limited to its applicants, students and employees based on race, ethnicity, color, sex, gender, gender identity, gender expression, genetic information, religion, creed, age (40 years or older), national origin or ancestry, sexual orientation, physical or mental disability, marital status, parental status, pregnancy, military or veteran status, political activities/affiliations, or any other category protected by law or included in TCSPP's Non-Discrimination Statement (Protected Categories). TCSPP also prohibits Sexual Harassment, as defined by Title IX, and as set forth in Appendix B.

TCSPP's Non-Discrimination Statement is available [here](#).

TCSPP's policy prohibiting discrimination against and harassment involving employees is available [here](#).

TCSPP also bars retaliation against any person who exercises their rights under this policy, including filing a good faith report of sexual harassment, participating in the complaint resolution procedures relating to the same, supporting a Complainant or Respondent, or assisting in providing information relevant to an investigation.

TCSPP has developed this policy and its procedures to reinforce the prohibition of discrimination against and the harassment of any individual at TCSPP or at TCSPP's activities occurring on or off-campus. The procedures provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of any of the Protected Categories, as well as for allegations of retaliation. TCSPP values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

Sexual Misconduct that falls under the Title IX Definition of Sexual Harassment, as stated on page 54 of Appendix B, and occurs within TCSPP's Education Program or Activity and within the United States will be investigated and resolved through the Title IX Grievance Process set forth in Section C.VII. Sexual Misconduct that falls under the Title IX Definition of Sexual Harassment that is alleged against a TCSPP student or employee but that did not occur within TCSPP's Education Program or Activity or did not occur in the United States will be handled through the General Discrimination, Harassment and Retaliation Resolution Process set forth in Section B. Note that the definitions applicable to this policy are set forth in Appendix A, General Definitions, and Appendix B, Title IX Definitions.

### **I) Scope of this Policy**

This policy applies to the Education Program and Activities of TCSPP, to conduct that takes place on the campus or on property owned or controlled by TCSPP, or at TCSPP-sponsored events. The Respondent must be a member of TCSPP's community in order for its policies to apply.

This policy can also be applicable to the effects of off-campus misconduct that effectively deprives someone of access to TCSPP's educational program. TCSPP may also extend jurisdiction to off-

campus and/or to online conduct when the Dean for Student Success/Title IX Coordinator determines that the conduct affects a substantial TCSPP interest.

Regardless of where the conduct occurred, TCSPP will review complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. A substantial TCSPP interest includes:

- Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;
- Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
- Any situation that is detrimental to the educational interests or mission of TCSPP.

If the Respondent is unknown or is not a member of the TCSPP community, the Dean for Student Success/Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement, where applicable, if the individual would like to file a police report. In addition, TCSPP may take other actions as appropriate to protect the Complainant against such third parties such as barring the latter from TCSPP property and/or events.

Further, even when the Respondent is not a member of the TCSPP community, supportive measures, remedies, and resources may be available to the Complainant by contacting the Dean for Student Success/Title IX Coordinator.

In addition, TCSPP may take other actions as appropriate to protect the Complainant against third parties such as barring individuals from TCSPP property and/or events. All vendors serving TCSPP through third-party contracts are subject to the policies and procedures of their employers.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies. Similarly, the Title IX Coordinator may be able to advocate for a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to TCSPP where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

When the Respondent is a member of the TCSPP community, a grievance process may be available regardless of the status of the Complainant who may or may not be a member of TCSPP community. This community includes but is not limited to students, student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, and invitees. The procedures below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

## **II) Independence and Conflict of Interest**

The Dean for Student Success/Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. The Dean for Student Success/Title IX Coordinator oversees all resolutions under this policy and these procedures. The individuals who play a role in the processes outlined below are vetted and trained to ensure they are not biased for or against any party in a specific case or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias or conflict of interest by the Dean for Student Success/Title IX Coordinator, contact the Vice President of Academic Affairs. Concerns of bias or a potential conflict of interest by any other individual involved in the processes outlined below should be raised with the Dean for Student Success/Title IX Coordinator.

Reports of misconduct or discrimination committed by the Dean for Student Success/Title IX Coordinator should be reported to the Vice President of Academic Affairs. Reports of misconduct or discrimination committed by any other Title IX Team member or individual involved in the processes outlined in this policy should be reported to the Dean for Student Success/Title IX Coordinator.

## **III) Time Limits on Reporting**

There is no time limitation on providing notice/complaints to the Dean for Student Success/Title IX Coordinator. However, if the Respondent is no longer subject to TCSPP's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Dean for Student Success/Title IX Coordinator who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When notice/complaint is affected by significant time delay, TCSPP will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint.

## **IV) Prohibited Conduct - Discrimination & Harassment**

Discrimination is adverse action taken against or harassment of an individual based on membership in any Protected Category.

Harassment refers to unwelcome behavior based on membership in any Protected Category. Harassment becomes impermissible where 1) enduring the offensive conduct becomes a condition for any academic-related purpose, or 2) the conduct is severe or pervasive enough to create an academic environment that a reasonable prudent person would consider intimidating, hostile, or abusive.

This policy prohibits discrimination, harassment, and Sexual Misconduct, which includes Sexual Harassment, and all other forms of discrimination and harassment based on membership in any Protected Category

Sexual Harassment, as an umbrella category includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex that satisfies one or more of the following: quid pro quo, sexual harassment, sexual assault, dating violence, domestic violence, stalking. Each of these is defined below.

Sexual Harassment may fall within or outside of the Title IX definition of Sexual Harassment found in Appendix B.

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discrimination and harassment. TCSPP's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters protected by academic freedom. The sections below describe the specific forms of legally prohibited harassment that are also prohibited under TCSPP policy. Consistent with federal and state law, when speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of TCSPP policy, though supportive measures may be offered to those impacted.

Petty slights, annoyances, and isolated incidents will not rise to the level of violation of a TCSPP policy or rule. To be considered a violation, the conduct must create an environment that would be intimidating, hostile, or offensive to a reasonable prudent person.

Offensive conduct may include but is not limited to jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, or interference with academic performance.

When discriminatory harassment rises to the level of creating a hostile environment, TCSPP may also impose sanctions on the Respondent through the application of the appropriate grievance process below.

This policy includes a prohibition of online and cyber manifestations of any of the behaviors prohibited through this policy when those behaviors occur in or have an effect on TCSPP's education program and activities or use TCSPP networks, technology, or equipment.

#### **V) Prohibited Conduct – Retaliation**

TCSPP bars retaliation against any member of the TCSPP community who exercises any rights or privileges secured by Title IX or provided by this policy, including reporting an incident that may implicate this policy, participating in the process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, filing a discrimination charge, testifying or participating in anyway in an investigation, filing a lawsuit under this policy or anti-discrimination laws, and/or acting in good faith to oppose conduct that constitutes a violation of this policy.

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 or privilege secured by Title IX, constitutes retaliation.

Retaliation is prohibited by law and by TCSPP policy, and any person who is found to have engaged in retaliation shall be subject to disciplinary action.

The exercise of rights protected under the First Amendment does not constitute retaliation. Charging an individual with a code of conduct violation for making a materially false statement in



bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith. Further, a complaint filed in good faith under this policy shall not constitute retaliation.

### **VII) Reporting Discrimination, Harassment or Retaliation**

A student who believes that they have been subjected to harassment, discrimination or retaliation, is encouraged to report the conduct immediately to the Dean for Student Success/Title IX Coordinator. An employee who believes that they have been subject to Sexual Harassment, as defined below, should contact the Dean for Student Success/Title IX Coordinator. An employee who believes that they have been subject to other types of harassment, discrimination, or retaliation, should contact Human Resources.

When an alleged violation of this policy is reported, the allegations are subject to resolution using the appropriate process, as determined by the Dean for Student Success/Title IX Coordinator and as detailed below. The report should include details of the incident or incidents, names of the individuals involved, names of any witnesses, and any documentation supporting the allegation. For allegations of Sexual Harassment, a Formal Complaint is required, as set forth in Section C.VII. For all other allegations, a written report is encouraged but is not required.

### **VIII) Privacy**

Every effort is made by TCSPP to preserve the privacy of the parties involved in making reports and/or participating in the processes outlined in this policy. TCSPP will not share the identity of any individual who has made a report or complaint of harassment, discrimination, or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

TCSPP reserves the right to designate which TCSPP officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to FERPA. Information about the incident and investigation will be provided on a need-to-know basis only or as otherwise required or permitted by law.

## **B) General Discrimination, Harassment and Retaliation Resolution Process**

Upon receipt of a report of allegations of discrimination, harassment or retaliation, the Dean for Student Success/Title IX Coordinator will determine the appropriate next steps in accordance with this policy. The appropriate process is dependent on the type of allegations included. If the allegations involve discrimination or harassment within the Title IX definition of Sexual Harassment, the Title IX Grievance Process outlined in Section C.VII will be followed. When it is determined that either the Title IX process is not applicable or that offenses subject to the Title IX Process have been dismissed, the process outlined in Section B will be used. If the Title IX Process is applicable, it must be followed. If the allegations involve all other types of discrimination, harassment or retaliation, the process in Section B will be followed.

These procedures may also be used to address collateral misconduct arising from the investigation of or occurring in conjunction with harassing or discriminatory conduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by this policy will be addressed through the procedures elaborated in the respective student, faculty, and staff handbooks.

#### **i) Initial Assessment**

After reviewing the report, the Dean for Student Success or their designee will conduct an initial assessment. The steps in an initial assessment will include contacting the Complainant to offer supportive measures and to determine how the Complainant wishes to proceed in addition to reviewing and/or discussing the information provided in the report with the Complainant. The initial assessment is not intended to be a full investigation interview. The Dean for Student Success will provide the Complainant with a written statement of their rights and options if the allegations involve Sexual Misconduct.

At the conclusion of the initial assessment the Dean for Student Success will determine the appropriate next steps. If the Complainant does not wish to go forward with an investigation, the Dean for Student Success has the discretion to take any measures necessary to ensure that discrimination, harassment or retaliation are remedied.

If the allegation cannot be resolved informally, where appropriate, TCSPP will undertake an effective, thorough, and objective investigation.

If it is determined that unlawful discrimination and/or harassment has occurred, effective remedial action will be taken in accordance with the circumstances of the incident. Appropriate action will also be taken to deter any future unlawful discrimination and/or harassment. An individual who violates this policy will be subject to disciplinary action up to and including removal from the institution.

#### **ii) Supportive Measures**

TCSPP will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged harassment, discrimination, and/or retaliation and as deemed appropriate by the Dean for Student Success. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to TCSPP's Education Program or Activity, including measures designed to protect the safety of all parties or TCSPP's educational environment, and/or deter harassment, discrimination, and/or retaliation.

TCSPP will maintain the privacy of the supportive measures, provided that privacy does not impair TCSPP's ability to provide the supportive measures. TCSPP will act to ensure as minimal an academic impact on the parties as possible. TCSPP will implement measures in a way that does not unreasonably burden any party.

Supportive measures may include: referral to counseling, medical, and/or other healthcare services, student financial aid counseling, visa and immigration assistance, implementing a no-contact order, academic support, extensions of academic deadlines or other course/academic program-related adjustments; and class schedule modifications, withdrawals, or leaves of absence.

### **iii) Emergency Removal**

TCSPS can act to remove a Respondent partially or entirely from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Dean for Student Success or their designee.

In all cases in which an emergency removal is imposed on a student, the student will be given notice of the action and the option to request to meet with the Dean for Student Success prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified. This meeting is not a hearing on the merits of the allegation(s) but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. There is no appeal process for emergency removal decisions.

If the Dean for Student Success determines that it is appropriate, a non-student employee who is a Respondent may be placed on administrative leave while these procedures are pending.

The Dean for Student Success has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include dismissal or termination. At the discretion of the Dean for Student Success, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

### **iv) Informal Resolution**

Informal Resolution is applicable when the parties voluntarily agree to resolve the matter or when the Respondent accepts responsibility for violating this policy or when the Dean for Student Success can resolve the matter informally by providing remedies and/or sanctions to resolve the situation.

It is not necessary to pursue Informal Resolution first in order to pursue Administrative Resolution, and any party participating in Informal Resolution can stop the process at any time and request the Administrative Resolution process. Further, if an Informal Resolution fails after the fact, Administrative Resolution may be pursued.

### **v) Administrative Resolution**

If Administrative Resolution is initiated, the Dean for Student Success or their designee will provide written notification of the investigation, via the TCSPS email address, to the parties at an appropriate time during the investigation that includes a meaningful summary of the allegations. Typically, notice is given at least 48 hours in advance of an interview. Advanced notice facilitates the parties' ability to identify and choose a support person, if any, to accompany them to the interview. The Dean for Student Success will provide the Respondent with a written statement of their rights and options, if the allegations involve Sexual Misconduct.

TCSPS aims to complete all investigations within a 60-business day period, which can be extended as necessary for appropriate cause by the Dean for Student Success with notice to the parties as appropriate. The Dean for Student Success will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no conflicts of interest or disqualifying bias.

The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Dean for Student Success will determine whether the concern is

reasonable and supportable. If so, another Investigator will be assigned and the impact of the bias or conflict, if any, will be remedied. If the bias or conflict relates to the Dean for Student Success, concerns should be raised to the Vice President of Academic Affairs.

Investigations involve interviews with all relevant parties and witnesses, obtaining available, relevant evidence, and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to fully review and respond to all evidence, on the record.

The investigation will typically include the following steps, if not already completed and not necessarily in this order: identify all policies implicated by the alleged misconduct, develop an investigation plan with a witness list, document/records list and order of interviews of parties and witnesses, provide the parties and witnesses with an opportunity to review and verify the investigator's summary notes from interviews and meetings with that specific party or witness, allow each party the opportunity to suggest questions they wish the Investigator to ask of the other party and witnesses, provide regular status updates to the parties throughout the investigation, and preparation of a written investigation report that summarizes the investigation.

The investigation report will conclude with a determination, based on a preponderance of the evidence, of whether the Respondent violated the policy. If the investigation involves a Respondent who is an employee, the matter will be referred to Human Resources to determine appropriate sanctions for a policy violation. If the investigation involves a Respondent who is a student, a Sanctions Panel will be used, as set forth in the next section.

#### **vi) Determination of Appropriate Sanctions**

The sanctions process is intended to provide an equitable procedure to both the Complainant and the Respondent, demonstrating promptness, fairness, and impartiality.

The Dean for Student Success or their designee will convene a Sanctions Panel. The Sanctions Panel will be composed of at least one member of the Office of the Dean for Student Success not affiliated with the investigation, a current or previous Student Affairs Committee member, and a faculty member trained in determining sanctions. The Complainant and the Respondent will receive written notice of the individuals on the Sanctions Panel and will have an opportunity to request a substitution if the participation of any of the individuals named poses a conflict of interest. The Complainant and Respondent must submit their request for substitution to the Dean for Student Success, in writing, within 24 hours of receiving panel member names.

After the Sanctions Panel has been convened, the investigator will submit to it the findings, their recommended sanctions.

Within five business days of receipt of materials, the Sanctions Panel shall meet to determine what, if any, sanctions 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 violation and maintain or enhance safety from misconduct in TCSP's learning and working environment.

If a student fails to comply with sanctions issued by the Sanctions Panel, the matter will be brought back to the Sanctions Panel for a determination of whether additional sanctions should be imposed. If the failure to comply with the sanctions is deemed willful or intentional, additional,

more severe sanctions may be imposed. Also, the Sanctions Panel may work with the student's Department Chair to refer the student to the Student Affairs Committee for further action.

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

### **vii) Appeal Process**

Any student who is a Complainant or Respondent under this policy has the right to appeal the determination of a violation of this policy and any sanctions decision by submitting a written letter of appeal to the Responsible Leader within five business days of issuance of the investigative determination and sanctions decision. An employee or other non-student TCSP Community Member does not have a right to appeal.

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 Responsible Leader 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.

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 Responsible Leader who handles the appeal 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 assigned to another leader chosen by the Dean for Student Success.

If in the opinion of the Responsible Leader the request for an appeal is without merit or does not meet the requirements set forth above, the Responsible Leader will reject the appeal.

If in the judgment of the Responsible Leader the appeal is properly constituted, the Responsible Leader will determine what next steps are appropriate, which may include but is not limited to remanding the matter to the Dean for Student Success or their designee for further investigation or remanding to the Sanctions Panel for consideration. The Responsible Leader will issue a written decision within five business days of receipt of the written letter of appeal to both the Complainant and Respondent.

## **C) Title IX: Policy on Sexual Harassment**

Section C of this Policy sets forth TCSP's policy on sexual harassment, as defined by the Title IX regulation, and as set forth on page 53 of Appendix B, and outlines the institution's prohibitions against sexual harassment, definitions of relevant terms, reporting, response and grievance

procedures, and the rights and responsibilities of members of TCSPP Community who are impacted by sexual harassment in relation to the academic and work environment.

**Email Contact:** [titleix@thechicagoschool.edu](mailto:titleix@thechicagoschool.edu)

**Title IX Coordinator**

**Jennifer Stripe Portillo:** (213) 615-7264; 707 Wilshire Blvd, Los Angeles, CA 90017

**Deputy Title IX Coordinator**

**Lauren Friedman:** (202) 706-5007; 901 15<sup>th</sup> St NW, Washington, DC 20005

**Title IX Support Staff**

**Jill Glenn:** (312) 410-8991; 325 N. Wells St, Chicago, IL 60654

**Jennifer Hostutler:** (469) 941-8300; 2101 Waterview Pkwy, Richardson, TX 75080

**McKenzie Marks:** (312) 467-2556; 325 N. Wells St, Chicago, IL 60654

**Wendy Schiffman:** (312) 329-6627; 325 N. Wells St, Chicago, IL 60654

Questions about Title IX may also be directed to:

**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

This policy applies to all employees, students, and other TCSPP Community Members including but not limited to guests and visitors regardless of sex, gender identity, or sexual orientation. Under Section C, TCSPP has jurisdiction to investigate allegations of sexual harassment occurring within a TCSPP-sponsored educational program or activity against a person in the United States. Sexual harassment, as an umbrella category includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex that satisfies one or more of the following: quid pro quo, sexual harassment, sexual assault, dating violence, domestic violence, stalking. Each of these is defined below.

When the Respondent is a member of the TCSPP community, the resolution process is applicable as long as the Complainant is participating in or attempting to participate in the Education Program or Activity at TCSPP and has filed a Formal Complaint, as described in more detail below.

**I) Consensual Relationships**

This policy covers unwelcome conduct that is sexual in nature. While romantic relationships between TCSPP Community Members may begin as consensual, it is possible that they may evolve into situations that lead to misconduct in violation of this policy. Given the asymmetrical nature of the relationship, voluntary consent from a supervised employee or a student is suspect. In addition, other students and employees may be affected by unprofessional behavior.

Consensual personal relationships between TCSPP 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.

## **II) Reporting Sexual Harassment**

### **i) Making a Report**

TCSPP Community Members should report incidents of sexual harassment to TCSPP's Title IX Coordinator. The Title IX Coordinator is:

**Jennifer Stripe Portillo**

Title IX Coordinator

E-mail: [titleIX@thechicagoschool.edu](mailto:titleIX@thechicagoschool.edu)

Phone: (213) 615-7264

TCSPP Community Members may also report incidents by submitting an online [Incident Reporting Form](#).

A Complainant is not required to report to law enforcement in order to receive assistance from or pursue any options within TCSPP. A Complainant has the option to notify law enforcement authorities, to receive assistance from TCSPP in notifying such authorities, or to decline to notify law enforcement authorities. Also, a Complainant may file both a criminal complaint and a Title IX report.

TCSPP Community Members who have experienced sexual assault, dating violence, domestic violence, stalking or other sexual violence or are aware of such incidents experienced by other TCSPP Community Members should make an immediate report to the local police department and should seek medical attention. For information about how to make a report to local law enforcement or campus security or law enforcement for a specific TCSPP location, click [here](#). The nearest medical facility for each campus is located [here](#).

Note that seeking medical attention is necessary to mitigate the risk of sexually transmitted diseases and pregnancy and to determine the existence of any physical injuries as well as the extent of any such injuries or required treatment. Additionally, forensic evidence can be collected if criminal action is or may be desired in the future. Note that it is important to preserve evidence as it may be necessary to provide proof of criminal activity or in obtaining a protective order. Evidence is best collected as soon as possible or within 96 hours of an assault. Assistance with evidence preservation can be provided by medical and/or law enforcement personnel. Note that federal law requires that a medical forensic examination be provided free of charge to a person who has been the survivor of sexual violence.

Reporting sexual violence, domestic violence, dating violence, and stalking to the police does not commit the Complainant to further legal action. However, the earlier an incident is reported, the easier it will be for law enforcement to investigate if the Complainant decides to proceed with criminal charges.

There is no time limitation on reporting allegations to the Title IX Coordinator. A report can be made at any time while the Complainant is participating in or attempting to participate in an Education Program or Activity at TCSPP. However, if the Respondent is no longer subject to TCSPP's jurisdiction and/or significant time has passed, the ability to investigate, respond, and

provide remedies may be more limited. Acting on allegations significantly impacted by the passage of time (including but not limited to the rescission or revision of policy) is at the discretion of the Title IX Coordinator who may document allegations for future reference, offer resources and/or remedies, and/or engage in informal or formal action, as appropriate. When a significant time delay impacts the reporting of alleged misconduct, TCSPP will apply the policy in place at the time of the alleged misconduct, and the procedures in place at the time the misconduct is reported.

## **ii) Options for Reporting and Confidentially Disclosing Sexual Harassment**

TCSPP encourages those who have experienced sexual harassment to talk to someone about what happened so that they may get the support they need and so that TCSPP may respond appropriately.

This section is intended to make TCSPP Community Members aware of the various reporting and confidential disclosure options available so that they may make informed choices about where to turn should they desire to report sexual harassment. TCSPP encourages those impacted by sexual harassment to talk to someone identified in one or more of these groups. Individuals may report to TCSPP (“on campus”), to off campus sources such as law enforcement or medical professionals (“off campus”) or to confidential resources. Each of these three categories (on campus, off campus, and confidential resources) have different reporting obligations, ability to protect student privacy, and ability to have confidential communications, as explained in more detail below.

While TCSPP Community Members are encouraged to use their own judgment in terms of whom they chose to discuss reports of sexual harassment with, they must also understand that TCSPP can only investigate and respond to incidents of sexual misconduct that it becomes aware of. A Complainant who at first requests confidentiality may later decide to file a complaint with TCSPP or report the incident to local law enforcement and thus have the incident fully investigated.

## **iii) The Options**

### ***(a) Privileged and Confidential Communications<sup>2</sup>***

Professional counselors, domestic violence counselors<sup>3</sup>, and pastoral counselors who are not employed by TCSPP are not required to report any information about an incident to TCSPP’s Title IX Coordinator without a Complainant’s permission.

In addition to the variety of professional counselors, domestic violence counselors, and pastoral counselors located near each TCSPP campus, TCSPP offers as a benefit to its students and employees the following resources that provide professional counseling services:

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

---

<sup>2</sup> TCSPP does not employ professional counselors, domestic violence counselors or pastoral counselors to provide on-campus mental health counseling and related services to members of the TCSPP community. TCSPP faculty and staff who are licensed mental health practitioners are not employed by TCSPP in such a capacity. As such, communications with TCSPP faculty and staff are not privileged or confidential. In addition, faculty and staff who are licensed to provide mental health counseling and related services may have reporting or other obligations under state law.

<sup>3</sup> This applies to California students pursuant to Cal. Evid. Code section 1037.8.



855.460.6668  
www.guidanceresources.com  
Web identifier: TCSPP

- Employee Assistance Program (EAP): TCSPP employees may receive counseling services through the EAP, which is available 24 hours per day, 7 days per week.  
800.272.7255  
www.guidanceresources.com  
Web identifier: COM589

Counselors who provide services to TCSPP Community Members through Student Solutions or the EAP are not required to disclose reports of sexual misconduct to TCSPP's Title IX Coordinator. While professional and non-professional counselors and advocates may maintain a Complainant's confidentiality vis-à-vis TCSPP, 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.

## **ILLINOIS**

TCSPP Community Members, including a Complainant, may contact a confidential advisor who is not a Responsible Employee as defined below. Counselors at the YWCA Metropolitan Chicago are confidential advisors for students. The YWCA is a community-based sexual assault crisis center that offers free, confidential services that are available 24 hours per day, 7 days per week. To obtain a confidential advisor, call the hotline at 888.293.2080, identify yourself as a member of the TCSPP community, and ask for a confidential advisor.

All communications between a confidential advisor and a Complainant pertaining to an incident of sexual harassment including all records kept by the confidential advisor in the course of providing the Complainant with services related to the incident of sexual harassment shall remain confidential unless (1) the Complainant provides written consent for the disclosure of the communications; (2) failure to disclose would result in a clear, imminent risk of serious physical injury to or death of the Complainant or another person; or (3) failure to disclose would violate state or federal law.

Counselors from YWCA Metropolitan Chicago who provide services to TCSPP Community Members are not required to disclose reports of sexual harassment to TCSPP's Title IX Coordinator except to provide annual reports of the number and type of incidents reported exclusively to the confidential advisor. Such reports shall not contain any confidential information, including any personally identifiable information.

### ***(b) Reporting to Responsible Employees***

A Responsible Employee is a TCSPP employee who has the duty to report incidents of sexual misconduct to the Title IX Coordinator. The following employees (or categories of employees) are TCSPP's Responsible Employees:

- Title IX Coordinator
- Deputy Title IX Coordinator
- Title IX Support Staff
- President, Vice Presidents, Associate Vice Presidents, and Assistant Vice Presidents
- Deans, Associate Deans, and Assistant Deans

- Student Success Employees
- Student Support Services Employees
- Office of Placement and Training Employees
- Human Resources Employees
- Department Chairs, Associate Department Chairs, and Assistant Department Chairs
- Executive Directors and Directors
- Department Managers

A Responsible Employee must report to the Title IX Coordinator all known details of a report made to them in the course of their employment. Responsible employees must also promptly share all details of behaviors under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party. Failure of a Responsible Employee to report an incident of alleged sexual misconduct of which they become aware is a violation of TCSPP policy and may result in disciplinary action.

Generally, disclosures in climate surveys, classroom writing assignments or discussions or in human subject research, or at TCSPP-sponsored events do not provide notice that must be reported to the Title IX Coordinator by a Responsible Employee unless the Complainant clearly indicates that they wish a report to be made or seek a specific response from TCSPP. Supportive measures may be offered as the result of such disclosures without formal action by TCSPP.

To the extent possible, information reported to a Responsible Employee will be shared only with people responsible for handling TCSPP's response to the report. A Responsible Employee should not share information with law enforcement without the Complainant's consent or unless the Complainant has also reported the incident to law enforcement.

Before a Complainant reveals any information to a Responsible Employee, the Responsible Employee must ensure that the Complainant understands the employee's reporting obligations and should inform the Complainant that they have the right to request confidentiality that the Title IX Coordinator will consider. If the Complainant wants to maintain confidentiality, they should be directed to confidential resources.

Responsible Employees will not pressure a Complainant to request confidentiality, but will honor and support the Complainant's wishes, including for TCSPP to fully investigate an incident. Responsible Employees will not pressure a Complainant to make a Formal Complaint if the Complainant is not ready to do so.

***(c) Reporting to Law Enforcement***

TCSPP Community Members are encouraged to report to law enforcement and may pursue the filing of a criminal complaint. An individual considering making a criminal complaint who has questions or concerns about confidentiality is encouraged to contact their local law enforcement agency to obtain additional information about the agency's reporting obligations to other entities, its ability to protect an individual's privacy, and its ability to have confidential communications during the criminal complaint process.

***(d) Reporting to Medical Professionals***

TCSPP Community Members may make a report to medical professionals. Medical professionals may be covered by federal and/or state privacy laws, such as HIPAA. In addition, under state law, medical professionals may be required to alert law enforcement when it reasonably appears that the individual requesting treatment has received an injury sustained as a survivor of a criminal offense, including sexual violence. However, it is the individual's choice as to whether they want to speak to the police.

### ***(e) Reporting Online, Anonymously, and Confidentially***

TCSPP Community Members, including bystanders, and third parties may submit a report electronically using the online [Incident Reporting](#) form. Reports may also be made anonymously, without identifying the Complainant. Anonymous reports will be preliminarily investigated to the extent possible, both to assess the underlying allegation(s) and to determine if remedies can be provided. However, anonymous reports typically limit TCSPP's ability to investigate, respond, and provide remedies, depending on what information is shared. Additionally, all Responsible Employees of TCSPP are required to promptly share all known details of a report with the Title IX Coordinator.

### **III) How TCSPP Will Weigh and Respond to Requests for Confidentiality**

If a Complainant does not wish to sign a Formal Complaint, they should notify the Title IX Coordinator who will evaluate that request against the duty to ensure the safety of the campus and to comply with applicable state and federal law.

The Title IX Coordinator has ultimate discretion over whether TCSPP proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a Formal Complaint to initiate a grievance process upon completion of an appropriate risk assessment.

The Title IX Coordinator's decision should be based on results of an assessment that shows a compelling risk to health and/or safety that requires TCSPP to pursue formal action to protect the community. A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. TCSPP may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and TCSPP's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When TCSPP proceeds, the Complainant (or their Title IX Advisor, defined below) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Title IX Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant.

Note that TCSPP's ability to remedy and respond to notice may be limited if the Complainant does not want TCSPP to proceed with an investigation and/or grievance process. The goal is to provide

the Complainant with as much control over the process as possible, while balancing TCSPP's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow TCSPP to honor that request, TCSPP will offer supportive measures and remedies to the Complainant and the community, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a Formal Complaint at a later date. Upon making a Formal Complaint, a Complainant has the right, and can expect, to have allegations taken seriously by TCSPP and to have the incidents investigated and properly resolved through these procedures as long as they are still involved in TCSPP's Education Program or Activity or are attempting to access a TCSPP Education Program or Activity.

Because TCSPP is under a continuing obligation to address the issue of sexual harassment across the institution, reports of sexual harassment (including non-identifying reports) will also prompt TCSPP to consider broader remedial action such as increasing monitoring, supervision, or security at locations where the reported sexual harassment occurred; increasing education and prevention efforts including to targeted population groups; conducting climate assessments surveys; and/or revisiting its policies and practices.

#### **IV) Amnesty for Student Complainants and Witnesses**

TCSPP encourages reporting of sexual harassment by student Complainants and witnesses and seeks to remove barriers to making a report. Sometimes, Complainants or witnesses are hesitant to report to TCSPP officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies such as consumption of alcohol or use of illicit drugs at the time of the incident. Student Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the TCSPP community that Complainants choose to report misconduct to TCSPP officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process. TCSPP maintains a policy of amnesty for students who offer help to others in need.

TCSPP has an obligation to provide this amnesty provision which provides limited immunity for any student who makes a good-faith report of an alleged violation of this policy to a Responsible Employee either as a Complainant or a third-party witness. Specifically, the reporting student will not be subject to a disciplinary process or sanction for their own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violation of the student conduct code was not egregious and did not place the health or safety of any other person at risk.

However, TCSPP may initiate a discussion or pursue other interventions regarding alcohol or other drugs. Amnesty will not be extended for any violations of TCSPP's policies other than those regarding alcohol and drug use. The decision not to offer amnesty to a Respondent is based on neither sex nor gender, but on the fact that collateral misconduct is addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to a Respondent with respect to a Complainant. In addition, amnesty does not preclude or prevent action by police or other legal authorities.

## **V) False Allegations and Information**

Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence after being directed to preserve such evidence, or deliberately misleading an official conducting an investigation will be subject to discipline under the applicable TCSPS conduct policy.

## **VI) TCSPS's External Reporting Obligations**

### **i) Federal Statistical Reporting Obligations**

Certain campus officials have a duty to report sexual assault, domestic violence, dating violence, and stalking for federal statistical reporting purposes under the Clery Act. All personally identifiable information is kept confidential, but statistical information must be passed along to campus security authorities regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in the Annual Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, thereby ensuring greater community safety.

The information to be shared includes the date, the location of the incident (using Clery location categories), and the Clery crime category. This reporting protects the identity of the Complainant and may be done anonymously.

### **ii) Federal Timely Warning Reporting Obligations**

Parties reporting sexual assault, domestic violence, dating violence and/or stalking should be aware that Campus Security Authorities must issue immediate timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community. TCSPS will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for members to make safety decisions in light of the potential danger.

## **VII) TCSPS'S TITLE IX FORMAL GRIEVANCE PROCESS**

The procedures in this section apply only to qualifying allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) involving students and employees. If other reports of sexual misconduct that fall outside of the definition of sexual harassment in Appendix B are made, the General Discrimination, Harassment and Retaliation Resolution Process in Section B will be used.

The procedures below may be used to address collateral misconduct arising from the investigation of or occurring in conjunction with the reported sexual harassment. All other allegations of misconduct unrelated to incidents covered by the policy will be addressed through the procedures included in the student handbook or employee handbook, as applicable.

Title IX Coordinators, Investigators, Decision-Makers, Appellate Decision-Makers, and Information Resolution Facilitators are trained as required by Title IX.

The Title IX Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a policy violation and evidence which supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on a person's status or participation as a Complainant, Respondent, or witness. The parties will have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. TCSPP operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof.

The Formal Grievance Process is designed to treat Complainants and Respondents equitably, to provide a supportive process for those who report sexual harassment, and to provide fundamental fairness for the alleged Respondent.

TCSPP is obligated to provide a Complainant with concise information, written in plain language, concerning the Complainant's rights and options, upon receiving a report of sexual harassment. The Statement of Rights and Options is found on the Title IX website.

#### Notice/Complaint

Upon receipt of a complaint or notice to the Title IX Coordinator of allegations of sexual harassment, TCSPP will initiate a prompt initial assessment to determine the next steps to take.

##### **i) Initial Assessment**

Following receipt of notice or a report of allegations of sexual harassment, the Title IX Coordinator engages in an initial assessment, which is typically one to five business days in duration. The steps in an initial assessment may include:

- The Title IX Coordinator will contact the Complainant to offer supportive measures. Note that a Formal Complaint is not required for supportive measures.
- The Title IX Coordinator will provide the Complainant with a written statement of rights and options.
- The Title IX Coordinator seeks to determine if the person impacted wishes to make a Formal Complaint and will assist them to do so, if desired.
- The Title IX Coordinator will advise the Complainant that a Formal Complaint is required in order to proceed with an investigation and/or information resolution. A Formal Complaint must include an allegation of Sexual Harassment against a Respondent and a request to investigate the allegation and must be signed by the Complainant or the Title IX Coordinator.
  - If they do not wish to sign a Formal Complaint, the Title IX Coordinator determines whether to sign a Formal Complaint because the Title IX Coordinator has determined that there is a compelling threat to health and/or safety.
  - If the Title IX Coordinator determines that they will not sign a Formal Complaint, the Title IX Coordinator will notify the Complainant that they may elect to sign a Formal Complaint later by notifying the Title IX Coordinator.
- If a Formal Complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have a Title IX Advisor.

- If an informal resolution option is preferred, the Title IX Coordinator assesses whether the Formal Complaint is suitable for informal resolution and may seek to determine if the Respondent is also willing to engage in informal resolution.
- If a Formal Grievance Process is preferred, the Title IX Coordinator determines if the misconduct alleged in the Formal Complaint falls within the scope of Title IX:
  - If it does, the Title IX Coordinator will initiate the Formal Grievance Process, directing the investigation to address:
    - an incident, and/or
    - a pattern of alleged misconduct, and/or
    - a culture/climate issue, based on the nature of the complaint.
  - If it does not, the Title IX Coordinator determines that Title IX does not apply, assesses which policies may apply, and, if the complaint involves discrimination, harassment or retaliation that falls outside of the Title IX definition of Sexual Harassment, will handle the matter under the General Discrimination, Harassment, and Retaliation Resolution Process or any other appropriate policy/process. Note that dismissing a complaint under Title IX is just procedural and does not limit TCSPP's authority to address a complaint with an appropriate process and remedies.

In limited circumstances, if a Complainant does not sign a Formal Complaint, the Title IX Coordinator may sign a Formal Complaint. In determining whether to sign a Formal Complaint, the Title IX Coordinator will consider whether any of the following exist: violence, threat, pattern, predation, minors and/or the use of a weapon is evidenced. The Title IX Coordinator may consult with experts in making this determination, if deemed appropriate by the Title IX Coordinator.

### **ii) Formal Complaint**

Upon receipt of a Formal Complaint, the Title IX Coordinator, or designee, will initiate at least one of the following responses:

- 1) offer the Complainant supportive measures and resources, as appropriate; and/or
- 2) provide an informal resolution; and/or
- 3) utilize the Formal Grievance Process, including an investigation and hearing.

### **iii) Dismissal (Mandatory and Discretionary)**

TCSPP must dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

- 1) The conduct alleged in the Formal Complaint would not constitute sexual harassment as defined in the policy herein, even if proved; and/or
- 2) The conduct did not occur in an educational program or activity controlled by TCSPP; and/or
- 3) TCSPP does not have control of the Respondent; and/or
- 4) The conduct did not occur against a person in the United States; and/or
- 5) At the time of filing a Formal Complaint, the Complainant was not participating in or attempting to participate in the Education Program or Activity of TCSPP.

TCSPP may dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing:

- 1) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; or
- 2) The Respondent is no longer enrolled at or employed by TCSPP; or
- 3) Specific circumstances prevent TCSPP from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

Upon any dismissal, the Title IX Coordinator will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

This dismissal decision is appealable by any party under the procedures for appeal below. A Complainant who decides to withdraw a Formal Complaint may later request to reinstate it or refile it.

#### **iv) Supportive Measures**

Upon notice of possible sexual harassment within the scope of this policy, TCSPP will provide the Complainant with information about local, state, and national resources and other supports relevant to sexual harassment. TCSPP will also provide the Complainant with information about the importance of preserving evidence and the availability of a free medical forensic examination service and will assist the Complainant in notifying law enforcement, including local police, if the Complainant elects to do so. If requested, other participants in the process (such as a witness) may also be offered appropriate support services and information. Please review the [Community Gateway](#) for specific information about local resources and supports that may be available to assist TCSPP Community Members.

TCSPP will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged harassment, discrimination, and/or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to TCSPP's Education Program or Activity, including measures designed to protect the safety of all parties or TCSPP's educational environment, and/or deter harassment, discrimination, and/or retaliation.

The Title IX Coordinator will make supportive measures available to the parties upon receiving notice/complaint. At the time that supportive measures are offered, TCSPP will inform the Complainant, in writing, that they may file a Formal Complaint with TCSPP either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

TCSPP will maintain the privacy of the supportive measures, provided that privacy does not impair TCSPP's ability to provide the supportive measures. TCSPP will act to ensure as minimal an academic impact on the parties as possible. TCSPP will implement measures in a way that does not unreasonably burden any party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers



- Visa and immigration assistance
- Student financial aid counseling
- Education to the community or community subgroup(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Class schedule modifications, withdrawals, or leaves of absence
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

TCSPP will use the least restrictive means possible when determining appropriate supportive measures to ensure the continued safety and health of the parties and/or the TCSPP community and to ensure as minimal an academic impact on the parties, where applicable. TCSPP will implement interventions that do not unreasonably burden the other party and will regularly re-evaluate the actions to determine the necessity of their continued implementation.

#### **v) Emergency Removal**

TCSPP may restrict a student's access to its campuses, programs, and courses pending the completion of investigation and resolution procedures when, in the judgment of the Title IX Coordinator and after undertaking an individualized safety and risk analysis, the Title IX Coordinator determines that there is an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment such that restricting the person from campus, programs and/or courses is warranted.

In all cases in which an emergency removal is imposed, the student will be notified of the decision and be given the option to meet with the Title IX Coordinator prior to such emergency removal being imposed or as soon thereafter as reasonably possible to show cause why the action should not be implemented or should be modified. This meeting is not a hearing on the merits of the allegation(s) but an administrative process intended to determine solely whether the emergency removal is appropriate. The Title IX Coordinator has sole discretion to implement or stay an emergency removal and to determine conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include dismissal from school. During an emergency removal, a student may be denied access to campus, equipment, facilities, and events.

TCSPP will implement the least restrictive emergency removal actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these measures may include restrictions from classes and/or all other institutional activities or privileges for which the student might otherwise be eligible. For example, such measures could include, but are not limited to: restricting a student's access to or use of TCSPP facilities or equipment, allowing a student to withdraw or take incompletes without financial penalty, authorizing an administrative leave, and interim suspension of a student's participation in extracurricular activities.

If the Title IX Coordinator determines that it is appropriate, a non-student employee who is a Respondent may be placed on administrative leave while grievance procedures are pending.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the Complainant and Respondent. When

the Respondent is an employee, at the discretion of the Title IX Coordinator, alternative work options may be pursued to ensure as minimal an impact as possible.

### **VIII) Options for Resolution**

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with TCSPP policy. While there is an expectation of privacy around what investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose. TCSPP encourages parties to discuss this with their Title IX Advisors before doing so.

The investigation and resolution process determine whether this policy has been violated. If so, TCSPP will promptly implement effective remedies designed to end discrimination, prevent its recurrence, and address its effects.

#### **i) Informal Resolution**

TCSPP recognizes that in certain circumstances, informal resolution of a Formal Complaint of sexual harassment may be beneficial to the Complainant, the Respondent, other involved parties, and/or the TCSPP community at large.

At any time after a Formal Complaint has been signed and before a determination regarding responsibility has been reached, the parties may voluntarily agree to participate in an informal resolution facilitated by TCSPP that does not involve a full investigation and adjudication. Types of informal resolution include but are not limited to mediation, facilitated dialogue, conflict coaching, and restorative justice and resolution by agreement of the parties.

Whether a Formal Complaint of sexual harassment is appropriate for informal resolution is at the discretion of the Title IX Coordinator. However, reports of sexual violence will never be resolved informally. In addition, informal resolution may not be used to resolve allegations that an employee sexually harassed a student. It is not necessary to pursue Informal Resolution first in order to pursue a formal investigation, and any party participating in Informal Resolution can stop the process at any time and request the formal resolution process. TCSPP will not pressure the parties to participate in informal resolution.

Prior to implementing Informal Resolution, TCSPP will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by TCSPP.

The Title IX Coordinator maintains records of any Informal Resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Results of Formal Complaints resolved by Informal Resolution are not appealable.

#### **ii) Cross-claims**

TCSPP is obligated to ensure that the grievance process is not abused for retaliatory purposes. TCSPP permits the filing of cross-claims but uses an initial assessment, described above, to assess whether the allegations in the cross-claim are made in good faith. Cross-claims by the Respondent may be made in good faith, but are, on occasion, also made for purposes of retaliation.

Cross-claims determined to have been reported in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur. Cross-claims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator. When cross-claims are not made in good faith, they will be considered retaliatory, and may constitute a violation of this policy.

### **iii) Respondent Admits Responsibility for Alleged Violation**

The Respondent may admit responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether informal resolution can be used according to the criteria listed above. If informal resolution is applicable, the Title IX Coordinator will determine whether all parties and TCSPP are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of TCSPP policy and implements agreed-upon sanctions and/or remedies through an informal resolution, in coordination with other appropriate administrators, as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

When resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented in order to effectively to stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

## **IX) Investigation**

Once the Title IX Coordinator determines that a formal investigation is appropriate, an individual who has been trained to investigate reports of sexual harassment, e.g. the Title IX Coordinator, Deputy Title IX Coordinator, or other designee approved by the President, will conduct a thorough and impartial investigation. The burden of gathering sufficient evidence to make a determination regarding responsibility rests with TCSPP. TCSPP will not use medical records or records maintained in the provision of treatment to a party unless TCSPP obtains voluntary, written consent to access, consider, disclose, or otherwise use such records. The parties will receive written notice of the individual who will conduct the investigation and will have an opportunity to request a substitution if the participation of the individual named poses a conflict of interest.

The Title IX Coordinator will vet the assigned investigator to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another investigator will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the alleged conflict of interest or bias is the Title IX Coordinator, concerns should be raised with Vice President of Academic Affairs.

The Title IX Coordinator will provide written notification of the investigation and allegations (“NOIA”) to the Respondent. Notification to the Respondent facilitates the Respondent’s ability to prepare for the interview and to identify and choose a Title IX Advisor to accompany them. The Complainant will receive a copy of the NOIA, and the Complainant will be given advance notice of when the NOIA will be provided to Respondent.

The NOIA will include:

- a meaningful summary of the allegations,
- the identity of the parties involved (if known),
- the precise misconduct being alleged,
- the date and location of the alleged incident(s) (if known),
- the specific policies implicated, a description of applicable procedures,
- a statement of the potential sanctions/responsive actions that could result,
- a statement that TCSPP presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- a statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- a statement about TCSPP’s policy on retaliation,
- information about the privacy of the process,
- information on the need for each party to have a Title IX Advisor of their choosing and suggestions for ways to identify a Title IX Advisor,
- a statement informing the parties that TCSPP’s Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
- detail on how the party may request disability accommodations during the interview process,
- a statement of rights and options;
- the name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have, and
- an instruction to preserve any evidence that is directly related to the allegations.

Updates on this notice may be made as the investigation progresses and more information is available regarding the addition or dismissal of allegations.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent addresses of the parties as indicated in official TCSPP records, or emailed to the parties’ TCSPP-issued email accounts. Once mailed, emailed, and/or received in person, notice will be presumptively delivered.

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If the investigator elects to audio and/or video record interviews, all involved parties must be made aware of and consent to audio and/or video recording.

#### **X) Right to a Title IX Advisor**

The Complainant and Respondent are entitled to have a Title IX Advisor of their choosing accompany them to any meeting or proceeding within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Title IX Advisor as long as the Title IX

Advisor is eligible and available.

**i) Who Can Serve as a Title IX Advisor**

The Title IX Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose a Title IX Advisor from inside or outside of the TCSP community.

Choosing a Title IX Advisor who is also a witness in the process creates potential for bias and conflict of interest. A party who chooses a Title IX Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Decision-Maker.

The Title IX Coordinator will also offer to assign a trained Title IX Advisor for any party if the party so chooses. If the parties choose a Title IX Advisor from the pool available at TCSP, the Title IX Advisor will be trained by TCSP and be familiar with this policy and with TCSP's resolution process. If the parties choose a Title IX Advisor from outside the pool of those identified by TCSP, the Title IX Advisor may not have been trained by TCSP and may not be familiar with TCSP policies and procedures.

Parties also have the right to choose not to have a Title IX Advisor in the initial stages of the resolution process, prior to a hearing.

**ii) Title IX Advisors in Hearings/TCSP-Appointed Advisor**

Pursuant to U.S. Department of Education regulations applicable to Title IX, cross-examination is required during the hearing and must be conducted by the parties' Title IX Advisors. The parties are not permitted to directly cross-examine each other or any witnesses. If a party does not have a Title IX Advisor for a hearing, TCSP will appoint a trained Title IX Advisor for the limited purpose of conducting any cross-examination during the hearing.

A party may reject this appointment and choose their own Title IX Advisor, but they may not proceed without a Title IX Advisor. If the party's Title IX Advisor will not conduct cross-examination, TCSP will appoint a Title IX Advisor who will do so, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses will also be conducted by the Decision-Maker during the hearing.

**iii) Role of Title IX Advisor**

The parties may be accompanied by their Title IX Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Title IX Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. The Title IX Advisor is present to provide support to the Complainant or Respondent during any meetings or proceedings and can provide any advice to the Complainant or Respondent prior to such meetings or proceedings. The Complainant and Respondent are required to notify the investigator of the identity of the Title IX Advisor that they decide to bring to any meeting at least 24 hours before the meeting.

All Title IX Advisors are subject to the same rules whether or not they are attorneys. A Title IX Advisor may not communicate with an investigator on behalf of the Complainant or the Respondent. If the Title IX 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. A Title IX Advisor who steps out of their role in any meeting or proceeding will be warned once and only once. If the Title

IX 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 Title IX Advisor's non-compliance and future role.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation. While the Title IX Advisor generally may not speak on behalf of the Complainant or Respondent, the Title IX 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 Title IX Advisors should ask for breaks to step out of meetings to allow for private consultation.

TCSPP cannot guarantee equal Title IX Advisory rights, meaning that if one party selects a Title IX Advisor who is an attorney, but the other party does not or cannot afford an attorney, TCSPP is not obligated to provide an attorney.

#### **iv) Pre-Interview Meetings**

Title IX Advisors may request to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting will allow Title IX Advisors to clarify and understand their role and TCSPP's policies and procedures.

#### **v) Sharing information with Title IX Advisor**

TCSPP expects that the parties will wish to share documentation and evidence related to the allegations with their Title IX Advisors. If a party does not wish to share documentation and evidence related to the allegations with their Title IX Advisor, they must notify the Title IX Coordinator that they do not wish to share such information. The Title IX Advisor must not share any records with third parties, disclose the records publicly, or use the records for purposes not explicitly authorized by TCSPP. TCSPP may seek to restrict the role of any Title IX Advisor who does not respect the sensitive nature of the process or who fails to abide by TCSPP's privacy expectations.

#### **vi) Expectations of a Title IX Advisor**

TCSPP generally expects a Title IX Advisor to adjust their schedule to allow them to attend meetings when planned but may change scheduled meetings to accommodate a Title IX Advisor's inability to attend, if doing so does not cause an unreasonable delay. TCSPP may also make reasonable provisions to allow a Title IX Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technology as it is convenient and available.

#### **vii) Expectations of the Parties with Respect to Title IX Advisors**

A party may elect to change their Title IX Advisor during the process and is not obligated to use the same Title IX Advisor throughout. The parties are expected to inform the investigator of the identity of the Title IX Advisor at least 24 hours before any meeting or proceeding (or as soon as possible if a more expeditious meeting is necessary or desired).

#### **viii) Assistance in Securing a Title IX Advisor**

TCSPP has a pool of trained Title IX Advisors. Contact [titleix@thechicagoschool.edu](mailto:titleix@thechicagoschool.edu) to obtain the names and contact information for those individuals.

### **XI) Role and Participation of Witnesses**

Witnesses (as distinguished from the parties) who are students and employees of TCSPP are expected to cooperate with and participate in TCSPP's investigation and resolution process.

Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of this policy and may warrant discipline for students in accordance with the student handbook and for employees in accordance with the Faculty and Staff Handbook.

Interviews for parties and all potential witnesses may be held using virtual meeting technology such as Skype, Zoom, FaceTime, WebEx, GoToMeeting, or similar technologies. TCSPP will take appropriate steps to reasonably ensure the security/privacy of the process in the virtual environment.

## **XII) Steps in the Investigation**

All investigations are thorough, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information (if deemed necessary).

All parties have a full and fair opportunity through the investigation process to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence, on the record.

The investigator typically takes the following steps, if not completed already (not necessarily in order):

- Determine the identity and contact information of the Complainant.
- In coordination with campus partners (e.g. the Title IX Coordinator), initiate or assist with any necessary supportive measures.
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of the specific policies and provisions implicated.
- Meet with the Complainant to conduct an interview, take a statement or to finalize their interview/statement. This meeting will be conducted in accordance with the established reporting party interview protocol.
- Prepare the initial notice of investigation and allegations NOIA. The NOIA will inform the parties of their right to have the assistance of a Title IX Advisor of their choosing or provided by TCSPP present for all meetings attended by any party.
- If and when additional/material alterations to allegations arise, communicate this promptly to the parties with an amended NOIA. This notice will provide the parties with a summary of the additions to/alterations of the allegations, as well as any changes to the policies implicated.
- Meet with the Respondent to obtain a response to the allegations. This meeting will be conducted in accordance with the established interview protocol.
- Provide each interviewed party and witness an opportunity to review and verify the investigator's summary notes of the relevant evidence/testimony from their respective interviews and meetings.
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose.

Investigators and/or the Title IX Coordinator will provide sufficient advanced notice of such meetings in order to permit the party to prepare to participate.

- Interview all available relevant witnesses and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest witnesses and questions they wish the investigator to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions.
- Provide regular status updates to the parties throughout the investigation.
- Write an investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included.
- Prior to completing the investigation report, provide both parties and their respective Title IX Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an equal opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including evidence upon which TCSPP does not intend to rely in reaching a determination regarding responsibility, for a period of 10 business days review and comment period so that each party may meaningfully respond to the evidence prior to the conclusion of the investigation. The parties may elect to waive the full 10 business days. Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant's Title IX Advisor, Respondent's Title IX Advisor).
- The Investigator may choose to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses.
- The Investigator will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator should document all rationales for any changes made after the review and comment period.
- The final report is then shared with all parties and their Title IX Advisors through secure electronic submission or hard copy at least 10 business days prior to a hearing. The parties are also provided with a file of any directly related evidence that was not included in the report.
- The Title IX Coordinator will provide the Decision-Maker with a copy of the final investigation report, complete with all relevant evidence, the parties' submitted responses, and any relevant subsequent materials, documentation, communications, etc.

TCSPP investigates reports of sexual harassment independently of local law enforcement.

Absent delay to allow police to gather evidence or agreement by the parties, TCSPP will make every reasonable effort to complete the resolution process within 90 business days, excluding the time for the appeals process, after the Title IX Coordinator's receipt of a report. An extension to this timeframe may be made for good cause followed by written notice to the parties of the reason



for the extension and the projected new timeline. Circumstances that may cause a delay include, but are not limited to, a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions. During any delays, TCSPP will implement supportive measures as deemed appropriate.

Investigations are completed expeditiously, normally within 60 business days, although some investigations may take weeks or even months, depending on the nature, extent and complexity of the allegations, availability of witnesses, police involvement, etc. TCSPP will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

Because this procedure is an institutional process and not a judicial one, the presence of legal counsel other than as a Title IX Advisor for a Complainant or Respondent, is prohibited. TCSPP's process is not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

### **XIII) Withdrawal While Investigation is Pending**

**Students:** If a student has an allegation pending for a violation of this Policy, TCSPP may place a hold on a student's ability to graduate and/or to receive an official transcript/diploma.

Should a student decide to leave and/or not participate in the investigation or resolution process, the process will proceed in the student's absence to a reasonable resolution. The student will have a hold placed on their account until the allegations have been resolved. Should a student Respondent permanently withdraw from TCSPP, the resolution process ends as TCSPP no longer has disciplinary jurisdiction over the withdrawn student.

However, TCSPP will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation. The student who withdraws or leaves while the process is pending may not return to TCSPP. Such exclusion applies to all campuses and programs of TCSPP. A hold will be placed on their ability to be readmitted. They may also be barred from TCSPP property and/or events.

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

During the resolution process, TCSPP may put a hold on a responding student's transcript or place a notation on a responding student's transcript that indicates that a disciplinary matter is pending.

**Employee:** Should an employee resign with unresolved allegations pending, the resolution process ends as TCSPP no longer has any disciplinary jurisdiction over the resigned employee. However, TCSPP will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination. The employee who resigns with unresolved allegations pending is not eligible for rehire with TCSPP, and records retained by the Title IX Coordinator will reflect that status. TCSPP

responses to future inquiries regarding employment references for that individual will indicate the former employee is ineligible for rehire.

#### **XIV) Standard of Proof**

In investigating and determining whether a violation of this policy has occurred, the Decision-Maker will use the “preponderance of the evidence” standard of proof. This means that the Decision-Maker will determine whether it is “more likely that not” that sexual harassment occurred.

#### **XV) Evidentiary Considerations in the Investigation**

Unless the Title IX Coordinator determines it is appropriate, the investigation does not consider: (1) incidents not directly related to the possible violation, unless they evidence a pattern, (2) questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant’s prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant or if the questions and evidence concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent, or (3) the character of the parties. TCSPP will not use medical records or records maintained in the provision of treatment to a party, unless TCSPP obtains voluntary, written consent to access, consider, disclose or otherwise use such records. TCSPP will not use questions or evidence that constitute or seek disclosure of a legally recognized privilege, unless the party has waived the privilege.

#### **XVI) Referral for Hearing**

Provided that the complaint is not resolved through Informal Resolution, the Title IX Coordinator will refer the matter for a hearing. The hearing cannot be less than 10 business days from the conclusion of the investigation – when the final investigation report is transmitted to the parties and the Decision-Maker – unless all parties and the Decision-Maker agree to an expedited timeline.

The Title IX Coordinator will select an appropriate Decision-Maker depending on whether the Respondent is an employee or a student. Allegations involving student-employees will be directed to the appropriate Decision-Maker depending on the context of the alleged misconduct.

#### **XVII) Decision-Maker**

The Title IX Coordinator will refer the investigation to the Decision-Maker who shall decide, by a preponderance of the evidence, whether the Respondent has violated this policy.

The Decision-Maker will not have had previous involvement with the investigation. Those who have served as investigators will be witnesses in the hearing of the allegation and therefore may not serve as the Decision-Maker. Those who are serving as Title IX Advisors for either party may not serve as the Decision-Maker in that matter. The Title IX Coordinator may not serve as a Decision-Maker in that matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill that role. The hearing will convene at a time determined by the Decision-Maker.

### **XVIII) Evidentiary Considerations - Hearing**

Any evidence that the Decision-Maker believes is relevant and credible may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. TCSPP will not use medical records or records maintained in the provision of treatment to a party, unless TCSPP obtains voluntary, written consent to access, consider, disclose or otherwise use such records. TCSPP will not use questions or evidence that constitute or seek disclosure of a legally recognized privilege, unless the party has waived the privilege.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility, assuming TCSPP uses a progressive disciplinary system. This information is only considered at the sanctions stage of the process.

The parties may each submit a written impact statement prior to the hearing for the consideration of the Decision-Maker at the sanction stage of the process when a determination of responsibility is reached.

The Decision-Maker renders a determination based on the preponderance of the evidence standard meaning whether it is more likely than not that the Respondent violated this policy.

### **XIX) Notice of Hearing**

No less than 10 business days prior to the hearing, the notice of the hearing will be sent to the parties. Once emailed, notice will be presumptively delivered. The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-Maker and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five business days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Decision-Maker on the basis of demonstrated bias. This must be raised with the Title IX Coordinator at least two business days prior to the hearing.
- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Decision-Maker. For compelling reasons, the Decision-Maker may reschedule the hearing.

- Notification that the parties may have the assistance of a Title IX Advisor of their choosing at the hearing and will be required to have one present for any questions they desire to ask. The party must notify the Title IX Coordinator if they do not have a Title IX Advisor, and TCSPP will appoint one. Each party must have a Title IX Advisor present. There are no exceptions.
- A copy of all the materials provided to the Decision-Maker about the matter, unless they have been provided already.
- An invitation to each party to submit to the Chair an impact statement pre-hearing that the Decision-Maker will review during any sanction determination.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven business days prior to the hearing.
- A statement that parties cannot bring mobile phones/devices into the hearing.

Hearings for possible violations that occur near or after the end of an academic term/semester (assuming the Respondent is still subject to this policy) and are unable to be resolved prior to the end of term/semester will typically be held as soon as possible and with the goal of meeting the resolution timeline followed by TCSPP and remaining within the 60 business day goal for resolution. In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal). A student facing charges under this policy is not eligible for degree conferral.

## **XX) Pre-Hearing**

### Pre-Hearing Preparation

The Title IX Coordinator will give the Decision-Maker a list of the names of all parties, witnesses, and Title IX Advisors at least 12 business days in advance of the hearing. Any Decision-Maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Title IX Advisors in advance of the hearing. If a Decision-Maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

The Decision-Maker, after any necessary consultation with the parties, investigator and/or Title IX Coordinator, will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report to the parties and their Title IX Advisors at least 10 business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the investigator, unless all parties and the Decision-Maker assent to the witness' participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the parties and Decision-Maker do not assent to the admission of evidence newly offered at the hearing, the Decision-Maker will delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

The parties will be given a list of the names of the Decision-Maker at least five business days in advance of the hearing. All objections to any Decision-Maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than two business days prior to the hearing. The Decision-Maker will be

removed only if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

During the 10 business day period prior to the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Decision-Maker at the pre-hearing meeting or at the hearing and will be exchanged between each party by the Decision-Maker.

### **XXI) Pre-Hearing Meetings**

The Decision-Maker may convene a pre-hearing meeting(s) with the parties and/or their Title IX Advisors to invite them to submit the questions or topics they (the parties and/or their Title IX Advisors) wish to ask or discuss at the hearing,

The Decision-Maker, only with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing.

At each pre-hearing meeting with a party and their Title IX Advisor, the Decision-Maker will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the investigator may be argued to be relevant. The Decision-Maker will rule on these arguments at the hearing. The Decision-Maker may consult with legal counsel and/or the Title IX Coordinator, or ask either or both to attend pre-hearing meetings.

The pre-hearing meeting(s) will not be recorded.

### **XXII) Alternative Hearing Options**

At the request of either party or the Decision-maker, TCSPP will provide for the live hearing to occur with the parties located in separate rooms with technology that permits the Decision-Maker and the parties to simultaneously see and hear the party or the witness answering questions. If a party or parties prefer not to attend the hearing in person or are unable to attend in person, the parties should request alternative arrangements from the Decision-Maker at least two business days prior to the hearing. The Decision-Maker can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator know at least two business days prior to the hearing so that appropriate arrangements can be made.

### **XXIII) Hearing Procedures**

Hearings will usually be convened between 14 to 21 business days from the completion of the investigation and will be conducted in private. The Decision-Maker has the authority to hear all allegations and make determinations on all allegations of discrimination, harassment, and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the discrimination, harassment, and/or retaliation, even though those collateral allegations may not specifically fall within the allegations covered by the Title IX Grievance Process.

Participants at the live hearing will include the Decision-Maker, the investigator who conducted the investigation, the reporting and responding parties, Title IX Advisors to the parties, any called

witnesses, anyone providing authorized accommodations or assistive services, and the hearing facilitator from the Title IX team.

The Decision-Maker will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Decision-Maker will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Decision-Maker and the parties and will then be excused.

#### **i) Joint Hearings**

In hearings involving more than one Respondent or in which two or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

### **XXIV) The Order of the Hearing – Introductions and Explanation of Procedure**

The Decision-Maker explains the procedures and introduces the participants. This may include a final opportunity for challenge or recusal of the Decision-Maker on the basis of bias or conflict of interest. The Title IX Coordinator will review and decide on any such challenge.

At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by a non-voting hearing facilitator appointed by the Title IX Coordinator. The hearing facilitator may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

#### **i) Investigator Presents the Final Investigation Report**

The investigator(s) will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Decision-Maker and the parties (through their Title IX Advisors). The investigator will be present during the entire hearing process, but not during deliberations.

Neither the parties nor the Decision-Maker should ask the investigator their opinions on credibility, recommended findings, or determinations, and the investigator, Title IX Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Decision-Maker will direct that it be disregarded.

#### **ii) Testimony and Questioning**

Once the investigator presents their report and is questioned, the parties may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Decision-Maker. The parties/witnesses will submit to questioning by the Decision-Maker and then by the parties through their Title IX Advisors (“cross-examination”). The Decision-Maker will allow each party’s Title IX Advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including questions challenging credibility. The cross-examination questions

posed by the Title IX Advisors must be conducted directly, orally, and in real time. The parties are not permitted to ask questions directly. Only relevant cross examination and other questions may be asked of a party or witness.

All questions are subject to a relevance determination by the Decision-Maker. The Title IX Advisor, who will remain seated during questioning, will pose the proposed question orally, the proceeding will pause to allow the Decision-Maker to consider it, and the Decision-Maker will determine whether the question will be permitted, disallowed, or rephrased.

The Decision-Maker may explore arguments regarding relevance with the Title IX Advisors, if the Decision-Maker so chooses. The Decision-Maker will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Decision-Maker will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

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

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

***(f) Refusal to Submit to Cross-Examination and Inferences***

If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the hearing or they attend but refuse to participate in questioning, then the Decision-Maker may not rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility. The Decision-Maker must disregard that statement. Evidence provided that is something other than a statement by the party or witness may be considered.

If the party or witness attends the hearing and answers some cross-examination questions, only statements related to the cross-examination questions they refuse to answer cannot be relied upon. However, if the statements of the party who is refusing to submit to cross-examination or refuses to attend the hearing are the subject of the allegation itself (e.g., the case is about verbal harassment or a quid pro quo offer), then those statements are not precluded from admission. Similarly, statements can be relied upon when questions are posed by the Decision-Maker(s), as distinguished from questions posed by Title IX Advisors through cross-examination.

The Decision-Maker may not draw any inference solely from the absence of a party or witness from the hearing or refusal to answer cross-examination or other questions.

If charges of policy violations other than sexual harassment are considered at the same hearing, the Decision-Maker may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their

Title IX Advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

If a party's Title IX Advisor of choice refuses to comply with TCSPP's established rules of decorum for the hearing, TCSPP may require the party to use a different Title IX Advisor. If a TCSPP-provided Title IX Advisor refuses to comply with the rules of decorum, TCSPP may provide that party with a different Title IX Advisor to conduct cross-examination on behalf of that party.

***(g) Recording***

Hearings (except for deliberations) are recorded for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted. The Decision-Maker, the parties, their Title IX Advisors and appropriate administrative officers of TCSPP will be allowed to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

**iii) Deliberation, Decision-making, and Standard of Proof**

The Decision-Maker will deliberate in a closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. The Decision-Maker will base the Final Determination(s) on a preponderance of the evidence standard (i.e. whether it is more likely than not that the Respondent committed each alleged violation). The hearing facilitator may be invited to attend the deliberation by the Decision-Maker, but is there only to facilitate procedurally, not to address the substance of the allegations.

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

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

The Decision-Maker will review the statements and any pertinent conduct history provided by the Title IX Coordinator regarding the Respondent and will determine the appropriate sanction(s) in consultation with other appropriate administrators, as required.

The Decision-Maker will then prepare a written Final Determination and deliver it to the Title IX Coordinator. The Final Determination will include the following:

- identification of allegations potentially constituting sexual harassment,
- description of procedures taken from the receipt of the Formal Complaint through the Final Determination, including any notifications to parties, interviews with parties and witnesses, site visits, methods used to gather other evidence and hearings held;
- findings of fact supporting the determination;
- conclusion regarding application of code of conduct to the facts;
- statement of and rationale for the result for each allegation, including determination regarding responsibility,
- any disciplinary sanctions,



- whether remedies designed to restore or preserve equal access to TCSPP's educational program or activity will be provided by TCSPP to the Complainant; and
- the process and permissible bases for appeal.

The Final Determination must be submitted to the Title IX Coordinator within two business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the Complainant and Respondent. The Title IX Coordinator will provide the parties and their Title IX Advisors with a copy of the Final Determination within two business days of receipt of the Final Determination from the Decision-maker, and the Final Determination will be provided via email to the parties' TCSPP-issued email accounts. Once emailed, the Final Determination will be deemed delivered, and the time period for the Appeal process will begin.

#### **iv) Sanctions**

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

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

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

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

In addition to sanctions, the Title IX Coordinator may also recommend that TCSPP or particular TCSPP Community Members take additional measures to remediate and/or prevent the discrimination, harassment, or other conduct in violation of this policy, and to remedy the effects of the sexual harassment on the Complainant and on TCSPP Community. The Title IX Coordinator may also extend any supportive measures provided to Complainant.

#### **(h) Possible Sanctions**

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 order pertaining to certain TCSPP Community Members or physical locations
- Referral to counseling and/or Student Solutions

- Required training or education
- Dismissal from TCSPP
- 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
- Required training or education
- Probation
- Loss of variable pay increase
- Loss of supervisory duties
- Demotion
- Suspension with pay or without pay
- Termination

#### **v) Sanctions Decisions**

The outcome of sanctioning decisions shall become final on the following date:

- If neither the Complainant nor the Respondent appeal the sanctioning decision, the first business day after the opportunity to appeal has passed;
- If either the Complainant or the Respondent appeal the sanctioning decision, the date of issuance of the appeal decision.

#### **XXV) Appeals of Dismissal of Formal Complaint, And Final Determination and Sanctions Decisions**

Any party may file a request for appeal (“Request for Appeal”) of a decision to dismiss the Formal Complaint, as described in Section C.VII.ii and of the Final Determination. All requests for appeal consideration must be submitted in writing to the Title IX Coordinator within five business days of the delivery of the Final Determination to the parties.

A three-member appeals panel, consisting of a member of the Title IX team not involved in the matter, a current or previous Student Affairs Committee member, and a faculty member, will be designated by the Title IX Coordinator. No appeal panelists will have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process. All appeals panelists will receive training regarding this policy and the appeals process. The parties will be advised of filing of the appeal and of the members on the panel and may, within two business days of being provided with their names, raise a concern regarding bias or conflict of interest by submitting a written notification to the Title IX Coordinator raising the concern. The Appeal Chair will determine whether the concern is reasonable and supportable. If so, another member or members will be assigned to the appeals panel.

The Request for Appeal will be forwarded to the Appeal Chair for consideration to determine if the request meets the grounds for appeal. This review is not a review of the merits of the appeal, but solely a determination as to whether the Request for Appeal meets the grounds and is timely filed.

### **i) Appeal Grounds**

Appeals are limited to the following grounds:

- A procedural irregularity that affected the outcome of the matter.
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter. A summary of this new evidence and its potential affect must be included in the submitted appeal request.
- The sanctions imposed fall outside the range of sanctions TCSPP has designated for this offense and the cumulative record of the Respondent.
- The Title IX Coordinator, investigator(s) or Decision-Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

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

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

When any party requests an appeal, the Title IX Coordinator will share the appeal request with the other party(ies) and their Title IX Advisors, the Title IX Coordinator, and, when appropriate, the Investigator and/or the original Decision-Maker will be mailed, emailed, and/or provided a hard copy of the request with the approved grounds and then be given three business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Appeal Chair to all parties for review and comment.

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

Neither party may submit any new requests for appeal after this time period. The Appeal Chair will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses will be shared with the Appeal Panel, and the Panel will render a decision in no more than five business days, barring exigent circumstances. All decisions are by majority vote and apply the preponderance of the evidence standard.

### **ii) Appeal Considerations**

- Decisions by the Appeals Panel are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction/responsive action only if there is a compelling justification to do so.
- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of

the original hearing and pertinent documentation regarding the specific grounds for appeal.

- An appeal is not an opportunity for appeals panelists to substitute their judgment for that of the Decision-Maker merely because they disagree with its finding and/or sanctions.
- The Appeals Panel may consult with the Title IX Coordinator on questions of procedure or rationale for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted based on new evidence should normally be remanded to the original investigator and/or Decision-Maker for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided by the three-member appeals panel.

### **iii) Sanctions Status during Appeal**

- Sanctions imposed as the result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, in accordance with the procedures above. If any of the sanctions are to be implemented immediately post-hearing, then emergency removal procedures (detailed above) for a hearing on the justification for doing so must be permitted within 48 hours of implementation.
  - TCSPP may still place holds on official transcripts, diplomas, graduation, study abroad, internships/ externships, and course registration pending the outcome of an appeal when the original sanctions included dismissal.

### **iv) Notice of Appeal Outcome**

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

- Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official TCSPP records, or emailed to the parties' TCSPP-issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
- In rare cases where a procedural or substantive error cannot be cured by the original Decision-maker (as in cases of bias), the appeals panel may recommend a new hearing with a new Decision-maker. The results of a remand to a i-maker cannot be appealed. The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases where the appeal results in reinstatement to TCSPP or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

## **XXVI) Long-Term Remedies/Actions**

Following the conclusion of the resolution process and in addition to any sanctions implemented, the Title IX Coordinator will implement long-term remedies or actions with respect to the parties and/or the University community that are determined appropriate by the Decision-Maker. These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to Student Solutions
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of work arrangements for employees
- Removal from specific courses or institutional activities, including Commencement
- Climate surveys
- Policy modification and/or training
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

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

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

## **XXVII) Failure to Complete Sanctions/Comply with Interim and Long-term Remedies/Responsive Actions**

All Respondents are expected to comply with the assigned sanctions, responsive actions, and corrective actions within the timeframe specified by the Decision-Maker. Failure to abide by the sanctions/actions imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions/actions, including dismissal, suspension (employee-respondents only), and/or termination from TCSPP and may be noted on a student's official transcript, where applicable. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

## **XXVIII) Recordkeeping**

In implementing this policy, TCSPP will maintain for a period of seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to TCSPP's Education Program or Activity;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom;
6. Basis of conclusion that TCSPP's response was not deliberately indifferent.
7. All materials used to train Title IX Coordinators, Investigators, Decision-Makers, and any person who facilitates an Informal Resolution process. TCSPP will make these training

- materials publicly available on TCSPP's website; and
8. Any actions, including any supportive measures, taken in response to a report or Formal Complaint of sexual harassment, including:
    - a. The basis for all conclusions that the response was not deliberately indifferent;
    - b. Any measures designed to restore or preserve equal access to TCSPP's Education Program or Activity; and
    - c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

TCSPP will also maintain any and all records in accordance with state and federal laws.

### **XXIX) Disabilities Accommodations in the Resolution Process**

TCSPP is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to TCSPP's resolution process.

Any party or witness needing such accommodations or support should contact Title IX at [titleix@thechicagoschool.edu](mailto:titleix@thechicagoschool.edu). The request will be reviewed in consultation with the person requesting the accommodation and appropriate university personnel, and a determination about which accommodations are appropriate and necessary for full participation in the process will be made.

### **D)Revision**

These policies and procedures supersede any previous policy(ies) addressing harassment, sexual misconduct, discrimination and/or retaliation and will be reviewed and updated annually by the Title IX Coordinator. TCSPP reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may also make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional web site, with appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure.

If government laws or regulations change, or court decisions alter, the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

USE AND ADAPTATION OF THIS MODEL WITH CITATION TO ATIXA IS PERMITTED THROUGH A LIMITED LICENSE TO TCS EDUCATION SYSTEM, ALL OTHER RIGHTS RESERVED. ©2020ATIXA



## APPENDIX A - GENERAL DEFINITIONS

The definitions in this Appendix A apply throughout all sections of this policy. There is a separate definition section in Appendix B that pertains only to the Title IX Grievance Process. The definitions in Appendix B apply to Section C only.

**Business Day** means Monday through Friday and excludes any day that is a federal legal holiday in the United States or any day on which TCSPP is closed due to a holiday.

**Complainant** is an individual who reportedly experienced conduct in violation of this policy.

**Final Determination** is a conclusion by a preponderance of the evidence that the alleged conduct occurred and whether it did or did not violate policy.

**General Discrimination, Harassment and Retaliation Resolution Process** means the method of resolution designed by TCSPP to address all conduct that allegedly violates this policy and that does not fall within the definition of Sexual Harassment in Appendix B or such conduct that falls within the definition of Sexual Harassment in Appendix B but does not occur in an Education Program or Activity or occurs outside of the United States.

**Non-Title IX Sexual Harassment.** Sexual Harassment has a specific definition in the Title IX Policy outlined in Section C of this policy. For any allegations of Sexual Harassment that do not meet that definition or that meet that Title IX definition of Sexual Harassment but occurred outside of the United States or outside of a TCSPP Education Program or Activity, this definition, Non-Title IX Sexual Harassment, will apply. Non-Title IX Sexual Harassment includes unwelcomed sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment is conduct that explicitly or implicitly affects a person's employment or education, interferes with a person's work or educational performance, or creates an environment such that a reasonable person would find the conduct intimidating, hostile, or offensive.

Sexual harassment may include incidents between any TCSPP Community Members, including faculty, staff, student employees, students, and non-student or non-employee participants in TCSPP programs (e.g., vendors, contractors, visitors, and clients). Sexual harassment may occur in hierarchical relationships, between peers, or between individuals of the same sex or opposite sex. To determine whether the reported conduct constitutes sexual harassment, consideration shall be given to the record of the conduct as a whole and to the totality of the circumstances, including the context in which the conduct occurred.

A hostile environment is created when sexual harassment is sufficiently severe or persistent or pervasive and objectively offensive that it unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the university's educational and/or employment programs.

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by a person having power or authority over another constitutes quid pro quo sexual harassment when submission to such sexual conduct is made either explicitly or implicitly a term or condition of an individual's work or educational development or performance, or evaluation thereof.

**Parties** include the Complainant(s) and the Respondent(s) collectively.



**Reasonable Person** means a reasonable person under similar circumstances and with similar identities to Complainant.

**Resolution** means the result of an informal or Formal Grievance Process.

**Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected category; or retaliation for engaging in a protected activity.

**Responsible Leader** is a designated leader on each campus. A list of Responsible Leaders can be found [here](#).

**Retaliation** means intimidation, threats, coercion, or discrimination, including charges against an individual for 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 Formal Complaint of Sexual Harassment, for the purpose of interfering with any right or privilege secured by Title IX or this policy.

**Sanction** means a consequence imposed by TCSPP on a Respondent who is found to have violated this policy.

**TCSPP Community Members/Community** includes all students, faculty, staff, vendors, contractors, community partners, and visitors.

**Title IX Grievance Process** means a method of formal resolution designed by TCSPP to address the conduct that falls within the definition of Sexual Harassment in Appendix B and which complies with the requirements of 34 C.F.R. part 106.45.

**Title IX Coordinator** is the official designated by TCSPP to ensure compliance with Title IX and TCSPP's Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.

**Sexual Misconduct** includes but is not limited to Sexual Harassment and Non-Title IX Sexual Harassment, as defined herein.

## APPENDIX B – TITLE IX DEFINITIONS

The definitions in this Appendix B apply only to the Title IX Grievance Process, found in Section C of this policy.

**Coercion** is unreasonable pressure for sexual activity and may include physical force, words and/or conduct that would cause a Reasonable Person to fear imminent harm to health, safety or property of themselves or a third person, threat of loss or impairment of an academic or job benefit. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

**Confidential Resource** means a resource that is designated by the institution as not mandated to report incidences of discrimination or harassment.

**At TCSPP, consent** is informed, voluntary, and revocable. Consent cannot be given when a person is incapacitated.

Consent is *informed*. Consent is an affirmative, unambiguous, and conscious decision by each participant to engage in mutually agreed-upon sexual activity.

Consent is *voluntary*. It must be given without coercion, force, threats, or intimidation. Consent means positive cooperation in the act or expression of intent to engage in the act pursuant to an exercise of free will.

Consent is *revocable*. Consent to some form of sexual activity does not imply consent to other forms of sexual activity. Consent to sexual activity on one occasion is not consent to engage in sexual activity on another occasion. A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be mutual consent to engage in sexual activity. Consent must be ongoing throughout a sexual encounter and can be revoked at any time. Once consent is withdrawn, the sexual activity must stop immediately. Any condition on consent imposed by a consenting party must be respected, or the interaction may not be considered consensual.

Consent cannot be given when a person is *incapacitated*. A person cannot consent if s/he is asleep, unconscious or coming in and out of consciousness. A person cannot consent if s/he is under the threat of violence, bodily injury or other forms of coercion. A person cannot consent if their understanding of the act is affected by a physical or mental impairment. A person cannot consent if the person is incapacitated due to the use of or influence of alcohol or drugs.

Where states have specific definitions for consent, they are listed below. In all other instances, the general definition of consent listed above is applied.

**In California, consent** means affirmative, conscious, and voluntary agreement given by both parties 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. Neither lack of protest or resistance nor silence means consent has been given. Affirmative consent must be ongoing throughout sexual activity, and consent can be revoked at

any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never alone be assumed to be an indicator of consent.

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

- (A) The accused's belief in affirmative consent arose from the intoxication or recklessness of the accused.
- (B) The accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain whether the 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) The Complainant was asleep or unconscious.
- (B) The Complainant was incapacitated due to the influence of drugs, alcohol, or medication so that the Complainant could not understand the fact, nature, or extent of the sexual activity.
- (C) The Complainant was unable to communicate due to a mental or physical condition.

**In Illinois, consent** means a freely given agreement to the act of sexual penetration or sexual conduct ("sexual activity") in question. Lack of verbal or physical resistance or submission by the Complainant resulting from the use of force or threat of force by the Respondent shall not constitute consent. The manner of dress of the Complainant at the time of the offense shall not constitute consent.

A person who initially consents to sexual activity is not deemed to have consented to any sexual activity that occurs after they withdraw consent during the course of that sexual activity. Further, a person's consent to past sexual activity does not constitute consent to future sexual activity. A person's consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another person. A person cannot consent if a person is under the age of 18. A person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to the circumstances, including but not limited to the following: the person is incapacitated due to the use or influence of alcohol or drugs; the person is asleep or unconscious; or the person is incapacitated due to mental disability.

**In Texas, consent** means assent in fact, whether express or apparent.

**In Washington, D.C., consent** means words or overt actions indicating a freely given agreement to the sexual act or contact in question. Lack of verbal or physical resistance or submission by the Complainant, resulting from the use of force, threats, or coercion by the Respondent shall not constitute consent.

**Dating Violence**<sup>4</sup> is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and 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.
- III. The frequency of interaction between the persons involved in the relationship. 34 U.S.C. 12291(a)(10).

**Decision-Maker** refers to those who have decision-making and sanctioning authority within TCSP's Formal Grievance process.

**Domestic Violence**<sup>5</sup> includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. 34 U.S.C. 12291(a)(8).

**Education Program or Activity** means locations, events, or circumstances where TCSP exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs.

**Force** is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., "Have sex with me or I'll hit you," "Okay, don't hit me, I'll do what you want."). Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

**Formal Complaint** means a document signed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment and requesting that TCSP investigate the allegation.

**Incapacitation** is the physical and/or mental inability to make informed, rational judgments. States of incapacitation include but are not limited to unconsciousness, sleep, and blackouts. Where alcohol or drugs are involved, incapacitation is defined with respect to how the alcohol or other drugs consumed affects a person's decision-making capacity, awareness of consequences, and ability to make fully informed judgments. Being intoxicated by drugs or alcohol does not diminish one's responsibility to obtain consent. The question of whether the Respondent should have known of the incapacity is an objective question about what a reasonable person, exercising sober, good judgment, would have known, in the same or similar circumstances. Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk. In situations where drugs and/or alcohol were consumed, the investigation will assess whether the party was incapacitated. Evidence that may assist in this assessment may include, but is not limited to,

---

<sup>4</sup> The applicable state law definitions for "dating violence" are included in Appendix C.

<sup>5</sup> The applicable state law definitions for "domestic violence" are included in Appendix C.

whether the individual had slurred speech, unsteady gait, vomited, the type and amount of drugs/alcohol consumed, and the duration of time in which the drugs/alcohol were consumed. Incapacitation also covers a person whose incapacity results from mental or physical disabilities or involuntary physical restraint.

**Notice** means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.

**Official with Authority (OWA)** means a member of the Title IX Team for TCSPP, who are vested with responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of TCSPP.

**Quid Pro Quo** is when an employee of TCSPP conditions the provision of an aid, benefit, or service of TCSPP on an individual's participation in unwelcome sexual conduct.

**Remedies** are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to TCSPP's educational program.

**Responsible Employee(s)**<sup>6</sup> are TCSPP employees who have the duty to report knowledge, notice, and/or reports of sexual harassment, sex and gender discrimination, and/or related retaliation to the Title IX Coordinator.

**Sexual Assault**<sup>7</sup> is categorized as forcible sexual offenses, forcible rape, forcible sodomy, sexual assault with an object, forcible fondling, and non-forcible sex offenses such as incest or statutory rape, as more fully defined below within the definition of "Sexual Harassment".

**Sexual Harassment** is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence. Sexual harassment is defined as:

Conduct on the basis of sex that satisfies one or more of the following:

- 1) Quid Pro Quo: an employee of the recipient, conditions the provision of an aid, benefit, or service of the recipient, on an individual's participation in unwelcome sexual conduct; and/or
- 2) Sexual Harassment: unwelcome conduct determined by a reasonable person to be so severe, and pervasive, and objectively offensive, that it effectively denies a person equal access to the Recipient's Education Program or Activity.
- 3) Sexual assault, defined as:
  - a) Sex Offenses, Forcible: Any sexual act directed against another person, without the consent of the Complainant, including instances in which the Complainant is incapable of giving consent.

---

<sup>6</sup> Note that not all "Responsible Employees" are an "Official with Authority."

<sup>7</sup> The applicable state law definitions for "sexual assault" are included in Appendix C.

b) Forcible Rape: Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.

c) Forcible Sodomy: Oral or anal sexual intercourse with another person, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

d) Sexual Assault with an Object: The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

e) Forcible Fondling: The touching of the private body parts of another person (buttocks, groin, breasts), or the purpose of sexual gratification, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

f) Sex Offenses, Non-forcible:

Incest, Non-forcible sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by applicable state law.

Statutory Rape: Non-forcible sexual intercourse, with a person who is under the statutory age of consent.

**Stalking**<sup>8</sup> is engaging in a course of conduct, on the basis of sex, that is directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or that would cause a reasonable person to suffer substantial emotional distress. For purposes of this definition,

“Course of conduct” means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property;

“Substantial emotional distress” means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

**Title IX Advisor** means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination on behalf of the party at the hearing, if applicable.

---

<sup>8</sup> The applicable state law definitions for “stalking” are included in Appendix C.

## **APPENDIX C – STATE LAW DEFINITIONS**

This Appendix includes state law definitions of “dating violence,” “domestic violence,” “sexual assault,” and “stalking.” If any of the state law definitions change, or court decisions alter these definitions, this document will be construed to comply with the most recent state law and holdings.

### **California**

#### **Dating Violence**

“Dating violence” is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party’s statement with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

#### **Domestic Violence**

“Domestic violence” is abuse or threats of abuse perpetrated against a spouse or former spouse; a cohabitant or former cohabitant; a person with whom the respondent is having or has had a dating or engagement relationship; a person with whom the respondent has had a child, where the presumption applies that the male parent is the father of the child; a child of a party or a child who is the subject of an action under the Uniform Parentage Act, where the presumption applies that the male parent is the father of the child to be protected; and any other person related by blood or marriage. Cal. Fam. Code §6211; See also CA Penal Code §13700(b). “Abuse” is physically hurting or trying to hurt someone; making someone reasonably afraid that they or someone else are about to be seriously hurt; or behavior including harassing, stalking, threatening or hitting; disturbing someone’s peace or destroying someone’s personal property. The behavior does not have to be physical to rise to the level of domestic violence.

There are a number of laws in California that deal with specific circumstances including bodily injury to a spouse or cohabitant (Penal Code 273.5) and domestic battery (Penal Code 243(e)(1)). Bodily injury to a spouse or cohabitant means any person who willfully inflicts corporal injury resulting in a traumatic condition upon a victim who is the offender’s spouse or former spouse; cohabitant or former cohabitant; fiancé or fiancée; someone with whom the offender has or previously had an engagement or dating relationship or the mother or father of the offender’s child. Domestic battery or “spousal battery” is a “harmful or offensive” act against a current or former spouse, fiancée, dating partner, or a father, mother or child. Physical injury is not required but there must be a showing that the contact was forceful and/or unwanted.

#### **Sexual Assault**

“Sexual assault” in California comprises numerous sexually-related behaviors, including sexual battery and rape. Sexual battery occurs when any person touches an intimate part of another while that person is unlawfully restrained by the accused or an accomplice and where the touching is against the will of the person touched and is for the arousal, sexual gratification or sexual abuse. Cal. Penal Code §243.4(a). Where the conduct occurs against a person who is not restrained, such act is misdemeanor sexual battery. Rape is the crime of engaging in sexual intercourse with another person without their consent or with the knowledge that they cannot consent using force, violence, threats or deceit. Id. at §261.

## Stalking

“Stalking” is willfully, maliciously, and repeatedly following or willfully and maliciously harassing another person and making a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family. CA Penal Code §646.9. “Harassing” means engaging in a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, torments, or terrorizes the person, and that serves no legitimate purpose. “Course of conduct” means two or more acts occurring over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of “course of conduct.” “Credible threat” means a verbal or written threat, including that performed through the use of an electronic communication device, or a threat implied by a pattern of conduct or a combination of verbal, written, or electronically communicated statements and conduct, made with the intent to place the person that is the target of the threat in reasonable fear for his or her safety or the safety of his or her family, and made with the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her family. It is not necessary to prove that the defendant had the intent to actually carry out the threat. Constitutionally protected activity is not included within the meaning of “credible threat.”

## **District of Columbia**

### Dating Violence

“Dating violence” is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.

### Domestic Violence

Domestic violence in the District of Columbia is labeled as an "intrafamily offense," applicable to any interpersonal, intimate partner, or intrafamily violence. "Interpersonal violence" is a criminal act committed by an offender upon a person with whom the offender shares or has shared a mutual residence, or with whom the offenders is or was married or in a romantic relationship. "Intimate partner violence" is a criminal act committed by an offender upon a person to whom the offender is or was married, with whom the offender is or was in a domestic partnership, or with whom the offender is or was in a romantic relationship. "Intrafamily violence" is a criminal act committed by an offender upon a person to whom the offender is related by blood, adoption, legal custody, marriage, or domestic partnership, or with whom the offender has a child in common. D.C. Code § 16-1001

### Sexual Assault

Sexual assault in the District of Columbia is described under two different terms: “sexual act” and “sexual contact.” D.C. Criminal Code §22-3001. The D.C. Code defines “sexual act” as: (1) the penetration, however slight, of the anus or vulva of another by a penis, (2) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus, or (3) the penetration, however, slight, of the anus or vulva by a hand or finger or by any object, with intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person. “Sexual contact” is defined as the “touching with any clothed or unclothed body part or any object, either directly or indirectly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual



desire of another person.” D.C. Criminal Code 22-3001. Acts of this nature fall into four levels of seriousness, First, Second, Third and Fourth Degree Sexual Abuse. D.C. Code §22-3002 et seq.

### Stalking

“Stalking” is a pattern of behavior directed at a specific individual that is intended to cause, or that the person knows would cause, or that the person should have known would cause, that individual to fear for his or her safety or the safety of another person; feel seriously alarmed, disturbed or frightened; or suffer emotional distress. This does not apply to constitutionally protected activity. Where a single act is of a continuing nature, each 24-hour period constitutes a separate occasion. The conduct on each of the occasions need not be the same as it is on the others. D.C. Code §22-3133.

## Illinois

### Dating Violence

The term “dating violence” is not expressly defined in Illinois. The Illinois Domestic Violence Act of 1986 protects any person abused by a family member or household member, which is defined to include persons who have or have had a dating relationship. 750 ILCS 60/201. “Dating violence” is generally defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; where the existence of such a relationship is determined based on a consideration of the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

### Domestic Violence

“Domestic Violence” is physical abuse, harassment, intimidation of a dependent, interference with personal liberty or willful deprivation of any person by a family or household member; or any high-risk adult with disabilities by a family or household member; or any minor child or dependent adult in the care of such person; or any person residency or employed at a private home or public shelter which is housing an abused family or household member. 750 ILCS 60/103 and 60/201 (2014). “Physical abuse” includes sexual abuse and means any of the following: knowing or reckless use of physical force, confinement or restraint; knowing, repeated and unnecessary sleep deprivation; or knowing or reckless conduct which creates an immediate risk of physical harm.

Included in Illinois Domestic Violence laws are criminal offenses for domestic battery and aggravated domestic battery. A person commits domestic battery if he or she knowingly without legal justification by any means causes bodily harm to any family or household member or makes physical contact of an insulting or provoking nature with any family or household member. Id. at 5/12-3.2. Aggravated domestic battery is knowingly causing great bodily harm or permanent disability or disfigurement. This includes strangulation. Id. at §12-3.3.

### Sexual Assault

“Criminal Sexual Assault” is where a person commits an act of sexual penetration and (1) uses force or threat of force; (2) knows that the victim is unable to understand the nature of the act or is unable to give knowing consent; (3) is a family member of the victim, and the victim is under 18 years of age; or (4) is 17 years of age or over and holds a position of trust, authority, or supervision in relation to the victim, and the victim is at least 13 years of age but under 18 years of age. 720 ILCS 5/11-1/20. In certain circumstances, including where the victim is a person with a severe or profound intellectual disability, criminal sexual assault may be aggravated criminal sexual assault. 729 ILCS 5/11-1/30.

## Stalking

“Stalking” is when a person (1) knowingly engages in a course of conduct directed at a specific person, and he or she knows or should know that this course of conduct would cause a reasonable person to fear for his or her safety or the safety of a third person; or suffer other emotional distress; or (2) knowingly and without lawful justification, on at least 2 separate occasions, follows another person or places the person under surveillance or any combination thereof and at any time transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint and the threat is directed towards that person or a family member of that person; or places that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement or restraint to or of that person or a family member of that person; or (3) has previously been convicted of stalking another person and knowingly and without lawful justification on one occasion follows that same person or places that same person under surveillance; and transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint to that person or a family member of that person. 720 ILCS 5/12-7.3.

Where additional circumstances are present, stalking may become aggravated stalking. *Id.* at 5/12-7.3. When the course of conduct is via electronic communication or where a person knowingly and without justification creates and maintains a website or webpage which is accessible to one or more third parties for a period of at least 24 hours, and which contains statements harassing another person and either (1) communicates a threat of immediate or future bodily harm, sexual assault, confinement or restraint where the threat is directed towards that person or a family member; or (2) which places that person or a family member of that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement or restraint; or (3) which knowingly solicits the commission of an act by any person which would be a violation of this Code towards that person or a family member of that person, such act is cyberstalking. 720 ILCS 5/12-7.5.

## Louisiana

### Dating Violence

“Dating violence” includes but is not limited to physical or sexual abuse and any offense against the person as defined in the Criminal Code of Louisiana, except negligent injury and defamation, committed by one dating partner against the other. LA Rev Stat §46:2151. In the Louisiana Criminal Code, battery of a dating partner is the intentional use of force of violence committed by one dating partner upon the person of another dating partner. Aggravated assault upon a dating partner is an assault with a dangerous weapon committed by one dating partner upon another dating partner. LA Rev Stat §§14:34.9; 34.9.1.

“Dating partner” means any person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of length of the relationship; type of relationship; and the frequency of interaction between the persons involved in the relationship. This includes any person who is involved or has been involved in a sexual or intimate relationship with the offender characterized by the expectation of affectionate involvement independent of financial considerations, regardless of whether the person presently lives or formerly lived in the same residence with the offender. “Dating partner” does not include a casual relationship or ordinary association between persons in a business or social context. LA Rev Stat §2151; See also LA Rev Stat §14:34.9.

### Domestic Violence

"Domestic abuse" includes but is not limited to physical or sexual abuse and any offense against the person as defined in the Criminal Code of Louisiana, except negligent injury and defamation, committed by one family or household member against another. "Domestic abuse" also includes abuse of adults as defined in R.S. 15:1503 when committed by an adult child or adult grandchild. R.S. §46:2132. "Family members" means spouses, former spouses, parents and children, stepparents, stepchildren, foster parents, and foster children. "Household members" means any person of the opposite sex presently or formerly living in the same residence with the defendant as a spouse, whether married or not, who is seeking protection under this Part.

"Domestic abuse battery" is the intentional use of force or violence committed by one household member or family member upon the person of another household or family member. R.S. §14:35.3. "Domestic abuse aggravated assault" is an assault with a dangerous weapon committed by one household member or family member upon another household member or family member. *Id.* at §14:37.7. "Household member" means any person presently or formerly living in the same residence with the offender and who is involved or has been involved in a sexual or intimate relationship with the offender, or any child presently or formerly living in the same residence with the offender, or any child of the offender regardless of where the child resides.

### Sexual Assault

"Sexual assault" is any nonconsensual sexual contact including but not limited to aggravated rape, forcible rape, simple rape, sexual battery, second degree sexual battery, oral sexual battery and other acts provided in R.S. 15:541(24); See also R.S. §44:51; R.S. 46:2184.

"Rape" is the act of anal, oral, or vaginal sexual intercourse with a male or female person committed without the person's lawful consent. Emission is not necessary, and any sexual penetration, when the rape involves vaginal or anal intercourse, however slight, is sufficient to complete the crime. R.S. §14:41. "Oral sexual intercourse" means the intentional engaging in any of the following acts with another person: the touching of the anus or genitals of the victim by the offender using the mouth or tongue of the offender; or the touching of the anus or genitals of the offender by the victim using the mouth or tongue of the victim. Depending on the circumstances, Louisiana recognizes rape in the first, second and third degree. R.S. §14:42; 14:42.1; 14:43.

"Sexual battery" is the intentional touching of the anus or genitals of the victim by the offender using any instrumentality or any part of the body of the offender, directly or through clothing, or the touching of the anus or genitals of the offender by the victim using any instrumentality or any part of the body of the victim, directly or through clothing, and where the offender acts without the consent of the victim or the victim is a minor. R.S. §14:43.1. Depending on the circumstances, Louisiana recognizes misdemeanor sexual battery, second degree sexual battery, and oral sexual battery. R.S. §14:43.1.1; 14:43.2; 14:43.3.

### Stalking

"Stalking" is the intentional and repeated following or harassing of another person that would cause a reasonable person to feel alarmed or to suffer emotional distress. It includes but is not limited to the intentional and repeated uninvited presence of the perpetrator at another person's home, workplace, school, or any place which would cause a reasonable person to be alarmed, or to suffer emotional distress as a result of verbal, written, or behaviorally implied threats of death, bodily injury, sexual assault, kidnapping, or any other statutory criminal act to himself or any member of his family or any person with whom he is acquainted. R.S. §14:40.2. "Harassing"

means the repeated pattern of verbal communications or nonverbal behavior without invitation which includes but is not limited to making telephone calls, transmitting electronic mail, sending messages via a third party, or sending letters or pictures.

## **Texas**

### **Dating Violence**

"Dating violence" is an act by an individual that is against another individual with whom that person has or has had a dating relationship and that is intended to result in physical harm, bodily injury, assault or sexual assault, or that is a threat that reasonably places the individual in fear of imminent physical harm, bodily injury, assault, or sexual assault but does not include defensive measures to protect oneself. Tex. Fam. Code §71.0021. "Dating relationship" means a relationship of a romantic or intimate nature. The existence of such a relationship will be determined based on the length of the relationship; the nature of the relationship; and the frequency and type of interaction between the persons involved in the relationship. A casual acquaintance or ordinary fraternization in a business or social context does not constitute a "dating relationship."

### **Domestic Violence**

"Family violence" is an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself. "Family violence" includes "abuse", as that term is defined by Sections 261.001(1)(C), (E), and (G), by a member of a family or household toward a child of the family or household; and "dating violence". Tex. Fam. Code §71.004. "Household" means a unit composed of persons living together in the same dwelling, without regard to whether they are related to each other. "Member of a household" includes a person who previously lived in a household. Id. at §§71.005; 71.006.

The general statute for "assault" in Texas is applied to domestic disputes. A person commits an offense if the person intentionally, knowingly or recklessly causes bodily injury to another, including the person's spouse; intentionally or knowingly threatens another with imminent bodily injury, including the person's spouse; or intentionally or knowingly causes physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative. Texas Penal Code. 22.01(a).

### **Sexual Assault**

"Sexual assault" is where a person intentionally or knowingly causes the penetration of the anus or sexual organ of another person by any means, without that person's consent; causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor. Texas Penal Code §22.011. Depending on the circumstances, Texas recognizes "aggravated sexual assault." Id. at §22.021.

### **Stalking**

"Stalking" is when someone, on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in behavior that: (1) constitutes harassment or that the actor knows or reasonably should know the other person will regard as threatening: bodily injury or death for the other person; bodily injury or death

for a member of the other person's family or house hold or for an individual with whom the other person has a dating relationship; or that the offense will be committed against the other person's property; (2) causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship to be placed in fear of bodily injury or death or in fear that an offense will be committed against the other person's property, or to feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended; and (3) would cause a reasonable person to fear bodily injury or death for himself or herself; fear bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship; fear that an offense will be committed against the person's property; or feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended. Texas Penal Code §42.072.