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## **EQUITY RESOLUTION PROCESS FOR ALLEGATIONS OF VIOLATION OF THE POLICY ON EQUAL OPPORTUNITY, HARASSMENT, AND NON-DISCRIMINATION**

*For the purposes of addressing discrimination defined under Policy 505, the 505 Procedures will apply. Policy/Procedure 557 will not apply to discrimination and all resolution of discrimination allegations are exempted from 557.*

Central Arizona College will act on any formal or informal allegation or notice of violation of the policy on Equal Opportunity, Harassment and Nondiscrimination, that is received by the Title IX Coordinator or a member of the administration, faculty, or other employee.

The procedures described below apply to all allegations of sexual misconduct, harassment or discrimination on the basis of protected class involving students, staff and faculty members, with the exception of probationary employees who do not have appeal rights. These procedures may also be used to address collateral misconduct occurring in conjunction with or involving the same parties as harassing or discriminatory conduct (e.g.: vandalism, physical abuse of another, etc.). 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 handbook and College policies.

### **Overview**

Upon notice to the Title IX Coordinator/CHRO, this resolution process involves a prompt preliminary inquiry to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. If so, the College will initiate a confidential investigation that is thorough, reliable, impartial, prompt and fair. The investigation and the subsequent resolution process determines whether the

nondiscrimination policy has been violated. If so, the College will promptly implement effective remedies designed to end the discrimination, prevent its recurrence and address its effects.

## **1. Equity Resolution Process (ERP)**

Allegations under the policy on nondiscrimination are resolved using the ERP. Members of the ERP Team are announced in an annual distribution of this policy to campus, prospective students, their parents and prospective employees. The list of members and a description of the ERP Team can be found at [www.centralaz.edu/TitleIX](http://www.centralaz.edu/TitleIX). Members of the ERP Team are trained in all aspects of the resolution process, and can serve in any of the following roles, at the direction of the Title IX Coordinator:

- To provide sensitive intake for and initial advice pertaining to allegations
- To serve as deputy coordinators
- To investigate allegations
- To act as process advisors to those involved in the Equity Resolution Process
- To serve on review panels for allegations

ERP Team members also recommend proactive policies, and serve in an educative role for the community. The Title IX Coordinator appoints the ERP Team. ERP Team members receive annual training organized by the Title IX Coordinator, including a review of College policies and procedures as well as applicable federal and state laws and regulations so that they are able to appropriately address allegations, provide accurate information to members of the community, protect safety and promote accountability. This training will include, but is not limited to: how to appropriately remedy, investigate, render findings and determine appropriate sanctions in reference to all forms of harassment and discrimination allegations; the College's Discrimination and Harassment Policies and Procedures (including Sexual Misconduct); confidentiality and privacy; and applicable laws, regulations and federal regulatory guidance. All ERP Team members are required to attend this annual training to be eligible to serve.

The Equity Resolution Process Team includes:

- At least three members of the Academic Affairs employee group
- At least five members of the Managerial Technical/Support employee group
- At least one representative from Campus Police
- At least two representatives from Human Resources
- At least one representative from Athletics

Appointments to the Team should be made with attention to representation of groups protected by the harassment and non-discrimination policy. Individuals who are interested in serving in the pool are encouraged to contact the Title IX Coordinator. [No member of the Team may be a practicing attorney].

## **2. Reporting Misconduct**

Any member of the community, guest or visitor who believes that the policy on Equal Opportunity, Harassment and Nondiscrimination has been violated should contact the Title IX Coordinator/CHRO.

It is also possible for employees to notify a supervisor, or for students to notify an administrative

advisor or faculty member. Any member of the community, including visitors, may contact Campus Police to make a report. These individuals will in turn notify the Title IX Coordinator/CHRO. The College website also includes a reporting form at <https://publicdocs.maxient.com/incidentreport.php?CentralAZCollege> which may serve to initiate the resolution process.

All employees receiving reports of a potential violation of College policy are expected to promptly contact the Title IX Coordinator/CHRO, within 24 hours of becoming aware of a report or incident. All initial contacts will be treated with privacy: specific information on any allegations received by any party will be reported to the Title IX Coordinator/CHRO, but, subject to the College's obligation to redress violations, every effort will be made to maintain the privacy of those initiating an allegation. In all cases, CAC will give consideration to the reporting party with respect to how the reported misconduct is pursued, but reserves the right, when necessary to protect the community, to investigate and pursue a resolution even when a reporting party chooses not to initiate or participate in the resolution process.

### **3. Preliminary Inquiry**

Following receipt of notice or a report of misconduct, the Title IX Coordinator/CHRO<sup>1</sup> engages in a preliminary inquiry to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. The preliminary inquiry is typically 1-3 days in duration. This inquiry may also serve to help the Title IX Coordinator to determine if the allegations evidence violence, threat, pattern, predation, abuse of minors, and/or weapon, in the event that the reporting party has asked for no action to be taken. In any case where violence, threat, pattern, predation, and/or weapon is not evidenced, the Title IX Coordinator/CHRO may respect a reporting party's request for no action, and will investigate only so far as necessary to determine appropriate remedies. As necessary, the College reserves the right to initiate resolution proceedings without a formal report or participation by the reporting party.

In situations where the reporting party wishes to proceed or the College determines it must proceed, and the preliminary inquiry shows that reasonable cause exists, the Title IX Coordinator/CHRO will direct a formal investigation to commence and the allegation will be resolved through one of the processes discussed briefly here and in greater detail below:

- Conflict Resolution – typically used for less serious offenses and only when both parties agree to conflict resolution
- Administrative Resolution

The process followed considers the preference of the parties, but is ultimately determined at the discretion of the Title IX Coordinator/CHRO. Conflict Resolution may only occur if selected by all parties, otherwise the Administrative Resolution Process applies.

If conflict resolution is desired by the reporting party, and appears appropriate given the nature of the alleged behavior, then the report does not proceed to investigation, unless a pattern of misconduct is suspected or there is an actual or perceived threat of further harm to the community or any of its members.

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<sup>1</sup> If circumstances require, the Title IX Coordinator may designate another person to oversee the process below, should an allegation be made against the Coordinator or the Coordinator be otherwise unavailable or unable to fulfill their duties.

Once a formal investigation is commenced, the Title IX Coordinator/CHRO will provide written notification of the investigation to the responding party at an appropriate time during the investigation, usually in advance of interviewing the responding party.<sup>2</sup> The College aims to complete all investigations within a sixty (60) calendar day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator/CHRO with notice to the parties as appropriate. Typically, each party is notified of all meetings between the College and the other party, in advance if possible, unless the strategy of the investigation would be compromised by doing so.

If, during the preliminary inquiry or at any point during the formal investigation, the Title IX Coordinator/CHRO determines that there is no reasonable cause to believe that policy has been violated, the process will end unless the reporting party requests that the Title IX Coordinator/CHRO makes an extraordinary determination to re-open the investigation. This decision lies in the sole discretion of the Title IX Coordinator/CHRO.

#### **4. Interim Remedies/Actions**

The Title IX Coordinator/CHRO may provide interim remedies intended to address the short-term effects of harassment, discrimination and/or retaliation, i.e., to redress harm to the reporting party and the community and to prevent further violations.

These remedies may include, but are not limited to:

- Referral to external counseling and/or health services
- Education to the community
- Altering the housing situation of the responding party (resident student or resident employee (or the reporting party, if desired))
- Altering work arrangements for employees
- Providing campus escorts
- Providing transportation accommodations
- Implementing contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.

The College may interim suspend a student, employee or organization pending the completion of ERP investigation and procedures, particularly when in the judgment of the Title IX Coordinator/CHRO the safety or well-being of any member(s) of the campus community may be jeopardized by the presence on-campus of the responding party or the ongoing activity of a student organization whose behavior is in question. In all cases in which an interim suspension is imposed, the student, employee or student organization will be given the option to meet with the Title IX Coordinator/CHRO prior to such suspension being imposed, or as soon thereafter as reasonably possible, to show cause why the suspension should not be implemented. The Title IX Coordinator/CHRO has sole discretion to implement or stay an interim suspension and to determine its conditions and duration. Violation of an interim suspension under this policy will be grounds for expulsion or termination.

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<sup>2</sup> 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 College records; or emailed to the parties' College-issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered. The reporting party is typically copied on such correspondence.

During an interim suspension or administrative leave, a student or employee may be denied access to College housing and/or the College campus/facilities/events. As determined by the Title IX Coordinator/CHRO, this restriction can include classes and/or all other College activities or privileges for which the student might otherwise be eligible. At the discretion of the Title IX Coordinator/CHRO, alternative coursework options may be pursued to ensure as minimal an impact as possible on the responding party.

The institution will maintain as confidential any interim actions or protective measures, provided confidentiality does not impair the institution's ability to provide the interim actions or protective measures.

## **5. Investigation**

Once the decision is made to commence a formal investigation, the Title IX Coordinator/CHRO appoints ERP Team members to conduct the investigation (typically using one to two ERP investigators), usually within two (2) days of determining that an investigation should proceed. Investigations are completed expeditiously, normally within ten (10) days, though some investigations take weeks or even months, depending on the nature, extent and complexity of the allegations, availability of witnesses, police involvement, etc.

The College may undertake a short delay its investigation (several days to weeks, to allow evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. The College will promptly resume its investigation and resolution processes once notified by law enforcement that the initial evidence collection process is complete. College action will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced, though the evidence obtained by the police, if shared, can be used by the College within its investigation.

All investigations will be thorough, reliable, impartial, prompt and fair. Investigations entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, as necessary.

The investigators will typically take the following steps, if not already completed (not necessarily in order):

- In coordination with campus partners (e.g., the Title IX Coordinator), initiate or assist with any necessary remedial actions;
- Determine the identity and contact information of the reporting party;
- Identify all policies allegedly violated;
- Assist the Title IX Coordinator/CHRO with an immediate preliminary inquiry to determine if there is reasonable cause to believe the responding party has violated policy.
  - If there is insufficient evidence to support reasonable cause, the inquiry should be closed with no further action;
- Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding party, who may be given notice prior to or at the time of the interview;
- Meet with the reporting party to finalize their statement, if necessary;
- Prepare the notice of allegation [charges] on the basis of the preliminary inquiry;
- If possible, provide written notification to the parties prior to their interviews that they may have

the assistance of an ERP Team member or other advisor of their choosing present for all meetings attended by the advisee;

- Provide reporting party and responding party with a written 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;
- Prior to the conclusion of the investigation, provide the reporting party and the responding party with a list of witnesses whose information will be used to render a finding;
- Allow each party the opportunity to suggest questions they wish the investigators to ask of the other party and witnesses.
- Provide parties with all relevant evidence to be used in rendering a determination and provide each with a full and fair opportunity to address that evidence prior to a finding being rendered;
- Complete the investigation promptly, and without unreasonable deviation from the intended timeline;
- Provide regular updates to the reporting party throughout the investigation, and to the responding party, as appropriate;
- Once the draft report is complete, the report is shared with the parties for their review and comment. The investigators may incorporate feedback from the parties as appropriate;
- Recommend to the Title IX Coordinator/CHRO a finding, based on a preponderance of the evidence (whether a policy violation is more likely than not);
- Investigators and/or the Title IX Coordinator/CHRO finalize and present the findings to the parties, without undue delay between notifications;

At any point during the investigation, if it is determined there is no reasonable cause to believe that College policy has been violated, the Title IX Coordinator/CHRO has authority to terminate the investigation and end resolution proceedings.

Witnesses (as distinguished from the parties) are expected to cooperate with and participate in the College's investigation and the Equity Resolution Process. Failure of a witness to cooperate with and/or participate in the investigation or Equity Resolution Process constitutes a violation of policy and may be subject to discipline. Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone, Skype (or similar technology), if they cannot be interviewed in person or if the investigators determine that timeliness or efficiency dictate a need for remote interviewing. Parties who elect not to participate in the investigation or to withhold information from the investigation do not have the ability to offer evidence later during the appeal if it could have been offered during the investigation. Failure to offer evidence prior to an appeal does not constitute grounds for appeal on the basis of new evidence.

No unauthorized audio or video recording of any kind is permitted during investigation meetings or other Equity Resolution Process proceedings.

## **6. Advisors**

Each party is allowed to have an advisor of their choice present with them for all ERP meetings and proceedings, from intake through to final determination. The parties may select whomever they wish to serve as their advisor as long as the advisor is eligible and available, and usually otherwise not involved in the resolution process, such as serving as a witness. The advisor may be a friend, mentor, family member, attorney or any other supporter a party chooses to advise them who is available and eligible. Witnesses cannot also serve as advisors. The parties may choose advisors from inside or

outside the campus community. The Title IX Coordinator/CHRO may also offer to assign a trained ERP Team member to work as an advisor for any party. The parties may choose their advisor from the ERP Team, choose a non-trained advisor from outside the Team, if preferred, or proceed without an advisor.

The parties may be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. The College cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not, or cannot afford an attorney, the College is not obligated to provide one.

All advisors are subject to the same campus rules, whether they are attorneys or not. Advisors may not address campus officials in a meeting or interview unless invited. The advisor may not make a presentation or represent the reporting party or the responding party during any meeting or proceeding and may not speak on behalf of the advisee to the investigators. The parties are expected to ask and respond to questions on their own behalf, without representation by their advisor. Advisors may confer quietly with their advisees or in writing as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation. Advisors will typically be given an opportunity to meet in advance of any interview or meeting with the administrative officials conducting that interview or meeting. This pre-meeting will allow advisors to clarify any questions they may have, and allows the College an opportunity to clarify the role the advisor is expected to take.

Advisors are expected to refrain from interference with the investigation and resolution. Any advisor who steps out of their role will be warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from a meeting, that meeting may continue without the advisor present. Subsequently, the Title IX Coordinator/CHRO will determine whether the advisor may be reinstated, may be replaced by a different advisor, or whether the party will forfeit the right to an advisor for the remainder of the process.

The College expects that the parties will wish to share documentation related to the allegations with their advisors. The College provides a consent form that authorizes such sharing. The parties must complete this form before the College is able to share records with an advisor, though parties may share the information directly with their advisor if they wish. Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with 3<sup>rd</sup> parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The College may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the College's privacy expectations.

The College expects an advisor to adjust their schedule to allow them to attend College meetings when scheduled. The College does not typically change scheduled meetings to accommodate an advisor's inability to attend. The College will, however, make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone or other meeting technologies as may be convenient and available.

A party may elect to change advisors during the process, and is not locked into using the same advisor throughout.

The parties must advise the investigators of the identity of their advisor at least two (2) days before the date of their first meeting with investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The parties must provide timely notice to investigators if they change advisors at any time.

## **7. Resolution**

Proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accord with College policy. While the contents of the hearing are private, the parties have discretion to share their own experiences if they so choose, and should discuss doing so with their advisors.

### **a. Conflict Resolution**

Conflict Resolution is often used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the investigative process to resolve conflicts. The Title IX Coordinator/CHRO will determine if conflict resolution is appropriate, based on the willingness of both parties, the nature of the conduct at issue and the susceptibility of the conduct to conflict resolution. In these instances both parties will be referred to CAC Ombudsman Program. Sanctions are not possible as the result of an Ombudsman conflict resolution process, though the parties may agree to appropriate remedies. The Title IX Coordinator/CHRO will keep records of any resolution that is reached, and failure to abide by the accord can result in appropriate responsive actions.

Conflict resolution will not be the primary resolution mechanism used to address reports of violent behavior of any kind or in other cases of serious violations of policy, though it may be made available after the formal process is completed should the parties and the Title IX Coordinator/CHRO believe that it could be beneficial. Mediation will not be used in cases of sexual violence. It is not necessary to pursue conflict resolution first in order to pursue Administrative Resolution, and any party participating in conflict resolution can stop that process at any time and request a shift to Administrative Resolution.

### **b. Administrative Resolution**

Administrative Resolution can be pursued for any behavior that falls within the policy on Equal Opportunity, Harassment and Nondiscrimination, at any time during the process.

In Administrative Resolution, the appointed Resolution Administrator has the authority to address all collateral misconduct, meaning that they hear all allegations of discrimination, harassment and retaliation, but also may address any additional alleged policy violations that have occurred in concert with or involving the same parties as the discrimination, harassment or retaliation, even though those collateral allegations may not specifically fall within the policy on Equal Opportunity, Harassment and Nondiscrimination. Accordingly, investigations should be conducted with as wide a scope as necessary.

Administrative Resolution relies on the evidence, information and recommended findings within the investigation report to render a determination. Upon completion of the investigation, the investigator will provide the Resolution Administrator with a written report summarizing the evidence gathered and examined, including an assessment of credibility of the parties and witnesses, an analysis of the information and a recommended finding and sanction (if applicable). The Resolution Administrator will

conduct any additional necessary inquiry and then finalize a determination in accordance with the procedures below. The Resolution Administrators will consider, but is not bound by, the recommendations of the investigation.

Any evidence that the Resolution Administrator believes is relevant and credible may be considered, including history and pattern evidence. The Resolution Administrator may exclude irrelevant or immaterial evidence and may choose to disregard evidence lacking in credibility or that is improperly prejudicial.

Unless the Resolution Administrator determines it is appropriate, the investigation and the finding will not consider: (1) incidents not directly related to the possible violation, unless they show a pattern, (2) the sexual history of the reporting party (though there may be a limited exception made in regards to the sexual history between the parties), (3) or the character of the reporting party. While previous conduct violations by the responding party are not generally admissible as information about the present allegation, the investigators will supply the Resolution Administrator with information about previous good faith allegations and/or findings to consider as evidence of pattern and/or predatory conduct.

Neither the Resolution Administrator nor investigators will meet with character witnesses.

The Resolution Administrator will base the determination(s) on the preponderance of the evidence, whether it is more likely than not that the responding party violated policy as alleged.

The responding party may choose to admit responsibility for all or part of the alleged policy violations at any point during the investigation or Administrative Resolution process. If the responding party admits responsibility, the Title IX Coordinator/CHRO will render a determination that the individual is in violation of College policy.

If the responding party admits the violation, or is found in violation, the Resolution Administrator, in consultation with the Title IX Coordinator/CHRO and others as appropriate, will determine an appropriate sanction or responsive action, will implement it, and act promptly and effectively to stop the harassment or discrimination, prevent its recurrence and remedy the effects of the discriminatory conduct.

The Resolution Administrator will inform the parties of the final determination within three (3) days of the resolution, without significant time delay between notifications. 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 College records; or emailed to the parties' College-issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered. The notification of outcome will specify the finding on each alleged policy violation, any sanctions that may result which the College is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the College is permitted or required to share under state or federal law. The notice will also include information on when the results are considered by the College to be final, any changes that occur prior to finalization, and any appeals options that are available.

### **c. Sanctions**

Factors considered when determining a sanction/responsive action may include:

- The nature, severity of, and circumstances surrounding the violation

- An individual's disciplinary history
- Previous allegations or allegations involving similar conduct
- Any other information deemed relevant by the Resolution Administrator
- 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 reporting party and the community

#### **i. Student Sanctions**

The following are the usual sanctions that may be imposed upon students or organizations singly or in combination:

- o *Warning*: A formal statement that the behavior was unacceptable and a warning that further infractions of any College policy, procedure or directive will result in more severe sanctions/responsive actions.
- o *Probation*: A written reprimand for violation of the Code of Student Conduct, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any College policy, procedure or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified social privileges, exclusion from co-curricular activities, non-contact orders and/or other measures deemed appropriate.
- o *Suspension*: Termination of student status for a definite period of time not to exceed two years, and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure at College. This sanction may be noted as a Conduct Suspension on the student's official transcript, at the discretion of the Title IX Coordinator.
- o *Expulsion*: Permanent termination of student status, revocation of rights to be on campus for any reason or attend College-sponsored events. This sanction will be noted as a Conduct Expulsion on the student's official transcript.
- o *Withholding Diploma*: The College may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending, or as a sanction if the student is found responsible for an alleged violation.
- o *Revocation of Degree*: The College reserves the right to revoke a degree awarded from the College for fraud, misrepresentation or other violation of College policies, procedures or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- o *Organizational Sanctions*: Deactivation, de-recognition, loss of all privileges (including College registration), for a specified period of time.
- o *Other Actions*: In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

#### **ii. Employee Sanctions**

Responsive actions for an employee who has engaged in harassment, discrimination and/or retaliation include:

- o *Counseling: verbal or written*
- o *Modification of assignment*
- o *Performance Counseling Record*
- o *Written Reprimand*
- o *Required Training or Education*
- o *Probation*
- o *Loss of Annual Pay Increase*
- o *Loss of Oversight or Supervisory Responsibility*
- o *Demotion*
- o *Suspension with pay*
- o *Suspension without pay*
- o *Termination*
- o *Other Actions:* In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

**d. Withdrawal or Resignation While Charges Pending**

Students: The College does not permit a student to withdraw if that student has an allegation pending for violation of the policy on Equal Opportunity, Harassment and Nondiscrimination. Should a student decide to leave and/or not participate in the ERP, the process will nonetheless proceed in the student's absence to a reasonable resolution and that student will not be permitted to return to College unless all sanctions have been satisfied. The student will not have access to an academic transcript until the allegations have been resolved.

Employees: Should an employee resign with unresolved allegations pending, the records of the Title IX Coordinator/CHRO will reflect that status, and any College responses to future inquiries regarding employment references for that individual will indicate the former employee is ineligible for rehire.

**e. Appeals**

All requests for appeal consideration must be submitted in writing to the Title IX Coordinator/CHRO within three (3) days of the delivery of the written outcome of the Administrative Resolution.

Any party may appeal the findings and/or sanctions only under the grounds described, below

A three-member appeals panel chosen from the ERP Team will be designated by the Title IX Coordinator from those who have not been involved in the process previously. Any party may appeal on the following grounds:

- A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.).
- To consider new evidence, unknown or unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.
- The sanctions imposed fall outside the range of sanctions the College has designated for this offense and the cumulative record of the responding party.

The Appeals Panel will review the appeal request(s). The original finding and sanction/responsive actions will stand if the appeal is not timely or is not based on the grounds listed above, and such a decision is final. The party requesting appeal must show that the grounds for an appeal request have been met, and the other party or parties may show the grounds have not been met, or that additional grounds are met. The original finding and sanction are presumed to have been decided

reasonably and appropriately. When any party requests an appeal, the Title IX Coordinator/CHRO will share the appeal request with the other party(ies), who may file a response within three (3) days and/or bring their own appeal on separate grounds. If new grounds are raised, the original appealing party will be permitted to submit a written response to these new grounds within three (3) days. These response or appeal requests will be shared with each party.

Where the appeals panel finds that at least one of the grounds is met by at least one party, additional principles governing the hearing of appeals will include the following:

- Decisions by the appeals panel are to be deferential to the original decision, making changes to the finding only where 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 be full re-hearings (de novo) of the allegation. In most cases, appeals are confined to a review of the written documentation or record of the investigation, and pertinent documentation regarding the grounds for appeal. An appeal is not an opportunity for appeals panelists to substitute their judgment for that of the original investigator(s) or Resolution Administrator merely because they disagree with its finding and/or sanctions.
- Appeals granted based on new evidence should normally be remanded to the investigator(s) for reconsideration. Other appeals may be remanded to the Resolution Administrator at the discretion of the Title IX Coordinator/CHRO or, in limited circumstances, heard by the three-member appeals panel.
  - In rare cases where a procedural error cannot be cured by the original investigator(s) and/or Resolution Administrator (as in cases of bias), the appeals panel may recommend a new investigation and/or Administrative Resolution process, including a new Resolution Administrator or a new decision by the appeal panel. The results of a remand cannot be appealed. The results of a new Administrative Resolution process can be appealed, once, on any of the three applicable grounds for appeals.
- Sanctions imposed as the result of Administrative Resolution are implemented immediately unless the Title IX Coordinator/CHRO or designee stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
  - For students: Graduation, study abroad, internships/ externships, etc. do NOT in and of themselves constitute exigent circumstances, and students may not be able to participate in those activities during their appeal.
- The Title IX Coordinator, in consultation with other administrators as necessary, will confer with the appeals panel, incorporate the results of any remanded grounds, and render a written decision on the appeal to all parties within three (3) days of the resolution of the appeal or remand.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand. Where appeals result in no change to the finding or sanction, that decision is final. Where an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on the grounds listed above, and in accordance with these procedures.
- All parties will be informed in writing within three (3) days of the outcome of the Appeals Panel, without significant time delay between notifications, and in accordance with the standards for notice of outcome as defined above.
- In cases where the appeal results in reinstatement to the College or resumption of privileges, all reasonable attempts will be made to restore the responding party to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

#### **f. Long-Term Remedies/Actions**

Following the conclusion of the Equity Resolution Process and in addition to any sanctions implemented, the Title IX Coordinator/CHRO may use long-term remedies or actions to stop the harassment or discrimination, remedy its effects and prevent their reoccurrence. These remedies/actions may include, but are not limited to:

- Referral to external counseling and/or health services
- Education to the community
- Permanently altering the housing situation of an the responding party (resident student or resident employee (or the reporting party, if desired))
- Permanently altering work arrangements for employees
- Providing campus escorts
- Targeted climate surveys
- Policy modification
- Implementing long-term contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator/CHRO, long-term remedies may also be provided even when the responding party is found not responsible.

The institution will maintain as confidential any long-term remedies/actions or protective measures, provided confidentiality does not impair the institution's ability to provide the actions or protective measures.

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

All responding parties are expected to comply with conduct sanctions, responsive actions and corrective actions within the timeframe specified by the Title IX Coordinator/CHRO. Failure to abide by these conduct sanctions, responsive actions and corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions/responsive/corrective actions and/or suspension, expulsion and/or termination from the College and may be noted on a student's official transcript and/or in the employee's file. A student suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator/CHRO.

#### **h. Records**

In implementing this policy, records of all allegations, investigations, resolutions, and hearings will be kept by the Title IX Coordinator.

#### **i. Statement of the Rights of the Parties**

##### ***Reporting Party's rights:***

- The right to investigation and appropriate resolution of all credible allegations of sexual misconduct or discrimination made in good faith to College officials;

- The right to be informed in advance of any public release of information regarding the incident;
- The right not to have any personally identifiable information released to the public, without their consent;
- The right to be treated with respect by College officials;
- The right to have College policies and procedures followed without material deviation;
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence;
- The right not to be discouraged by College officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities;
- The right to be informed by College officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the reporting party so chooses. This also includes the right not to be pressured to report, as well;
- The right to have reports of sexual misconduct responded to promptly and with sensitivity by campus law enforcement and other campus officials;
- The right to be notified of available counseling, mental health, health, student financial aid, visa and immigration assistance, or other student services, either on campus and in the community;
- The right to a campus no contact order (or a trespass order against a non-affiliated third party) when someone has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the reporting party or others;
- The right to notification of and options for, and available assistance in, changing academic and living situations after an alleged sexual misconduct incident, if so requested by the reporting party and if such changes are reasonably available (no formal report, or investigation, campus or criminal, need occur before this option is available). Accommodations may include:
  - Change of an on-campus student's housing to a different on-campus location;
  - Assistance from College support staff in completing the relocation;
  - Arranging to dissolve on campus student housing contract and pro-rating a refund;
  - Exam (paper, assignment) rescheduling;
  - Taking an incomplete in a class;
  - Transferring class sections;
  - Temporary withdrawal;
  - Alternative course completion options.
- The right to have the College maintain such accommodations for as long as is necessary, and for protective measures to remain confidential, provided confidentiality does not impair the institution's ability to provide the accommodations or protective measures;

- The right to be fully informed of campus policies and procedures as well as the nature and extent of all alleged violations contained within the report;
- The right to ask the investigators to identify and question relevant witnesses, including expert witnesses;
- The right to review all documentary evidence available regarding the report, subject to the privacy limitations imposed by state and federal law, prior to a finding by the Resolution Administrator;
- The right to be informed of the names of all witnesses whose information will be used to render a finding, in advance of that finding, except in cases where a witness's identity will not be revealed to the responding party for compelling safety reasons (this does not include the name of the reporting party, which will always be revealed);
- The right not to have irrelevant prior sexual history admitted as evidence;
- The right to regular updates on the status of the investigation and/or resolution;
- The right to have reports addressed by investigators and Resolution Administrators who have received annual sexual misconduct training;
- The right to preservation of privacy, to the extent possible and permitted by law;
- The right to meetings and/or interviews that are closed to the public;
- The right to petition that any College representative in the process be recused on the basis of demonstrated bias or conflict-of-interest;
- The right to bring a victim advocate or advisor of the reporting party's choosing (as stipulated in section 6 of this document addressing 'Advisors') to all phases of the investigation and resolution proceeding;
- The right to have the College compel the participation of student, faculty and staff witnesses, and the opportunity (if desired) to provide the investigators with a list of potential questions to ask of witnesses, and the right to challenge documentary evidence;
- The right to submit an impact statement in writing to the Resolution Administrator following determination of responsibility, but prior to sanctioning;
- The right to be promptly informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties;
- The right to be informed in writing of when a decision by the College is considered final, any changes to the sanction to occur before the decision is finalized, to be informed of the right to appeal the finding and sanction of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the College.

***Responding Party's rights:***

- The right to investigation and appropriate resolution of all credible reports of sexual misconduct and/or discrimination made in good faith to College administrators;
- The right to be informed in advance, when possible, of any public release of information regarding the report;
- The right to be treated with respect by College officials;
- The right to have College policies and procedures followed without material deviation;
- The right to be notified of available resources both on campus and in the community;
- The right to timely written notice of all alleged violations, including the nature of the violation, the applicable policies and procedures and possible sanctions;
- The right to review all documentary evidence available regarding the report, subject to the privacy limitations imposed by state and federal law, prior to the finding by the Resolution Administrator;
- The right to be informed of the names of all witnesses whose information will be used to render a finding, prior to final determination, except in cases where a witness's identity will not be revealed to the responding party for compelling safety reasons (this does not include the name of the reporting party, which will always be revealed);
- The right not to have irrelevant prior sexual history admitted as evidence in a campus resolution process;
- The right to have reports addressed by investigators and Resolution Administrators who have received annual training;
- The right to petition that any College representative be recused from the resolution process on the basis of demonstrated bias and/or conflict-of-interest;
- The right to meetings and interviews that are closed to the public;
- [The right to have the College compel the participation of student, faculty and staff witnesses, and the opportunity to provide the investigators with a list of potential questions to ask of witnesses, and the right to challenge documentary evidence];
- The right to have an advisor of their choice (as stipulated in section 6 of this document addressing 'Advisors') to accompany and assist throughout the campus resolution process;
- The right to a fundamentally fair resolution, as defined in these procedures;
- The right to provide an impact statement in writing to the Resolution Administrator following any determination of responsibility, but prior to sanctioning;

- The right to a decision based solely on evidence presented during the resolution process. Such evidence shall be credible, relevant, based in fact, and without prejudice;
- The right to be promptly informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties;
- The right to be informed in writing of when a decision of the College is considered final, any changes to the sanction to occur before the decision is finalized, to be informed of the right to appeal the finding and sanction of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the College.

## **9. Disabilities Accommodation in the Equity Resolution Process**

CAC is committed to providing qualified students, employees or others with disabilities with reasonable accommodations and support needed to ensure equal access to the Equity Resolution Process at the College. Anyone needing such accommodations or support should contact the Title IX Coordinator/CHRO, who will review the request and, in consultation with the Coordinator of Disability Resource Services and/or Benefits Specialists, determine which accommodations are appropriate and necessary for full participation.

## **10. Revision**

These policies and procedures will be reviewed and updated annually by the Title IX Coordinator/CHRO. The College reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect. The Title IX Coordinator/CHRO may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules, etc. The Title IX Coordinator/CHRO 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. Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred. Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution, unless the parties consent to be bound by the current policy. If government regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form.

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