

**Associated Students of Orange Coast College (ASOCC)  
Student Government of Orange Coast College (SGOCC)  
Student Senate & Executive Board  
MEETING MINUTES**

Friday, October 27, 2017; 8:00 a.m.

ASOCC Office

2701 Fairview Road • Costa Mesa, California 92626 • (714) 432-5730

**NOTICE IS HEREBY GIVEN that the Student Government of Orange Coast College (SGOCC) Student Senate and Executive Board will hold a meeting on Friday, October 27, 2017 at 8:00 am. Pursuant to the Government Code Section 54955 and 54954.2(b) (3), the SGOCC may adjourn, reconvene, and re-adjourn from time to time, as may be necessary to transact the business of the Student Senate and Executive Board. Unfinished items on the agenda may be trailed to the following meeting pending the approval of the Student Senate and Executive Board. Those wishing to address the Student Senate and Executive Board shall be present during public forum and express their concern. For further information, please contact Student Senate President Haley Burg at haleyrburg@gmail.com.**

**I. Organizational Items**

**I.01** Call to Order: 8:03 a.m.

**I.02** Roll Call

**Student Senators:** Haley Burg (absent), Jake Chustz, Katherine Hoang, Jesse Lopez, Caitlyn Nojiri (absent), Jose Sanchez (arrived at 8:08 a.m.), Viktoriia Vasileva (arrived at 8:35 a.m.) & Ethan Wien

**Executive Board:** David Vo (absent) Frances Sanchez, Leanna Gutierrez, Nick Liszewski (arrived at 8:06 a.m.), Alexandra Junell Brown, Cindy Matuch & Kristina Tseng

**Advisor:** Michael Morvice

**Staff:**

**I.03** Opportunity for Pledge of Allegiance

**I.04** Approval of Minutes

*Motion by Nick Liszewski to approve the minutes from Associated Students of Orange Coast College (ASOCC), Student Government of Orange Coast College (SGOCC) Student Senate Meeting dated October 20, 2017; 2<sup>nd</sup> by Kristina Tseng. Minutes approved without objection.*

**II. Public Forum**

This time is reserved for members of the public to address the Student Senate and Executive Board on issues on or not already appearing on the agenda. A limit of five (5) minutes per speaker and fifteen (15) minutes per topic will be enforced. This is not a period of discussion for the Student Senate and Executive Board; however, the Senate President may respond to specific questions and concerns made by the public.

**III. Reports**

**III.01 Fiscal Affairs Council Report and Recommendation(s) for Possible Student Senate Action**

This is an opportunity for the Vice President of Fiscal Affairs to present financial recommendations and reports as well as an opportunity for the Senate to approve financial recommendations. Following deliberation and action by the Fiscal Affairs Council, the Vice President of Fiscal Affairs recommends the following Student Senate and Executive Board action(s) be taken:

1. Club Start-Up Funds: None

2. One time:

- Christian Students: \$3,706.00 to attend the Fall 2017 College Conference from November 3-5, 2017 in Yucaipa, CA
- *Motion by Nick Liszewski to approve \$2,328.00 for the Christian Students to attend the Fall 2017 College Conference from November 3-5, 2017 in Yucaipa, CA; 2<sup>nd</sup> by Leanna Gutierrez. Motion passes without objection.*
  
- OCC Foundation: \$50,000 for the 2017-2018 OCC Foundation Endowment Matching Campaign.  
*Motion by Leanna Gutierrez to approve up to \$50,000 for the 2017-2018 OCC Foundation Giving Tuesday Endowment Matching Campaign from the undesignated funds; 2<sup>nd</sup> by Nick Liszewski. Motion passes without objection.*

**III.02 Participatory Governance Committee Reports**

Opportunity for V.P. of Diplomatic Affairs to make recommendations for appointments to shared governance committees as well as an opportunity for reports from any individual involved in a campus wide committee.

*Motion by Alexandra Junell Brown to appoint Cindy Matuch as the student representative to the Institutional Effectiveness Committee; 2<sup>nd</sup> by Kristina Tseng. Motion passes without objection.*

Jesse Lopez reported on the Academic Senate

**III.03 Student Body President's Report**

This is an opportunity for the Student Body President to report.

Leanna Gutierrez provided her report.

**IV. Unfinished Business**

**V. New Business**

All items under new business are discussion and/or action items. Attachments are available in the ASOCC Office.

**V.01** Coast Community College District (CCCD) Board Policy & Administrative Procedure 5910 – Sexual Misconduct  
Discussion and possible action regarding the revisions to CCCD Board Policy & Administrative Procedure 5910 – Sexual Misconduct

*Motion by Frances Sanchez to endorse Coast Community College District (CCCD) Board Policy & Administrative Procedure 5910 – Sexual Misconduct; 2<sup>nd</sup> by Leanna Gutierrez. Motion passes without objection. (Policy attached below)*

**VI. Public Forum Two**

This time is reserved for members of the public to address the Student Senate and Executive Board on issues on or not already appearing on the agenda. A limit of five (5) minutes per speaker and fifteen (15) minutes per topic will be enforced. This is not a period of discussion for the Student Senate and Executive Board; however, the Senate President may respond to specific questions and concerns made by the public.

**VII. General SGOCC Reports**

**VII.01** Advisors' Report (Limited to 2 minutes per report)

**VII.02** Board, Officer and Staff Reports (Limited to 2 minute per person)

**VIII. Adjournment:8:47 a.m.**

**Coast Community College District  
ADMINISTRATIVE PROCEDURE**

Chapter 5  
Student Services

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**AP 5910 SEXUAL MISCONDUCT**

**References:**

California Education Code Sections 210-214, 66260-66264, 66271.2-66271.3, 66271.5-66281.7, 67380-67386, 67390-67393, 70900-88922

California Penal Code Sections 240-248, 261-269, 639-653.2, 11160-1163.6, 11164-11174.3, 13700-13702

Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act),  
20 U.S.C. § 1092

Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681

34 Code of Federal Regulation Parts 106, 668.46

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## SECTION I - DEFINITIONS

**Advisor:** The Parties may elect to be accompanied by an Advisor of their choice (e.g., a friend, family member, mentor, sexual assault/domestic violence advocate, attorney) to any meetings or proceedings regarding the allegations. The Advisor's role is to observe, consult, and provide support to the Parties. The Advisor may not answer questions or speak on behalf of the Parties during the proceeding. Refer to Section VII Advisor for more information.

**Affirmative Consent**<sup>1</sup> means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure they have the Affirmative Consent of the other participant(s) to engage in the sexual activity. Lack of protest, resistance, or silence does not mean Affirmative Consent.

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

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

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<sup>1</sup> See Cal. Educ. Code § 67386

- Force means the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion (unreasonable pressure for sexual activity) that overcomes free will or resistance or that produces consent.
- NOTE: There is no requirement for a person to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The absence of resistance does not indicate the presence of force. Sexual activity, which is forced, is by definition non-consensual, but non-consensual sexual activity is not, by definition, forced.

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

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

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

- The Responding Party's belief in Affirmative Consent arose from the intoxication or recklessness of the Responding Party. A person's own intoxication or incapacitation from drugs, alcohol, or medication does not diminish that person's responsibility to obtain Affirmative Consent before engaging in sexual activity.
- The Responding Party did not take reasonable steps, in the circumstances known to the Responding Party at the time, to ascertain whether the Reporting Party affirmatively consented.

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

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

**Appeal Committee** is a panel of trained members selected by an appropriate administrator in consultation with the Title IX Coordinator or College Disciplinary Officer to review the appeal of the investigation outcome or the appeal of the sanctions.

**College:** Refers to any one of the three colleges (i.e., Coastline Community College, Golden West College, and Orange Coast College) within the District.

**College Disciplinary Officer** performs the duties prescribed in District policy BP/AP 5500 STUDENT CODE OF CONDUCT. The College Disciplinary Officer will impose appropriate sanctions when the Responding Party is found responsible for violating this policy.

**Complaint** means a report of an alleged violation of this policy or a written communication that complies with Section 12.1 Complaint Requirements.

**Dating Violence**<sup>2</sup> is abuse committed by a person who is or has been in a social or dating relationship of a romantic or intimate nature with the victim. The existence of a romantic or intimate relationship will be determined based on the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. "Abuse"<sup>3</sup> means intentionally or recklessly causing or attempting to cause bodily injury or placing another person in reasonable apprehension of imminent serious bodily injury to self, or another.

**Days** are defined as calendar days Monday through Sunday, excluding all official holidays or closures at the District/College.

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<sup>2</sup> See 34 C.F.R. § 668.46

<sup>3</sup> See Cal. Penal Code § 13700(a)

**Discrimination:** In accordance with District policy BP/AP 3410 NONDISCRIMINATION, the District does not discriminate unlawfully in providing educational or employment opportunities to any person on the basis of a Protected Status.

**District:** Refers to the Coast Community College District.

**Domestic Violence**<sup>4</sup> is abuse committed against a person who is a) a current or former spouse, b) a current or former cohabitant, c) a person with whom the suspect has a child in common, d) a current or former dating or engagement relationship, e) or someone similarly situated under California domestic or family violence law. “Abuse”<sup>5</sup> means intentionally or recklessly causing or attempting to cause bodily injury or placing another person in reasonable apprehension of imminent serious bodily injury to self, or another.

For purposes of this definition, “cohabitant” means two unrelated persons living together for a substantial period of time, resulting in some permanency of relationship. It does not include roommates who do not have a romantic, intimate, or sexual relationship. Factors that may determine whether persons are cohabiting include, but are not limited to, (1) sexual relations between the Parties while sharing the same living quarters; (2) sharing of income or expenses; (3) joint use or ownership of property; (4) whether the Parties hold themselves out as spouses; (5) the continuity of the relationship; and (6) the length of the relationship.

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

**Gender**<sup>6</sup> means sex, and includes a person’s gender identity, gender expression, and transgender status. It also includes sex stereotyping.

Sex<sup>7</sup> includes, but is not limited to pregnancy, childbirth, breastfeeding, or any related medical conditions.

Gender identity means a person’s identification as a man, woman, genderqueer, two-spirit, a gender different from the person’s assigned sex at birth, or transgender.

Gender expression<sup>8</sup> means a person’s gender-related appearance or behavior whether or not stereotypically associated with the person’s assigned sex at birth.

Sex stereotyping means an assumption about a person’s appearance or behavior or about a person’s ability or inability to perform certain kinds of work based on a myth, social expectation, or generalization about the person’s sex.

Transgender is a general term that refers to a person whose gender identity differs from the person’s sex assigned at birth. A transgender person may or may not have a gender expression that is different from the social expectation of the sex assigned at birth.

Gender is a Protected Status.

**Harassment** is unwelcome conduct, including verbal, physical, visual, or written, based on a person’s Protected Status or the perception that a person has one or more of these Protected Status(es). This definition encompasses two kinds of harassment:

**Quid Pro Quo** exists when an educational or employment decision or benefit is conditioned on the submission to or rejection of the unwelcome conduct.

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<sup>4</sup> See 34 C.F.R. § 668.46

<sup>5</sup> See Cal. Penal Code § 13700(a)(b) and Cal. Family Code § 6211

<sup>6</sup> See Cal. Educ. Code § 210.7 and 66260.7

<sup>7</sup> See Cal. Gov. Code § 12926(r)

<sup>8</sup> See Cal. Educ. Code § 210.7 and 66260.7

**Hostile Environment** exists if the conduct is sufficiently serious (i.e., severe, persistent or pervasive) to deny or limit a person's ability to participate in or benefit from the District/College programs or activities.

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

**Parties** to a Complaint are the Reporting Party and the Responding Party, collectively.

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

**Remedies and Interim Remedies:** Actions taken to correct reported violations of this policy. Interim Remedies shall be offered prior to an investigation or while an investigation is pending and are intended to redress harm to the Parties and the community and to prevent further violations.

Remedies may include, but are not limited to the following:

- Academic assistance (excused absence, permit late assignments, retake assignments, grade change, withdraw, tutoring) in consultation with the faculty/Dean;
- Campus Safety escort;
- Education and training;
- Mental health or medical assistance (psychological counseling);
- No contact restrictions;
- On-campus employment assistance (adjustments to work schedule or assignment) in consultation with Human Resources;
- On-campus housing assistance (relocate room assignment), if applicable;
- Other measures as appropriate to stop the alleged behavior until an investigation is concluded or a resolution is reached; and
- Referral to off-campus resources and services.

**Reporting Party** means any person who reports an alleged violation of this policy. The District/College shall be considered a Reporting Party if they elect to investigate reports without a formal Complaint. It also includes any person alleged to be the victim of the reported conduct where some other person has made a report. Another term used to refer to the Reporting Party is Complainant.

**Responding Party** means a person alleged to have violated this policy. Another term used to refer to the Responding Party is Respondent.

**Retaliation:** In accordance with District policy BP/AP 3430 PROHIBITION OF HARASSMENT, the District strictly prohibits retaliation against any individual for filing a complaint or for participating in any related investigation or proceeding.

**Sanctions:** Actions imposed for violating this policy. District policy BP/AP 5500 STUDENT CODE OF CONDUCT outlines the Sanctions the College Disciplinary Officer may impose for violating this policy.

**Sexual Harassment<sup>9</sup>** is unwelcome conduct of a sexual nature, including verbal, physical, visual, or written. Sexual Harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors, and any other conduct of a sexual nature where:

- Submission to the conduct is made a term or condition of a person's employment, academic status, or progress;

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<sup>9</sup> See Cal. Educ. Code § 212.5



- Submission to, or rejection of, the conduct is used as the basis for any decision affecting the individual regarding employment, academic decisions, benefits and services, honors, programs, or activities available at or through the District/College; or
- The conduct has the purpose or effect of having a negative impact upon the individual's academic and business performance, or of creating an intimidating, hostile, or offensive environment.

This policy is applicable regardless of the sexual orientation and/or gender identity of the participants involved. The standard for determining whether unwelcome conduct constitutes Sexual Harassment is whether a reasonable person in the shoes of the victim, and is in fact considered by the victim, as limiting their ability to participate in or benefit from the services, activities or opportunities offered by the District/College or as creating an intimidating, hostile, or offensive environment. This definition encompasses two kinds of sexual harassment:

**Quid Pro Quo** exists when an educational or employment decision or benefit is conditioned on the submission to or rejection of the unwelcome conduct.

**Hostile Environment** exists if the conduct is sufficiently serious (i.e., severe, persistent or pervasive) to deny or limit a person's ability to participate in or benefit from the District/College programs or activities.

The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment on campus, particularly if the harassment is physical. A single or isolated incident of sexual harassment, including sexual misconduct, may create a hostile environment on campus if the incident is sufficiently severe.

**Sexual Misconduct:** All sexual activity must be based on Affirmative Consent. Engaging in any sexual activity without first obtaining Affirmative Consent to the specific sexual activity is Sexual Misconduct, whether or not the conduct violates any civil or criminal law.

1. **Non-consensual Sexual Contact** is a form of Sexual Misconduct and is
  - any intentional sexual touching,
  - however slight,
  - with any object,
  - by a person upon another person,
  - that is without Affirmative Consent and/or by force.

Sexual Contact includes:

- Intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or
- Any other intentional bodily contact in a sexual manner.

2. **Non-consensual Sexual Intercourse<sup>10</sup>** is a form of Sexual Misconduct and is
  - any sexual intercourse,
  - however slight,
  - with any object,
  - by a person upon another person,
  - that is without Affirmative Consent and/or by force.

Sexual Intercourse includes:

- Vaginal or anal penetration by a penis, object, or finger, and oral copulation (mouth to genital contact), no matter how slight the penetration or contact.

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<sup>10</sup> See Cal. Penal Code §240 for Assault; § 242 for Battery; § 261-263.1 for Rape and 34 C.F.R. § 668.46

3. **Sexual Exploitation** is a form of Sexual Misconduct. Sexual Exploitation occurs when a person takes non-consensual or abusive sexual advantage of another person for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other Sexual Misconduct offenses. Examples of Sexual Exploitation include, but are not limited to the following:
- Invasion of sexual privacy;
  - Non-consensual digital, video, or audio recording of nudity or sexual activity;
  - Unauthorized sharing or distribution of digital, video, or audio recording of nudity or sexual activity;
  - Prostituting another person;
  - Engaging in voyeurism;
  - Viewing another person’s sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person’s consent;
  - Knowingly exposing someone to or transmitting an STI, STD, or HIV to another person;
  - Intentionally or recklessly exposing one’s genitals in non-consensual circumstances or inducing another to expose their genitals;
  - Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

**Sexual Orientation**<sup>11</sup> means a person’s preference in sexual partners and includes heterosexuality, homosexuality, or bisexuality.

Sexual Orientation is a Protected Status.

**Stalking**<sup>12</sup> is engaging in a repeated course of conduct directed at a specific person that would cause a reasonable person to fear for their or others’ safety or 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 stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property;
- Reasonable person means a reasonable person under similar circumstances and with the same Protected Status(es) as the victim;
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

**Student** means an applicant for admission to the District/College, an admitted student, an enrolled student, a student between academic semesters, a student currently serving an interim suspension, and a student who withdraws from the District/College while a disciplinary matter (including an investigation) is pending.

**Title IX Coordinator** is responsible for oversight and coordination of Title IX, this policy, and other related state and federal laws prohibiting Discrimination, Harassment, and Retaliation based on Gender or sex. If the Title IX Coordinator delegates an investigation, they shall monitor, supervise, and oversee the investigation to ensure that it is conducted in accordance with the standards, procedures, and timelines set forth in this policy.

**Title IX Deputy Coordinator** is the Title IX Coordinator’s designated person responsible for assisting with the oversight and coordination of Title IX, this policy, and other related state and federal laws prohibiting Discrimination, Harassment, and Retaliation based on Gender or sex.

**Title IX Investigator** is the College designated person to investigate a Complaint. The Title IX Investigator shall not be within the administrative control or authority of the Parties.

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<sup>11</sup> See Cal. Educ. Code § 212.6 and 66262.7

<sup>12</sup> See Cal. Penal Code § 646.9 and 34 C.F.R. § 668.46

## SECTION II - POLICY STATEMENT

The Coast Community College District is committed to equal opportunity in educational programs, employment, and access to institutional programs and activities. The District embraces the principle of diversity and values community differences in age, disability (physical or mental), Gender (or sex), gender identity (including transgender status), gender expression, genetic information, marital status, medical condition, national origin, race or ethnicity (including color or ancestry), religion or religious creed, Sexual Orientation, veteran or military status, and other characteristics that make our community unique.<sup>13</sup>

Students, staff, administrators, and faculty are entitled to an educational and working environment free from Gender-based (or sex-based) Discrimination and Harassment, including Sexual Harassment, Retaliation, Sexual Misconduct, Dating Violence, Domestic Violence, and Stalking.

This policy provides a process to address alleged violations of prohibited conduct by Students. Section 2.4 District Policy on Sexual and Other Assaults on Campus describes the process for Complaints against Employees.

### 2.1 Prohibited Conduct

The Coast Community College District prohibits:

1. Gender-based (or sex-based) Discrimination or Harassment, including Sexual Harassment;
2. Retaliation for filing a complaint, reporting misconduct, or for participating in any related investigation or proceeding;
3. Dating and Domestic Violence, and Stalking; and
4. Sexual Misconduct of any kind, which includes sexual activity engaged in without Affirmative Consent.

### 2.2 District Policy on Nondiscrimination

The Coast Community College District strives to be free of all forms of Discrimination because of a Protected Status (i.e., age, disability (physical or mental), Gender (or sex), gender identity (including transgender status), gender expression, genetic information, marital status, medical condition, national origin, race or ethnicity (including color or ancestry), religion or religious creed, Sexual Orientation, and veteran or military status).

The District does not discriminate unlawfully in providing educational or employment opportunities to any person on the basis of a Protected Status. Refer to District policy BP/AP 3410 NONDISCRIMINATION:

[http://www.cccd.edu/boardoftrustees/BoardPolicies/Documents/General\\_Institution/BP\\_3410\\_Nondiscrimination.pdf](http://www.cccd.edu/boardoftrustees/BoardPolicies/Documents/General_Institution/BP_3410_Nondiscrimination.pdf)

### 2.3 District Policy on Prohibition of Harassment

Students, staff, administrators, and faculty are entitled to a working and educational environment free from discriminatory Harassment. Unlawful Harassment is prohibited by state and federal law, as well as District policy BP/AP 3430 PROHIBITION OF HARASSMENT, available here:

[http://www.cccd.edu/boardoftrustees/BoardPolicies/Documents/General\\_Institution/BP\\_3430\\_Prohibition\\_of\\_Harassment.pdf](http://www.cccd.edu/boardoftrustees/BoardPolicies/Documents/General_Institution/BP_3430_Prohibition_of_Harassment.pdf)

### 2.4 District Policy on Sexual and Other Assaults on Campus

The Coast Community College District does not tolerate acts of sexual assault, including Domestic Violence, Dating Violence, and Stalking. Complaints against Employees, which may include Student Employees, where the Complaint arises out of their employment, shall be governed by District policy BP/AP 3540 SEXUAL AND OTHER ASSAULTS ON DISTRICT PROPERTY, available here:

[http://www.cccd.edu/boardoftrustees/BoardPolicies/Documents/General\\_Institution/BP\\_3540\\_Sexual\\_and\\_Other\\_Assaults\\_on\\_Campus.pdf](http://www.cccd.edu/boardoftrustees/BoardPolicies/Documents/General_Institution/BP_3540_Sexual_and_Other_Assaults_on_Campus.pdf)

Employees will be subject to the terms of their respective bargaining agreements/employees' rights to the extent that those agreements do not conflict with federal or state compliance obligations.

## SECTION III - JURISDICTION

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<sup>13</sup> Key capitalized terms are defined in Section I Definitions of this policy. Terms contained within this policy are intended to be gender neutral.

This policy applies to conduct (refer to prohibited conduct mentioned above) that takes place at the District, the College, its property, through its online services, and at District-sponsored/College-sponsored programs or activities. This policy also applies to off-campus conduct when the effects of the off-campus conduct create a hostile environment<sup>14</sup> and/or impact a substantial District/College interest. A substantial District/College 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 where it appears that the Responding Party may present a danger or threat to the health or safety of themselves or others;
- Any situation that significantly impinges upon the rights, property, or achievements of self or others or significantly breaches the peace and/or causes significant disruption; and/or
- Any situation that is detrimental to the educational interests of the District/College.

This policy may apply to online activity and communications that occur completely outside of the District's/College's control when those online behaviors can be shown to create a hostile environment on-campus or cause a substantial disruption.

#### **SECTION IV - STANDARD OF PROOF**

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

The Responding Party will be found either responsible or not responsible for violating District policies BP/AP 5910 SEXUAL MISCONDUCT and BP/AP 5500 STUDENT CODE OF CONDUCT based on the Preponderance of the Evidence. This determination shall be based on the thorough investigation of the allegations and the weighing of relevant information in its totality by the Title IX Coordinator or Title IX Investigator(s).

#### **SECTION V - CORRESPONDENCE**

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

#### **SECTION VI - REASONABLE ACCOMMODATIONS OF DISABILITIES**

The District/College will provide reasonable accommodations to qualified individuals with a disability. Reasonable accommodations requested by a Student will be determined by the College following an interactive process with those involved to identify the nature and extent of the restrictions and the appropriate accommodation. A Student requesting any accommodation should first contact Disabled Students Programs and Services, which coordinates services for Students with disabilities.

##### **6.1 Interpreters**

An interpreter may be used to improve communications for Parties with limited language proficiency. The Parties may have an interpreter present during any meeting or proceeding at their own expense; the District/College is not obligated to provide one. An interpreter shall not be considered the Parties' Advisor. An interpreter may only explain the meaning of words to the Parties who requested them. An interpreter shall not expand or enhance the Parties' statements.

If the Parties choose to have an interpreter present, the Parties must notify the Title IX Coordinator no later than five (5) Days prior to any meeting and proceeding.

#### **SECTION VII - ADVISOR**

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<sup>14</sup> In order to establish a hostile environment, harassment must be sufficiently serious (i.e., severe, persistent or pervasive) as to limit or deny a person's ability to participate in or benefit from an educational program.

The Parties may each elect to be accompanied by an Advisor for all meetings and proceedings regarding the allegations. The Parties may select whoever they wish to serve as their Advisor (e.g., a friend, family member, mentor, sexual assault/domestic violence advocate, attorney). The Parties may choose to proceed without an Advisor.

The Advisor's role is limited to observing, consulting with, and providing support to the Parties. Advisors may not answer questions regarding the subject matter of the investigation for the Parties or make a presentation on their behalf in any meeting or proceeding. The Parties are expected to ask and respond to questions on their own behalf, without representation by their Advisor. The Parties may confer with their Advisor as needed and request breaks to allow for private conversations.

Advisors are expected to refrain from disrupting or interfering with any meeting or proceeding regarding the allegations. Any Advisor who disrupts or otherwise fails to respect the limits of the Advisor role will be asked to leave the meeting. When an Advisor is removed from the meeting, that meeting will typically continue without the Advisor's presence.

The District/College will share information with Advisors as requested by the Parties, provided the Parties complete a consent form that authorizes such sharing.

### **7.1 Attorneys**

If the Parties choose an attorney as their Advisor, the Parties must notify the Title IX Coordinator in writing. Notification of the attorney's name, address, phone number, and state bar number should be given to the Title IX Coordinator no later than five (5) Days prior to any meeting or proceeding so that the necessary arrangements can be made for an attorney for the District/College to be present.

The District/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 District/College is not obligated to provide one.

## **SECTION VIII - REPORTING**

Any person may report alleged violations of Gender-based (or sex-based) Discrimination and Harassment, including Sexual Harassment, Retaliation, Sexual Misconduct, Dating Violence, Domestic Violence, and Stalking against Students using the reporting avenues described below. In order to make informed choices, it is important to be aware of confidentiality and reporting requirements, described below.

### **8.1 Timeframe for Reporting**

Reports should be brought forward as soon as possible after the conduct occurs. While there is no time limit on filing a report, prompt reporting will better enable the District/College to respond to the allegations, interview persons involved, determine the relevant issues, and provide appropriate Remedies.

Employees, except as stipulated below, are required to promptly report to the Title IX Coordinator. Refer to Sections 8.2 Employee Obligations - Duty to Report and 8.3 Employee Obligations - Confidential Reporting.

### **8.2 Employee Obligations - Duty to Report**

All Employees who know or reasonably should know of allegations that violate this policy shall promptly inform the Title IX Coordinator, except as provided in Section 8.3 Employee Obligations - Confidential Reporting. Employees are required to disclose all information, including the names of the Parties, even when the person requested anonymity. The Title IX Coordinator will determine whether such confidentiality is appropriate, given the circumstances of the incident. Refer to Section 8.5 Requests for Confidentiality.

Employees who fail to report an incident of which they become aware are in violation of the District/College policy and may be subject to Board policy and/or the terms of their respective bargaining agreements.

### **8.3 Employee Obligations - Confidential Reporting**

Some Employees do not have a duty to report. These Employees are required by law to maintain near or complete confidentiality with limited exceptions discussed below. This means these Employees can offer options and advice without any obligation to inform the Title IX Coordinator, unless the Reporting Party requests their information to be shared. If the Reporting Party would like the details of an incident to be kept confidential, they should speak with Employees designated below.

The Employees who do not have a duty to report are listed here:

- Health service providers and staff in the College's Student Health Center whose primary assignment is to render medical treatment;
- Licensed professional counselors and staff in the College's Student Health Center whose primary assignment is to render mental health treatment or counseling;
- Sexual assault and domestic violence counselors and advocates who work or volunteer on-campus;
- Off-campus (non-employees):
  - Licensed professional counselors
  - Local rape crisis counselors
  - Domestic violence resources
  - Local or state assistance agencies
  - An ordained person in a religion

### **Exceptions**

Under California law, health practitioners are required to make a report to local law enforcement if medical services are provided for a physical condition to a patient whom the practitioner knows or reasonably suspects is suffering from (1) a wound or physical injury inflicted by a firearm or (2) any wound or physical injury the result of assaultive or abusive conduct.<sup>15</sup>

Additionally, under California law, all Employees, including those Employees who do not have a duty to report, are mandatory child abuse and neglect reporters<sup>16</sup> and are required to report incidents involving victims under 18 years of age to local law enforcement.

Finally, some or all of these Employees may also have reporting obligations under California law to (1) local law enforcement in cases involving threats of immediate or imminent harm to self or others where disclosure of the information is necessary to prevent the threatened danger<sup>17</sup> or (2) to the court if compelled by court order or subpoena in a criminal proceeding related to the incident.

### **8.4 Formal Reporting Options**

Any person who believes that this policy has been violated should file a report, including a formal Complaint pursuant to Section 12.1 Complaint Requirements. Reports may be made using any of the following options:

1. Report directly to the College Title IX Coordinator;
2. File a Complaint online, using the reporting form available at       ;
3. Report to the College Campus Safety Office (who will notify the College Title IX Coordinator);
4. Report to the College Director of Human Resources (who will notify the College Title IX Coordinator); or
5. Local law enforcement (who will not notify the College Title IX Coordinator); refer to Section 8.6 Local Law Enforcement.

All reports are acted upon promptly and equitably, and every effort is made by the District/College to preserve the privacy of reports. To the extent possible, information reported will be shared only with individuals responsible for handling the District/College response to the conduct. The District/College will protect the privacy of individuals involved in the incident except as otherwise required by law or District policy.

The District/College is required by the Clery Act<sup>18</sup> to disclose campus crime statistics (including certain sex offenses). However, while the District/College will report the type of incident in the annual security report, the Parties personal identifiable information will not be revealed.

### **8.5 Requests for Confidentiality**

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<sup>15</sup> See Cal. Penal Code § 11160-11163.6

<sup>16</sup> See Cal. Penal Code § 11164-11174.3; also see District policy BP/AP 3518 CHILD ABUSE REPORTING

<sup>17</sup> See Cal. Evid. Code § 1024

<sup>18</sup> See 34 C.F.R. § 668.46

If the Reporting Party wants their identity to remain completely confidential (e.g., they do not want their name to be shared), does not want an investigation to take place, or does not want formal resolution to be pursued, the Reporting Party may make such a request to the Title IX Coordinator. The Title IX Coordinator will explain that the District/College cannot always honor the request to guarantee complete confidentiality.

The Title IX Coordinator will evaluate the Reporting Party's request against the District/College's obligation to provide a safe and nondiscriminatory educational environment and to comply with federal law. In cases indicating pattern, prediction, threat, weapons, and/or violence, the District/College will likely be unable to honor a request for confidentiality and will proceed with an investigation.

In cases where the Reporting Party requests confidentiality and the circumstances of the particular case allow the District/College to honor that request, the Title IX Coordinator will inform the Reporting Party that their ability to take corrective action may be limited. The Title IX Coordinator will offer Remedies, but will not otherwise pursue formal action.

Note that the District's/College's ability to remedy and respond to a report may be limited if the Reporting Party does not want the District/College to proceed with an investigation.

### **8.6 Local Law Enforcement**

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

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

### **8.7 Amnesty Clause<sup>19</sup>**

The District/College will not initiate student disciplinary proceedings with a Reporting Party or witness for violations of the Student Code of Conduct (e.g., underage drinking) that occur at or near the time of the incident. However, if the alleged violations of the Student Conduct Code were egregious (e.g., imminent threat to the health or safety of others or academic dishonesty), the District/College may initiate student disciplinary proceedings and impose sanctions pursuant to District policy BP/AP 5500 STUDENT CODE OF CONDUCT.

## **SECTION IX - PROCEDURE FOR PROCESSING REPORTS**

The District/College will provide a prompt and equitable response to any notice of violation, informal allegation, or formal Complaint of this policy that the Title IX Coordinator or appropriate administrator receives. Following receipt of notice, the Title IX Coordinator will engage in a preliminary inquiry and conduct outreach to the Reporting Party (or if applicable, the person alleged to be the victim of the reported conduct) to determine if there is reasonable cause to believe this policy has been violated and take appropriate action to eliminate the behavior, prevent future recurrence, and remedy the effects.

In cases where the Reporting Party requests confidentiality and the circumstances of the case allow the District/College to honor that request, the Title IX Coordinator will investigate only so far as to determine appropriate Remedies. As necessary, the District/College reserves the right to initiate an investigation without a formal Complaint or participation by the Reporting Party.

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<sup>19</sup> See Cal. Educ. Code § 67386(b)(10)

In cases where the Reporting Party wishes to proceed or the District/College determines it must proceed, and the preliminary inquiry shows that reasonable cause exists, the Title IX Coordinator will commence an investigation.

Whenever the District/College determines that the allegation(s) are outside of the scope of this policy, the District/College shall promptly notify the Reporting Party in writing and refer them to the appropriate policy, if applicable.

## **SECTION X - INTERIM REMEDIES**

The Title IX Coordinator shall offer Interim Remedies prior to an investigation or while an investigation is pending. Interim Remedies are intended to redress the harm to the Parties and the community and to prevent further violations. The Title IX Coordinator shall assist and provide the Parties with reasonable Remedies as requested throughout the reporting, investigative, and disciplinary processes, and thereafter.

These Remedies may include, but are not limited to:

- Academic assistance (e.g., excused absence, permit late assignments, retake assignments, grade change, withdraw, tutoring) in consultation with the faculty/Dean;
- Campus Safety escort;
- Education and training;
- Mental health or medical assistance (e.g., psychological counseling);
- No contact restrictions;
- On-campus employment assistance (e.g., adjustments to work schedule or assignment) in consultation with Human Resources;
- On-campus housing assistance (e.g., relocate room assignment), if available;
- Other measures as appropriate to stop the alleged behavior until an investigation is concluded or a resolution is reached; and
- Referral to off-campus resources and services.

### **10.1 Interim Suspension**

The District/College may interim suspend the Responding Party or impose temporary actions to restrict their privileges (e.g., deny access to District/College facilities and activities), particularly when separation is necessary to protect the health and safety of others within the District community and to prevent substantial on-campus disruption. In these cases, the Title IX Coordinator shall make a recommendation to the College Disciplinary Officer, who may initiate the student disciplinary process pursuant to District policy BP/AP 5500 STUDENT CODE OF CONDUCT. If the District/College establishes that there is reasonable cause for the interim suspension to continue, it may remain in effect until the District/College completes its investigation and if applicable, until the District/College closes the student disciplinary matter.

## **SECTION XI - EARLY RESOLUTION PROCESS**

A Reporting Party who reports a violation of this policy may initiate the Early Resolution Process prior to, or instead of, filing a formal Complaint. Participation in the Early Resolution Process is voluntary and must be agreed upon by both Parties. At any time, the Parties or the District/College may elect to terminate the Early Resolution Process.

Resolution options vary and may include, but are not limited to, facilitated discussions with the Parties, facilitated resolution by the Title IX Coordinator, separating the Parties, mediation, and conducting educational prevention and training programs.

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

If a resolution is not reached, the Title IX Coordinator shall promptly notify the Parties that the Early Resolution Process is terminated and inform the Reporting Party of their right to file a Complaint.



This policy neither prevents nor requires the use of the Early Resolution Process. Under no circumstance shall the Parties be required to use the Early Resolution Process to address prohibited behaviors.

## **SECTION XII - INVESTIGATION**

Once the decision is made to commence an investigation, the Title IX Coordinator will investigate or appoint Title IX Investigator(s) to investigate the Complaint. The investigation shall be adequate, reliable, and impartial and completed within ninety (90) Days after the date the Complaint was filed, unless the timeline has been extended. The timeline may be extended for any reason deemed legitimate by the Title IX Coordinator or by mutual agreement by the Parties. The Parties shall receive concurrent written notice of the extended timeline and the reason for the extension.

In cases where local law enforcement initiated a criminal investigation, the District/College may temporarily delay its investigation to wait for the police to gather evidence. The District/College will promptly resume its investigation once notified that the police have completed the fact gathering portion of their investigation.

### **12.1 Complaint Requirements**

Any person who believes that this policy has been violated may submit a written Complaint to the Title IX Coordinator. The formal Complaint shall contain the following information:

- Reporting Party's contact information (full name, student ID (if applicable), phone number, physical address, email address);
- Responding Party's contact information (full name, student ID, phone number, physical address, email address), if known;
- The alleged behavior (i.e., Gender-based (or sex-based) Discrimination or Harassment, including Sexual Harassment, the Reporting Party's activity that is the basis for the alleged Retaliation, Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking);
- A clear, concise statement of the facts that constitute the allegations including pertinent date(s) and sufficient information to identify any individuals who may provide relevant information during the course of any investigation;
- The specific harm resulting from the allegations;
- The specific remedy sought;
- A statement verifying that the information provided is true and accurate to the best of the Reporting Party's knowledge;
- The Reporting Party's signature; and
- The date the Complaint is submitted.

A Complaint may also be completed online, available at [\[REDACTED\]](#)

Whenever the District/College determines that the allegation(s) are outside of the scope of this policy, the District/College shall promptly notify the Reporting Party in writing and refer them to the appropriate policy, if applicable. The District/College will also inform the Reporting Party that if additional information is provided, the Complaint will be reviewed again.

### **False Allegations**

A Reporting Party shall proceed with a Complaint in good faith. A Reporting Party who knowingly and intentionally files a false Complaint or any individual who is determined to have provided false statements or information during the investigation/appeal shall be subject to discipline. Such disciplinary action shall not be considered Retaliation.

### **12.2 Intake Interview**

The Title IX Coordinator shall meet with the Parties and provide concurrent written notice of the allegations and investigatory process (Refer to Section 12.3 Notice of Investigation). The meetings with the Parties shall serve as their initial intake interview and will:

- Explain the investigation procedure and timelines and answer any questions;
- Inform the Parties of their rights and options under this policy, including the right to have an Advisor throughout the process;

- Provide the Parties a copy of this policy;
- (Reporting Party) Provide the opportunity to complete and sign the Complaint form, if not already done, and their right to file a criminal complaint, including the importance of preserving evidence;
- Explain the prohibition of Retaliation; and
- Discuss Interim Remedies, as appropriate.

### **12.3 Notice of Investigation**

The Title IX Coordinator shall promptly notify the Parties concurrently that an investigation has been initiated after receipt of the Complaint and/or conducting intake interview(s). The Notice of Investigation shall contain the following information:

- A description of the alleged violation(s) including the identity of the involved Parties;
- The sections of District policies BP/AP 5910 SEXUAL MISCONDUCT and 5500 STUDENT CODE OF CONDUCT that are the subject of the investigation;
- Notification of the Investigator(s);
- Date, time, and location of the investigatory interview or information and timeframe to schedule this interview;
- Notification of the right to be accompanied by an Advisor;
- If applicable, notification of Interim Remedies (e.g., No Contact restrictions); and
- A statement about the investigation procedure and the potential sanctions/responsive actions that could result.

### **12.4 Investigation Procedure**

The Title IX Coordinator or Title IX Investigator(s) shall promptly investigate the Complaint. The investigation shall be adequate, reliable, and impartial and completed within ninety (90) Days after the date the Complaint was filed, unless the timeline has been extended. If the investigation is assigned to Title IX Investigator(s), the Title IX Coordinator shall monitor, supervise, and oversee all such delegated tasks to ensure that the investigation is sufficient, appropriate, impartial, and in compliance with this policy.

The Parties shall have equal opportunities to present relevant information, witnesses, and evidence regarding the incident under investigation. Parties who elect not to participate in the investigation or to withhold information from the investigation will not have the opportunity to offer evidence during the appeal review stage of the process if it could have been offered during the investigation. The Title IX Coordinator or Title IX Investigator(s) will draw all reasonable inferences and conclusions on the basis of the information available at the time of the investigation and will render a decision to conclude the investigation.

Witnesses (as distinguished from the Parties) are expected to cooperate and participate in the investigation. Any witness who declines to participate in or cooperate with an investigation will not be permitted to offer evidence or testimony later in an appeal review (if applicable).

Before issuing the final investigation report, the Parties shall be advised of their opportunity to review the evidence upon which the findings will be based and respond to the evidence, including presenting further relevant evidence, information, or arguments that could affect the outcome. The Title IX Coordinator or Title IX Investigator(s) will not reach a final conclusion or issue an investigation report until giving careful consideration to any such relevant evidence, information, or arguments provided by the Parties.

Once the Title IX Coordinator or Title IX Investigator(s) concludes the investigation, they will make findings of fact and conclusions and reach a fair, impartial determination as to whether the facts support a finding of responsibility for the alleged violation based on the Preponderance of the Evidence. The Responding Party will be found either responsible or not responsible for violating District policies BP/AP 5910 SEXUAL MISCONDUCT and BP/AP 5500 STUDENT CODE OF CONDUCT. This determination shall be based on the thorough investigation of the allegations and the weighing of relevant information in its totality by the Title IX Coordinator or Title IX Investigator(s).

Upon inquiry, the Parties shall be advised of the status of the investigation. No unauthorized audio or video recording of any kind is permitted during the investigation meetings or other proceedings.

### **12.5 Investigation Report**

The Title IX Coordinator or Title IX Investigator(s) shall prepare a written investigation report. If the investigation is assigned to Title IX Investigator(s), the Title IX Coordinator shall review all investigation draft reports before they are final. An appropriate administrator will review any investigation draft reports completed by the Title IX Coordinator.

The investigation report shall include a summary of the allegations, the investigation process, the Preponderance of the Evidence standard, a description of the evidence considered, and appropriate findings. Relevant exhibits and documents, if any, shall be attached to the written report.

### **12.6 Notice of Investigation Outcome**

Within seven (7) Days of issuance of the final investigation report, the Title IX Coordinator shall promptly notify the Parties concurrently of the outcome of the investigation. The Notice of Investigation Outcome shall contain the following information:

- Summary of the allegations;
- Preponderance of the Evidence standard;
- The evidence considered;
- A determination as to whether District policies BP/AP 5910 SEXUAL MISCONDUCT and 5500 STUDENT CODE OF CONDUCT were violated;
- If applicable, notification of Interim Remedies;
- Notification of the right to appeal;
- Notification of the right to request a copy of the final investigation report with exhibits/attachments, redacted as appropriate; and
- A statement that the investigative findings do not become final until the period of time to file an appeal has lapsed or an appeal has been exhausted.

In cases where the Title IX Coordinator or Title IX Investigator(s) determined the Responding Party is responsible for violating this policy, the Title IX Coordinator shall notify the Campus Disciplinary Officer and provide a copy of the final investigation report.

## **SECTION XIII - STUDENT DISCIPLINARY PROCESS**

This section sets forth the procedures that govern all student disciplinary matters involving allegations of Gender-based (or sex-based) Discrimination or Harassment, including Sexual Harassment, Retaliation, Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking.

### **13.1 Complaint/Investigation/Findings**

Complaints shall be investigated according to procedures set forth in Section XII Investigation. Where the investigation report finds a violation or the finding of a violation is sustained after appeal, the College Disciplinary Officer will initiate the student disciplinary process.

Unless an appeal has been filed pursuant to Section XV Appeal of the Investigation Outcome, the investigative findings become final eight (8) Days after the date of the Notice of Investigation Outcome. If an appeal is filed, the investigative findings do not become final until the appeal has been exhausted.

The College Disciplinary Officer and Title IX Coordinator will consult with respect to appropriate Sanctions and Remedies prior to any meeting with the Parties.

### **13.2 Impact Statement**

The Parties may submit a written statement of impact to describe how this violation has affected them. Impact statements shall be submitted to the Title IX Coordinator promptly prior to the determination of appropriate Sanctions. The Parties are not required to submit such a statement. The College Disciplinary Officer and/or Appeal Committee members may use information from these statements to help determine appropriate Sanctions.

### **13.3 Meeting with the Reporting Party**

The College Disciplinary Officer may offer the Reporting Party the opportunity to confer with them. Any such meeting shall occur promptly after the College Disciplinary Officer receives the investigation report or, if an appeal of the

investigation outcome was filed, the final appeal outcome. The purpose of the meeting is to provide an opportunity for the Reporting Party to provide input concerning appropriate Sanctions and Remedies in relation to the investigative findings. The Reporting Party may be accompanied by an Advisor. If the Reporting Party elects not to participate or fails to appear, the Reporting Party waives their right to provide input, and a decision regarding appropriate Sanctions will be rendered on the basis of information available.

### **13.4 Meeting with the Responding Party**

The College Disciplinary Officer shall meet with the Responding Party after receiving the investigation report or, if an appeal of the investigation outcome was filed, the final appeal outcome. The College Disciplinary Officer shall notify the Responding Party in writing that a disciplinary meeting has been scheduled (i.e., date, time, location) or provide information and a timeframe for them to schedule a meeting.

The Notice of Disciplinary Meeting shall contain the following information:

- The sections of District policies BP/AP 5910 SEXUAL MISCONDUCT and 5500 STUDENT CODE OF CONDUCT that are the subject of the proposed Sanctions;
- The factual description that forms the basis for the charges;
- A statement about the potential Sanctions/responsive actions that could result;
- Notification of the right to be accompanied by an Advisor;
- Notification of the right to inspect and review their discipline file, including the final investigation report with exhibits/attachments, redacted as appropriate; and
- If applicable, notification of Interim Remedies (e.g., No Contact restrictions).

In accordance this policy, the College Disciplinary Officer shall meet with the Responding Party to determine appropriate Sanctions; the findings of the investigation are not under review. If the Responding Party elects not to participate or fails to appear, the Responding Party waives their right to provide input, and a decision regarding appropriate sanctions will be rendered on the basis of information available.

### **13.5 Sanctions**

The College Disciplinary Officer shall, in consultation with the Title IX Coordinator, determine appropriate Sanctions, taking into consideration the investigation report including the final appeal outcome, if applicable, statements of impact, if available, and additional information provided by the Parties during their meetings.

Factors considered when determining appropriate Sanctions may include:

- The nature, severity of, and circumstances surrounding the violation;
- The Responding Party's disciplinary history in which they were found responsible;
- Previous allegations or allegations involving similar conduct;
- Consistency among the College's disposition of similar cases; and
- The need to bring an end to the behavior, prevent future recurrences, and remedy the effects.

The possible Sanctions are described in District policy BP/AP 5500 STUDENT CODE OF CONDUCT.

### **13.6 Notice of Outcome on Sanctions**

The College Disciplinary Officer shall promptly notify the Title IX Coordinator of the outcome of the disciplinary meeting so that concurrent notifications can be sent to the Parties. The Notice of Outcome on Sanctions shall contain the following information:

- Any sanctions imposed<sup>20</sup> and the rationale for the result;
- Notification of the right to appeal; and
- A statement that the Sanctions do not become final until the period of time to file an appeal has lapsed or an appeal has been exhausted.

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<sup>20</sup> For proceedings not covered by the Clery Act (e.g., allegations of harassment), the Reporting Party will be informed of sanction(s) imposed that directly relate to the Reporting Party.

The Title IX Coordinator may take further steps to identify and address any remaining systemic or other patterns of Gender-based (or sex-based) Discrimination and Harassment, including Sexual Harassment, Retaliation, Sexual Misconduct, Dating Violence, Domestic Violence, and Stalking.

## **SECTION XIV - APPEALS**

If the Parties (i.e., the Reporting Party, the Responding Party, or both) disagree with the investigation outcome and/or the Sanctions, they may file an appeal based on the processes described below. Opposing the investigative findings and/or Sanctions is not, by itself, grounds for an appeal.

Investigative findings and Sanctions become final and binding if the period of time to file an appeal lapsed or an appeal has been exhausted.

### **14.1 Appeal Committee**

The Appeal Committee is a panel of trained members, typically an odd number of three (3) or five (5), convened to conduct the appeal processes described below. The Appeal Committee is selected by an appropriate administrator, in consultation with the Title IX Coordinator or College Disciplinary Officer.

Any member of the Appeal Committee with past association with the Parties, with a conflict of interest in the matter, or who is a percipient witness to the events giving rise to the matter is ineligible to serve on that particular Appeal Committee. Any member of the Appeal Committee who is selected must disclose any potential or actual conflict of interest.

### **Selection and Training of the Appeal Committee**

An appropriate administrator, in consultation with the Title IX Coordinator or College Disciplinary Officer, shall appoint District Employees to serve as members of the Appeal Committee. Appeal Committee members are usually appointed to three-year terms.

Appeal Committee members shall receive annual training on issues related to Title IX, VAWA/Campus SaVE Act, and other related state and federal laws prohibiting Discrimination and Harassment based on Gender (or sex), including Sexual Harassment, Retaliation, Sexual Misconduct, Domestic Violence, Dating Violence, and Stalking, duties of the Appeal Committee (impartiality, confidentiality), and appeal procedures.

## **SECTION XV - APPEAL OF THE INVESTIGATION OUTCOME**

This section sets forth the procedures that govern all appeals of the investigation outcome. For the procedures that govern any appeal of the Sanctions, refer to Section XVI Appeal of the Sanctions.

### **15.1 Written Appeal of the Investigation Outcome and Criteria**

All requests for appeal of the investigation outcome must be submitted in writing to the Title IX Coordinator no later than seven (7) Days after the date of the Notice of Investigation Outcome.

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

1. The investigation outcome is unsupported by the evidence, based on the Preponderance of the Evidence standard.
2. A procedural error or omission occurred that significantly affected the weighing of evidence to such a degree that the investigation did not comply with this policy (e.g., substantiated bias, material deviation from established procedures).
3. There is new evidence to consider that was unknown or unavailable during the time of the investigation. A summary of this new evidence and its potential impact on the investigation outcome must be included.

### **15.2 Appeal Committee Review**

When an appeal has been filed, the Title IX Coordinator will share the appeal request with the other party. The other party will be given the opportunity to file a response within three (3) Days. In addition, this party may file their own appeal, if it is within the original timeframe. Any response or new appeal request will be shared with the other party with the opportunity to respond.

An appropriate administrator, in consultation with the Title IX Coordinator, will then convene the Appeal Committee and notify the Parties of its members. If any party believes a member of the Appeal Committee has a potential or actual conflict of interest, they may make a request in writing of the reasons believed to be a conflict. This request must be made to the Title IX Coordinator within three (3) Days after the date of the notification of the Appeal Committee's membership. If justified, the appropriate administrator, or Title IX Coordinator, shall appoint a replacement Appeal Committee member.

The Appeal Committee will review the written appeal and corresponding responses. The Appeal Committee may, at their discretion, interview the Parties to clarify the written appeal and corresponding responses. If the Appeal Committee interviews one party, they shall extend the same opportunity to the other party so there is parity in the appeal process of the investigation outcome.

### **New Evidence and Reopening the District/College Investigation**

The Appeal Committee review will not involve a new investigation by the Appeal Committee and will not consider evidence that was not introduced during the District/College investigation, unless the new evidence was not available at the time of the District/College investigation process and was made part of the appeal. The Appeal Committee may make reasonable inquiries to determine if the new evidence could have affected the investigative findings. If the Appeal Committee determines the investigation should be reopened to cure any defects in the investigation and/or consider new evidence introduced for the first time on appeal that could have affected the investigative findings, the Appeal Committee will return the matter to the District/College to reopen the investigation.

The District/College shall complete the reopened investigation and provide the Appeal Committee with the amended investigation report. The District/College will provide the Parties with an updated Notice of Investigation Outcome, and such notices will provide the Parties the opportunity to appeal any new or amended findings.

### **15.3 Appeal Committee Response**

After the Appeal Committee thoroughly conducts its review, which may include reopening the District/College investigation, the Appeal Committee shall promptly notify the Parties concurrently of the outcome of the appeal. The Appeal Committee's response shall contain the following information:

- Summary of the issue(s) raised on appeal;
- Summary of the evidence considered;
- The determination(s) reached regarding the issue(s) identified within the written appeal; and
- A statement that the appeal outcome is final; further appeals of the investigation outcome are not permitted.

Any decision rendered by the Appeal Committee is final and concludes the appeal of the investigation outcome. Copies of the Appeal Committee's response shall be sent to the Title IX Coordinator.

## **SECTION XVI - APPEAL OF THE SANCTIONS**

This section sets forth the procedures that govern all appeals of the Sanctions. For the procedures that govern any appeal of the investigation outcome, refer to Section XV Appeal of the Investigation Outcome.

### **16.1 Written Appeal of the Sanctions and Criteria**

All requests for appeal of the Sanctions must be submitted in writing to the College Disciplinary Officer no later than seven (7) Days after the date of the Notice of Outcome on Sanctions. The originally imposed Sanctions will stand if the appeal is not timely and such decision is final.

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

1. Whether the Sanction is reasonable under the facts and circumstances as determined by the investigation.
2. A prejudicial procedural error occurred that significantly affected the imposition of Sanctions.

### **16.2 Appeal Committee Review**

When an appeal has been filed, the College Disciplinary Officer will share the appeal request with the Title IX Coordinator so they can notify the other party. The other party will be given the opportunity to file a response within three (3) Days. In addition, this party may file their own appeal, if it is within the original timeframe. Any response or new appeal request will be shared with the other party with the opportunity to respond.

An appropriate administrator, in consultation with the College Disciplinary Officer, will then convene the Appeal Committee and notify the Parties of its members. If any party believes a member of the Appeal Committee has a potential or actual conflict of interest, they may make a request in writing of the reasons believed to be a conflict. This request must be made to the College Disciplinary Officer within three (3) Days after the date of the notification of the Appeal Committee's membership. If justified, the appropriate administrator, or College Disciplinary Officer, shall appoint a replacement Appeal Committee member.

Once the Appeal Committee is finalized, it will review the written appeal and corresponding responses to determine if at least one of the appeal grounds is met prior to the Hearing on Sanctions.

### **16.3 Notice of Hearing on Sanctions**

The College Disciplinary Officer shall promptly notify the Parties concurrently of the following information:

- An hearing has been scheduled pursuant to Section XVI Appeal of the Sanctions;
- The date, time, and location of the hearing;
- The sections of District policies BP/AP 5910 SEXUAL MISCONDUCT and 5500 STUDENT CODE OF CONDUCT that are the subject of the proposed Sanctions;
- The factual description that formed the basis for the charges;
- The Sanctions imposed by the College Disciplinary Officer;
- Notification of the right to be accompanied by an Advisor; and
- If applicable, notification of Interim Remedies (e.g., No Contact restrictions).

### **16.4 Hearing on Sanctions**

The hearing is not intended to be full re-hearings (de novo) of the allegation. The findings and conclusions of the investigation conducted in accordance with this policy are final and binding (refer to Section 13.1 Complaint/Investigation/Findings). Therefore, the hearing is limited to determining appropriate Sanctions; the findings of the investigation are not under review.

The hearing is closed to all persons except:

- Appeal Committee members;
- College Disciplinary Officer, or designee;
- The Parties (i.e., the Reporting Party and the Responding Party);
- The Parties' respective Advisors;
- Title IX Coordinator, or designee;
- If applicable, appropriate witnesses while they are testifying;
- Any person needed to assist the Appeal Committee; and
- A Campus Security Officer may also be present if deemed appropriate or necessary.

### **16.5 Procedures for the Hearing on Sanctions**

Prior to the hearing, the Appeal Committee members will select a Chair, by majority vote, to conduct the hearing. The Appeal Committee shall also designate a timekeeper for the hearing.

Additional principles governing the hearing include the following:

- The Chair will call the hearing to order and outline the expectations of behavior (e.g., rights and responsibilities, confidentiality, role of the Advisor, prohibited use of recording devices).
- The College Disciplinary Officer and the Responding Party shall have equal opportunities to present information, including evidence and witnesses relevant to the case in determining appropriate sanctions. Each shall have up to 30 minutes in total.
- The College Disciplinary Officer shall provide the Reporting Party the opportunity to serve as a witness to present information.

- The Reporting Party may also be present while evidence is being presented concerning the charges that relate to them unless the Chair grants a request that the Reporting Party be excused during certain testimony to protect the privacy rights and/or pursuant to FERPA.
- The Appeal Committee may ask questions of the College Disciplinary Officer; the Responding Party; the Reporting Party, if involved; the Title IX Coordinator; or any witness. Questions will not be considered part of the time allotment.
- The College Disciplinary Officer and the Responding Party shall have the opportunity to ask questions. If the Reporting Party elects to be present while evidence is being presented, they may also have the opportunity to ask questions alongside the College Disciplinary Officer. The Parties shall not directly ask questions of each other unless the recipient waives this requirement to permit direct questioning by the other party. Questions shall be provided in writing to the Chair. The Chair will ask the questions on behalf of the Parties. Questions will not be considered part of the time allotment.
- Questions may not be posed to the Parties about their past sexual behaviors involving any other person except their shared sexual history deemed relevant to the case.
- The College Disciplinary Officer, who may involve the Reporting Party, and the Responding Party shall have equal opportunities to make concluding remarks.
- The investigation report, the appeal outcome pursuant to Section XV Appeal of the Investigation Outcome, if applicable, shall be entered into evidence during the hearing.
- The Chair is responsible for maintaining order during the hearing and making whatever rulings are necessary to ensure a fair hearing. The Chair may eject or exclude anyone (including the Responding Party, the Reporting Party, and Advisors) whose behavior causes a substantial material disruption.
- The Chair will close the hearing at its conclusion and provide information about next steps (e.g., timeline for notification of the Appeal Committee's decision).

The Appeal Committee will privately consider the information presented in the case and make a final decision regarding appropriate Sanctions. Any decision rendered by the Appeal Committee is final and concludes the appeal of the Sanctions; further appeals of the Sanctions are not permitted.

#### **16.6 Notice of Hearing Outcome on Sanctions**

Within seven (7) Days after the completion of the hearing, the Appeal Committee shall promptly notify the Parties concurrently of the outcome of the hearing on Sanctions. The Appeal Committee's response shall contain the following information:

- Summary of the issues(s) raised on appeal;
- The determination reached regarding the Sanctions, including any Sanctions imposed and the rationale for the result; and
- A statement that the appeal outcome is final; further appeals of the Sanctions are not permitted.

Any decision rendered by the Appeal Committee is final and concludes the appeal of the sanctions. Copies of the Appeal Committee's response shall be sent to the College Disciplinary Officer and Title IX Coordinator.

### **SECTION XVII - STUDENT RECORD**

In implementing this policy, records of all allegations, investigations, and resolutions will be maintained by the Title IX Coordinator, or designee, in the District/College electronic database. The privacy of records shall be held in accordance with the Family Educational Rights and Privacy Act. Parties have the right to inspect and review their educational record maintained by the District/College. The District/College is not required to provide copies of records unless it is impossible for the Parties to review the records (e.g., great distance). The District/College may impose a reasonable fee for copies.

### **SECTION XVIII - STATEMENT OF THE RIGHTS OF THE PARTIES**

This list is intended to help the Parties understand their rights and options. Throughout the process, the Parties shall have the following:



- The right to an educational and working environment free from Gender-based (or sex-based) Discrimination and Harassment, including Sexual Harassment, Retaliation, Sexual Misconduct, Dating Violence, Domestic Violence, and Stalking.
- The right to be treated with respect by District/College officials.
- The right to be informed of and have access to support services, including Interim Remedies to redress the harm to the Parties and the community and to prevent further violations.
- The right to be informed by District/College officials of options to report misconduct, including confidential reporting.
- The right to have reports responded to promptly and with sensitivity by District/College officials.
- The right to have the District/College policies and procedures followed without material deviation.
- The right to be fully informed of the nature and extent of the alleged violations contained with the Complaint, applicable District policies, and possible Sanctions (i.e., Notice of Investigation).
- The right to be accompanied by an Advisor of the Parties' choosing to all phases of the investigation and resolution proceedings.
- The right to a prompt, fair, and impartial investigation process and resolution.
- The right to present relevant information, witnesses, and evidence regarding the alleged violations under investigation.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to review the evidence upon which the investigative findings will be based and given the opportunity to respond.
- The right to be promptly informed of the investigation outcome and Sanction of the resolution process in writing, without undue delay between the notifications to the Parties (i.e., Notice of Investigation Outcome and Notice of Outcome on Sanctions).
- The right to submit an impact statement prior to sanctioning by the College Disciplinary Officer.
- The right to appeal the investigation outcome and/or imposed sanctions.
- The right to have appeals heard by an Appeal Committee who received annual training.
- The right to petition that any District/College representative in the process be recused on the basis of demonstrated bias and/or conflict of interest.

## **SECTION XIX - TITLE IX COORDINATOR**

Each College is required to designate one Title IX Coordinator with primary responsibility to monitor, supervise, and oversee overall College-wide implementation of and compliance with Title IX and this policy, including coordination of training, education, communications, complaint procedure administration, investigations, and other compliance procedures. The Title IX Coordinator shall have authority across all College-based divisions and programs. The designated Title IX Coordinator should be someone without other institutional responsibilities that could create a conflict of interest and should report directly to a vice president or higher. The Title IX Coordinator must have the qualifications, authority, and time to address all complaints throughout the College involving Title IX issues.

Each College may designate one or more Deputy Title IX Coordinators. The Title IX Coordinator may delegate training, education, communications, complaint procedure administration, investigations, and related Title IX duties to one or more Deputy Title IX Coordinators. However, all Deputy Title IX Coordinators must report to the Title IX Coordinator in their capacity as Deputy Title IX Coordinator.

The Title IX Coordinator and any Deputy Title IX Coordinator(s) must have adequate training annually.

The Title IX Coordinator's duties include:

- Coordinate training, education, and preventive programs in the areas of Gender-based (or sex-based) Discrimination or Harassment, including Sexual Harassment, Retaliation, Sexual Misconduct, Dating Violence, Domestic Violence, and Stalking.
- Provide annual training for Title IX Investigators and Appeal Committee members.

- Monitor, supervise, and oversee all complaints of Gender-based (or sex-based) Discrimination or Harassment, including Sexual Harassment, Retaliation, Sexual Misconduct, Dating Violence, Domestic Violence, and Stalking, including related investigations, reports, Interim Remedies, resolution, and coordination with the College Disciplinary Officer to ensure appropriate Sanctions are imposed.
- Oversight and Coordination of prompt and equitable grievance procedures to stop the behavior, prevent future recurrence and remedy the effects.
- Review all investigation reports before they are final to ensure that they are prompt, adequate, reliable, and impartial and in compliance with this policy.
- Provide reasonable Interim Remedies, if requested and available.
- Provide notice of the District's nondiscrimination policies.
- Recommend appropriate revisions of policies and procedures.
- Recommend appropriate memoranda of understanding or other agreements with community-based organizations to make services and assistance available to students.
- Assist the College in developing a method to survey the school climate, coordinate the collection and analysis of information from that survey, and identify and address any systemic or other patterns and implement corrective measures, as appropriate.
- Maintain a website, publications, and other resources related to Title IX.
- Oversee gender equity in athletics in consultation with Athletic Director, or appropriate administrator, to measure participation compared to enrollment data in three distinct areas: (1) participation; (2) scholarships; and (3) other benefits, including the provision of equipment and supplies, scheduling, travel, tutoring, coaching, locker rooms, facilities, medical and training facilities, and services, publicity, recruiting, and support services.
- Serve as the point of contact for government inquiries regarding Gender-based (or sex-based) Discrimination and Harassment, including Sexual Harassment, Retaliation, Sexual Misconduct, Dating Violence, Domestic Violence, and Stalking.

### **19.1 Annual Report**

Each Title IX Coordinator will report the following annually to the College President, without disclosing any information that would reveal the identities of the Parties involved:

1. The number of reports received during the academic year;
2. The number of reports investigated, including whether the Responding Party was found responsible and the final Sanction(s), if applicable;
3. A description of the action taken for reports resolved without an investigation;
4. A list of the College's Deputy Title IX Coordinators, Title IX Investigators, and Appeal Committee members, including a description of their annual training; and
5. A report of the various training, education, and preventive programs provided to students, staff, administrators, and faculty during the academic year.

## **SECTION XX - PREVENTION, EDUCATION, AND TRAINING**

Each College must implement prevention, education, and training programs for Students and Employees in the areas of Gender-based (or sex-based) Discrimination and Harassment, including Sexual Harassment, Retaliation, Sexual Misconduct, Dating Violence, Domestic Violence, and Stalking.

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

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

- Rights and responsibilities under Title IX;

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

Employees shall receive training on how to appropriately respond to reports. Employees who know or reasonably should know of allegations that violate this policy are obligated to promptly inform the Title IX Coordinator, as stipulated in Section 8.2 Employee Obligations - Duty to Report. Their training should explain what information to include in a report and consequences for failing to report. Additional training components may include practical information on how to prevent and identify behavior, attitudes of bystanders, effects on the Reporting Party (e.g., impact of trauma on victims), and appropriate methods for responding (e.g., nonjudgmental language).

The Title IX Coordinator, Title IX Deputy Coordinator(s), Title IX Investigator(s), Appeal Committee members, and any other Employee involved in implementation of this policy must receive annual training in addressing and analyzing reports, the procedure for processing reports, how to conduct an investigation, confidentiality issues (e.g., factors to consider when the Reporting Party requests confidentiality), and how to conduct the appeal review and hearing on Sanctions process that protects the safety of the Parties and promotes accountability.

## **SECTION XXI - AP 5910 SEXUAL MISCONDUCT FLOWCHART**

\*Will be completed once edits are finalized through