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# **SEX DISCRIMINATION AND SEX-BASED HARASSMENT POLICY AND RESOLUTION PROCEDURES**

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## **Table of Contents**

Title IX Non-Discrimination Policy and Notice of Nondiscrimination.....	2
I. Grievance Procedures for Complaints of Sex Discrimination (§ 106.45).....	2
Complaints:.....	2
Basic Requirements of Title IX Grievance Procedures:.....	3
Notice of Allegations:.....	4
Dismissal of a Complaint:.....	5
Investigation:.....	6
Questioning the Parties and Witnesses:.....	7
Determination Whether Sex Discrimination Occurred:.....	7
Appeal of Determinations:.....	8
Informal Resolution:.....	8
Supportive Measures:.....	8
Disciplinary Sanctions and Remedies:.....	8
II. Grievance Procedures for Complaints of Sex-Based Harassment Involving Student Complainants or Student Respondents at Postsecondary Institutions (§ 106.46).....	9
Requirements of Title IX Grievance Procedures:.....	9
Written Notice of Allegations:.....	11
Investigation:.....	12
Questioning the Parties and Witnesses:.....	13
Procedures for a Live Hearing:.....	14
Determination Whether Sex-Based Harassment Occurred:.....	14
Appeals:.....	15
Informal Resolution:.....	16
Supportive Measures:.....	16
Disciplinary Sanctions and Remedies:.....	16
Appendix: Definitions (106.2).....	18

## **Title IX Non-Discrimination Policy and Notice of Nondiscrimination**

CBD College does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations, including in admission and employment.

CBD College's Title IX nondiscrimination statement is available on the College's website, in the catalog, and in the employee handbook. The Title IX policy and grievance procedures are available on the College's website.

Inquiries about Title IX may be referred to the Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights, or both. Contact information for OCR is available here: <https://ocrcas.ed.gov/contact-ocr>.

To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please refer to the Title IX Coordinator:

**Gabriela Bray, M.P.P.**  
**Chief Compliance Officer**  
**3699 Wilshire Blvd., Fourth Floor**  
**Los Angeles, CA 90010**  
**(213) 427-2200**  
**Email: [TitleIX@cbd.edu](mailto:TitleIX@cbd.edu)**

### **I. Grievance Procedures for Complaints of Sex Discrimination (§ 106.45)**

CBD College has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations. In addition to the following requirements, additional provisions apply to complaints of sex-based harassment involving a student party as set forth in Section II.

#### **Complaints:**

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

- A "complainant," which includes:
  - a student or employee of CBD College who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
  - a person other than a student or employee of CBD College who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in CBD College's education program or activity;

- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- CBD College's Title IX Coordinator.

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

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

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

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

### **Basic Requirements of Title IX Grievance Procedures:**

CBD College will treat complainants and respondents equitably.

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

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

CBD College has established the following timeframes for the major stages of the grievance procedures, including:

- Evaluation (*i.e.*, the decision whether to dismiss or investigate a complaint) – 14 days;
- Investigation – 60 to 120 days;
- Determination – 30 days;
- Appeal – 30 days

CBD College has also established the following process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay: CBD College will notify the parties in writing of any extension of the timeframes and the reason for the extension.

CBD College will not, however, wait for the conclusion of any other internal or external resolution process, including criminal proceedings, to begin its own investigation.

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

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

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

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

### **Notice of Allegations:**

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

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

description of the evidence: The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.]

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

### **Dismissal of a Complaint:**

CBD College may dismiss a complaint of sex discrimination if:

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

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

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

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

If the dismissal is appealed, CBD College will:

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

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

When a complaint is dismissed, CBD College will, at a minimum:

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

### **Investigation:**

CBD College will provide for adequate, reliable, and impartial investigation of complaints.

The burden is on CBD College—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

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

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

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

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

## **Questioning the Parties and Witnesses:**

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

- The decisionmaker will conduct individual meetings with a party or witness;
- The decisionmaker will allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the decisionmaker during one or more individual meetings, including follow-up meetings, with a party or witness;
- The decisionmaker will provide each party with an audio or audiovisual recording or transcript with enough time for the party to have a reasonable opportunity to propose follow-up questions.

The complainant and respondent both have the right to an advisor of their choice, who may be, but is not required to be, an attorney.

The decisionmaker will notify the parties in writing of the date, time, and location of any meetings. Meetings may be held in person or virtually at the request of a party or the person conducting the questioning. The decisionmaker will meet with each party and witness separately.

## **Determination Whether Sex Discrimination Occurred:**

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, CBD College will:

- Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. The preponderance of the evidence standard is met if CBD determines that it is more likely than not that the alleged misconduct occurred, based on the facts available at the time of the decision. The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination occurred.
- Notify the parties in writing of the determination whether sex discrimination occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal, if applicable;
- Not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex discrimination.
- If there is a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:
  - Coordinate the provision and implementation of remedies to a complainant and other people CBD College identifies as having had equal access to CBD College's education program or activity limited or denied by sex discrimination;



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

### **Appeal of Determinations:**

CBD College offers the following process for appeals from a determination whether sex discrimination occurred: Written appeals must be submitted to the Title IX Coordinator. This appeal process will be, at a minimum, the same as CBD College offers in all other comparable proceedings, including proceedings relating to other discrimination complaints.

### **Informal Resolution:**

In lieu of resolving a complaint through CBD College's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process. CBD College does not offer informal resolution to resolve a complaint that includes allegations that an employee engaged in sex-based harassment of an elementary school or secondary school student, or when such a process would conflict with Federal, State, or local law.

### **Supportive Measures:**

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

- Counseling
- Extensions of deadlines and other course-related adjustments
- Campus escort services
- Increased security and monitoring of certain areas of the campus
- Restrictions on contact applied to one or more parties
- Leaves of absence
- Changes in class, work, housing, transportation, or extracurricular activity
- Training and education programs related to sex-based harassment
- Any other remedy that can be used to achieve the goals of this policy

### **Disciplinary Sanctions and Remedies:**

Following a determination that sex-based harassment occurred, CBD College may impose disciplinary

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sanctions and/or remedies, which may include:

- Education/Training Requirement (as determined by the decision maker, and may result in a cost to the party sanctioned)
- Loss of Privileges
- Restitution
- Probation or Conditional Attendance (based on specific ongoing requirements being met as determined by the decision maker)
- Modification of program schedule (i.e. a change to a track or cohort)
- Loss or reassignment of clinical or externship assignment
- Restricted access to facilities or technology
- Suspension
- Expulsion

## **II. Grievance Procedures for Complaints of Sex-Based Harassment Involving Student Complainants or Student Respondents at Postsecondary Institutions (§ 106.46)**

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

### **Complaints:**

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

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

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

### **Requirements of Title IX Grievance Procedures:**

CBD College will treat complainants and respondents equitably.

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

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

An individual who participates as a complainant or witness in an investigation of sexual assault, domestic violence, dating violence or stalking will not be subjected to disciplinary sanctions for a violation of CBD's student conduct policy at or near the time of the incident, unless it determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

CBD College has established the following timeframes for the major stages of the grievance procedures, including:

- Evaluation (*i.e.*, the decision whether to dismiss or investigate a complaint) – 14 days;
- Investigation – 60 to 120 days;
- Determination – 30 days;
- Appeal – 30 days

CBD College has also established the following process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with written notice of any extension to the parties that includes the reason for the delay: CBD College will notify the parties in writing of any extension of the timeframes and the reason for the extension. CBD College will not, however, wait for the conclusion of any other internal or external resolution process, including criminal proceedings, to begin its own investigation. CBD will provide for periodic updates to the parties on the investigation consistent with the timeframes noted above.

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

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

The investigation and adjudication of alleged misconduct under this policy is not an adversarial process between the complainant, the respondent, and the witnesses, but rather a process to comply with obligations under existing law. The complainant does not have the burden to prove, nor does the respondent have the

burden to disprove, the underlying allegations of misconduct.

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

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

Evidence that relates to the complainant's sexual interests or to complainant's or respondent's prior or subsequent sexual conduct, unless such evidence is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred. Subsequent sexual history between the complainant and anyone other than the respondent shall not be considered for any reason unless directly relevant to prove that any physical injuries alleged to have been inflicted by the respondent were inflicted by another individual.

### **Written Notice of Allegations:**

Upon initiation of these Title IX grievance procedures, CBD College will notify the parties in writing of the following with sufficient time for the parties to prepare a response before any initial interview:

- CBD College's Title IX grievance procedures and any informal resolution process;
- Allegations and alleged institutional policy violations.
- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex-based harassment, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited;
- The respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- The parties may have an advisor of their choice who may be, but is not required to be, an attorney;
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an investigative report that accurately summarizes this evidence. The parties are entitled to an equal opportunity to access the relevant and not impermissible evidence upon the request of any

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party; and

- If, in the course of an investigation, CBD College decides to investigate additional allegations of sex-based harassment by the respondent toward the complainant that are not included in the written notice or that are included in a consolidated complaint, it will provide written notice of the additional allegations to the parties.

## **Investigation:**

CBD College will provide for adequate, reliable, trauma-informed and impartial investigation of complaints.

The burden is on CBD College—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

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

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

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

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

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

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

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

- CBD College will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or the same written investigative report that accurately summarizes this evidence. [If CBD College provides access to an investigative report: CBD College will further provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence

upon the request of any party.];

- CBD College will provide a reasonable opportunity to review and respond to the evidence or the investigative report. If CBD College conducts a live hearing as part of its grievance procedures, it will provide this opportunity to review the evidence in advance of the live hearing. [CBD College may decide whether to provide this opportunity to respond prior to the live hearing, during the live hearing, or both prior to and during the live hearing.]; and
- CBD College will take reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the sex-based harassment grievance procedures.

### **Questioning the Parties and Witnesses:**

CBD College will provide a process that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment. Student parties shall have the opportunity to submit written questions to the decision-maker in advance of any hearing.

When CBD College chooses not to conduct a live hearing: CBD College's process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will:

- Allow the investigator or decisionmaker to ask such questions during individual meetings with a party or witness;
- Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the investigator or decisionmaker during one or more individual meetings, including follow-up meetings, with a party or witness, subject to the procedures for evaluating and limiting questions discussed below; and
- Provide each party with an audio or audiovisual recording or transcript with enough time for the party to have a reasonable opportunity to propose follow-up questions.

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

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

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

## **Procedures for a Live Hearing:**

CBD College will conduct the live hearing with the parties physically present in the same geographic location or, at CBD College's discretion or upon the request of either party, will conduct the live hearing with the parties physically present in separate locations with technology enabling the decision-maker and parties to simultaneously see and hear the party or witness while that person is speaking.

Generally, the parties may not introduce evidence, including witness testimony, at the hearing that the party did not identify during the investigation, and that was available at the time of the investigation. However, the decision-maker has discretion to accept, for good cause, or exclude, such new evidence offered at the hearing.

CBD College will create an audio or audiovisual recording or transcript of any live hearing and make it available to the parties for inspection and review.

## **Determination Whether Sex-Based Harassment Occurred:**

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, CBD College will:

- Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination occurred.
- Notify the parties simultaneously in writing of the determination whether sex-based harassment occurred under Title IX including:
  - A description of the alleged sex-based harassment;
  - Information about the policies and procedures that CBD College used to evaluate the allegations;
  - The decisionmaker's evaluation of the relevant and not otherwise impermissible evidence and determination whether sex-based harassment occurred;
  - When the decisionmaker finds that sex-based harassment occurred, any disciplinary sanctions CBD College will impose on the respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by CBD College to the complainant, and, to the extent appropriate, other students identified by CBD College to be experiencing the effects of the sex-based harassment; and
  - CBD College's procedures and permissible bases for the complainant and respondent to appeal.
- CBD College will not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the Title IX grievance procedures that the respondent engaged in prohibited sex discrimination.
- If there is a determination that sex discrimination occurred, as appropriate, the Title IX Coordinator will:

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

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

### **Appeals:**

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

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

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

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

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



## **Informal Resolution:**

In lieu of resolving a complaint through CBD College's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process<sup>1</sup>. CBD College will inform the parties in writing of any informal resolution process it offers and determines is appropriate, if any. CBD College will not offer informal resolution to resolve a complaint when such a process would conflict with Federal, State, or local law. Before the initiation of an informal resolution process, CBD College will explain in writing to the parties:

- The allegations;
- The requirements of the informal resolution process;
- That any party has the right to withdraw from the informal resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;
- That if the parties agree to a resolution at the end of the informal resolution process, they cannot initiate or resume grievance procedures arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
- What information CBD College will maintain and whether and how CBD College could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed.

## **Supportive Measures:**

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

- Counseling
- Extensions of deadlines and other course-related adjustments
- Campus escort services
- Increased security and monitoring of certain areas of the campus
- Restrictions on contact applied to one or more parties
- Leaves of absence
- Changes in class, work, housing, transportation, or extracurricular activity
- Training and education programs related to sex-based harassment
- Any other remedy that can be used to achieve the goals of this policy

## **Disciplinary Sanctions and Remedies:**

Following a determination that sex-based harassment occurred, CBD College may impose disciplinary sanctions and/or remedies, which may include:

- Education/Training Requirement (as determined by the decision maker, and may result in a cost to the party)

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<sup>1</sup> CA disallows mediation specifically in matters involving sexual violence-but other forms of informal resolution may be available.

sanctioned)

- Loss of Privileges
- Restitution
- Probation or Conditional Attendance (based on specific ongoing requirements being met as determined by the decision maker)
- Modification of program schedule (i.e. a change to a track or cohort)
- Loss or reassignment of clinical or externship assignment
- Restricted access to facilities or technology
- Suspension
- Expulsion

## Appendix: Definitions (106.2)

Section 106.2 of the 2024 amendments includes a number of definitions. When those defined terms are used in this Resource, they have the meaning set forth in § 106.2. The 2024 amendments do not require a recipient to incorporate these definitions into their policies or grievance procedures, but we include key definitions below that may inform a recipient's development of grievance procedures:

*Affirmative Consent* means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that the person has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

*Complainant* means:

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

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

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

*Party* means a complainant or respondent.

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

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

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

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

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

- (1) **Quid pro quo harassment.** An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
- (2) **Hostile environment harassment.** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
  - (i) The degree to which the conduct affected the complainant's ability to access the recipient's education program or activity;
  - (ii) The type, frequency, and duration of the conduct;
  - (iii) The parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
  - (iv) The location of the conduct and the context in which the conduct occurred; and
  - (v) Other sex-based harassment in the recipient's education program or activity; or
- (3) **Specific offenses.**
  - (i) Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
  - (ii) Dating violence meaning violence committed by a person:
    - (A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
    - (B) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
      - (1) The length of the relationship;
      - (2) The type of relationship; and
      - (3) The frequency of interaction between the persons involved in the relationship;
  - (iii) Domestic violence meaning felony or misdemeanor crimes committed by a person who:

- (A) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
  - (B) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
  - (C) Shares a child in common with the victim; or
  - (D) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or
- (iv) Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
- (A) Fear for the person's safety or the safety of others; or
  - (B) Suffer substantial emotional distress.
- (4) Sexual Exploitation means a person taking sexual advantage of another person for the benefit of anyone other than that person without that person's consent, including, but not limited to, any of the following acts:
- (A) The prostituting of another person.
  - (B) The trafficking of another person, defined as the inducement of a person to perform a commercial sex act, or labor of services, through force, coercion, fraud.
  - (C) The recording of images, including video or photograph, or audio of another person's sexual activity or intimate parts, without that person's consent.
  - (D) The distribution of images, including video or photograph, or audio of another person's sexual activity or intimate parts, if the individual distributing the images or audio knows or should have known that the person depicted in the images or video did not consent to disclosure.
  - (E) The viewing of another person's sexual activity or intimate parts, in a place where that other person would have a reasonable expectation of privacy, without that person's consent, for the purpose of arousing or gratifying sexual desire.
- Supportive measures* means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:
- (1) Restore or preserve that party's access to the recipient's education program or activity, including measures that are designed to protect the safety of the parties or the recipient's educational environment; or
  - (2) Provide support during the recipient's grievance procedures or during an informal resolution process.