



Colorado Military Academy

File: AC-R-3

TITLE IX SEXUAL HARASSMENT POLICY

1. **PURPOSE:** Colorado Military Academy (CMA) aims to provide a safe learning and working environment that is free from sex-based discrimination and sexual harassment for students, employees, and community members. The purpose of these procedures is to ensure prompt and equitable resolution of all such complaints.

Colorado Military Academy prohibits sexual harassment under Colorado and federal law, including violations of Title IX of the Education Amendments of 1972 (“Title IX”), Title VII of the Civil Rights Act of 1964, and the Colorado Anti-Discrimination Act. The Colorado Military Academy’s prohibition extends to all forms of illegal sexual harassment, including conduct based on sexual stereotypes, sexual orientation, and transgender status. This policy incorporates the changes implemented under the revised Title IX regulations issued by the United States Department of Education that became effective August 14, 2020.

This policy will be available on Colorado Military Academy’s website and parent/student, staff handbooks.

2. **DEFINITIONS:** Unless context requires otherwise:

Appeals Panel means the persons designated to hear an appeal under this policy. The Appeal Panel shall be two members of the Board not implicated in the Complaint as Respondent or witness, designated by the Board as a whole. The Appeal Panel may include a third person as a non-voting advisor in hearing the appeal, which may be the schools general counsel, special counsel, or other appropriate person. In no event shall a member of the Appeal Panel or advisor to the appeal panel be the Title IX Coordinator, Investigator, or Decision Maker.

Complainant means a person who is alleged to be the target of conduct that could constitute sexual harassment. “Complainant” includes a possible complainant, such as an individual identified by a third party as a possible victim of sexual harassment.

Decision Maker means the person who assesses the relevant evidence and decides if the burden of proof has been met to determine that a Respondent has engaged in sexual harassment. The Decision Maker shall be the Colorado Military Academy’s Head of School, unless the Head of School is implicated in the complaint as a Respondent or witness, in which case the Board shall designate an independent Decision Maker. The Decision Maker may not be the Title IX Coordinator or an Investigator. A Decision Maker may not have a conflict of interest in the Title IX matter. A Decision Maker must be trained, as required by federal law.

Education program or activity means the locations, events, or circumstances in which The Colorado Military Academy exercises substantial control over a Respondent and the context in which alleged sexual harassment occurs.

Investigator means a person trained to evaluate objectively the credibility of witnesses, synthesize evidence, and consider the unique circumstances of each situation involved in an alleged act or pattern of sexual harassment. A Title IX Coordinator may act as an Investigator or may delegate that responsibility to a qualified outside investigator. An Investigator may not have a conflict of interest in a matter under investigation. An Investigator must also be trained, as required by federal law.

Title IX Coordinator means a person designated as a Title IX Coordinator of The Colorado Military Academy. Title IX Coordinator may delegate responsibility on a case-by-case basis. The Colorado Military Academy must prominently post to its website and otherwise make known the identity and contact information for the Title IX Coordinator. The Title IX Coordinator must also be trained, as required by federal law. The Title IX Coordinator cannot also act as the Decision Maker.

Parties means the Complainant(s) and Respondent(s) in an individual matter.

Respondent means an individual alleged to have engaged in sexual harassment.

Sexual harassment means conduct —

- of a school director or employee that conditions an aid, benefit or service of The Colorado Military Academy, including employment, on participation in unwelcome sexual conduct (that is, *quid pro quo* harassment);
- of a school employee who is engaging in sexual misconduct involving a student;
- that is unwelcome and that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to employment or to The Colorado Military Academy's education program and activities; or
- that constitutes sexual violence, dating violence, domestic violence or stalking. See 20 U.S.C. § 1092(F)(6)(A)(v) & 34 U.S.C. § 12291(a)(10).

Supportive Measures means non-disciplinary, non-punitive individualized services designed to restore or preserve equal access to the Colorado Military Academy's educational programs and activities (including employment), without unreasonably burdening any other party, and offered without charge. Supportive Measures may include, without limitation, counseling, mentoring, class modification, schedule changes, monitoring, supervision, or restorative justice activities, as deemed appropriate by the Title IX Coordinator.

3. **EMPLOYEE REPORTING OBLIGATION.** All employees are obligated to report any actual knowledge they have that causes them reasonably to believe there has been conduct that constitutes sexual harassment. Parents, students, or others may also make actual knowledge reports. Such reports must be made to the Title IX Coordinator.

4. **RESPONSE TO ACTUAL KNOWLEDGE REPORT.** Upon receiving an actual knowledge report, the Title IX Coordinator shall promptly and confidentially contact the Complainant. The Title IX Coordinator must (a) discuss the availability of Supportive Measures; (b) consider any request for Supportive Measures; (c) inform the Complainant that Supportive Measures are available without regard to whether the Complainant does or does not file a formal complaint; and (d) explain the process for filing a formal complaint, if applicable. Without regard to whether a formal complaint is filed, the Title IX Coordinator shall complete the form attached as Exhibit 1 for each actual knowledge report.

5. **FORMAL COMPLAINT.** Any person (including a Complainant) may report sexual harassment, in person, by mail, by telephone or by email to the Title IX Coordinator at any time. The report must include the nature of the alleged violation; names of the person(s) responsible for the alleged violation (if known); and any other relevant background information. A Complainant (or their parent or guardian, if appropriate) or the Title IX Coordinator, but not a third-party reporter, may sign a complaint. At the time of a complaint, the Complainant must be participating in or attempting to participate in Colorado Military Academy's education program or activities (including employment). Upon filing of a formal complaint, the Title IX Coordinator shall offer Supportive Measures (if not already offered or provided) to both the Complainant and Respondent. Complainants will be asked to complete the form in Exhibit 2 to this policy. Completion of this form by a complainant is not required to file a complaint.

6. **FAILURE TO OFFER SUPPORTIVE MEASURES.** If supportive measures were not offered in response to a report or a formal complaint, the Title IX Coordinator must document in detail why such failure was reasonable under the circumstances.

7. **INFORMAL RESOLUTION.** If and only if (a) a formal complaint is filed, and (b) the complaint does *not* concern alleged harassment of a student by a School employee, the Parties may voluntarily agree in writing to an alternative form of dispute resolution, such as restorative justice procedures, mediation, fact-finding, or arbitration. Parties may withdraw from such a process at any time before written agreement to a defined process. Agreements to informal resolution that would displace formal investigation (e.g., binding arbitration) require approval of the Title IX Coordinator. Once all Parties have executed a written agreement to an informal resolution, without objection by the Title IX Coordinator, that agreement is binding by its terms. The Title IX Coordinator may disapprove of the use of alternative dispute resolution for certain complaints, including but not limited to complaints of sexual violence, or refuse to approve certain agreements, including but not limited to those containing onerous terms, and proceed with formal investigation. If informal resolution is attempted and unsuccessful (e.g., a restorative justice process that does not reach the hoped-for resolution), the matter may return to formal investigation.

8. **ADMINISTRATIVE LEAVE, EMERGENCY REMOVAL, SAFETY PLANS.** Colorado Military Academy may place a Respondent who is an employee on administrative leave while allegations are investigated and resolved. Colorado Military Academy may remove a Respondent who is a student if removal is necessary to protect the student or another person from an immediate threat to physical health or safety. Removal of a student who is on an IEP or Section 504 plan is subject to compliance with requirements of the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973, as applicable. If a Complainant and Respondent remain in school pending or following investigation the Title IX Coordinator shall determine if a safety plan is advisable and, if so, initiate the process for creating a written safety plan. A decision not to create a safety plan should be documented in writing.

9. **BURDEN OF PROOF.** Respondent is presumed not responsible for sexual harassment. The burden of proof to overcome the presumption is that a violation of the prohibition on sexual harassment is more likely than not; that is, shown by a preponderance of the evidence.

10. **DISMISSAL OF COMPLAINT.** If the Title IX Coordinator determines that the allegations of a formal complaint do not meet the definition of Sexual Harassment (or other prohibitions specific to this policy), *or* did not occur in the school's educational program or activity, *or* did not occur in the United States, the Title IX Coordinator *shall* summarily dismiss the complaint. If the Respondent withdraws from Colorado Military Academy or terminates employment with the school or the Complainant requests withdrawal of the complaint, or other specific circumstances prevent an investigation that permits a determination based on appropriate evidence, the Investigator *may* dismiss the complaint. Regardless of such dismissal, Colorado Military Academy may take whatever separate disciplinary or corrective action is appropriate against a Respondent under its student Code of Conduct or under its employment policies and practices. Notice of summary dismissal shall include a statement of the process and bases for an appeal and whether other actions or forms of grievance processing will take place.

11. **FALSE EVIDENCE PROHIBITED.** Complainants, Respondents, and all witnesses are prohibited from making any knowing false statement or providing other evidence known to be false in any investigation. Colorado Military Academy may take disciplinary or corrective action against a person making false statements or submitting other false evidence. Inconsistencies between evidence and an investigative report or determination of responsibility do not prove a knowing use of false evidence. Discipline for a knowing use of false evidence is not retaliation as otherwise prohibited by this policy.

12. **WRITTEN NOTICE OF FORMAL COMPLAINT.** The Title IX Coordinator will provide written notice to the Complainant and the Respondent of the allegations of a formal complaint and the Title IX grievance process, including any opportunity for informal resolution. The notice must include:

- a. Sufficient detail to permit the Respondent to prepare a response. This includes a description of the conduct alleged, the date and location of the conduct and the names of the Complainant and other involved parties, if any.
- b. A statement that the Respondent is presumed not to be responsible for the conduct and that responsibility will be determined at the conclusion of the process.
- c. A notice of the Complainant's and Respondent's rights to have an attorney or non-attorney advisor.
- d. A statement of the right of the Complainant and Respondent to inspect and review any evidence.
- e. A statement prohibiting providing false statements or evidence.

If additional allegations arise and require investigation, the Investigator will provide written notice of such additional allegation to the Complainant and Respondent. A sample form of the notice required by this paragraph is Exhibit 3 to this policy.

13. **PRIVILEGED AND IRRELEVANT EVIDENCE.** Evidence that is privileged by law and evidence of sexual predisposition or prior sexual behavior (unless offered to prove either that a person other than Respondent committed the alleged conduct or to prove legally recognized consent) is neither admissible nor relevant in this process.

14. **INVESTIGATIONS.** The Investigator will investigate the allegations in a Formal Complaint. The Investigator may gather evidence by collecting relevant documents and other information, interviewing the parties and witnesses, and/or receiving documents, witness lists, requests to gather documents or other information from the Complainant, Respondent witnesses, or third parties.

15. **EVIDENCE SHARING.** The Investigator will provide the Complainant and Respondent (and advisors, if any) with an equal opportunity to review all evidence directly related to the allegations of the formal complaint. If possible, the evidence will be provided in an electronic format that does not permit downloading or copying. The Parties may submit a written response to the Investigator within 5 calendar days upon receipt or inspection of the evidence.

16. **NO LIVE HEARING** Colorado Military Academy will not conduct live hearings under this Policy.

17. **FINAL INVESTIGATION REPORT.** The Investigator will create an investigative report that fairly summarizes relevant evidence. The Investigator will consider all the relevant evidence discovered during the investigation and consider any written response to the evidence submitted by a Party. The Investigator may need to conduct an additional follow up with witnesses or obtain documentation based on Party responses. The Investigator must provide the report to the Parties and the Decision Maker.

18. **PROPOSED QUESTIONS.** The Decision Maker must afford each Party the opportunity to submit written, relevant questions that a Party wants asked of any Party or witness. The Decision Maker must review the investigative report and the Parties' responses and proposed questions, if any. The Decision Maker shall either exclude questions as irrelevant, with an explanation to the Party proposing the question, or submit the questions for answer and provide each Party with such answers. The Decision Maker shall allow limited follow-up questions from either Party. The Decision Maker will give the Parties five (5) calendar days to submit relevant questions.

19. **DECISION MAKER DECISION.** The Decision Maker shall determine the question of responsibility. The Decision Maker may not render a decision until at least 10 days after the distribution of the Final Investigation Report. The determination must be based on facts the Decision Maker finds to be more likely than not, and the written decision must include:

- a. A statement of the allegations that may constitute sexual harassment;
- b. A summary of the process followed from receipt of the formal complaint through determination, including notices provided, interviews with parties and witnesses, site visits, and methods used to gather other evidence;
- c. Findings of fact;
- d. Conclusions regarding application of any code of conduct or employment policy and practice to the facts;
- e. A statement of, and rationale for,
 - i. the conclusions as to each allegation;
 - ii. disciplinary sanctions, if any, on the Respondent; and

iii. Remedies, if any, designed to restore or preserve the Complainant's equal access to Colorado Military Academy's programs and activities (including employment, if applicable).

f. A statement of the process and bases for appeal. A form for this statement is provided in Exhibit 4 and may accompany the determination of responsibility (as illustrated in Exhibit 4) or be incorporated into that document.

20. **APPEAL.** An appeal may be filed within five calendar days of notice of a determination of responsibility or summary dismissal. The notice should only identify the Party filing the appeal, the decision or dismissal appealed from and which of the three grounds listed in 20(a) through (c) below will be relied upon. An optional form of notice that may be used is provided in Exhibit 5. An appeal shall be filed with the Decision Maker. Appeals will *only* be permitted on the following grounds:

- a. A procedural irregularity affected the outcome of the matter;
- b. New evidence not available at the time of the determination of responsibility or summary dismissal that could affect the outcome of the matter; or
- c. The Investigator or Decision Maker had a conflict of interest or was biased against a Party or biased against all complainants or all respondents.

21. **APPEAL PROCESS.** The Decision Maker, upon receiving a notice of appeal, shall provide a notice to both Parties (or, in the case of appeal of a summary dismissal, to Complainant) that the appeal has been filed and that each Party has ten calendar days to file a brief written statement supporting or challenging the outcome. A form of such notice is provided in Exhibit 5. The Decision Maker shall also initiate the formation of an Appeals Panel. The Appeals Panel shall be provided with copies of the notice of appeal, statements of the parties challenging or supporting the decision appealed, the formal complaint and, as appropriate, either the summary dismissal or the investigative report and determination of responsibility. Either Party may attach other documents produced during the process to their statement supporting or challenging the outcome. The Appeals Panel shall provide a written decision describing the appeal and the rationale for its decision simultaneously to the Parties.

22. **REMEDIES.** Upon determination that a Complainant was sexually harassed, Colorado Military Academy may —

- a. Offer the Complainant any remedies that will restore or preserve the Complainant's access to school's educational program and activities (including employment). These may include Supportive Measures or

actions similar to supportive measures that have a disciplinary component toward the Respondent. Remedies may be kept confidential as deemed necessary by the school.

b. Impose any disciplinary sanctions on a Respondent Student, including mandatory participation in counseling services; revocation of extra-curricular privileges (including, but not limited to sports); no-contact orders; schedule changes; short-term or long-term suspension or expulsion, or change of placement as otherwise authorized by law.

c. Impose any disciplinary sanctions on a Respondent employee, including mandatory participation in counseling services, no-contact orders, reassignment; suspension without pay; or termination of employment.

23. **EXTENSIONS OF TIME.** The Title IX Coordinator, Investigator, Decision Maker or Appeals Panel may extend any time limit for good cause shown.

24. **CONFIDENTIALITY.** The identities of persons who made a report of sexual discrimination or harassment, the Complainant, the Respondent, any person reported to have been a perpetrator, and any witness shall not be made public except as provided in the Family Educational Rights and Privacy Act (FERPA), as otherwise provided by law, or as needed for the conduct of any formal investigation or judicial proceeding,

25. **RETALIATION & INTIMIDATION.** Neither Colorado Military Academy nor any person may intimidate, threaten, coerce, or discriminate against an individual because such individual has exercised rights under, participated in, or declined to participate in, any proceeding under this policy. Claims of retaliation may be filed under Colorado Military Academy grievance policy that would be applicable to a claim of sex discrimination (not including sexual harassment) by the person alleging retaliation.

26. **RECORD RETENTION.** All records created of activity under this policy, including, without limitation, training materials, investigative records, alternative dispute resolution records, disciplinary records, supportive measures, decisions, remedies, and appeals, shall be maintained for seven years.

27. **TRAINING.** All School staff and Colorado Military Academy's governing board shall receive basic Title IX training that includes, without limitation, the definition of sexual harassment and the obligation of school employees and officials to report suspected sexual harassment to the Coordinator. Any person who will serve as a Title IX Coordinator, Investigator, informal resolution mediator, Decision Maker, or member of an Appeals Panel must have had or receive appropriate advanced training on Title IX — specifically, as applicable and without limitation, on all matters covered in basic training, conducting investigations, methods of alternative dispute resolution, preparation of investigative reports, preparation of determinations of

responsibility, conducting appeals, identification of privileged or irrelevant evidence (including treatment of evidence of prior sexual conduct), impartiality, avoidance of prejudgment, and avoiding use sex stereotypes.

28. **POSTING & GENERAL NOTIFICATIONS.** Colorado Military Academy shall place in its student/family and employee handbooks, and post prominently on its website —

- a. The name or title, office address, electronic mail address, and telephone number of the Title IX Coordinator(s).
- b. The availability of the Title IX Coordinator(s) to receive at any time a report of sex discrimination, including any complaint of sexual harassment (whether or not by the person alleged to be the victim).
- c. A statement of the school policy to not discriminate on the basis of sex in any education program or activity it operates or in employment.
- d. A copy of or link to this policy and related School policies forbidding and providing procedures for receiving and processing complaints of sex discrimination.
- e. A copy of or link to training materials used by the school to comply with paragraph 27, above.

29. **CODE OF CONDUCT.** Nothing in this policy prevents the ordinary application of the school's student Code of Conduct or employment policies and practices to matters or issues other than sexual harassment, provided this is not done in retaliation under this Policy.

30. **Policy Review.** The Board will review this policy and make appropriate changes, if any, should the Title IX regulation published at 85 Fed. Reg. 30572 (May 19, 2020) be amended, repealed, replaced, or held unlawful in any part in a final and unappealable judgment by a court of competent jurisdiction.

You May Contact Colorado Military Academy's Title IX Coordinator at (719) 309-2753

Adriana Lopez [Name/Office]

360 Command View, COS, CO 80915 [Address]

(719) 309-2753 [Phone]

Lopez.a@cmacs.org [Email Address]

Persons may report concerns to certain outside agencies. These include:

Colorado Charter School Institute
1525 Sherman St, B76
Denver, CO 80203

Phone: 303-866-3299

Fax: 303-866-2530

csi_info@csi.state.co.us

Office for Civil Rights
United States Department of Education
Cesar E. Chavez Memorial Building
1244 Speer Blvd., Suite 300
Denver, CO 80204
(303) 844-5695
(303) 844-4303 (fax)
OCR.Denver@ed.gov

Denver Field Office
Equal Employment Opportunity Commission

950 17th Street
Suite 300
Denver, CO 80202
1-800-669-4000
303-866-1085 (fax)
1-800-669-6820 (TTY)
844-234-5122 (ASL Video Phone)

Colorado Civil Rights Division

1560 Broadway, Suite 825

Denver, CO 80202

303-894-2997 (para español, oprima dos) | 711 TTD - Relay

303-894-7830

General Inquiries: DORA_CCRD@State.co.us

Intake Unit: DORA_CCRDIntake@State.co.us

Authority: 20 U.S.C. § 1681, *et seq.*
 34 C.F.R. §§ 106.8, 106.30, 106.44, 106.45 & 106.71.
 C.R.S. §§ 24-34-101, *et seq.*
Bostock v. Clayton County, 590 U.S. ____ (2020).
Rosenberg v. Bd. of Educ., 710 P.2d 1095 at n. 11 (Colo. 1985).

Exhibit 1
Actual Knowledge Report
 (to be completed by the Title IX Coordinator)

1. Date: _____
2. Name of Reporter: _____
3. Name of Complainant: _____
4. Name of Respondent: _____
5. Summary of Report: _____

Attached pages? € No € Yes — Number? ____

6. Was the report discussed with Complainant? Yes € No € Date: _____

7. Was the Complainant:

Informed of available Supportive Measures, with or without a formal complaint? Yes € No €

Given an explanation of the process for filing a formal complaint? Yes € No €

8. Were Supportive Measures requested? Yes € No €

9. Will Supportive Measures be provided? Yes € No €. If yes, describe: _____

10. If an answer under 6 through 9 above is “No,” fully explain why (attach pages if needed):

Attached pages? € No € Yes — Number? ____

11. Formal Complaint filed by/for Complainant? Yes € No €

12. Formal Complaint filed by Title IX Coordinator? Yes € No €

Signature of Title IX Coordinator

Date

Exhibit 2

Sexual Harassment (Title IX) Complaint Form

Instructions for filling out this form: If you believe that you have been the victim of sexual harassment, please fill out this form and submit it by hand delivery, electronic mail, or U.S. mail to the School’s Title IX Coordinator. **You are not required to use this form and may file a complaint by any other reasonable means, orally or in writing.** If the victim of sexual harassment is a minor, the form may be completed and signed by a parent or guardian. A person believed to be a victim of sexual harassment is the “complainant.”

If you are reporting sexual harassment you witnessed or know of against another person, please report this to the School's Title IX Coordinator. **Do not use this form.** Please identify for the Title IX Coordinator the victim, the alleged perpetrator; the date, time and place of the conduct; and other factual details. **Under federal law, only an alleged victim (for themselves or, for a minor, through a parent or guardian) or the Title IX Coordinator has the right to file a complaint.**

Please print or type when completing this form. **If needed, attach additional sheets and indicate the number of additional pages below.**

Name of complainant:

Parent or guardian (if applicable)

Address:

Telephone number:

Email address:

I am an/a: ☐ Employee ☐ Student ☐ Parent/Guardian ☐ Other (_____)

You have the right to be represented by an advisor (who may be an attorney, advocate or someone else) during the complaint process. If you have an advisor, please provide contact information. You may provide this information at a later time.

Name:

-

Address:

-

Telephone number:

-

Email address:

-

A person alleged to have committed sexual harassment is called the "respondent." Please identify the respondent(s) and indicate their relationship to the School.

-

€ Employee € Student € Parent/Guardian € Other (_____)

Please describe the facts and circumstances giving rise to this complaint.

When and where did these events occur? Provide dates, times, and locations, if possible.

Please provide the names of anyone else you believe is a victim of such conduct:

Please provide the names and contact information of anyone who may have witnessed the alleged conduct.

If you have reported this to another person, please state to whom you reported the behavior and provide their contact information (if known).

If you reported to a School employee, please state when, to whom, and what response you received. Please note such a report was not required.

Please list below any evidence that you believe is relevant. This could include audio or visual media, physical objects, online materials, text messages, voicemail messages, screen captures, emails, or any other item. Please include any information in the possession of the School or the Respondent that may be helpful (such as emails, pictures, or video).

Is there any other information you believe would be helpful? For example, if this conduct constituted harassment or misconduct on some other grounds, you may explain that here.

Please explain how this conduct has impacted you. This includes any injuries as well as impacts on your ability to access or benefit from the School's education program or activities or from your employment.

Please describe the outcome or remedy you seek.

Please provide below your physical or digital signature.

Signature: _____

Name (printed): _____

Check one: ☐ Complainant ☐ Parent/Guardian ☐ Title IX Coordinator

Date: _____

Notice to Complainant: This document is a legal record requesting a formal investigation. Please keep a copy of this completed form and any supporting documentation for your records.

If your complaint is found not to support a claim of sexual harassment, but would be proper under any other School policy, the School will notify you and proceed to consider your complaint under the proper policy.

Exhibit 3

Written Notice of Formal Complaint

[To be promptly prepared and provided by the Title IX Coordinator to the Complainant and Respondent after a formal complaint is filed, if the complaint is not summarily dismissed.]

[School Letterhead]

[Date]

PLEASE TAKE NOTICE THAT, a formal complaint alleging sexual harassment has been filed with the School. [NAME] will be the Investigator during this Title IX grievance process. The Investigator will provide a Final Investigation Report which summarizes the evidence. A Decision Maker will decide the responsibility.

In such complaints, the alleged victim is referred to as the Complainant and the alleged perpetrator is referred to as the Respondent. One purpose of this notice is to assure that both the Complainant and Respondent are aware of certain rights they may exercise in this process. Another purpose is to allow the Respondent to be prepared to appropriately participate in this process. When a party is a minor, the parent or guardian will be given this notice. The terms “Complainant” and “Respondent” may in some cases refer to a representative of a minor.

NATURE OF REPORT

Complainant: _____

Respondent: _____

Summary of the Complaint:

Date(s) of conduct: _____

Location of conduct: _____

Names of other parties, if any: _____

Description of the conduct alleged. This is a summary intended to provide sufficient detail to allow the Respondent to prepare a response. (Additional pages may be attached)

POTENTIAL PROHIBITED CONDUCT

After reviewing the Formal Complaint Formal Complaint and Complainant's request for a formal investigation, the Title IX Coordinator determined it was appropriate to open this matter for a formal investigation consistent with the Title IX Sexual Harassment Policy.

This report raising the following potential prohibited conduct pursuant to [THE SCHOOL]'s Title IX Sexual Harassment Policy.

LIST APPLICABLE POLICIES WITH DEFINITIONS

ADVISOR AND SUPPORT PERSON

You have the right to have an advisor of your choice and support person of your choice. The advisor may be an attorney or non-attorney of your choice, at your own expense. The advisor and support person may be present at any meetings or proceedings that are part of the formal resolution process. The School will communicate with you directly, not through your advisor or support person.

INFORMATIONAL MEETING

You can request a meeting with [THE SCHOOL]'s Title IX Coordinator to review the Title IX Policy for the formal resolution process, to discuss your rights as a [Complainant or Respondent], and to answer any questions that you may have at this point.

As with any portion of the process, you may bring a support person and an advisor with you to this meeting.

BRIEF OVERVIEW OF FORMAL RESOLUTION PROCESS

The Respondent is presumed not to be responsible for the conduct alleged. The Decision Maker will determine responsibility at the conclusion of the process. The Investigator will investigate the allegations identified in this Notice.

The Parties have an equal opportunity to identify potential witnesses who have relevant information, including fact and expert witnesses, and other inculpatory and exculpatory evidence to the Investigator, such as documents, communications, photographs, and other evidence, and to suggest questions to be posed by the Investigator to any other parties or witnesses. The Investigator may gather evidence by collecting relevant documents and other information, interviewing the parties and witnesses, and/or receiving documents, witness lists, requests to gather documentation or other information from the parties, witnesses, or third parties. In preparation for the investigation, please preserve any potentially relevant evidence in any format.

The Parties have the right to inspect and review evidence gathered during the investigation. Prior to the conclusion of the investigation, the Investigator will make available to each party and their advisors all evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint. The parties will have an opportunity to submit a written response, which the Investigator will consider prior to the conclusion of the investigation and the completion of the final investigative report.

Submitting knowingly false statements or evidence is a violation of School policy and will result in disciplinary consequences. Such consequences are not “retaliation.” Mere disagreement between the parties, or between a party and a school official investigating or deciding this matter does not, by itself, demonstrate knowing submission of false evidence.

The Investigator will create an investigative report that fairly summarizes relevant evidence. The Parties will have an opportunity to submit relevant questions. The Decision Maker will prepare a decision regarding responsibility.

Please contact me with any questions or concerns.

/s/ Title IX Coordinator

Notice to Parties Concerning Determination of Responsibility

[This notice is to accompany the transmission of, or be incorporated into, the determination of responsibility to the Complainant and Respondent. The form given here is of a cover letter.]

[School Letterhead]

[Date]

[Addressee]

Please find attached the determination of responsibility in this matter. This determination can be appealed on one or more of the following three grounds:

- You believe a procedural irregularity affected the outcome of the matter;
- You have new evidence not available as of the date of this decision that could have affected the outcome of this matter; or
- You believe either I was biased, or the Investigator was biased, against you or biased against all persons in your position (that is, all complainants or all respondents).

If you wish to appeal, please send me a notice identifying the ground(s) on which you are appealing. An optional form of notice of appeal is provided in Exhibit 5. If an appeal is filed, I will forward your notice of appeal to an Appeals Panel formed under the School's sexual harassment policy and provide you with a further notice of details of that process.

/s/ [Decision Maker]

Exhibit 5

Notice of Appeal

[This illustrates one proper form for filing a notice of appeal. This may be used by a Complainant in response to a summary dismissal or by a Complainant or Respondent in response to a determination of responsibility.]

[Date]

From: [Name and Contact information of party filing the appeal]

To: [Name, Title and Contact information of Decision Maker]

To Whom it May Concern:

I am appealing the (check one) ☐ Summary Dismissal ☐ Determination of Responsibility in this matter dated [date]. I believe (check appropriate boxes and summarize details, if desired):

☐ A procedural irregularity affected the outcome of the matter. Describe (optional):

☐ I have new evidence not available as of the date of this decision that could have affected the outcome of this matter. Describe (optional): _____

☐ The (check as appropriate ☐ Investigator or ☐ Decision Maker was biased against me or biased against all persons in my position. Describe (optional): _____

/s/ [Complainant or Respondent]