

<b>Policy Number</b>	604.003
<b>Policy Title</b>	COLUMBIA INTERNATIONAL UNIVERSITY TITLE IX / SEXUAL MISCONDUCT, DATING VIOLENCE, AND STALKING POLICY
<b>Responsible Officer</b>	Provost
<b>Responsible Office</b>	Provost
<b>Summary</b>	This policy is in compliance to the federal government’s requirement that all Higher Ed institutions receiving Title IV funds must ensure that no student suffers a deprivation of her or his access to educational opportunities on the basis of sex.
<b>Definitions</b>	See in Document Body
<b>Approving Body</b>	The Academic Council; The Administrative Council
<b>Approval Date</b>	03.04.2016; 10.02.2017 (Academic); 10.09.2017 (Admin); 09.28.2018 (Academic); 09.21.2018 (Admin); 08.13.2021 (Academic); 09.17.2021 (Admin)
<b>Last Revision</b>	05.20.2021
<b>Re-evaluation Date</b>	Pending ongoing government policy guidance
<b>Departmental Impact</b>	All Departments of the University

*Failure to follow the following policy may result in disciplinary action, including termination of employment.*

**Policy Statement**

Columbia International University (“CIU” or “the University”) is committed to providing programs, activities, and an educational and work environment free from sex discrimination and to fostering a community that promotes prompt reporting of all types of Sexual Harassment and also timely and fair resolution of Sexual Harassment complaints. To that end, the University has adopted the government’s broad definition of Sexual Harassment to include any of the following types of misconduct on the basis of sex:

1. Any instance of *quid pro quo* harassment by a university employee;
2. Any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectionably offensive that it denies a person equal educational access;
3. Any instance of sexual assault (as defined by the Clery Act);
  - a. Rape
  - b. Fondling
  - c. Incest
  - d. Statutory Rape
4. Any instance of harassment as defined in the Violence Against Women Reauthorization Act of 2013 (VAWA):
  - a. Sexual Violence
  - b. Domestic Violence
  - c. Dating Violence
  - d. Stalking

The University promptly will respond, even in the absence of a formal complaint, under Title IX when the University has actual knowledge that a student, employee, or a third party has been subjected to Sexual Harassment.

**Biblical Foundation for this Policy:**

The body is not meant for sexual immorality, but for the Lord, and the Lord for the body...Flee from sexual immorality. Every other sin a person commits is outside the body, but the sexually immoral person sins against his own body. Or do you not know that your body is a temple of the Holy Spirit within you, whom you have from God? You are not your own, for you were bought with a price. So glorify God in your body (1 Cor. 6:13b, 18-20).

**Applicability of this Policy:**

This Policy applies to any allegation of Sexual Harassment made by or against a student or an employee of the University or a third party\*, regardless of the sex of any party, if the alleged Sexual Harassment occurred on property owned or

operated by the University (within the United States), and if the conduct giving rise to the allegation impacts the University's academic, educational, athletic, extracurricular, internship or practicum programs or activities, employment, recruitment, and admissions. If the University investigates a report of Sexual Harassment that is alleged to have occurred during a time a different policy or version was in effect, the policy currently in place will govern the procedures utilized in investigating and adjudicating the report. In the case of allegations of Sexual Harassment, unless otherwise stated, this Policy supersedes and applies in lieu of all other procedures and policies set forth in other University documents.

While the University prohibits all forms of unlawful discrimination and harassment, including sexual assault and other sexual misconduct, this Policy applies only to Sexual Harassment under Title IX. The rights set forth in this Policy do not apply to visitor or guests of the University or Sexual Harassment that occurs outside the geographical boundaries of the United States.

*\* While the University will address allegations involving third parties, as discussed more fully herein, the rights of and the University's obligations to and jurisdiction over third parties are likely to differ from the rights of and the University's obligations to and jurisdiction over students and employees of the University, and allegations involving third parties will be handled as deemed appropriate by the University's Title IX Coordinator in his or her discretion.*

### **Retaliation:**

Retaliation against any person for filing, supporting, or providing information in good faith in connection with a complaint of Sexual Harassment is strictly prohibited. Prohibited retaliation includes, but is not necessarily limited to, intimidation, threats, coercion, assault, battery, harassment, or discrimination. Violations of this prohibition will be addressed through this Policy and/or other University disciplinary procedures, as deemed appropriate in the University's discretion. Any person who feels that he or she has been subjected to Retaliation should make a report to the Title IX Coordinator. The prohibition of Retaliation does not end with the resolution of the Complaint. The University prohibits retaliation even if/after finding that a respondent was "not responsible" for alleged Sexual Harassment.

### **Definitions:**

*Recipient* = Any institution covered by Title IX. In this policy, recipient refers to Columbia International University.

*OCR* = Department of Education's Office for Civil Rights

*VAWA* = Violence Against Women Reauthorization Act of 2013

*FERPA* = Family Educational Rights and Privacy Act

*Complainant* = the individual(s) bringing the Title IX complaint

*Respondent* = the individual(s) against whom the Title IX complaint is made

*Formal Complaint* = document filed by a complainant with the Title IX Coordinator, or signed by the Title IX Coordinator, alleging sexual harassment against a respondent, and requesting an investigation by the recipient of the alleged sexual harassment.

### **Determining Title IX Matters:**

The Title IX Coordinator will make the determination whether a Title IX matter exists. Multiple factors are involved in this determination:

1. Location of Alleged Conduct: must be an event, location, or circumstance over which CIU exercised substantial control over both the respondent and the context in which the alleged sexual harassment occurs. The alleged conduct must have occurred in the United States.
2. Type of Alleged Conduct: the conduct must meet the definition of sexual harassment as explained in the current final Title IX regulations.
3. Individuals involved and their status with the institution: At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in an education program or activity of CIU. The Title IX Coordinator has the discretion to dismiss the complaint if the respondent is not currently enrolled in or employed by CIU.

### **CIU Title IX Coordinator(s):**

CIU has appointed a Title IX Coordinator and three Deputy Title IX Coordinators to oversee CIU's response to Sexual Harassment complaints; to develop training and educational programs and materials for students, faculty and staff; and to monitor the effectiveness of CIU's Title IX compliance efforts. See the CIU Student Handbook for relevant contact information <https://www.ciu.edu/sites/default/files/20212021/AugAug/Page/Student%20Handbook%202021-2022.pdf>

### **Filing A Formal Complaint:**

A formal complaint must be filed with the Title IX Coordinator in person, by mail, or by electronic mail, and a formal complaint may be filed by using the contact information CIU is required to be listed for the Title IX Coordinator and by any

other method designated by CIU. The formal complaint can be a document or electronic submission that contains the complainant's physical or digital signature, or otherwise indicates the complainant is the person filing the complaint. *In an instance where the Title IX Coordinator is directly aware of the events surrounding the alleged conduct, the Title IX Coordinator may initiate an investigation by filing a formal complaint on behalf of a complainant.*

#### **Reporting of Sexual Harassment:**

**If a CIU employee becomes aware of activity that may constitute Sexual Harassment, that employee is required to report the activity to the University's Title IX Coordinator.** CIU encourages all other members of the University community to promptly report any conduct that may constitute Sexual Harassment to the University's Title IX Coordinator.

In addition to reporting to the Title IX Coordinator, CIU encourages victims of Sexual Harassment to report incidents of Sexual Harassment to both CIU security and to law enforcement authorities; however, CIU offers services to victims even if they choose not to report an incident to law enforcement. The Student Life Office provides services and information for victims in a safe and supportive setting. In some circumstances, a victim may wish to seek an order of protection from a court of appropriate jurisdiction against the alleged perpetrator. Victims may also seek restriction of access to the University by non-students or non-employees in certain circumstances.

The Jessica Horton Act (South Carolina Code of Laws 59-154-10) obligates CIU to notify the South Carolina Law Enforcement Division ("SLED") when it receives a report of criminal sexual assault on University property and also in the case of death on campus.

Additionally, in certain other instances, CIU may need to report an incident to law enforcement authorities. Such circumstances may include incidents that warrant the undertaking of additional safety and security measures for the protection of the victim and/or the campus community or other situations in which there is clear and imminent danger and/or when a weapon may be involved. However, it is crucial in these circumstances to consult with supervisory staff and/or Student Life personnel, as reporting may compromise the safety of the victim.

CIU will assist alleged victims of Sexual Harassment throughout the notification process and will continue to provide support when any investigative action is taken by law enforcement. If an alleged victim waives their right to contact local law enforcement, they will be asked to sign a waiver of that right and to also acknowledge the obligation CIU may have to report the incident to local law enforcement.

Personal safety concerns are very important for victims and crisis intervention and victim safety concerns will take precedence. CIU will also not tolerate any form of retaliation toward a victim or a person reporting an incident.

#### **Obligation to Respond:**

CIU is obligated to respond to a Title IX complaint when: 1) there is actual knowledge (a written report, see above) of sexual harassment; and 2) the incident occurred within the scope of CIU's educational programs or activities; and 3) the incident occurred in the United States.

#### **Support Persons:**

Both the Complainant and the Respondent may have one support person present to support and assist them throughout the investigation process (including, but not limited to, during related meetings, investigative interviews, and similar proceedings; for purposes of this section, "meetings"). The Complainant and the Respondent are not limited in their choice of support person; however, a person may not serve both as a support person and as a witness. Support persons may be friends, victim advocates, lawyers, or others. The Complainant and the Respondent may consult with their respective support persons during meetings, provided that such consultation is not disruptive. Absent accommodation for disability, the Complainant and the Respondent may not be accompanied by more than one support person or by other individuals during meetings.

There are special requirements for an advisor/advocate to be present at the live hearing conducted as part of the Title IX process. These requirements will be discussed later in the policy (see **Live Hearings**). An advisor will be provided for the complainant or the respondent if either party does not, or is not able to, provide one of their own.

#### **Complainant's Rights:**

CIU community members who are alleged to be victims of Sexual Harassment have the right to the following:

- Treatment with dignity and respect, without biased attitudes or judgments;
- Not having irrelevant past conduct discussed during any resulting proceedings;

- Changes in academic, professional and/or living situations, if possible and necessary;
- The right to name fact and expert witnesses and present material evidence to the Title IX Investigator that would assist in the investigation, though s/he may not present character witnesses;
- To discuss the allegations and gather and present relevant evidence on his/her own;
- The right to obtain assistance from an advocate of their choice to aid in the preparation of a statement to be given to the Title IX investigator and to be present (in a non-speaking support role) during any meeting associated with the University's investigation (special procedures apply, see § **Live Hearings**);
- Knowledge of the nature and source of the evidence used in the hearing process;
- Access to services from the counseling, health center or other campus service groups;
- Voluntary residence hall relocation, when available and if applicable;
- Consultation with a campus official on academic support services and referrals to community resources when appropriate and if applicable;
- Contact with local law enforcement to pursue a potential criminal investigation, if desired at any point.
- To simultaneously pursue a criminal charge with law enforcement, file a civil lawsuit in court, and file a charge with the Office for Civil Rights within the U.S. Department of Education, under Title IX. Employees also simultaneously can file a charge with the Equal Employment Opportunity Commission or the South Carolina Human Affairs Commission, under Title VII of the 1964 Civil Rights Act;
- ***The rights set forth here apply primarily to Complainants who are students and employees of the University. As previously mentioned, while the University will address allegations involving third parties, the rights of and the University's obligations to and jurisdiction over third parties are likely to differ from the rights of and the University's obligations to and jurisdiction over students and employees of the University, and allegations involving third parties will be handled as deemed appropriate by the University's Title IX Coordinator in his or her discretion.***

#### **Respondent's Rights:**

CIU community members accused of Sexual Harassment have the right to the following:

- Treatment with dignity and respect, without biased attitudes or judgments;
- To be presumed "not responsible" throughout the investigative process until a final decision is rendered;
- Not having irrelevant past conduct discussed during any resulting proceedings;
- Changes in academic, professional and/or living situations, if possible and/or necessary;
- Written notice of the allegations constituting a potential violation of this Policy (including sufficient details and with sufficient time to prepare a response before any initial interview) once the University decides to open an investigation. (Sufficient details include the identities of the parties involved, the specific aspect of the Policy allegedly violated, the precise conduct allegedly constituting the potential violation, and the date and location of the alleged incident.);
- Knowledge of the nature and source of the evidence used in the hearing process;
- The right to name fact and expert witnesses and present material evidence to the Title IX Investigator that would assist in the investigation, though s/he may not present character witnesses;
- To discuss the allegations and gather and present relevant evidence on his/her own;
- The right to obtain assistance from an advocate of their choice to aid in the preparation of a statement to be given to the Title IX investigator and to be present (in a non-speaking support role) during any meeting associated with the University's investigation (special procedures apply, see § **Live Hearings**);
- Access to services from the counseling, health center or other campus service groups;
- Voluntary residence hall relocation, when available and if applicable;
- Consultation with a campus official on academic support services and referrals to community resources when appropriate and if applicable.
- ***The rights set forth here apply primarily to Respondents who are students and employees of the University. As previously mentioned, while the University will address allegations involving third parties, the rights of and the University's obligations to and jurisdiction over third parties are likely to differ from the rights of and the University's obligations to and jurisdiction over students and employees of the University, and allegations involving third parties will be handled as deemed appropriate by the University's Title IX Coordinator in his or her discretion.***

### **Emergency Removal from Campus:**

The Title IX Coordinator, in consultation with appropriate administrative leadership, may remove a Respondent from an educational program or activity of CIU on an emergency basis prior to the beginning of the Grievance Process. The removal may be imposed in an instance where the alleged action of the Respondent may pose a physical threat to a member of the CIU community or to the Respondent himself/herself. The Respondent must undergo an individualized safety and risk analysis. The removal will be promptly imposed where needed to protect any member of the CIU community, including anyone connected with the matter (Complainant or witness). Following the removal, the opportunity for a hearing will be provided as expeditiously as possible. The Respondent will be provided notice of the removal decision and will be provided an opportunity to challenge the decision immediately following the removal.

### **Investigative/Grievance Process:**

CIU's Title IX Coordinator, Deputy Coordinators and/or designee will ensure that all reports of alleged Sexual Harassment are immediately investigated in a thorough and appropriate manner. Individuals must act in good faith at all times and preserve all evidence that could be relevant to the allegations or defenses raised by the parties. More specifically, individuals must not alter, delete, dispose of, or destroy any potentially relevant evidence, including but not limited to documents, photographs, audio and video recordings, and physical and electronic evidence of every kind. Failure to preserve potentially relevant evidence may result in an adverse credibility determination or other sanctions against the party responsible, depending on the specific circumstances. The process will proceed as follows:

- 1) The Title IX Coordinator receives a formal complaint in writing (hard copy or electronic).
- 2) If there are multiple complaints, CIU may consolidate the formal complaints as to allegations of sexual harassment against one or more Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.
- 3) Upon formal complaint written notice will be provided to known parties, including:
  - a. Notice of the grievance process, including any informal resolution process
  - b. Notice of allegations, including sufficient details known at the time and with sufficient time to prepare a response before an initial interview: identities of the parties involved (if known), conduct allegedly constituting sexual harassment, date and location of the alleged incident (if known).
  - c. Notice that the Respondent is presumed "not responsible" and that determination of responsibility will be made at the conclusion of the grievance process.
  - d. Right to an advisor of choice who may be, but is not required to be, an attorney.
  - e. Right to review and inspect directly related evidence
  - f. Notice that it is prohibited to knowingly make false statements or knowingly submit false information during the grievance process. CIU will impose sanctions for any such behavior.
  - g. Notice will also be sent to all parties expected to participate informing them of the: date, time, location, participants, and purpose of all investigative interviews, hearings, or other meetings with a party, with sufficient time for the party to prepare to participate as requested.
- 4) If the Title IX Coordinator concludes that the reported conduct could constitute a violation of this Policy, the Title IX Coordinator assigns a Title IX Investigator.
- 5) Per South Carolina law, if there is a report of a criminal sexual assault that occurred on University property, the Title IX Coordinator will communicate with the Chief of Security and the Chief of Security will report to SLED.
- 6) The Title IX Investigator contacts the Complainant to discuss proceeding with investigation. The Title IX Investigator also informs the Complainant of the right to make an independent report to law enforcement.
- 7) If the Complainant requests confidentiality or that no investigation take place, the Complainant will be informed that a full investigation and resolution will not be possible. CIU will take any and all necessary steps, however, to protect the safety of the CIU community. The Complainant also will be advised of CIU's obligation under South Carolina law to notify SLED when it receives a report of criminal sexual assault on CIU property.
- 8) If the Title IX Coordinator or his designee deems it appropriate, the Title IX Coordinator will communicate with the Complainant and Respondent to see if mediation is possible. If mediation is not possible, not appropriate, or ineffective, the Title IX Investigator will interview the Complainant, the Respondent, and witnesses (or others with relevant information). (See § **Alternate Resolution Process**)
- 9) The Title IX Investigator will gather any "directly related evidence." (See § **Directly Related Evidence**)
- 10) All parties (complainant, respondent, and witnesses) are required to submit any evidence for consideration to the Title IX Investigator prior to when the period for inspection and review begins (see step 11 below).
- 11) The Title IX Investigator will begin preparing an investigation report containing details from interviews and evidence gathered.

- 12) Prior to the completion of the report, both the Complainant and the Respondent will have equal opportunity to inspect and review any evidence obtained that is directly related to the allegations.
- 13) Both parties will have ten (10) days to submit a written response to the Title IX Coordinator and the investigator.
- 14) The Title IX Investigator must consider the written responses from the Complainant and/or Respondent before completing the investigation report keeping records of any information redacted from the initial report and the rationale for doing so. It is at the investigator's discretion whether a copy of each party's written response is provided to the other party.
- 15) Once the investigation report is received from the Title IX Investigator, the Title IX Coordinator will convene a live hearing composed of three CIU faculty and/or staff members who have received training on their role and responsibility in deciding whether a violation of this Policy has occurred. (See § **Live Hearing**)
- 16) The Respondent may, at any time prior to hearing, accept responsibility for any or all allegations stated in the formal complaint and receive administratively imposed disciplinary sanctions without a formal hearing. The Respondent and the Complainant will be informed of the sanctions. The presumption of "not responsible" shall be maintained as long as the Respondent does not accept responsibility.
- 17) The Hearing Board will review and discuss the investigation report and any written statements received from the Complainant and Respondent. Neither the Title IX Coordinator nor the Title IX Investigator will be present during the Hearing Board's deliberations.
- 18) The Hearing Board will make a determination regarding whether clear and convincing evidence establishes that this Policy has been violated and report this and any other findings to the Title IX Coordinator. The Title IX Coordinator will inform the Complainant and the Respondent of the Hearing Board's determination. The Complainant and Respondent will be notified, in writing, within seven (7) business days of the decision. (See § **Final Outcome Letter**)
- 19) If the Hearing Board determines that clear and convincing evidence does not establish a violation of this Policy, the Title IX Coordinator will inform the Complainant and Respondent of the Complainant's right to appeal the Hearing Board's decision in writing within five (5) business days.
- 20) If the Hearing Board determines that a violation of this Policy has occurred, the Title IX Coordinator will inform the Complainant and Respondent of the Respondent's right to appeal the Hearing Board's decision in writing within five (5) business days.
- 21) If either party indicates in writing a desire to appeal, the Title IX Coordinator will convene an Appeal Board composed of three CIU faculty and/or staff members trained in their responsibility to review the Hearing Board's action.
- 22) On appeal, the Title IX Coordinator may request additional investigation to clarify any issues raised by the Hearing Board. Such investigation will be assigned to the Title IX Investigator or another qualified person at the discretion of the Title IX Coordinator, in which case the Title IX Investigator or other qualified person will prepare a follow-up report containing details of any interviews or materials received.
- 23) The Title IX Coordinator will provide the Complainant and the Respondent with any Follow-Up Report and inform them of their right to each provide an additional written statement to the Appeal Board.
- 24) The Appeal Board will review and discuss the investigation report, any follow-up report and any written statements received from the Complainant and/or Respondent. Neither the Title IX Coordinator nor the Title IX Investigator will be present during the Appeal Board's deliberations.
- 25) The Appeal Board will make a determination regarding whether clear and convincing evidence establishes that this Policy has been violated and report this and any other findings to the Title IX Coordinator. The Title IX Coordinator will inform the Complainant and the Respondent of the Appeal Board's determination.
- 26) If the Appeal Board reverses the decision of the Hearing Board and determines that there is not sufficient evidence of a violation of this Policy, the case will be closed, though CIU reserves the right to take actions necessary for the well-being of the parties and/or to address violations of CIU standards of behavior. No further appeal will be accepted.
- 27) If the Appeal Board upholds the decision of the Hearing Board and determines that a violation of this Policy has occurred, the Title IX Coordinator will inform the Complainant and the Respondent of the Appeal Board's determination. No further appeal will be accepted.
- 28) The Title IX Coordinator will consult with the original Hearing Board and determine appropriate institutional sanctions for the Respondent. No appeal of sanctions will be accepted.

#### **Possible Sanctions and Remedies:**

Potential **sanctions** might include but are not limited to:

- Verbal warning
- Written warning
- Disciplinary hold on academic and/or financial records
- Performance improvement plan

- Required counseling or coaching
- Required training or education
- Restrictions on campus access
- No trespass order
- No-contact directive
- Loss of privileges
- Loss of title and/or honors
- Loss of oversight, teaching, or supervisory responsibility
- Probation
- Demotion
- Decrease in pay
- Revocation of offer (employment or admissions)
- Disciplinary suspension
- Suspension without pay
- Expulsion/dismissal
- Revocation of tenure
- Termination of employment.

Potential **remedies** to a victim might include but are not limited to:

- Free counseling
- Course-related adjustments
- Modifications of work or class schedules
- Campus escort service
- Mutual restrictions on contact between the parties
- Changes in work or housing locations
- Leave of absence
- Increased campus security
- Honoring an order of protection or no contact
- Other changes to academic, living, dining, transportation, and work situations.

**Clear and Convincing Standard:**

The Clear and Convincing Standard used in this policy means that the evidence presented in support of the alleged Title IX violation is substantially more likely to be true than untrue, substantially greater than a likelihood of fifty percent (50%).

**Directly Related Evidence:**

Directly Related Evidence refers to any evidence gathered that has direct relevance to the allegations presented. CIU will use the plain and ordinary meaning of these terms to establish relevance. The evidence may consist of documents (text messages, emails, social media posts, photos, videos, etc.), other items (police reports, security footage, wifi access point records, etc.), or party and witness interviews. If interviews are recorded a transcript will be made available with any unrelated statements redacted from the transcript. If no recording is made, a summary of directly related evidence will be made available for both party's review.

Evidence gathered may include inculpatory or exculpatory evidence from either party or witnesses. The investigator may choose to exclude evidence that is not directly related to the allegation, or to exclude evidence that is directly related but where questions of credibility and reliability cause the investigator to not include it in the report. A record will be kept of any evidence omitted or redacted from the report along with the criteria for doing so.

Certain information is protected and may only be considered as evidence under special circumstances:

- A person's prior sexual history may only be considered if it is directly related to the allegations presented.
- Privileged information may only be considered with a waiver of privilege.
- A person's treatment records (mental health, medical records) may only be considered with written consent.

Both the Complainant and the respondent will have 10 days to review all of the directly related evidence collected by the investigator as well as notes regarding excluded evidence. The investigator will take any written responses provided into account when creating the final investigation report.

### Live Hearing:

Unless both parties give written consent to an **alternate resolution process** (see § below), the grievance process will move to a live hearing. The Title IX Coordinator will have appointed three CIU faculty or staff to serve as decision-makers during the live hearing process. Provisions during the live hearing include:

- The live hearing may also be conducted via an electronic meeting format (such as Zoom or MS Teams) at either party's request. Video is required.
- Each party will be permitted to have an advisor with them throughout the hearing. The advisor may be anyone not directly vested in the matters at hand. The advisor may be, but is not required to be, an attorney.
- If one party is unable to find an advisor, CIU will provide one at no cost to the party.
- Either party is permitted to bring an additional person in to the hearing if that person is necessary per disability accommodations or for interpreting a foreign language. A written statement of this need is required in advance.
- The hearing may be conducted with all parties physically present in the same location. At the request of either party, CIU will provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or witnesses answering questions. Witnesses may request a separate room, but it is at CIU's discretion to grant such a request. If the witness alleges they are also a victim of the respondent a separate room should be provided.
- During the hearing, each party's advisor will be permitted to ask the other party and all witnesses all relevant questions and follow-up questions. Regarding the questions:
  - Questions challenging credibility are permitted
  - Questions must be conducted directly, orally and in real time
  - Questions must be asked by the advisor and not by the Complainant or Respondent
- During the questioning, one of the decision-makers on the hearing panel will be designated by the Title Coordinator to make relevancy determinations while questioning is proceeding. The Title IX Coordinator may be asked to be present to enforce procedural rules at the hearing but will not make relevancy determinations.
- An audio or audiovisual recording of the hearing, or a transcript of the hearing, will be made available to the parties for their review. Parties do not have the right to keep a copy of the recording or transcript.
- In preparation for the hearing, the decision makers will:
  - Review the formal complaint
  - Review the written notice to all parties from the Title IX Coordinator
  - Review the Investigation Report
  - Have the option to review each party's response to the evidence and Investigation Report
  - Identify the questions that will need to be decided
  - Identify the witnesses who are relevant to the decision and request them be present for cross-examination at the hearing
    - Both parties will have opportunity to call other witnesses beyond those invited by the decision-makers, but all witnesses must have been previously identified during the investigation.
- All parties are requested to submit cross-examination questions to the decision makers in advance.
  - Purpose is to expedite the hearing and allow decision makers to review questions and screen for relevance
  - Questions may be asked at the hearing that were not submitted in advance. There is no consequence for not submitting questions (all or part) in advance though it may slow the process of the live hearing as the relevance of new questions must be given attention.
  - Advisors may be permitted to ask questions that were screened as irrelevant, and an explanation will be provided for the exclusion of any such questions.
  - Cross-examination must be respectful, non-abusive, and not intimidating
- Party or witness not appearing at the hearing:
  - Should the Complainant or Respondent not appear at the hearing, the advisor may conduct cross-examination on the party's behalf. If a party and their advisor do not appear at the hearing, a postponement to the hearing will be suggested. If not, another provided advisor must still cross-examine.
  - Should one party do something to wrongfully prevent the attendance of a party or witness, this shall be deemed retaliation and the Title IX Coordinator will address and remedy the situation.
  - CIU will not coerce an unwilling participant nor will CIU discipline a person(s) for not attending.
  - If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.



Failure to answer one question constitutes a failure to submit to cross-examination unless the question is not directly relevant to the cross-examination underway (for example, it may be a procedural question asked by a party, or an unrelated question asked by a member of the panel).

- Parties are discouraged from conferring with their advisor during cross-examination as this may be seen as inappropriate coaching by the advisor and may diminish credibility.
- The Title IX Investigator may not be called as a witness
- Brief opening and closing statements by the advisors are permissible

#### **Alternate Resolution Process:**

The Title IX Coordinator may offer to both parties the opportunity for an alternate, informal resolution. If agreeable, both parties must agree in writing to the process. Informal resolution may only be offered after a formal complaint has been filed. Informal resolution is not permissible in situations where the complaint is against a CIU employee.

There are two options for an informal resolution:

- 1) Restorative justice model: in this option the Respondent must admit to some measure of responsibility and wrongdoing in order to proceed. If the Respondent admits responsibility this does not constitute a decision under Title IX. CIU will then proceed through a decision process regarding sanctions based on the student handbook. A written statement of the sanctions will be distributed to both parties at the close of the process.
- 2) Mediation model: in this option the Complainant and the Respondent will work with the Title IX Coordinator and any designee to agree on a means of appropriate resolution.

Regarding the informal resolution process:

- Parties may never be required to participate in an informal resolution process
- CIU may never condition enrollment or the right of a student to participate in CIU activities or programs on the waiver of the right to an investigation and adjudication of a formal complaint.
- Those participating in the informal resolution process (besides the Complainant and Respondent) must be free from bias and conflict of interest.
- Any sanctions issued during the informal resolution process must be agreed upon by both parties.
- The resolution can contain written confidentiality requirements to ensure FERPA protections.
- Either party may ask to withdraw from the informal resolution process at any time prior to agreeing to a resolution. If an agreement has been reached, the matter is concluded. If the withdrawal from the informal resolution process is done in a timely manner, the grievance process will be resumed with respect to the formal complaint.
- Both parties will receive detailed disclosure regarding the informal resolution process before an agreement to pursue this process is reached. This will ensure clear understanding of the consequences of choosing the informal resolution process, including confidentiality requirements at the close of the process.

#### **Final Outcome Letter:**

Within seven (7) business days following the conclusion of the hearing, the Title IX Coordinator or designee will issue a written decision letter (the "Final Outcome Letter") simultaneously to the Respondent and the Complainant.

For employee and third-party Respondents, the Final Outcome Letter will set forth (1) the name of the Respondent; (2) the violation(s) of this Policy for which the Respondent was found responsible or a statement that the Respondent was found not to have violated this Policy; (3) the sanctions imposed on the Respondent, if any; and (4) the rationale for the finding and the sanctions. Where appropriate, the Final Outcome Letter may set forth names of other individuals, such as a Complainant or witness, if such other individuals provide their written consent to such inclusion.

For student Respondents, the Final Outcome Letter will set forth (1) the name of the Respondent; (2) the violation(s) of this Policy for which the Respondent was found responsible or a statement that the Respondent was found not to have violated this Policy; (3) the rationale for the finding; and (4) the sanctions imposed on the Respondent, if any (setting forth only a description of the disciplinary action taken, the date of its imposition, its duration, and the rationale for such action) and, where appropriate, it may set forth the names of other individuals, such as a victim or witness, if such other individuals provide their written consent to such inclusion. For student Respondents alleged to have committed a violation or violations other than Intimate Partner Violence, Non-consensual Sexual Contact or Non-consensual Sexual Penetration, the University will redact, when appropriate, information about sanctions that do not directly relate to the Complainant, and the Respondent will not be notified of individual remedies provided or offered to the Complainant.

**Appeals:**

- Appeals will be offered to both parties should either disagree with the decision of the Hearing Board.
- No sanctions will be issued until the appeal process is completed or the time to appeal has expired (5 business days).
- Both parties will be notified in writing when an appeal is filed.
- The Appeal officer is different than the Title IX Coordinator, investigator, or decision-maker at the hearing.
- There may be no bias or conflict of interest.
- Both parties will receive a decision regarding the appeal simultaneously.
- A Respondent who is about to graduate may have the degree withheld pending the outcome of an appeal. A degree may be rescinded should an appeal decision and subsequent sanctions justify the action.
- Additional bases for appeal include:
  - Procedural irregularity that affected the outcome of the matter;
  - Presentation of new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal of the complaint was made, that affected the outcome of the matter;
  - The Title IX Coordinator, Investigator, or a decision-maker had a conflict of interest or bias for or against a Complainant or Respondent that affected the outcome of the matter.

**Title IX and the Violence Against Women's Act (VAWA):**

- The Violence Against Women's Act of 2013 addresses sexual violence, domestic violence, dating violence, and stalking.
- CIU will provide information and programs to prevent dating violence, domestic violence, sexual assault, and stalking.
- CIU employees involved in VAWA compliance will receive annual training.
- The Grievance Process for VAWA violations will follow the same process as disclosed in this policy for Title IX.
- Violations of VAWA exceed those parameters defined for Title IX, accordingly, VAWA violations include those occurring outside the scope of CIU's educational programs and activities, as well as any violations that occur outside of the United States.

**Additional Requirements:**

- The Title IX Coordinator and decision-maker must be different individuals.
- The Investigator and decision-maker must be different individuals.
- The Title IX Coordinator, or a Deputy Coordinator, may act as the investigator.
- The burden of proof and the gathering of evidence is on CIU, not on the parties involved.
- The Title IX Coordinator may dismiss a complaint if the Respondent is no longer enrolled at CIU, or if an employee is no longer employed by CIU. The complaint may also be dismissed if the Respondent was not enrolled in CIU at the time of the alleged incident, or if the employee was not employed by CIU at the time of the alleged incident. If the Respondent was an applicant or was accepted to CIU, but not enrolled at CIU, the Title IX Coordinator will make a determination whether to pursue the Grievance Process.

**Hyperlinks**

[www.ciu.edu/policy](http://www.ciu.edu/policy)