



TITLE IX GRIEVANCE PROCEDURES

◆ GENERAL OVERVIEW

These grievance procedures outline how the University will investigate, adjudicate, and resolve cases arising under the University's jurisdiction according to its Sex Non-Discrimination and Sexual Misconduct Policy ("Policy"). Please refer to the Policy for key terms and definitions, provisions, and processes that are further informed by these related procedures.

Under these grievance procedures, the parties will be provided the following procedural protections and considerations:

- To be given written notice of the allegations and any charges of alleged violations of this Policy, including the possible sanction(s) if Respondent is found responsible for the alleged Policy violation(s);
- To be provided evidence directly related to the allegations raised in the Formal Complaint to the extent permitted by law;
- To be granted temporary delay of a hearing or conference due to extenuating circumstances, including absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or disability accommodation;
- To challenge the objectivity of the Special Matter Hearing Board's chairperson or a Hearing Board member upon the belief that a bias or conflict of interest may exist;
- To admit responsibility for any or all charges of alleged violations of this Policy;
- To decline to make statements;
- To present their version of the events in question;
- To have witnesses present factual information on their behalf (character witnesses are permitted; however, purely character witnesses evidence may be given a low level or weight of consideration by the Hearing Board);
- To be advised by and/or receive assistance in preparing their case from an Advisor prior to any hearing or conference;
- To be accompanied by a Supporter;
- To have a live recorded hearing with cross examination and witness examination to be conducted by an Advisor as permitted by the Policy, this procedural guidance, and University's rules of decorum for Formal Resolution Hearings and Informal Resolution Conferences; and
- To appeal the decision rendered following a hearing within the limits of the time and conditions specified in the Policy and this procedural guidance.



◆ **INTAKE PROCEDURES**

Reports

Upon receipt of a Report, the Title IX Coordinator will promptly contact the alleged victim or survivor of the described misconduct to discuss the availability of supportive measures (as defined in the Policy); consider the individual's wishes with respect to supportive measures; inform the individual of the availability of supportive measures with or without the filing of a Formal Complaint; and explain the process for filing a Formal Complaint.

Formal Complaints

The intake of a Formal Complaint can be completed in one of the following two ways:

1. **Filing of a Formal Complaint by a Complainant** - A reporting individual (a Reporter) may file a document (written or via electronic submission) with the Title IX Coordinator or other designated University official with authority to institute corrective measures, describing an incident of Sex Discrimination or Sexual Misconduct and indicating that they want the University to investigate the alleged issue. The Formal Complaint must be signed by the Complainant either physically or digitally, or otherwise indicate that the Complainant is the person filing the Formal Complaint.

If a Complainant wishes to file a Formal Complaint, the Title IX Coordinator will assist in preparing the Formal Complaint. Therefore, a Formal Complaint can also be deemed to be filed by meeting with the Title IX Coordinator and providing a verbal description of the incident, the details of which the Title IX Coordinator will use to draft a written document that the Complainant will review, verify and sign to constitute their written Formal Complaint.

2. **Signing of a Document by the Title IX Coordinator** – Upon receipt of actual knowledge of Sex Discrimination or Sexual Misconduct, the Title IX Coordinator may sign a Formal Complaint indicating that the University must investigate in order to meet its Title IX obligations to provide a safe and nondiscriminatory environment for the broader CAU community. In this case, although the Formal Complaint must be signed by the Title IX Coordinator, the Title IX Coordinator is not a Complainant or otherwise a party to any proceeding under this Policy.

Formal Complaints filed with the Title IX Coordinator must be in writing, signed by the Complainant and provide the following information:

- name and contact information for the Complainant(s);
- nature, location, and date of the alleged Policy violation;
- name(s) and contact information for the Person(s) responsible for the alleged violation (where known) (“Respondent(s)”);
- names and contact information for any witnesses; and
- any other background or supplemental information that the Complainant believes to be relevant (e.g., names of other persons affected by the violation, etc.).



◆ **INITIAL POST-INTAKE ACTIONS**

General

If a Formal Complaint is filed, the Title IX Coordinator or a designee will take the following post-intake actions:

- Provide the Complainant and Respondent (the “Parties”) with a general explanation of the University’s procedures for handling Formal Complaints of incidents of Sex Discrimination and Sexual Misconduct, the University’s prohibition against retaliation, the investigative process, and the grievance procedures;
- Discuss and provide written information (i.e., telephone numbers and website addresses) regarding forms of support available, including Advisors and on- and off-campus resources;
- Discuss and/or provide written information regarding immediate interventions and supportive measures;
- Discuss and/or provide written information regarding options and available assistance in changing any accommodations that may be appropriate and reasonably available concerning the individuals’ academic, living, transportation and working situations;
- Where applicable, provide information about their rights and the University’s responsibilities regarding criminal and civil court proceedings, including protective orders, restraining orders, no-contact orders or similar lawful orders issued by a criminal or civil court;
- Determine if the Complainant wishes to notify law enforcement authorities, wishes to be assisted in notifying law enforcement authorities, or does not wish to notify law enforcement authorities;
- Provide the parties with a copy of the Notice of Allegations (described below); and
- Discuss and/or provide a list of the range of possible sanctions and remedies that may be implemented following any determination of responsibility.

Notice of Allegations

1. **Components of the Notice:** The Notice of Allegations will include:

- Notice that the University’s grievance process;
- Notice of the allegations, including but not limited to, if known, the identity of the parties involved, the conduct that constitutes a Policy violation, and the date and location of the alleged event;
- A statement that the Respondent is presumed “not responsible” pending a determination regarding responsibility at the conclusion of the grievance process;
- Notice that the parties may inspect and review evidence presented;
- Notice of the right to an Advisor, who may be an attorney if the individual elects not to use a University-provided Advisor;
- Notice of the University’s Code of Student Conduct policy which prohibits knowingly making false statements or knowingly providing false information during the grievance process; and
- Each party’s responsibility to submit a written response within three (3) days, prior to any interview taking place.



The Notice of Allegations will be supplemented if additional Policy violation allegations are discovered during the investigation process.

2. **Responses to the Notice of Allegations:** The Complainant's and Respondent's responses to the Notice of Allegations should be in writing and may admit or deny the allegations and include any facts, evidence or witnesses that can disprove or provide context relevant to the allegations.

Alternatively, a Respondent can also be deemed to provide a written response by meeting with the Title IX Coordinator and providing a verbal description of the items listed above, which the Title IX Coordinator will use to draft a written document that the Respondent will review, verify and sign to constitute their written response.

If no response has been received by the Title IX Coordinator from the Respondent within the allotted time, the Title IX Coordinator will send a Notice of Nonresponse to the Respondent. If no response has been received by the Title IX Coordinator from the Respondent within three (3) business days after issuance of the Notice of Nonresponse, the Respondent may be deemed to have waived participation in the investigation.

Regardless of the Respondent's nonresponse, he or she will still receive all notices required under the Policy or this procedural guidance. In any event, the Respondent has the right to remain silent during the investigation and resolution process, without an automatic adverse inference resulting. If the Respondent chooses to remain silent, the investigation may ultimately still proceed and Policy violation charges may still result, which may be resolved against the Respondent.

Consolidation of Formal Complaints

The University may consolidate Formal Complaints against more than one Respondent or brought by more than one Complainant, if the alleged Policy violations arise out of the same facts or circumstances.

Dismissal of Formal Complaints Prior to Formal Resolution Hearing

1. **Grounds for Mandatory Dismissal:** If the conduct alleged in the Formal Complaint would not constitute Sexual Misconduct as defined in the Policy even if proved, did not occur in the University's education program or activity, or did not occur against a person in the United States, then the University must dismiss the Formal Complaint.
2. **Grounds for Discretionary Dismissal:** The University may dismiss the Formal Complaint if at any time during the investigation or hearing: (1) a Complainant notifies the Title IX Coordinator in writing that he or she would like to withdraw the Formal Complaint or any allegations therein; (2) the Respondent is no longer enrolled or employed by the University; or (3) specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

Written notice of any dismissal under this section will be provided simultaneously to the parties. Parties will be allowed to appeal any dismissal under this section.



◆ **INVESTIGATING FORMAL PROCEDURES COMPLAINTS**

Assigning of an Investigator

Once a Formal Complaint has been filed, the Title IX Coordinator will assign an Investigator to investigate the Formal Complaint. The Title IX Coordinator will oversee the investigative process solely from an administrative/ procedural standpoint – that is, to ensure process is followed, that the investigation is sufficiently thorough, and that the investigation is not biased.

Commencement of the Investigation Process

1. As soon as possible, the Investigator will schedule separate initial meetings with the Complainant and Respondent.
2. Following the initial meeting with the Complainant and Respondent, the investigation will occur. The investigation may include, as applicable, interviewing any witnesses; reviewing law enforcement investigation documents; reviewing student and employee/staff/faculty personnel files; and gathering and examining other relevant documents and evidence. Note that the Investigator will not access, disclose, consider or otherwise use a party's medical records prepared or maintained in connection with treatment unless voluntary written consent is obtained from the requisite party.
3. Upon the completion of the investigation, the Investigator will prepare an investigative report. Prior to the completion of the investigative report, the Investigator will send to each party and the party's advisor, the evidence, if any, subject to review and inspection, in electronic or hard copy format. The parties have ten (10) days upon receipt of such evidence to provide a written response directly to the Investigator. After consideration of the response, the Investigator will determine whether additional investigation is needed and act accordingly or finalize the investigation report.
4. Upon completion of the investigation report, the Investigator will issue an investigation report to the Title IX Coordinator succinctly describing all collected information. It is not the Investigator's job to "filter" the evidence, such as by deciding relevance or credibility, unless the evidence is clearly irrelevant or not pertinent to the facts at issue, such as impermissible sexual history evidence. The Investigator does not make any recommendations as to whether a Policy violation has occurred or potential sanctions.
5. The investigation report will be delivered to the parties, as a part of the Formal Resolution Hearing packet, which includes the investigation report, any evidence subject to review and inspection under the Policy, and other information pertinent to the Formal Resolution Hearing, at least ten (10) days prior to any Formal Resolution Hearing. Once received, the parties shall have three (3) business days to respond or object to the report in writing. Depending on how the Formal Complaint proceeds, the investigation report(s) and the parties' responses may be presented at a Formal Resolution Hearing and/or may be presented at an Informal Resolution Conference.
6. The University will attempt to fully resolve most cases of alleged Sex Discrimination and Sexual Misconduct within a reasonable timeframe, i.e. within 120 days, excluding any appeal(s). The amount of time needed to investigate a Formal Complaint will depend in part on the nature of the allegation(s) and the evidence to be investigated (e.g., the number and/or availability of witnesses involved).
7. The Title IX Coordinator will keep the parties reasonably informed of the status of the investigation, keeping in mind confidentiality considerations for each party. If it is determined



that more time is needed for the investigation, the Title IX Coordinator will communicate the additional estimated amount of time needed to complete the investigation.

Any reoccurrences of conduct at issue in the Formal Complaint or any other related concerns discovered during the investigations should be reported to the Title IX Coordinator.

Selection and Use of Advisors and Supporters

1. **Advisors** - Both Complainants and Respondents may choose an Advisor, provided free of cost by the University, to accompany them to any hearing, meeting, conference, or related disciplinary proceeding, at which they are required to attend, as described in the Policy. Parties may choose an alternate Advisor at their own expense if they do not wish to use one of the Advisors provided by the University. Each party must have an Advisor present at the Formal Resolution Hearing. Advisors for both Complainants and Respondents may be present during meetings, conferences and related disciplinary proceedings, at which their assigned party is required to attend and they may provide the parties with consultation, assistance and support. However, Advisors are not permitted to directly participate in the University's investigation process, meetings, conferences, or Informal Resolution Conferences by, for example, making opening or closing statements, subpoenaing witnesses or information, presenting evidence, making procedural objections, questioning witnesses, or otherwise actively participating. Additionally, Advisors' direct participation in the Formal Resolution Hearing will be limited to cross examining the Complainant or Respondent and questioning witnesses via the questioning method permitted by the Policy, this procedural guidance, and the University's rules of decorum for Formal Resolution Hearings or Informal Resolution Conferences.
2. **Supporters** - Both Complainants and Respondents may also choose a designated Supporter. The role of the Supporter is primarily to provide emotional support during the process by accompanying the Complainant or Respondent to any hearing, conference or related disciplinary proceeding described in this Policy. The Complainant and the Respondent may choose any person, regardless of their association with the University, to perform the role of Supporter and to support them through a portion of or the entire process outlined in this Policy. Neither party is required to have and be accompanied by a Supporter; however, the University encourages the presence of a Supporter at all stages of the proceedings, including the reporting, filing a Formal Complaint and investigation stages, in order to provide the Complainant and Respondent with emotional and personal support. The Supporter may be present during any stage of these processes but will not be allowed to make opening or closing statements, present evidence, make procedural objections, question witnesses, or otherwise actively participate during Formal Resolution Hearings and Informal Resolution Conferences.
3. **Limitation on Number of Participants in the Grievance Process** – CAU may limit the quantity of people in attendance at hearings, conferences and related disciplinary proceedings but will not interfere with parties' choices of specific attendees. A fact witness can serve as a Supporter and will not be prohibited from testifying as a witness, but they will be subject to witness sequestration rule and subject to exclusion from most parts of the Formal Resolution Hearing. There is no restriction on former Supporters testifying as fact witnesses.



◆ **INFORMAL RESOLUTION CONFERENCE**

Criteria to Initiate an Informal Resolution Conference

For Formal Complaints that do not involve allegations of prohibited conduct that could not result in expulsion or that do not involve allegations that an employee sexually harassed a student, upon written consent of both parties, and as an alternative to the Formal Resolution Process, the parties may opt to pursue an Informal Resolution Conference. The Informal Resolution Conference will be facilitated by a University official or other designee trained to facilitate such conferences.

Both parties must consent in writing to an Informal Resolution Conference, if one of the above criteria is met. Participation in an Informal Resolution Conference is voluntary, and either party can request to end the conference at any time and return the investigation or proceeding to its pre-conference status.

Selection of a Facilitator

With consent of both the Complainant and the Respondent, the Title IX Coordinator handling the case will designate an individual to act as the facilitator. The facilitator is not an advocate for either the Complainant or the Respondent. The role of the facilitator is to aid in the resolution of problems in a non-adversarial manner. The facilitator will not be allowed to be called as a witness in any subsequent Formal Resolution Hearing should the Information Resolution Conference end prior to resolution.

Informal Resolution Conference Procedures

1. **General Provisions** – For Formal Complaints that meet the criteria for resolution through an Informal Resolution Conference:

- The parties will receive simultaneous written notice of the decision to initiate an Informal Resolution Conference. The written notice will include: (1) the allegations; (2) the requirements of the informal resolution conference, including its finality upon reaching a final agreement; and (3) any consequences resulting from participation in the informal resolution
- The parties will have equal opportunity to respond to the evidence presented and to call appropriate and relevant factual witnesses.
- The parties may be accompanied by an Advisor and/or a Supporter, subject to the restrictions contained in the section of the Policy and this procedural guidance governing the selection and use of Advisors and Supporters.
- The University will not compel face-to-face confrontation between the parties or participation in any particular form of informal resolution.

2. **Concluding the Conference** – The Informal Resolution Conference ends when a resolution has been reached or when the Complainant or the Respondent has decided to end the process.

3. **Finality of Conference Outcomes** – Agreements reached in an Informal Resolution Conference are final and not subject to appeal.



◆ **FORMAL RESOLUTION HEARING PROCEDURES**

□ **General Provisions**

1. A Formal Resolution Hearing is the University's formal grievance proceeding through which the Special Matters Hearing Board evaluates evidence related to a Formal Complaint against a Respondent to determine whether the Respondent is responsible or not responsible for a violation of this Policy, based on the criteria of "a preponderance of evidence". If the Respondent is found in violation of this Policy, the Respondent may be subjected to disciplinary action. All Respondents are presumed not to be responsible for a Policy violation prior to the conclusion of a Formal Resolution Hearing.
2. At least ten (10) business days prior to a hearing, both parties, their Advisors, and the Special Matter Hearing Board will be provided access to a hearing packet containing the Notice of Allegations, Formal Complaint, investigation report, parties' responses to any written notice or report, witness statements, correspondence to parties, and any other related material pertinent to the hearing. The packet must not be copied and must be returned at the end of the proceeding because it typically will contain other parties' confidential and FERPA-protected information. Additionally, receipt of the hearing packet is conditioned on each recipient's agreement not to re-disclose or use other people's confidential information, learned as a result of the investigation or proceeding, outside of such forums without express consent or for any improper purpose. The Hearing Packet will be made available for use at the Formal Resolution Hearing. Each party will have three (3) business days to respond to the investigation report.
3. Under no circumstances does the University's Formal Resolution process allow for, require, rely upon, questions or evidence that constitute, or seek disclosure of, information that is protected under a recognized legal privilege, unless the person holding such privilege waives such privilege in writing.
4. All hearings under this section will be live (may be virtual), recorded, and closed to the public. The attendance of any person, other than those specifically outlined in the Policy and this procedural guidance, to the hearing will be at the discretion of the Special Matter Hearing Board's chairperson; however, the Complainant and the Respondent will have the same opportunities to have others present. CAU may limit the number of people in attendance at hearings, conferences and related disciplinary proceedings but will not interfere with parties' choices of specific attendees.
5. When requested, the Board's chairperson will make arrangements so that the Complainant and the Respondent do not have to be present in the same room at the same time, but each party shall have the right to hear and see all witnesses' testimony and to conduct live cross examination via electronic means, such as videoconference, ZOOM or Skype.
6. At the Formal Resolution Hearing, Advisors for each party shall have the opportunity to cross examine the other party and question witnesses as permitted by the Policy, this procedural guidance, and University's rules of decorum for Formal Resolution Hearings.
7. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless the questions and/or evidence is offered to prove that: (1) someone other than the Respondent committed the alleged Policy violation or (2) the questions or evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and offered to prove consent.



8. A Complainant nor a Respondent is required to participate in the Formal Resolution Hearing. Parties will not be required to be present for the entire Formal Resolution Hearing. That said, the hearing is the opportunity for the Complainant and the Respondent to provide their facts and evidence to the Special Matter Hearing Board. If a party or witness does not submit to cross-examination at the Formal Resolution Hearing, the Hearing Board cannot rely on any statement of that party in reaching a determination of responsibility. However, that the Hearing Board cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the Formal Resolution Hearing or refusal to answer cross-examination or other questions.
9. At the hearing, it is each party's responsibility to call their own witnesses. The parties must give at least three (3) days' notice prior to the Formal Resolution Hearing of who their attendees and witnesses will be and the witnesses' expected sequence, so the other party can be prepared. The parties will not be strictly bound to their lists, but they should be submitted in good faith. Further, every witness offering testimony shall be required to stay at the hearing until all parties have an opportunity to ask them questions.
10. When necessary for the pursuit of truth, the Special Matter Hearing Board shall have discretion to ask the Title IX Coordinator to request additional witnesses after receipt of the parties' witness lists.
11. The Title IX Coordinator will be present at all Formal Resolution Hearings.
12. Legal rules of evidence or criminal or civil procedure will not apply.
13. Decisions made in a Formal Resolution Hearing may be appealed as described in the Appeal Section of this procedural guidance and corresponding Policy.

Formal Resolution Procedures and Determinations of Responsibility

1. At the Formal Resolution Hearing, the Investigator may give a statement containing a summary of their factual findings, and each party will have the option to provide an introduction and an opening statement, summarizing their position.
2. Each party will be permitted to call their own witnesses. Witnesses will be asked to affirm adherence to the Honor Code. Prospective witnesses, other than the Complainant and the Respondent, may be excluded from the hearing during the statements of the Investigator and other witnesses.
3. The Special Matter Hearing Board and the parties through their Advisors will have an opportunity to question witnesses who appear at the hearing. Questions by the Advisors should be directed to the Board Chair, who will then make a determination as to the relevancy of the question. If the Board Chair determines that the question is relevant, then the Board Chair will direct the party or witness to answer the question. If the Board Chair determines that the questions is not relevant, he or she must explain the decision to exclude any question as not relevant. The Advisor will not have the opportunity to object to the relevancy determination. If the question is deemed not relevant by the Board Chair, the Advisor must move on to the next question, after the relevancy explanation is given. Typically, the Board will ask its own questions first, then allow the questions of the party whose witness it is, then the questions of the other party. The Board Chair will be responsible for ensuring the questioning is fair and complies with the terms of the Policy, this procedural guidance or any University rules of decorum governing the hearing but will not otherwise substantively limit the scope of the parties' questions unless they seek to elicit irrelevant information, unduly cumulative evidence, or have the effect of impermissibly badgering or harassing the witness.



4. The Board may, in its discretion, grant lesser weight to last-minute information or evidence introduced at the hearing that was not previously presented for investigation by the Investigator.
5. At the conclusion of the hearing, the Investigator may give a closing statement and each party will have an opportunity to provide a closing statement at their option.
6. All parties, the witnesses and the public will be excluded during Board deliberations, which will not be recorded or transcribed.
7. The Title IX Coordinator will be present at the hearing and can assist with procedural matters. However, the Title IX Coordinator will not be present for the deliberations of the Hearing Board in determining responsibility.
8. In all cases, the Hearing Board must consider evidence presented by the Complainant, the Respondent, the Investigator and/or others and determine by a preponderance of the evidence whether a violation of the Policy occurred, i.e., whether it is more likely than not that a Respondent violated the Policy, and impose sanctions, if any.
9. The Hearing Board will notify the Title IX Coordinator of the decision.
10. Decisions made in a Formal Resolution Hearing may be appealed as described in the Appeal Section below.

Notice of Outcome

1. Within three (3) business days following the completion of the hearing, the Title IX Coordinator will simultaneously provide the Complainant and the Respondent a written notice of the outcome of the hearing, the applicable sanctions (if any), and the appeals procedure. This Notice of Outcome will be provided to the Complainant and Respondent by personal delivery or email (with automated return receipt). The Complainant and Respondent will be deemed to have received the Notice of Outcome on the date of delivery.
2. The Notice of Outcome will include the following: (1) Summary of the allegations; (2) A description of the procedural steps taken from the receipt of the Formal Complaint through determination; (3) Findings of fact supporting the determination; (4) Conclusions regarding the application of the Policy to the facts; (5) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any sanctions imposed on the Respondent, and any remedies provided to the Complainant; and (6) Appeal procedures and permissible bases.
3. To ensure that the recommended sanctions are enforced and/or corrective action is taken, in cases where the Respondent is a student, the Notice of Outcome will also be provided to the Associate Dean of Student Services and Campus Life. In cases where the Respondent is an employee, the Notice of Outcome will be sent to the Office of Human Resources and the Respondent's immediate supervisor.



◆ **REMEDIES AND SANCTIONS**

Range of Remedies for Complainants

Where a determination of responsibility has been made, the University may provide remedies to a Complainant that are designed to restore or preserve equal access to the University's education program or activity. Remedies may include the same individualized services described as "supportive measures"; however, remedies need not be non-disciplinary or non-punitive and need not burden the Respondent.

Range of Sanctions for Respondents

1. **Criteria for Determining Sanctions** – When determining sanctions for an individual found in violation of this Policy, the following criteria will be considered, among other factors:
 - The nature, circumstances, and severity of the violation(s);
 - The University's responsibility to ensure the effectiveness of these behavioral standards for the CAU community;
 - The impact of the violation(s) on the Complainant and the community; protection of the University community and the risk that a Respondent may create a hostile and intimidating environment;
 - The requests of the Complainant;
 - The level of cooperation and/or honesty of the Respondent, or lack thereof, during the disciplinary processes;
 - Any official report including, but not limited to, disciplinary records (including any past sexual misconduct or University policy violations), employee records, criminal records if known, or other official information, the relevance of which will be determined by the Hearing Board, may be used in determining the sanction.
 - Whether other judicial measures have been taken to protect the Complainant or discipline the Respondent (e.g., civil protection orders);
 - The housing and course enrollment pattern of the student-Complainant or the work assignment and/or schedule of the non-student Complainant;
 - If determinable and relevant to the underlying Policy violation, the presence of bias on account of race, ethnicity, color, religion, political views, sex, age, sexual orientation, gender identity or expression, national origin, disability, citizenship status, or military/veteran status as a motivation in the Sexual Misconduct.

After taking into account the above considerations, the Hearing Board will determine the sanctions for a Respondent found in violation of the Sexual Misconduct Policy. If a Respondent is found in violation of the Policy but is not sanctioned with expulsion or termination, the Hearing Board may strongly consider requiring sexual assault education or related assessments.

If a student is determined, by a preponderance of the evidence, to have committed non-consensual sexual penetration or rape, the recommended sanction is a one (1) semester



suspension at a minimum, but the Hearing Board is free to consider mitigating factors and lesser sanctions. If a non-student is determined, by a preponderance of the evidence, to have committed non-consensual sexual penetration or rape, the recommended sanction is termination. However, the sanction will be expulsion for a student-Respondent and termination for a non-student Respondent determined to have committed Non-Consensual Sexual Penetration where the Respondent has previously been found in violation of the Sexual Misconduct Policy for Non-Consensual Sexual Penetration, or the Respondent is determined to have used physical force or threat, or deliberately incapacitated the Complainant, to conduct the violation.

2. **Sanctions When the Respondent Is a Student** – One or more of the following sanctions may be imposed upon any student Respondent found to have violated University policies:
- **Warning:** After a hearing, the Board may believe the appropriate lesson has been learned and conclude the matter with a formal letter of warning.
 - **Loss of Privileges:** Denial of specified privileges for a designated period of time.
 - **Continued Sexual Assault Education:** Attending or participating in a required number, determined by the Hearing Board, of educational and/or awareness programs at CAU relating to the Sexual Misconduct, and providing evidence of engaging in the program.
 - **Fines:** Previously established and published fines may be imposed.
 - **Restitution:** Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.
 - **Discretionary Sanctions:** Work assignments, service to the University or community, education, referral to counseling, required behavioral assessment, or other related discretionary assignments.
 - **Residence Hall Suspension:** Separation of the student from the residence halls for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified.
 - **Residence Hall Expulsion:** Permanent separation of the student from the residence halls.
 - **Disciplinary Probation:** A written notification for violation of specified regulations. Probation is designated for a specified period of time and includes the probability of more severe disciplinary sanctions, including suspension or expulsion, if the student is found to violate any institutional regulation(s) during the probationary period. Students can be placed on disciplinary or housing probation.
 - **Level 1 Disciplinary Probation:** A student is not considered in good social standing with the University. Good Standing may be required for participation in certain campus activities. In addition, students not in good social standing may have their conduct reviewed for leadership or employment positions on campus.
 - **Level 2 Disciplinary Probation without Representation:** A student may not represent the institution on or off campus in any capacity. Examples include, but are not limited to: competition in varsity athletics, international programs or activities, or executive board member of a student organization.



- **University Suspension:** Separation of the student from CAU for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified.
 - **University Expulsion:** Permanent separation of the student from CAU.
3. **CAU Faculty/Staff Employees:** Sanctions may include one or a combination of the following disciplinary actions:
- **Verbal Counseling;**
 - **Written Warning;**
 - **Suspension Without Pay;**
 - **Disciplinary Discharge;**
 - **Immediate Termination;**
 - **Other Sanctions:** Other sanctions may be imposed instead of, or in addition to, those specified in the subsections listed above.

◆ **APPEALS**

Timing of and Grounds for Appeal

Within five (5) business days of receipt of the Notice of Outcome, the Complainant, Respondent or both may submit a written appeal to the Title IX Coordinator based **only** on one or more of the following grounds:

1. To determine whether there was a material deviation from the procedural protections provided;
2. To consider new facts or information sufficient to alter the decision that were not known or knowable to the appealing party during the time of the hearing;
3. To determine whether the decision reached was based on a preponderance of evidence;
4. To determine whether bias or conflicts of interest of key individuals were present in the investigation or adjudication of allegations; or
5. To determine whether the sanctions were disproportionate to the findings.

The Title IX Coordinator will notify the parties of the filing of the appeal within two (2) business days of receiving all necessary information for processing the appeal.

Form and Content of Appeal

Appeals must be made in writing, include the name of the appealing party, and bear evidence that it was submitted by the appealing party. The appeal statement must contain a sufficient description supporting the grounds for appeal. If the grounds for appeal is to consider new facts sufficient to alter the decision that



were not known or knowable to the appealing party during the time of the investigation, then the written appeal must include such information. The Title IX Coordinator retains discretion to verify and/or waive minor procedural variations in the timing and content of the appeal submission.

The non-appealing party shall receive a copy of the appeal. The non-appealing party may submit a written statement within three (3) business days of receipt of the copy of the appeal that may seek to affirm the initial decision and/or respond to the appeal statement.

Stay of Recommended Sanction and Imposition of Supportive Measures Pending Appeal

The Title IX Coordinator shall have discretion to impose or withhold any applicable sanctions prior to the appeal deadline and prior to the resolution of any appeal. If a Hearing Board determines a Respondent to be in violation of this Policy and issues sanctions, but the Title IX Coordinator determines sanctions should be withheld pending the appeal, the Title IX Coordinator shall impose accommodations or other supportive or remedial measures consistent with the Hearing Board's determination and that minimize the burden on the Complainant. The Title IX Coordinator may also continue to take supportive measures or remedies to the Complainant as provided in the Policy and this procedural guidance.

Conducting the Appeal

The appeal will be determined by the Appeals Facilitator. The Appeals Facilitator is the individual specifically designated to handle and decide appeals based on the specific category of the Respondent. The Appeals Facilitator will consider all information related to the Formal Resolution Hearing, and any written statements received in relation to the appeal, but no other information.

Appeals Facilitator

If the Respondent is a student, the Chief Student Affairs Officer shall be the Appeals Facilitator. If the Respondent is a member of the Faculty, the University Provost and Vice-President of Academic Affairs shall be the Appeal Facilitator. If the Respondent is a member of the staff, employee, or contract employee, the Appeals Facilitator shall be the Chief People Officer.

Determination of Appeal

The Appeals Facilitator shall determine whether the Hearing Board made an error on the grounds contained in the appeal statement. A written determination describing the result of the appeal and rationale for the result.

Appeals Decision

The decision on appeal may:

1. Affirm a finding of responsibility and the sanction(s);
2. Affirm a finding of responsibility and increase or reduce, but not eliminate, the sanction(s);
3. Affirm a finding of non-responsibility;
4. Reverse a finding of responsibility and the sanction(s);
5. Reverse a finding of non-responsibility and impose sanction(s); or
6. Remand the case to the Title IX Coordinator to coordinate further investigation and determination. In



such cases, the procedural provisions of this Policy will apply.

Following the decision on appeal, the Title IX Coordinator shall have discretion to extend accommodations and/or supportive measures consistent with providing support to either or both parties. Such measures shall be consistent with the results of the appeal.

Results of Appeal

The Title IX Coordinator will simultaneously notify both the Complainant and the Respondent within three (3) business days of the decision on appeal. If the Respondent is a student, the Dean of Student Services and Campus Life will be notified. If the Respondent is a member of the Faculty, Staff, Employee or Contract Employee, the Office of Human Resources and the Respondent's immediate supervisor will be notified.

Finality of Decisions on Appeal

Decisions on appeal are final and conclusive.

To ensure that sanctions upheld or imposed on appeal are enforced and/or corrective action is taken, notice of the sanctions will be provided to the Dean of Student Services and Campus Life in cases where the Respondent is a student and to the Office of Human Resources and the Respondent's immediate supervisor where the Respondent is a non-student.

◆ PROCEDURES FOR RESOLVING GENERAL TITLE IX POLICY VIOLATIONS NOT BASED ON SEXUAL MISCONDUCT

For general grievances concerning a perceived Title IX violation not involving Sexual Misconduct but involving University policy, practice or procedure, a written grievance should be submitted to the Title IX Coordinator. The grievance should specifically detail the exact policy, practice, or procedure at issue and how it allegedly violates Title IX protections and signed by the party.

The Title IX Coordinator will appoint an Investigator to investigate the grievance, including, but not limited to, seeking an opinion from relevant stakeholders regarding whether and why (or why not) the policy, practice or procedure being grieved violates Title IX, and what, if any, steps should be taken to bring the policy, practice or procedure into compliance. The Investigator may also conduct a follow-up conference with the grievant or others. Upon completion of the investigation, the Investigator will submit a report to the Title IX Coordinator determining whether the alleged grievance violated any Title IX protections. Within sixty (60) days of receipt of the grievance, the Title IX Coordinator will issue a Notice of Grievance Determination regarding the grievance.

Appeals to a Notice of Grievance Determination must be submitted in writing within five (5) business days of receipt of the Notice of Grievance Determination to the Dean of Student Services and Campus Life, if the grievant is a student and to the University Provost and Vice-President of Academic Affairs for nonstudent grievants.

Appeals under this section may only be brought on one or more of the following two (2) grounds:

- 1) Decision resulted in the denial of appellant's due process rights under the law or applicable University policy; or
- 2) To consider new information sufficient to alter the decision or relevant facts not brought out in the



investigation or on appeal.

A Notice of Final Appeal Determination will be issued to the grievant within thirty (30) calendar days of receipt of the appeal. The Notice of Final Appeal Determination will affirm, modify, or reverse the decision being appealed, or the policy/practice/procedure being grieved.

The Notice of Final Appeal Determination is final and may not be appealed; however, an affected individual may contact the U.S. Department of Education's Office of Civil Rights for questions, concerns or complaints about CAU's handling of the complaint, grievance, or appeal.

- limiting the access of the individual accused of the misconduct to certain University facilities until the matter is resolved, including the possibility of an interim suspension, if warranted.