

CLARK ATLANTA UNIVERSITY

Policy 9.6.7: Title IX Policy



CLARK ATLANTA UNIVERSITY		
Policy and Procedures	Subject: Title IX	
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1.0 Policy Statement

Clark Atlanta University (commonly referred to as “CAU or “University” within this policy) is committed to ensuring a safe learning environment that supports the dignity of all members of the CAU community. As a recipient of federal funds, the University complies with Title IX of the Higher Education Amendments of 1972, 20 U.S.C. § 1681 et seq. ("Title IX") and therefore prohibits discrimination on the basis of sex, pregnancy, sexual orientation, gender, gender identity, gender expression, and parental status in its education programs or activities, including, but not limited to, admissions processes and extracurricular activities. In compliance with Title IX, the University is and remains committed to:

- Providing programs, activities, and an educational environment free from Sex Discrimination and Sexual Misconduct;
- Fostering an environment that encourages prompt reporting of all types of Sexual Misconduct and Sex Discrimination and a timely response to reports and formal complaints;
- Providing adequate, prompt, fair and impartial investigations into and resolution of formal complaints of Sexual Misconduct and Sex Discrimination; and
- Ensuring that Title IX processes are conducted by University officials who receive annual training on the issues related to Sexual Misconduct and Sex Discrimination, and on how to conduct an investigation and hearing process that is fair and impartial.

This Sex Discrimination and Sexual Misconduct Policy (hereinafter “Policy”) prohibits specific forms of behavior that violate Title IX and are antithetical to the educational mission of CAU. This Policy is not intended to inhibit or prohibit educational content or discussions inside or outside of the classroom that include controversial or sensitive subject matters protected by academic and First Amendment freedoms.

All relevant terms are defined in [Appendix A](#) to this Policy, and CAU will review, evaluate, and make any revisions or amendments to this Policy on an ongoing and as-needed basis. General inquiries about the application of this Policy and the related grievance procedures should be directed to the University’s Title IX Coordinator:

Ramona Roman
HR Business Partner & Title IX Coordinator
Clark Atlanta University
223 James P. Brawley Drive SW, Harkness Hall, Room 206
Atlanta, Georgia 30314
Direct Dial: 404-880-6158 | Fax: 404-880-6115
Email: rroman@cau.edu

As used throughout this Policy, references to the Title IX Coordinator shall include the Title IX Coordinator and any other person expressly designated by the Title IX Coordinator to act on their behalf.

2.0 Purpose and Scope

This Policy applies to all CAU community members, including students, faculty, administrators, staff, and any individuals regularly or temporarily employed, studying, living, visiting, conducting business or having any official capacity with the University or on University property. It further pertains to Reports and Formal Complaints of alleged Sex Discrimination and Sexual Misconduct involving CAU students, faculty, staff, or employees as Complainants or Respondents, including instances between employees only.

This Policy and its corresponding grievance procedures attached hereto as **Appendix B** are intended to outline the rights of, identify supports for and guide individuals who are involved in grievance proceedings following a Report or Formal Complaint of Sex Discrimination and Sexual Misconduct (as defined below), whether as a Complainant or Reporter, a Respondent, or as a witness.

Any persons designated by CAU to have the authority to address or duty to report alleged sex-based discrimination, sexual misconduct and/or retaliation but who fails to address or report alleged sex-based discrimination, sexual misconduct and/or retaliation of which they have actual knowledge, may be subjected to sanctions up to and including termination of employment, dismissal or expulsion.

Because of the University's commitment to maintaining an environment that supports CAU's educational mission, the University also prohibits romantic, sexual, and exploitative relationships between University employees and students. In the event that any such relationship is reported and confirmed, the employee is subject to employee disciplinary procedures up to and including termination in the case of administrators and staff members, or dismissal for cause in the case of faculty members. The policies and procedures for employee disciplinary procedures and dismissal for cause apply in all such cases.

There are exceptional circumstances in which the spouse or partner of a University employee is a student at the University. This policy provision does not apply in such circumstances. The Provost and Vice President for Academic Affairs, in consultation with the Title IX Coordinator, is the administrative officer who determines whether an exceptional circumstance applies.

Nothing in this policy shall prevent the University from addressing employee complaints of sexual harassment under Title VII of the Civil Rights Act of 1964, when implicated.

3.0 Application of Policy

This Policy, as amended and implemented on August 14, 2020, shall apply to all Reports and Formal Complaints received after August 14, 2020, regardless of the date of the alleged incident. It shall not apply to cases pending prior to August 14, 2020, as the prior iteration of this Policy shall apply to those cases. General inquiries about the application of Title IX also can be directed to the U.S. Department of Education's Office for Civil Rights.

4.0 Jurisdiction and Authority

CAU, through the Title IX Coordinator or any other designee, has jurisdiction over and the authority to receive Reports by any member of the CAU community that invoke Title IX. However, the University will only investigate, hear and resolve Formal Complaints signed by the Title IX Coordinator or brought by a Complainant who is participating in or attempting to participate in an educational program or activity of CAU at the time the Formal Complaint is filed. CAU is authorized to take certain actions to address or remedy Sex Discrimination and Sexual Misconduct in instances only where it has actual knowledge (as defined by Title IX regulations) of the alleged conduct. The Title IX Coordinator is ultimately authorized to implement procedures that include specific instructions for making Reports and investigating and resolving Title IX Formal Complaints.

CAU, through the Title IX Coordinator or any other designee, has the authority to institute corrective measures under this Policy as it relates to conduct occurring on University property; at University-sanctioned events or programs that take place off campus, including, for example, internship programs; or at events or programs hosted by University-recognized organizations that take place off campus within the United States. This Policy may apply regardless of the location of the incident, for conduct other than

Sexual Misconduct (as defined in this Policy), if it is likely to have a substantial adverse effect on, or poses a threat of danger to, the educational opportunities provided by the University i.e., if it involves or affects a student's educational experience at the University. Any individual found to have violated this Policy will be subject to disciplinary action up to and including termination for employees, staff, and faculty and expulsion for students. Certain behavior may violate the University's Policy even when it does not constitute a violation of law.

The University encourages anyone who has witnessed or experienced an incident of Sexual Misconduct or Sex Discrimination to report it regardless of where the incident occurred, or who committed it. Even if the University does not have jurisdiction over the alleged conduct or Respondent, the University may take prompt action to provide for the safety and well-being of any affected person and the broader University community. The University retains the right to utilize different processes to investigate, hear and adjudicate incidents involving students, employees, staff and faculty that do not invoke the prohibited conduct outlined in this Policy.

There may be cases where the University's jurisdiction or authority over individuals who are not subject to this Policy (e.g., Respondents who are students of another college or university, including other colleges in the Atlanta University Center) is limited. In such cases, the Title IX Coordinator will ensure that the Reporter (of Complainant, if applicable) is offered supportive measures and promptly updated on the status of their Report or Formal Complaint, if applicable.

5.0 Retaliation and False Accusations

CAU expressly prohibits retaliation against anyone who: 1) in good faith, reports what they believe is Sexual Misconduct or Sex Discrimination, 2) participates in any investigation or proceeding under this Policy, or 3) opposes conduct that they believe to violate this Policy. Retaliation includes intimidation, harassment, threats, or other adverse action or speech against the person who reported the misconduct, the parties, and their witnesses, including actions taken on social media or through other virtual means, such as email, text or video communications.

CAU will not only take steps to prevent retaliation, but it will also take strong corrective action if it occurs. Anyone who believes they have been the victim of retaliation should immediately contact the Title IX Coordinator. Reports of suspected retaliation may be filed as Formal Complaints and provided the same formal grievance process and procedures as outlined in this Policy, or the suspected retaliation may be handled under the applicable Student Code of Conduct provision (for students) or other University anti-discrimination policy (for employees).

Any individual found to have retaliated against another individual who engaged in conduct consistent with the protections afforded under this Policy will be in violation of this Policy and will be subject to disciplinary action, up to and including termination for employees, staff, and faculty and expulsion for students.

Anyone who knowingly makes a false accusation of unlawful discrimination, harassment, or retaliation of any form will be subject to an investigation for a potential violation of this Policy and may be subject to disciplinary action, up to and including termination for employees, staff, and faculty and expulsion for students.

6.0 General Policy Implementation Considerations

6.1 Time Limitations for Reporting

There is no time limit for reporting incidents of Sex Discrimination or Sexual Misconduct under this Policy, although CAU encourages prompt reporting of incidents to minimize the risk of losing relevant information, evidence, and reliable witness testimony, and impairment of the University's ability to fully address the incident. Any individual who has been subjected to, or who knows of or has witnessed, an incident of Sex Discrimination or Sexual Misconduct is encouraged to report the incident or file a Formal Complaint immediately in order to maximize the University's ability to obtain information and conduct an adequate, thorough, prompt, and impartial investigation into the incident. The University will attempt to resolve most cases of Sexual Misconduct or Sex Discrimination, excluding appeals, within a reasonable timeframe, i.e. 120 days.

If an individual wishes to file a claim with the U.S. Department of Education's Office for Civil Rights, they must do so within 180 days of the incident based on the time limits for adjudication set by that agency.

6.2 Amnesty for Complainants, Reporters and Witnesses

CAU strongly encourages individuals who have been involved in, or who know of, or have witnessed, incidents of Sex Discrimination or Sexual Misconduct to report such incidents as soon as possible. The University recognizes that students involved (e.g. as witnesses, bystanders, third parties, or Complainants) who have violated the University's drug and alcohol policy may be hesitant to report out of fear of sanction. Therefore, in order to encourage reporting in all situations, anyone who reports or experiences Sex Discrimination or Sexual Misconduct may be granted amnesty for any violation of the University's drug and alcohol policy that occurred in connection with the reported incident. CAU intends to grant amnesty for all but the most egregious violations of the University's drug and alcohol policy; however, individuals may be provided with resources on drug and alcohol counseling and/or education, as appropriate.

However, CAU Code of Student Conduct and/or other University policy violations discovered *during* the Title IX investigation will be referred to the appropriate office for review and corrective action, if needed.

6.3 Emergency Removal

The University is permitted to remove a Respondent from its education program or activity on an emergency basis if it undertakes an individualized safety and risk analysis and determines that an immediate threat to the physical health and safety of any student or individual arising from the allegations of Sexual Misconduct or Sex Discrimination justifies removal. The Respondent will be provided with notice of such emergency removal and an opportunity to challenge the decision immediately following the removal.

6.4 Administrative Leave

The University is permitted to place a non-student Respondent (i.e. University employees) on administrative leave, with or without pay, during the pendency of any portion of the grievance process.

In cases where the Respondent who has been placed on administrative leave (or upon whom some other temporary/interim administrative action has been imposed) during the pendency of the

grievance process falls into one or more of the following categories, the University will also comply with federal mandates that require federal grant recipient institutions to notify relevant federal grant agencies of said temporary/interim administrative action:

- Anyone who is a principal investigator (PI) or co-PI identified on an award from the National Science Foundation (NSF);
- Anyone who is a principal investigator (PI), co-PI, or other senior key University personnel identified on an award from the National Institute of Health (NIH); or
- Anyone identified on any other award from a relevant federal grant agency that requires such reporting.

6.5 Reporting Incidents of Sex Discrimination or Sexual Misconduct

Anyone can report incidents of Sex Discrimination and Sexual Misconduct to CAU under the grievance procedures outlined in **Appendix B** to this Policy, and they may even do so anonymously. Upon receipt of a Report, CAU will: (1) promptly contact the person alleged to be the victim or survivor of the reported conduct to offer and discuss the availability of supportive measures (as defined in this Policy); (2) consider the wishes of the alleged victim or survivor with respect to supportive measures; (3) inform the alleged victim or survivor of the availability of supportive measures with or without the filing of a Formal Complaint; and (4) explain the process for filing a Formal Complaint. That means that not every Report will become a Formal Complaint. However, the University may convert any Report to a Formal Complaint if it determines that it must take further steps to protect the CAU community. The University strongly encourages all individuals to report incidents of Sexual Misconduct and Sex Discrimination, even if the individual does not intend to pursue a Formal Complaint. No person should assume that an incident has already been reported by someone else or that the University already knows about a situation.

6.5.1 On-Campus Reporting Options

To make a Report to CAU, a reporting individual may do *one or more* of the following:

- Report the incident to the Title IX Coordinator via telephone at 404-880-6158 or email at rroman@cau.edu.
- Notify the Title IX Coordinator of any incident of alleged Sex Discrimination or Sexual Misconduct will trigger the provision of supportive measures to all involved parties.
- Report the incident to CAU Public Safety staff, Student Affairs Administrators (Director of Student Conduct and Associate Dean of Students), CAU Athletics Director, Senior Associate Athletic Director of Compliance, Senior Women's Administrator, any Academic Dean, or the University Provost and Vice-President of Academic Affairs.
- Report the incident to any Assistant Director of Residence Life if the student is living in on-campus student housing.

All of the individuals listed above have been designated to receive a Report under this Policy and are considered Mandatory Reporters, which are individuals who are required by the University to report any knowledge they receive of possible violations of this Policy

to the Title IX Coordinator. Mandatory Reporters must also relay all known information about any reported Policy violation, including but not limited to: the names of involved individuals, the nature of the incident, and the time and location of the incident. Once the Title IX Coordinator learns of any incident of alleged Sex Discrimination or Sexual Misconduct from a Mandatory Reporter, the Title IX Coordinator will offer supportive measures to the Complainant and provide the option to file a Formal Complaint. Supportive measures will also be offered to the Respondent.

No other students are obligated to report knowledge they may have of Sexual Misconduct, including student employees of CAU who are considered students and not staff for purposes of this Policy and who are not Mandatory Reporters.

After making a Report, an individual who has made the Report may choose to end involvement in the process, may choose to accept or not accept the University-provided supportive measures, or may choose to file a Formal Complaint and pursue Formal Resolution or, if applicable, an Informal Resolution Conference involving the Respondent.

6.5.2 Making a Disclosure Utilizing On-Campus Confidential Resources

Individuals can confidentially discuss incidents of Sex Discrimination and Sexual Misconduct with the following University's "confidential resources" staff:

- Any member of the Office of Counseling and Disability Services Center staff- (404) 880-8044; and
- Any member of the Religious Life staff.

Disclosures made to these confidential resources will be held in strict confidence, and will not constitute a Report to CAU under this Policy. These confidential resources may assist individuals with reporting incidents or filing Formal Complaints if, and only if, they are requested to do so by the individual who has reported the sexual misconduct.

Specific and personally identifiable information given to one of these confidential resources will not be disclosed to the Title IX Coordinator without consent. However, in order to assist the University in collecting data and identifying patterns or systematic problems related to sexual violence on and off campus, the "confidential resources" staff will convey general information about the incident (i.e. nature, time and location of incident) to the Title IX Coordinator. In such cases, the University will protect confidentiality and avoid disclosing personally identifiable information about individuals involved in the incident.

6.5.3 Notifying Off-Campus Law Enforcement Authorities

Individuals can notify off-campus law enforcement authorities about any incident of alleged Sexual Misconduct by dialing 911, calling the Atlanta Police Department Special Victims Unit at (404) 546-7896, and/or calling the Grady Hospital Rape Crisis Center at (404) 616-4861. Individuals can also contact other law enforcement agencies, depending on the location of the incident. Notifying off-campus law enforcement authorities will not constitute a Report to CAU under this Policy, but it may or may not result in such authorities reporting relevant information back to CAU which CAU will address pursuant to this Policy.

Individuals can request assistance from CAU faculty and staff in notifying appropriate law enforcement authorities, which the University will provide. Requesting such assistance from a Mandatory Reporter will constitute a Report under this Policy.

6.5.4 Anonymous and Confidential Reporting

Any individual can make a Report anonymously under this Policy. An individual may report the incident without disclosing their name, identifying the names of other individuals, or requesting any action. However, no investigation into the allegations will occur until a Formal Complaint has been filed. The anonymous reporting form can be found on the University's Title IX webpage. Employees may anonymously report any alleged violation of this Policy via the Compliance Hotline at 404-589-8006.

Additionally, an individual can make a Report disclosing their name but requesting confidentiality. Again, no investigation into the allegations will occur unless a Formal Complaint is filed. The University will, to the extent that it can with the provided information, inform the Complainant of the availability of supportive measures. Individuals should also understand that the University prohibits retaliation and that University officials will take steps to prevent retaliation and also take strong responsive action if it occurs.

The University recognizes that, in some instances a Reporter or Complainant may request that their name not be disclosed or that no Formal Complaint be initiated. In such instances, the Title IX Coordinator may find it necessary to initiate a Formal Complaint in order to provide a safe and nondiscriminatory environment for the broader CAU community. However, the University's ability to proceed with the grievance process may be severely impeded if the Complainant is not identified or does not wish to file a Formal Complaint.

In any event, the University will attempt to provide privacy to the greatest extent possible within the confines of the law, and will only share information related to a Report and/or Formal Complaint with a limited circle of individuals who "need to know" the information to assist in review, investigation, and resolution of the Report and/ or Formal Complaint, and related matters.

6.5.5 Option to Not Report

Except in cases involving Sexual Misconduct against a person under the age of 18 (see Subsection 6.3.6 below), individuals can choose not to notify CAU or any law enforcement authorities about an alleged incident of Sex Discrimination or Sexual Misconduct.

6.5.6 Incidents of Sexual Misconduct Involving Minors

As stated in relevant part in the University's "Mandated Reporting of Abuse or Neglect of a Child, Elder Person or Disabled Adult all University" Policy, all University employees, students, and volunteers (when applicable) the University has designated as Mandated Reporters are required to report suspected abuse of persons under the age of 18 (i.e. child abuse). The University also requires all other employees (as well as volunteers, when applicable) to immediately notify Mandated Reporters of suspected child abuse. All University employees and volunteers, regardless of whether they are designated Mandated Reporters, must understand what they are required to report, when it must be reported, and

to whom it should be reported. A failure to report suspected child abuse is a violation of state law and University policy and may subject the individual to criminal penalties, loss of employment or expulsion.

7.0 Formal Complaint Resolution Process

7.1 Filing a Formal Complaint of Sex Discrimination or Sexual Misconduct

CAU is authorized to take certain actions to address or remedy instances of Sex Discrimination. CAU is also authorized to take certain actions to address and remedy instances of Sexual Misconduct where it has actual knowledge (as defined by Title IX regulations) of the alleged misconduct. If an individual wishes to pursue a formal resolution of an incident of Sexual Misconduct or Sex Discrimination beyond simply reporting it, they may file a Formal Complaint. The filing of a Formal Complaint means that the individual is asking the University to take steps beyond offering supportive measures, such as conducting an investigation and holding a Formal Resolution Hearing to resolve the allegations. However, the University will only investigate, hear and resolve Formal Complaints signed by the Title IX Coordinator or brought by a Complainant who is participating in or attempting to participate in an educational program or activity of CAU at the time the Formal Complaint is filed.

The Title IX Coordinator is ultimately authorized to oversee the implementation of procedures that include specific instructions for making Reports and investigating and resolving Formal Complaints. These instructions are outlined in this Policy's corresponding grievance procedures attached hereto as **Appendix B**.

7.2 Notice of Allegations

Upon receipt of a Formal Complaint, a recipient must provide written notices to the parties who are known of the University's grievance process, including information about its Informal Resolution process, and of the allegations potentially constituting Sexual Misconduct, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview (the "Notice of Allegations"). The Notice of Allegations will also include a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process; inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney; inform the parties that they may inspect and review evidence; and inform the parties of the relevant provisions of the University's Code of Student Conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, the University decides to investigate allegations about the Complainant or Respondent that are not included in the original notice, the University will provide notice of the additional allegations to the parties whose identities are known.

7.3 Investigation of a Formal Complaint

The investigation of a Formal Complaint may include, as applicable, interviewing the Complainant, the Respondent, and any witnesses; reviewing law enforcement investigation documents; reviewing student and personnel files; and gathering and examining other relevant documents and evidence.

An investigator (“Investigator”), who will be separate and distinct from the Title IX Coordinator, will be appointed to investigate allegations made in a Formal Complaint. Following the investigation, the Investigator will draft an investigation report succinctly describing all collected information. The report will be delivered to the Title IX Coordinator, who will analyze the report to ensure the process was followed, that the investigation was sufficiently thorough, and that the investigation was not biased.

During the investigation, the University will ensure:

- parties understand that the burden of proof and burden of gathering evidence sufficient to reach a determination of responsibility rests on the University;
- each party has the opportunity to present witnesses;
- each party has the ability to discuss the allegations under investigation and to gather and present relevant evidence. Note that disclosure of information related to the allegations may hinder the University’s ability to fully investigate the allegations. However, please know that making posts related to the allegations under investigation on social media could constitute retaliation under this Policy and is subject to the grievance process set forth within;
- each party will receive advance written notice of any investigative meetings, hearings, or other meetings in which they are expected or invited to attend;
- each party has the same opportunity to have an Advisor or Supporter present during the grievance process, subject to the restrictions provided for in this Policy and related procedures; and
- each party has the opportunity to review and inspect any evidence obtained as part of the investigative process that is directly related to the allegations raised in the Formal Complaint.

During the investigation of a Formal Complaint, the University will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary, written consent to do so.

The University will make reasonable efforts to balance and protect the rights of the parties during any investigation commenced under this Policy. CAU will respect the privacy of the parties and any witnesses in a manner consistent with the University’s obligations to investigate the alleged incident. The Title IX Coordinator will keep the parties reasonably informed of the status of the investigation.

7.4 Informal Resolution Conferences

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. An Informal Resolution Conference is a remedies-based, non-judicial approach designed to eliminate a potentially hostile working or academic environment. This process aims to assure fairness, to facilitate communication, and to maintain an equitable balance of power between the parties.

Participation in an Informal Resolution Conference is voluntary and either party can request to end the conference at any time prior to reaching a resolution and return the investigation or proceeding to its pre-conference status. Written notice will be provided to each party involved in the Informal Resolution Process that outlines the details of the allegations, requirements of the informal resolution process, and any consequences resulting from participating in the Informal Resolution 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. Agreements reached in an Informal Resolution Conference must be in writing, and will be final and not subject to appeal.

7.5 Formal Resolution Process

A Formal Resolution Process is the University's formal Title IX grievance process through which the Special Matter Hearing Board evaluates evidence at a live hearing 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 it has been determined that the Respondent is responsible for the prohibited conduct under this Policy, the Respondent may be subjected to disciplinary action.

The parties will be provided notice of the time, date, and location of the hearing. The Special Matter Hearing Board and the parties and their Advisors will be provided a hearing packet prior to the hearing, including, but not limited to, the Notice of Allegations, Formal Complaint, investigation report, witness statements, correspondence to parties, and any other related material. The hearing may consist of the parties' testimony, witness testimony, and testimony from the Investigator. The Special Matter Hearing Board will be allowed to question each witness, and parties and/or Advisors can ask questions through the Special Matter Hearing Board. Live cross-examination of the parties is permitted. The parties will be provided Notices of Outcome which include the determination of whether the Respondent was found responsible or not responsible for the alleged violation(s) and any applicable sanction(s). Decisions made in a Formal Resolution Process may be appealed.

Formal Resolution Hearings that occur during the non-academic calendar year may be conducted via video conference or other live means.

7.6 Sanctions

Where it is determined, by a preponderance of evidence, that a Respondent is responsible for having committed a violation of the Policy, the Special Matter Hearing Board will have discretion to impose sanctions. The Title IX Coordinator will be authorized to stay sanctions pending appeal and/or make further accommodations/remedies that are consistent with the Special Matter Hearing Board's decision.

In cases where the Respondent who has been found responsible for having committed a violation of this Policy falls into one or more of the following categories, the University will also comply with federal mandates that require federal grant recipient institutions to notify relevant federal grant agencies of said finding:

- Anyone who is a principal investigator (PI) or co-PI identified on an award from the National Science Foundation (NSF);

- Anyone who is a principal investigator (PI), co-PI, or other senior key University personnel identified on an award from the National Institute of Health (NIH); or
- Anyone identified on any other award from a relevant federal grant agency that requires such reporting.

7.7 Appeals

Either Complainant or Respondent may appeal any Notice of Outcome. The appeal will be reviewed and determined by the Appeals Facilitator, but the appeal will *not* be reviewed on a de novo basis (i.e. beginning again). Appeals decisions are final and not subject to further review.

8.0 Cross-Campus Incidents

8.1 When the Respondent Is Not a Member of the CAU Community

The Title IX Coordinator shall have discretion on how to proceed on a Formal Complaint involving a Respondent who is not a member of the CAU community. Where the Respondent is a student at another college or university (including other colleges in the Atlanta University Center), a Report may be made to CAU. The Title IX Coordinator will then provide the Report to the Respondent's home institution for handling at its discretion. Although the University's jurisdiction and authority over the Respondent or their home institution's handling of the Report is limited, the Title IX Coordinator will make all reasonable efforts to ensure the Reporter (or Complainant, if applicable) is informed throughout the process and offered all available and reasonable supportive measures. Upon request, the Complainant will be assigned an Advisor by CAU. The Title IX Coordinator or designee may attend any conferences and/or hearing with the Complainant held or required by the Respondent's home institution, solely in the capacity as a Supporter.

8.2 When the Complainant Is Not a Member of the CAU Community

If the Respondent is a member of the CAU community but the Complainant is a student at another college or university (including other colleges in the Atlanta University Center), the matter will be adjudicated under this Policy and any other applicable University policies and procedures. The Title IX Coordinator or designee may attend any conferences and/or hearing with the Respondent, held or required by the Complainant's home institution, solely in the capacity as a Supporter.

9.0 Supportive Resources

9.1 Advisors

Both Complainants and Respondents may choose an Advisor to accompany them to any hearing, investigative conference, or related grievance proceeding described in this Policy. A panel of Advisors will be available for the parties to choose from, or the parties may choose to select their own Advisor. However, each student must have an Advisor to proceed in formal or informal resolution of a Formal Complaint. Advisors for both Complainants and Respondents may be present during hearings, conferences and related grievance proceedings, and they may provide the parties with consultation, assistance and support. However, Advisors are not permitted to directly participate in investigative conferences or related proceedings, other than as provided for in this

Policy or related procedures. Advisors are allowed to participate in Formal Resolution Hearings but their participation is limited to conducting cross-examination on behalf of that party within the hearing procedures outlined in this Policy and related procedures. Advisors and supporters are prohibited from making opening or closing statements, presenting evidence, and making procedural objections.

9.2 Supporters

Both Complainants and Respondents may also choose a designated Supporter, whose role is primarily to provide emotional support during all stages of the Title IX grievance process by accompanying the Complainant or Respondent to any hearing, conference or related 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 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.

9.3 Supportive Measures

In all cases, the Title IX Coordinator may offer supportive measures that are consistent with the University's policies and procedures, before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent. Such measures shall be confidential, balanced based on the facts collected and seriousness of the allegations and provided to any reporting party, Complainant, or Respondent. Moreover, supportive measures are designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party. From time to time, the University may also consider and implement supportive measures that affect the broader CAU community and which are aimed to eliminate occurrences of Sex Discrimination or Sexual Misconduct and to promote academic and employment environments free of such conduct.

The University may also, upon request, arrange for the re-taking, changing or withdrawing from classes, and in such instances, CAU will make every reasonable effort to mitigate any academic or financial penalty for providing such arrangements.

If a Complainant or Respondent withdraws from or leaves his/her employment with CAU after a Formal Complaint is filed but before the matter is resolved, the Title IX Coordinator shall have discretion on how to proceed with the investigation and its resolution, including dismissing the Formal Complaint. If the Formal Complaint is dismissed on this basis, the parties will be issued a Notice of Outcome reflecting the dismissal grounds and any remedies provided to the remaining party. The parties will have the opportunity to appeal the dismissal.

Examples of supportive measures that the University may offer and implement include, but are not limited to, those measures listed in **Appendix C** attached to this Policy.

10.0 Recordkeeping

The following records will be treated as education records pursuant to the Family Educational Privacy Rights Act (FERPA) and maintained by the University for no more than seven (7) years from the date of their creation:

- All records, including recordings and/or transcripts, regarding the investigation and determination regarding responsibility following the resolution of a Formal Complaint, including appeals, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the recipient's education program or activity;
- Any records from an Informal Resolution Conference;
- All materials used to train Title IX Coordinators, investigators, decision makers, and informal resolution facilitators, which materials will be made public on the University's website.
- Records of any actions, including any supportive measures, taken in response to a Report or Formal Complaint.

11.0 Prevention, Education and Training

CAU shall provide prevention and awareness educational programs to new and existing students and employees. These programs shall include information on (a) Title IX, (b) how to file a Formal Complaint with CAU, (c) resources available to sexual violence victims, and (d) options for reporting an incident of Sexual Misconduct to local law enforcement. Training on this Policy and CAU's Title IX obligations will be provided to students and employees. CAU shall consider educational methods that are most likely to help students and employees retain such information. CAU will ensure that the Title IX Coordinator, Investigators, and all decision-makers involved in Formal Resolution hearings and appeals, and any person who facilitates Informal Resolutions Conferences have training or experience in handling Title IX reports and complaints, and, if applicable, training in the operation of the University's Title IX grievance procedures.

APPENDIX A – KEY DEFINITIONS

As used in Clark Atlanta University’s Title IX Policy and corresponding grievance procedures, the phrases and words listed therein shall have the meanings set forth below:

Advisor: Refers to an attorney or a non-attorney advisor who can provide assistance to the Complainant or the Respondent during Formal Resolution Hearings, Informal Resolution Conferences, and any other stage of the processes covered by this Policy. The University will provide a list of individuals who have received training to serve as Advisors.

Affirmative Consent: Means an affirmative, conscious decision by each participant to engage in mutually agreed-upon sexual activity. All five of the following elements are essential in order to have affirmative consent. If one or more of the following is absent, there is no affirmative consent.

- A. **Consists of Mutually Understandable Communication:** Communication regarding consent consists of mutually understandable words and/or actions that indicate an unambiguous willingness to engage in sexual activity. In the absence of clear communication or outward demonstration, there is no consent. Consent may not be inferred from silence, passivity, lack of resistance or lack of active response. An individual who does not physically resist or verbally refuse sexual activity is not necessarily giving consent. Relying solely upon non-verbal communication can lead to a false conclusion as to whether consent was sought or given. Verbal communication is the best way to ensure all individuals are willing and consenting to the sexual activity.
- B. **Informed and Reciprocal:** All parties must demonstrate a clear and mutual understanding of the nature and scope of the act to which they are consenting and a willingness to do the same thing, at the same time, in the same way.
- C. **Freely and Actively Given:** Consent cannot be obtained through the use of force, coercion, threats, intimidation or pressuring, or by taking advantage of the incapacitation of another individual.
- D. **Not Unlimited:** Consent to one form of sexual contact does not constitute consent to all forms of sexual contact, nor does consent to sexual activity with one person constitute consent to activity with any other person. Each participant in a sexual encounter must consent to each form of sexual contact with each participant. Even in the context of a current or previous intimate relationship, each party must consent to each instance of sexual contact each time. The consent must be based on mutually understandable communication that clearly indicates a willingness to engage in sexual activity. The mere fact that there has been prior intimacy or sexual activity does not, by itself, imply consent to future acts.
- E. **Not Indefinite:** Consent may be withdrawn by any party at any time. Recognizing the dynamic nature of sexual activity, individuals choosing to engage in sexual activity must evaluate consent in an ongoing manner and communicate clearly throughout all stages of sexual activity. Withdrawal of consent can be an expressed “no” or can be based on an outward demonstration that conveys that an individual is hesitant, confused, uncertain or is no longer a mutual participant. Once consent is withdrawn, the sexual activity must cease immediately and all parties must obtain mutually expressed or clearly stated consent before continuing further sexual activity.

Appeals Facilitator: Refers to a trained University faculty and staff member or other appropriate person(s) designated by the University’s Title IX Coordinator (for non-student Respondents) that hear and decide appeals of findings and sanctions imposed by the Special Matter Hearing Board (defined below). The Appeals Facilitator is the individual specifically designated to handle and decide appeals based on the specific category of the Respondent. This individual is authorized to affirm, alter, or reverse the original findings and/or sanctions recommended by the Special Matter Hearing Board. Once issued, the decision of the Appeals Facilitator’s is final.

Complainant: Refers to an individual who has been identified in a Formal Complaint as someone who has been subjected to an incident of Sex Discrimination or Sexual Misconduct. A Complainant has certain rights under this Policy, as discussed above. In most cases, a Reporter who has filed a Formal Complaint alleging to have personally experienced Sex Discrimination or Sexual Misconduct can also be a Complainant. In other cases, a Reporter who reports witnessing Sex Discrimination or Sexual Misconduct happening to or affecting *someone else* can make a Report, but that does not make them a Complainant.

Clery Act: Refers to the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act, 20 U.S.C. Section 1092(f); 34 C.F.R., Part 668.46. It requires colleges and universities, both public and private, participating in federal student aid programs to disclose campus safety information, and imposes certain basic requirements for handling incidents of sexual violence and emergency situations.

Coercion: Means the use of pressure to compel another individual to initiate or continue activity against their will, including psychological or emotional pressure, physical or emotional threats, intimidation, manipulation, or blackmail. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Examples of coercion include, but are not limited to threatening to "out" someone based on sexual orientation, gender identity, or gender expression; threatening to harm oneself if the other party does not engage in the sexual activity; and threatening to expose someone's prior sexual activity to another person and/or through digital media.

Consent: See *Affirmative Consent* above.

Dating Violence: See *Sexual Misconduct* below, Subsection A.

Domestic Violence or Domestic Assault: See *Sexual Misconduct* below, Subsection B.

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

Formal Complaint: Refers to a formal written complaint filed with the Title IX Coordinator or the Title IX Coordinator's designee alleging any action, policy, procedure or practice that would be prohibited by Title IX, such as Sex Discrimination or Sexual Misconduct, signed by the Complainant or the Title IX Coordinator and indicating that they want the University to proceed with the formal grievance process. A report can be made by another individual who knows of or witnessed an incident of Sex Discrimination or Sexual Misconduct but who did not suffer such misconduct themselves.

Formal Resolution: Refers to the University's formal grievance proceeding through which the Special Matter Hearing Board evaluates evidence related to a Formal Complaint to determine whether a Respondent is in violation of this Policy, based on the criteria of a preponderance of evidence.

Incapacitation: Means the lack of the ability to make rational, reasonable judgments as a result of alcohol consumption, other drug use, sleep, the taking of any so-called "date-rape" drug, unconsciousness, or blackout. An individual unable to make informed judgments is physically helpless. An incapacitated person cannot make rational, reasonable decisions because that person lacks the ability to fully understand the who, what, where, or how of their sexual interaction. Incapacitation is a state beyond drunkenness or intoxication, in which alcohol, drugs, or other factors render one unable to make fully informed judgments or have an awareness of consequences. Evaluating incapacitation also requires an assessment of whether a Respondent knew or should have known of the other individual's incapacitated state. While incapacitation may be caused by drugs or alcohol,

it also includes the state of being asleep, during which time a person is unable to provide affirmative consent.

Informal Resolution Conference: Is intended to allow the Complainant and the Respondent to provide information about the alleged incident(s) of discrimination or harassment, and to reach a mutually agreeable resolution. This process aims to assure fairness, to facilitate communication, and to maintain an equitable balance of power between the parties.

Investigator: Refers to an official(s) designated by the Title IX Coordinator to conduct an investigation of alleged Sex Discrimination or Sexual Misconduct, and who acts as a witness in the event of a Formal Resolution Hearing. The Investigator will be a trained individual who objectively collects and examines the facts and circumstances of potential violations of this Policy and documents them for review. The Investigator will be neutral and will hold no biases in the investigation.

Mandatory Reporter: Refers to an individual or individuals the University has designated as being required to report any knowledge they have of Sex Discrimination and Sexual Misconduct. CAU has identified the following individual or set of individuals as Mandatory Reporters under this Policy: CAU Public Safety staff, Student Affairs Administrators (Dean and Associate Dean of Students), CAU Athletics Director, Senior Associate Athletic Director of Compliance, Senior Women’s Administrator, any Academic Dean, or the University Provost and Vice-President of Academic Affairs. The only students who are designated as Mandatory Reporters are on-campus Assistant Directors of Residence Life.

Non-Consensual Sexual Contact: See *Sexual Misconduct* below, Subsection A.

Non-Consensual Sexual Penetration: See *Sexual Misconduct* below, Subsection B.

Notice of Outcome: Written notification issued to a Complainant and a Respondent following the conclusion of a Formal Resolution Hearing. The Notice of Outcome shall be issued to the Complainant and the Respondent concurrently and shall contain the determination of whether the Respondent is Responsible or Not Responsible for the alleged violations and, where applicable, sanction(s) assigned, the due date(s) of the sanction(s), any other steps the University will or has taken to eliminate the hostile environment, and any available appeal rights. This term may also be used to refer to the written statement of a Title IX Coordinator or other investigator of his/her findings regarding the validity of the complaint and the recommended corrective actions to be taken and/or sanctions to be imposed in cases involving violations of Title IX.

Preponderance of Evidence: Refers to the standard by which it is determined at a hearing whether or not a violation of this Policy has occurred, and means that an act of sex discrimination is “more likely than not” to have occurred. This standard applies for all allegations of Sex Discrimination and Sexual Misconduct.

Report: Refers to any communication that puts a CAU Mandatory Reporter on notice of an allegation that Sex Discrimination or Sexual Misconduct occurred or may have occurred. After making a Report, an individual who has made the report may choose to end involvement in the process, to accept or decline University-offered supportive measures, or choose to file a Formal Complaint and pursue Formal Resolution or, if applicable, an Informal Resolution Conference involving the Respondent. The University strongly encourages all individuals to report incidents of Sexual Misconduct and Sex Discrimination even if the individual does not intend to pursue a Formal Complaint.

Reporter: Refers to an individual who notifies a CAU Mandatory Reporter of an alleged violation of this Policy. A Reporter can be any individual who reports to CAU that they have personally experienced or been subjected to Sex Discrimination or Sexual Misconduct; that they have been affected by Sex Discrimination or Sexual Misconduct, or that they have knowledge of Sex Discrimination and Sexual Misconduct happening to or affecting someone else.

Respondent: Refers to an individual against whom a Formal Complaint has been filed or Report has been made

and whose conduct is alleged to have violated this Policy. Typically, the Respondent is an individual who has been accused of conduct that, if proven by a preponderance of the evidence, constitutes Sex Discrimination or Sexual Misconduct under this Policy. A Respondent has certain rights under this Policy, as discussed above.

Responsible: Means a determination by a University Special Matter Hearing Board that the Respondent has, in fact, committed an act in violation of this Policy.

Sex Discrimination: Refers to the unequal treatment of an individual based on their sex or gender in any employment decision, education program or educational activity receiving Federal financial assistance. Such programs or activities include, but are not limited to, admission, hiring and recruitment, financial aid, academic programs, student treatment and services, counseling and guidance, discipline, classroom assignment, grading, vocational education, recreation, physical education, athletics, housing and employment. The prohibition on sex discrimination also covers unlawful discrimination based on gender identity, sexual orientation, pregnancy, termination of pregnancy, childbirth or related conditions. Also prohibited as sex discrimination is any act which is based on parental, family, or marital status and which is applied differently based on sex.

Sexual Assault: See *Sexual Misconduct* below, Subsection D.

Sexual Exploitation: See *Sexual Misconduct* below, Subsection C.

Sexual Harassment: See *Sexual Misconduct* below, Subsection D.

Sexual Misconduct: Is a broad term that encompasses sexually-motivated misconduct as described in this Policy, including conduct of an unwelcome and/or criminal nature, whether such conduct occurs between strangers, acquaintances, or intimate partners. For the purposes of this Policy, the following terms are collectively referred to as “Sexual Misconduct” and will be defined in detail below: Nonconsensual Sexual Contact, Nonconsensual Sexual Penetration, Sexual Exploitation, Sexual Harassment, and Sexual Violence.

- A. **Non-Consensual Sexual Contact:** Any intentional touching of a sexual nature, however slight, with any object, by a man or a woman upon a man or a woman, without consent and/or by force. Sexual contact includes intentional contact with the breasts, buttock, groin, or genitals, or touching another person with any of these body parts, or making another touch you or themselves with or on any of these body parts; or any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice. The crimes of sexual battery and aggravated sexual battery are encompassed in this definition. Such contact is deemed non-consensual if done without the other person's affirmative consent (see definition above).
- B. **Non-Consensual Sexual Penetration:** Insertion of a sex organ, object, tongue or finger into the sex organ, mouth or anus of another, no matter how slight the insertion or contact, with consent and/or by force. Such contact is deemed non-consensual if done without the other person's affirmative consent (see definition above).
- C. **Sexual Exploitation:** Occurs when a person takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or the benefit of anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to:
 - Non-consensual video or audio-taping of sexual activity or other private activity, even if that activity occurs in a public or semi-public place;
 - Non-consensual dissemination of video, photographs, or audio of sexual activity or other private activity, including dissemination by a third party or a person not involved in the original conduct;
 - Exceeding the boundaries of consent (such as, permitting others to hide in a closet and observe consensual sexual activity, videotaping of a person using a bathroom or engaging in other private activities);

- Engaging in voyeurism, exposing one’s breasts, buttocks, or genitals in a non-consensual circumstance or inducing another to expose their breasts, buttocks, or genitals without affirmative consent;
- Prostituting another person;
- Engaging in consensual sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease or infection (STD or STI,) and without informing the other person of such disease or infection; and
- Sexually-based stalking and/or bullying.

D. Sexual Harassment: Conduct on the basis of sex that satisfies one or more of the following: (1) A CAU employee conditioning the provision of an aid, benefit, or service of the University on an individual’s participation in unwelcome sexual conduct; (2) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to CAU’s education program or activity; or any sexually motivated conduct that falls within one or more of the following categories:

- *Sexual Assault (as defined in 20 U.S.C. 1092(f)(6)(A)(v))*: Any type of Sexual Contact or behavior that occurs without the explicit consent of the recipient of the unwanted sexual activity. Falling under the definition of sexual assault is sexual activity such as forced sexual intercourse, sodomy, child molestation, incest, fondling, rape, attempted rape, sexual battery and aggravated sexual battery. Georgia law defines sexual assault as sexual contact that is perpetrated by a person who has supervisory or disciplinary authority over another individual.
- *Dating Violence (as defined in 34 U.S.C. 1229 (a)(10))*: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the alleged victim. The existence of such a relationship will be determined based on the reporting party’s statement and with consideration of the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.
- *Domestic Violence (as defined in 34 U.S.C. 12291 (a)(8))*: Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction. Georgia state law specifically defines such violence as the occurrence of a felony or the commission of offenses of battery, simple battery, simple assault, assault; stalking criminal damage to property, unlawful restraint, or criminal trespass between:
 - past or present spouses;
 - persons who are parents of the same child;
 - parents and children;
 - stepparents and stepchildren;
 - foster parents and foster children; or
 - other persons living or formerly living in the same household.

Note: This definition will not be applied to simple roommate disputes, in particular, those that do not involve any allegations of gender or sex discrimination.

- *Stalking (as defined in 34 U.S.C. 1229 (a)(30))*: Occurs when a person follows, places under surveillance or contacts another person (i.e., the victim) at or about any public or private

property occupied by the victim other than the residence of the person without the consent of the victim for the purpose of harassing and intimidating the victim. Harassment and intimidation is a knowing and willful course of conduct directed at a specific person which causes emotional distress by placing such person in reasonable fear for such person's safety or the safety of a member of his or her immediate family, by establishing a pattern of harassing and intimidating behavior, and which serves no legitimate purpose. Types of stalking could include, but are not limited to:

- Following the targeted person;
- Approaching or confronting that person in a public place or on private property;
- Persistent and unwelcome attempts to contact the person by phone, electronic communication (including via the internet and cellphones), or regular mail, either anonymously or non-anonymously;
- Vandalizing the person's property or leaving unwanted items for the person;
- Persistently appearing at the person's classroom, residence, or workplace without that person's permission or other lawful purpose;
- Cyber-stalking, in which a person follows, observes, monitors, or surveils another person through the use of electronic media such as the Internet, digital media networks, blogs, cell phones, texts or other similar devices; and
- Using visual or audio recording devices or hidden or remote cameras used without the subject's consent.

- E. ***Sexual Violence***: Consists of physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including, but not limited to, sexual assault, sexual battery, sexual abuse, and sexual coercion.

Special Matter Hearing Board: Refers to the three-member decision-making body composed of University faculty and staff or other appropriate persons designated by the University's Title IX Coordinator (for non-student Respondents) that considers cases brought under this Policy. Each particular Hearing Board is constituted, as needed, from the available pool of individuals who are trained to serve as Hearing Board members. One of the three Hearing Board members will be designated as the chairperson. The Hearing Board hears the facts and circumstances of an alleged policy violation as presented by the Investigator, a Complainant, a Respondent and/or witnesses at a Formal Resolution Hearing. This body is responsible for determining if a Policy violation has occurred and whether/what sanctions are appropriate.

Sexual Violence: See ***Sexual Misconduct*** above, Subsection E.

Stalking: See ***Sexual Misconduct*** above, Subsection D.

Supporter: Refers to any person, regardless of their association with the university, who a Reporter, Complainant, or Respondent may want to support them through a portion of or the entire process. A Supporter is not required, but is encouraged to help the party with emotional and personal support. When present during interviews, hearings, and appeals, the Supporter cannot take an active role. A Supporter can be a friend, family member, or any trusted person who can provide needed care to a party. Information gained or obtained while serving as a support should be kept in strict confidence.

APPENDIX B – 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.

◆ PROCEDURES FOR INVESTIGATING FORMAL 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.

APPENDIX C – LIST OF RESOURCES AND SUPPORTIVE MEASURES

Recommended Immediate Steps Following an Incident of Sexual Misconduct

The University is acutely aware that an individual who has been subjected to, or who knows of or who has witnessed a Sexual Misconduct, specifically, may experience physical, mental and emotional trauma as a result of the incident. A victim of Sexual Misconduct is encouraged to follow the following procedures immediately following the occurrence, when possible:

- A. Get to a safe place immediately and call someone you trust.
- B. If sexual contact and/or penetration occurred, do not wash, shower, bathe, use the toilet or change clothing. Preserve any evidence as would be necessary to prove the offense, or in obtaining a protective order, restraining order, and/or no-contact order. Examples of such evidence include:
 - Clothing worn during the incident, including but not limited to undergarments;
 - Sheets, bedding, and condoms, if used;
 - A list of witnesses with contact information;
 - Text messages, emails, call history, and digital media posts; and
 - Pictures of any injuries.
- C. You are encouraged to call the appropriate law enforcement agency. To contact the Atlanta Police Department (APD) Special Victims Unit, call (404) 546-7896. CAU's Department of Safety, (404) 880-8911, can assist any student with reporting a crime to the APD. If the incident did not occur on campus, call the law enforcement agency having jurisdiction where the incident occurred.
- D. Get medical attention. CAU Department of Safety will assist you in calling Emergency Medical Services (911) if you ask them to. The University also encourages you to go, or have someone else take you, directly to a medical facility or medical provider of your choice. Any medical provider should be instructed to collect and preserve relevant evidence, or if they are not experienced in doing so themselves, to contact the Grady Hospital Rape Crisis Center at (404) 616-4861. Additional off-campus medical services include:

LOCAL HOSPITALS
Grady Memorial Hospital 80 Jesse Hill Jr Dr. SE, Atlanta, GA 30303 404-616-1000
Emory Hospital Midtown 550 Peachtree St NE, Atlanta, GA 30308 404-686-4411
Piedmont Hospital 1968 Peachtree Rd NW, Atlanta, GA 30309 404-605-5000

- E. The University will assist an individual who has been subjected to, who knows of, or who has witnessed an incident of Sexual Misconduct in obtaining the services of counseling professionals, if requested. The University encourages you to seek support services. For on-campus student counseling services, contact the Office of Counseling and Disability Services Center at (404) 880-8044. For off-campus counseling and advocacy services, contact the Grady Hospital Rape Crisis Center at (404) 616-4861.

The University will provide as much assistance as possible but cannot assume financial responsibility for off-campus counseling services.

- F. All members of the campus community are encouraged to seek resources and support related to Sex discrimination and sexual misconduct proceedings, including Respondents, witnesses and bystanders. For more information, see CAU's Title IX website.

Non-Exhaustive Examples of Supportive Measures

In all cases, the Title IX Coordinator may offer supportive measures that are consistent with the University's policies and procedures, before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Examples of supportive measures that the University may offer and implement include, but are not limited to:

- providing a campus safety escort to ensure a reporting party or party can move safely between buildings, classes, dining halls, and activities on campus;
- ensuring that the Complainant and the Respondent do not attend the same classes, seminars, functions, meetings, etc.;
- offering to provide or facilitate the provision of medical, counseling and mental health services, but not necessarily covering the cost of such services;
- providing education regarding gender discrimination, sexual misconduct, alcohol and drug use, incapacitation and consent, etc.;
- by a criminal or civil court, if necessary;
- leaves of absences
- providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; or
- reviewing any academic challenges or any disciplinary actions taken against either party to see if there is a causal connection between the events that may have impacted the party;
- extension of deadlines or other course or work-related adjustments;
- modifications of class or work schedules;
- changing on-campus living arrangements or work locations, when reasonable;
- initiation of process to obtain orders of protection, no contact orders, restraining orders, or similar lawful orders issued
- 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.