
	<b>California University of Science and Medicine</b>		Policy Number
	Institutional Policy		1.03
	Policy Title Title IX Policy		Number of pages 38
Policy Owner Title IX Coordinator		Date Written	
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**PURPOSE OBJECTIVE**

California University of Science and Medicine (“CUSM” or “the University”) is committed to providing an environment that respects the dignity and worth of every member of its community, and strictly prohibits all forms of sex-based harassment and sexual discrimination. To this end, CUSM does not tolerate any form of sexual misconduct because such conduct violates the community values and principles of our University and disrupts the learning and working environment for students, faculty, staff, and community members. CUSM responds to complaints, reports, or information about incidents of sexual discrimination from students and staff/faculty to stop the inappropriate behavior, eliminate any hostile environment(s), and take steps to prevent the recurrence of the prohibited conduct. Sexual Assault, Domestic Violence, Dating Violence, Stalking, and Sexual Harassment are forms of sex-based harassment and sexual discrimination prohibited by Title IX.

The purpose of this Title IX Sex-Based Harassment and Sexual Discrimination Policy (“Policy”) is to further the University’s goal to eliminate sex-based harassment and sexual discrimination in its many forms and to provide resources to students and staff/faculty impacted by such incidents. This policy defines consent; provides definitions for sex-based harassment and sexual discrimination which encompasses quid pro quo, a hostile environment, sexual assault, domestic violence, dating violence, and stalking; describes the procedures and options for reporting violations of this policy; and identifies resources available to members of CUSM’s community who are involved in an incident of sexual misconduct.

The University also collaborates with existing on-campus and community-based organizations, including rape crisis centers and domestic violence centers, to refer students for assistance or make services available to students, including counseling, health, mental health, victim advocacy, and legal assistance, and including resources for the accused. These resources are further discussed below.

Finally, the University has also implemented comprehensive prevention and outreach programs addressing sexual violence, domestic violence, dating violence, and stalking. The comprehensive prevention program includes a range of prevention strategies, including, but not limited to, empowerment programming for victim prevention (e.g., self-defense workshops), awareness raising campaigns (e.g., clothesline event), primary prevention, bystander intervention, and risk reduction. Outreach programs are provided to make students aware of the institution's policy on sexual assault, domestic violence, dating violence, and stalking, and includes a process for contacting and informing the student body, about the institution's overall sexual assault policy, the practical implications of an affirmative consent standard, and the rights and responsibilities of students under the policy.

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## DEFINITIONS

**Affirmative Consent:** It is the responsibility of each person to ensure that they have the affirmative consent of the other to engage in sexual activity. *Communication regarding consent consists of mutually understandable words or actions that indicate an unambiguous willingness to do the same thing, at the same time, in the same way. In the absence of clear communication or outward demonstration, there is no consent.* Lack of protest, lack of resistance, or silence do not alone constitute consent.


Affirmative consent must be ongoing and *can be revoked at any time* during sexual activity. Thus, even if a person agreed to sexual interaction or continued sexual interaction, that person has the right to change their mind, irrespective of how much sexual interaction may have already taken place. Consent to any one form of sexual activity does not imply consent to any other form(s) of sexual activity. The existence of a dating relationship or past sexual relations between the persons involved should never by itself be assumed to be an indicator of consent (nor will subsequent sexual relations or dating relationship alone suffice as evidence of consent).

*NOTE: The obligations of this Policy require a clear understanding of the concept of Consent as is defined under Section 67386 of the California Education Code. Consent is an affirmative, voluntary, and conscious agreement to engage in sexual activity. In order to give effective consent, one must be of legal age (18 years in the State of California) and have the capacity to give consent.*

- A. **Force and Coercion:** Consent obtained through force is not consent. Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force includes the use of threats, intimidation (implied threats) and/or coercion to produce consent. Coercion is unreasonable pressure for sexual activity (“Have sex with me or I’ll hit you. Okay, don’t hit me; I’ll do what you want.”). Coercive behavior differs from seductive behavior based on the type of pressure used to get consent. When someone makes it clear that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.


*NOTE: Resistance is a clear demonstration of non-consent; however, there is no requirement that a party resist a sexual advance or request. Furthermore, absence of physical trauma does not invalidate accusations.*

- B. **Capacity/Incapacitation:** Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction). Sexual activity with someone who one should have known to be --or based on the circumstances should reasonably have known to be --mentally or physically incapacitated (i.e. by alcohol or

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other drug use, unconsciousness, asleep, or blacked out), constitutes a violation of this policy.

- i. **Incapacitation due to alcohol or other drugs:** Because alcohol or other drug use can place an individual’s capacity to consent in question, sober sex is less likely to raise such questions. Being under the influence of alcohol or other drugs does not in and of itself indicate incapacitation. When alcohol or other drugs, including date rape drugs (such as Rohypnol, Ketamine, GHB, etc.), are involved, a person is considered unable to give valid consent if they cannot fully understand the details of a sexual interaction (the who, what, when, where, why, or how) because they lack the capacity to reasonably understand the situation. Administering a date rape drug to another individual is a violation of this policy.
  - ii. **Incapacitation due to other reasons:** This policy also covers a person whose incapacity results from mental or physical disabilities, sleep, unconsciousness, or involuntary physical restraint.
- C. **Invalid Excuses:** In any proceedings under these policies and procedures, a Respondent may not assert as an excuse to an alleged lack of consent that the Respondent believed that the Complainant consented under any of the following circumstances:
  - i. The Respondent’s belief in affirmative consent arose from the intoxication or recklessness of the Respondent.
  - ii. The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented.
  - iii. If the Respondent knew or should reasonably have known that the Complainant was unable to consent to sexual activity under any of the following circumstances:
    - a. The Complainant was asleep or unconscious.
    - b. The Complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the Complainant could not understand the fact, nature, or extent of the sexual activity; or
    - c. The Complainant was unable to communicate due to a mental or physical condition.

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**Complainant:** means (1) A student or staff/faculty who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or (2) A person other than a student or staff/faculty who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in CUSM’s education program or activity at the time of the alleged sex discrimination.

**Complaint:** means an oral or written request to CUSM that objectively can be understood as a request for CUSM to investigate and make a determination about alleged discrimination under Title IX or this Policy.

**Grievance process or Grievance procedure:** means the process during which CUSM investigates complaints alleged to have violated this Policy.

**Incoming Students:** includes, but is not necessarily limited to, graduate, transfer, and international students, with a special consideration of their different needs, interactions, and engagements with their campuses.

**Party or Parties:** means a Complainant or Respondent, or Complainant(s) and Respondent(s) collectively.


**Prohibited Conduct:** an umbrella term for all such misconduct that are “Sex-based Harassment” and “Sexual Discrimination,” as defined below. Specific conduct within “Sex-based Harassment” and “Sexual Discrimination” are further defined within this section for clarity and understanding (i.e., quid pro quo, hostile environment, sexual assault, domestic violence, dating violence, and stalking).

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

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

**Respondent:** means a person who is alleged to have violated the University’s prohibition on sex discrimination.

**Responsible Employees:** all staff/faculty and full-time contractors except those employees or full-time contractors who have legally-defined confidentiality privileges who have the authority to redress sexual misconduct, the duty to report incidents of sexual misconduct (in regards to staff/faculty and/or


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students), or who a staff/faculty or student could reasonably believe has this authority or duty. Exempt from this definition includes the University’s physical and mental health counselors.

**Retaliation:** means intimidation, threats, coercion, or discrimination, against any person by the University, a student, or a staff/faculty or other person authorized by the University to provide aid, benefit, or service under the University’s education program or activity, for the purpose of interfering with any right or privilege under this Policy, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy. The University prohibits retaliation, including peer retaliation by a student against another student. However, charging an individual with a Policy violation for making a false statement in bad faith during a grievance proceeding under this Policy does not constitute retaliation under this Policy. A determination regarding responsibility alone will not be sufficient to conclude that any Party made a materially false statement in bad faith. Notwithstanding this definition of retaliation, the exercise of rights protected under the First Amendment of the U.S. Constitution does not constitute retaliation under this Policy. A person engaged in retaliatory conduct is subject to disciplinary sanctions under this Policy. For students, this may include denial of privileges, disciplinary probation, suspension, and/or expulsion. For staff/faculty, this may include warnings, suspensions, and/or termination. The University will consider interim measures in response to retaliation-related concerns to stop prohibited conduct and its recurrence. In some instances, this may lead to the removal of the person accused of retaliation from campus pending resolution of the matter.

**Sex-based Harassment** is a form of **Sexual Discrimination** and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is defined by one or more of the following ways:

- (1) **Quid Pro Quo Harassment:** An employee, agent, or other person authorized by CUSM to provide an aid, benefit, or service under the recipient’s education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service through an exchange of unwelcome sexual conduct; or
- (2) **Hostile Environment Harassment:** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from CUSM’s education program or activity (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
  - i. The degree to which the conduct affected the complainant’s ability to access CUSM’s education program or activity;

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- ii. The type, frequency, and duration of the conduct;
- iii. The parties' ages, roles within CUSM's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- iv. The location of the conduct and the context in which the conduct occurred; and
- v. Other sex-based harassment in CUSM's education program or activity.

**Examples of Sex-based Harassment and Sexual Discrimination, include:**

➤ **Quid Pro Quo Harassment:**


- Direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades, academic evaluation, or letters of recommendations.
- Subtle pressure for sexual activity, an element of which may be repeated requests for private meetings without an academic and employment purpose.
- Direct propositions of a sexual nature.

❖ **Hostile Environment Harassment:**

- A pattern of conduct that would discomfort or humiliate, or both, a reasonable person at whom the conduct was directed that includes one or more of the following: (1) unnecessary touching, patting, hugging, or brushing against a person's body; (2) remarks of a sexual nature about a person's clothing or body, whether or not intended to be complimentary; (3) remarks about sexual activity or speculations about previous sexual experience; (4) other comments of a sexual nature, including sexually explicit statements, questions, jokes or anecdotes; or (5) letters, notes or electronic mail containing sexual comments, words or images.

❖ **Other Specific Prohibited Conduct:**

- Sexual assault, or other unwelcome non-consensual touching.
- Physical assault, or property damage.
- Emotional violence, or physical threat.
- Direct verbal threat of violence to one's self, one's romantic partner, or to others.
- Pursuing, following, waiting, or showing up uninvited at or near a residence, workplace, classroom, or other places frequented by the victim.

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- Stalking through non-consensual communication, including face-to-face communication, telephone calls, voice messages, e-mails, texts, letters, notes, gifts, or any other communications that are undesired and place another person in fear.
- Stalking through surveillance or other types of observation, including staring or “peeping”.

NOTE: **Sex-based Harassment** and **Sexual Discrimination** may occur between individuals regardless of their genders or gender identities.


(3) Other Specific Offenses:

- A. **Sexual Assault** is a forcible or nonforcible sex offense. Non-consensual sexual penetration is one form of Sexual Assault that takes place without the consent of the Complainant, this form of Sexual Assault, sometimes called “rape,” is any penetration, no matter how slight, of the vagina, anus, or mouth by any body part or object that is without consent and/or by force. Non-consensual sexual contact is another form of Sexual Assault that takes place when, without the consent of the Complainant, there is touching of an intimate body part (genitals, anus, groin, breast, or buttocks) or there is touching of another individual with any of these body parts. This type of Sexual Assault also includes making another touch you or themselves with, or on, any intimate body parts, clothed or unclothed.

Specific Acts of Sexual Assault also known as “Sex Offenses” that are prohibited by this policy include:

- i. Rape: Sexual intercourse of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of the individual’s age or because of the individual’s temporary or permanent mental or physical incapacity.
- ii. Sodomy: Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of a temporary or permanent mental or physical incapacity.
- iii. Sexual Assault With An Object: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of a temporary or permanent mental or physical incapacity.
- iv. Fondling: The touching of the private body parts of another person for the purpose of sexual gratification without the consent of the victim, including instances where




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the victim is incapable of giving consent because of their age or because of a temporary or permanent mental or physical incapacity.

- v. Incest: Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- vi. Statutory Rape: Nonforcible sexual intercourse with a person who is under the statutory age of consent.

*NOTE: As defined by the federal Violence Against Women Act (VAWA), **Sexual Assault** means an offense classified as a forcible or non-forcible sex offense under the Uniform Crime Reporting (UCR) system and the National Incident-Based Reporting System (NIBRS) of the Federal Bureau of Investigation. Generally, a sexual assault has been committed when an individual engages in sexual activity without the explicit consent of the other individual involved, including when the individual lacks capacity to consent. In this policy, sexual activity is any touching of a sexual or other intimate part of a person either for asserting power or gratifying sexual desire of either party. This includes the touching of the Responding Party by the Complainant and the coerced touching of the Complainant by the Responding Party, clothed or unclothed.*

- B. **Domestic Violence** is defined as any act of violence or threatened act of violence against a person who is or has been involved in a domestic relationship with the accused. Domestic Violence includes felony or misdemeanor crimes of violence committed by someone who:
  - i. Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
  - ii. Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
  - iii. Shares a child in common with the victim; or
  - iv. Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.
- C. **Dating Violence** is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the impacted party, and where the existence of such a relationship is determined based on a consideration of the following factors:
  - i. Length of the relationship
  - ii. Type of relationship

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iii. Frequency of interaction between the people involved in the relationship.

D. **Stalking** is defined as engaging in course of conduct directed at a specific person that would cause a reasonable person to:

- i. Fear for the person's safety or the safety of others; or
- ii. Suffer substantial emotional distress.

For the purposes of the Stalking definition:


- (a) Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- (b) Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
- (c) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

**Outreach Programming:** As required under California Code, Education Code - EDC § 67386, includes, but is not necessarily limited to, informing students about all of the following:

- i. The warning signs of intimate partner and dating violence.
- ii. Campus policies and resources relating to intimate partner and dating violence.
- iii. Off-campus resources and centers relating to intimate partner violence (dating and domestic violence).
- iv. A focus on prevention and bystander intervention training as it relates to intimate partner and dating violence.

**SCOPE:**

This policy applies to all members of the CUSM community, including students, faculty, staff, contractors, visitors, and third-party affiliates. Regardless of where a matter takes place, whether it be on- or off-campus and/or outside the US, the Title IX office addresses all matters that are within CUSM's


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education programming, digital platforms, campus property (such as university-affiliated housing), and in all matters where CUSM has disciplinary authority. This policy also applies to recruitment, employment practices, and interactions with affiliated institutions and partnerships.

## POLICY

- I. CUSM does not discriminate on the basis of sex, sexual orientation, pregnancy or related conditions, gender identity, gender expression, sex stereotypes, or any other category protected by applicable law, in the administration of its educational policies, admission policies, scholarship and loan programs, employment, or other school administered programs.<sup>1</sup>
- II. CUSM complies with applicable state and federal statutes, including Title IX of the federal Higher Education Amendment of 1972, and the most recent Title IX regulations issued by the U.S. Department of Education's Office for Civil Rights in April 2024.
- III. A responsible employee must report incidents of sex-based harassment and sexual discrimination to the Title IX Coordinator regarding students and/or staff/faculty. This includes information about incidents a responsible employee knows or reasonably should have known about.
- IV. CUSM has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, staff/faculty , other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator.
- V. Pursuant to California Code, Education Code – EDC § 67386, all CUSM policies and procedures relating to Title IX cover, at a minimum, the following issues (which are detailed further throughout this policy, and throughout other CUSM Title IX procedures):
  - (1) A policy statement on how the institution provides appropriate protections for the privacy of individuals involved, including confidentiality.
  - (2) The initial response by the institution's personnel to a report of an incident, including requirements specific to assisting the victim, providing information in writing about the importance of preserving evidence, and the identification and location of witnesses.
  - (3) The response to stranger and non-stranger sexual assault.
  - (4) The preliminary victim interview, including the development of a victim interview protocol, and a comprehensive follow-up victim interview, as appropriate.

<sup>1</sup> As set forth within § 106.40 of the Title IX 2024 Regulations, a Title IX Pregnant and Parenting Policy has been adopted and is referenced within this policy indicating the Title IX office and CUSM's willing obligation to implement specific rights, actions, and accommodations to prevent sexual discrimination of individuals that are either pregnant and/or parenting and ensure their equal access.


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- (5) Contacting and interviewing the accused.
- (6) Seeking the identification and location of witnesses.
- (7) Providing written notification to the victim about the availability of, and contact information for, on- and off-campus resources and services, and coordination with law enforcement, as appropriate.
- (8) Participation of victim advocates and other supporting people.
- (9) Investigating allegations where alcohol or drugs were involved in the incident.
- (10) Providing that an individual who participates as a complainant or witness in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to disciplinary sanctions for a violation of the institution's student conduct policy at or near the time of the incident, unless the institution determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.
- (11) The role of institutional staff supervision.
- (12) A comprehensive, trauma-informed training program for campus officials involved in investigating and adjudicating sexual assault, domestic violence, dating violence, and stalking cases.
- (13) Procedures for confidential reporting by victims and third parties

**i. TITLE IX COORDINATOR AND CONTACT INFORMATION**

The Title IX Coordinator assists our community with matters related to Sex-Based Harassment and Sexual Discrimination to ensure a positive learning and working environment are in place. The Title IX Coordinator’s responsibilities include:

- Overseeing Title IX compliance
- Providing information, resources, and supportive measures (see page 14-15 of this policy) for individuals reporting alleged sexual misconduct (i.e., Complainant)
- Providing information, resources, and supportive measures for individuals accused of sexual misconduct (i.e., Respondent)
- Ensuring prompt and equitable resolution for Formal Complaints that are filed within the campus

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- Tracking and monitoring incidents of sex-based harassment and sexual discrimination, and
- Coordinating outreach, education, and prevention efforts.

For inquiries on Title IX compliance, to file a Complaint and request an investigation for resolution, or to report sex-based harassment and sexual discrimination concerns or suspected violations, please contact the Title IX Coordinator, the U.S. Department of Education’s Office for Civil Rights, or both:

**Sandra E. Hodgin, Ph.D.**

Address: 1501 Violet Street, Colton CA 92324

E-mail: [titleixcoordinator@cusm.edu](mailto:titleixcoordinator@cusm.edu)

Phone Number: (909) 424-0345

**U.S. Department of Education’s Office of Civil Rights**

Washington DC (Metro)

Office for Civil Rights

U.S. Department of Education

400 Maryland Avenue, SW

Washington, D.C. 20202-1475

E-mail: [OCR.DC@ed.gov](mailto:OCR.DC@ed.gov)

Phone Number: 202-453-6020


FAX: 202-453-6021; TDD: 800-877-8339

***Please note:*** Title IX reports (regarding students and/or staff/faculty) can be made orally (for example, within an in-person conversation), verbally over the phone, or in writing through an e-mail by using the Title IX Coordinator’s contact information listed above, at any time (including non-business hours). Please be sure to leave your contact information if you are leaving a voicemail outside normal office hours.

*\*Oral complaints will be asked to submit a follow-up written description for purposes of complaint accuracy and confirmation.*

ii. **RESPONSIBLE EMPLOYEES**

A responsible employee must report incidents of sex-based harassment and sexual discrimination to the Title IX Coordinator regarding students and/or staff/faculty. This includes information about incidents a responsible employee knows or reasonably should have known about. For the purposes

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of this policy, a responsible employee is defined as all staff/faculty and full-time contractors except those employees or full-time contractors who have legally-defined confidentiality privileges who have the authority to redress sexual misconduct, the duty to report incidents of sexual misconduct (in regards to staff/faculty and/or students), or who a staff/faculty or student could reasonably believe has this authority or duty. Exempt from this definition includes the University’s physical and mental health counselors.

A responsible employee must report the incident, including all relevant details, to the Title IX Coordinator. This includes the name of the respondent(s) (if known), the name of the staff/faculty, student, or program participant who is suspected of, or has been observed experiencing sex-based harassment and sexual discrimination, other individuals involved, as well as relevant facts, including the date, time, and location of the alleged sexual misconduct. To the extent practicable, information reported to a responsible employee will be shared only with the University officials responsible for responding to the report. Only if deemed necessary, may other staff and/or administrators be involved in the process, e.g., dean of students, and human resources.


iii. **FRATERNIZATION (CONSENSUAL RELATIONSHIPS)**

CUSM’s fraternization policy ‘Consensual Sexual or Romantic Relationships in the Workplace and Educational Setting’, emphasizes that all sexual or romantic relationships between individuals in inherently unequal positions assume special risks and therefore, are **prohibited**.

In the university context, such sexual or romantic relationships include, but are not limited to:

- ❖ faculty and student
- ❖ supervisor and staff/faculty
- ❖ senior administrative faculty and faculty
- ❖ faculty and staff
- ❖ mentor and trainee
- ❖ adviser and advisee
- ❖ teaching assistant and student

When the policy on consensual relationships is violated, a violation of this Title IX policy may also result. Under both policies, a romantic or sexual relationship in which one individual is in a position to exercise authority over the other creates a potential for sex-based harassment, exploitation, and/or perceptions of undue advantage or disadvantage.

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Additionally, when both parties have consented at the outset to a romantic or sexual relationship, this consent does not remove grounds for a charge of sex-based harassment, sexual discrimination, conflict of interest, or other violations applicable to CUSM policies.

CUSM’s policy on consensual sexual or romantic relationships in the workplace can be reviewed in its entirety here: [6.62 – Consensual Sexual or Romantic Relationships in the Workplace and Educational Setting Policy](#)

#### iv. REPORTING OPTIONS

##### A. Internal Reports

Students and/or staff/faculty of the CUSM community who believe that they have been or may be subjected to Sex-based Harassment or Sexual Discrimination (i.e., quid pro quo harassment, hostile environment harassment, sexual assault, domestic violence, dating violence, stalking) or who have witnessed or are aware of any incident of the same during an education program or activity, are encouraged to report such concerns to obtain supportive measures (see “Supportive Measures” of this policy) and/or to file an oral or written Title IX complaint.

Reports may be made to the Title IX Coordinator listed below, regardless of whether the reporting party is a student, faculty member, staff member, or third party. Under no circumstances is an individual required to report sexual misconduct or other prohibited conduct to a supervisor or academic instructor who is the alleged perpetrator.

Title IX reports can be made orally (for example, within an in-person conversation), verbally over the phone, or in writing through an e-mail by using the Title IX Coordinator’s contact information listed below, at any time (including non-business hours). Please leave your contact information if you are leaving a voicemail outside normal office hours.


**Sandra E. Hodgin, Ph.D.**

Address: 1501 Violet Street, Colton CA 92324

E-mail: [titleixcoordinator@cusm.edu](mailto:titleixcoordinator@cusm.edu)

Phone Number: (909) 424-0345

*\*Oral complaints will be asked to submit a follow-up written description for purposes of complaint accuracy and confirmation.*

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## B. Anonymous Reports

### CUSM Anonymous Reporting Hotline

CUSM Compliance utilizes an anonymous reporting hotline which is managed by a third-party vendor. In situations where an individual prefers to place an anonymous report in confidence, they are encouraged to use the CUSM Anonymous Reporting Hotline which may be accessed here: <http://cusm.ethicspoint.com/>.

### Canvas

CUSM students may make anonymous reports of Sex-based Harassment and Sexual Discrimination through the Canvas online “Anonymous Reporting and Suggestion Form”. However, depending on the extent of information available about the parties involved and the incident, the University’s ability to respond to such reports may be limited.

## C. External Reports

CUSM strongly encourages all individuals who are the subject of sex-based harassment, sexual assault, domestic violence, dating violence, and/or stalking to pursue all remedies available to them, including reporting incidents of potential criminal conduct to law enforcement. Below is the contact information for the Colton Police Department.

Colton Police Department

650 N. La Cadena Drive

Colton, CA 92324

Lobby Hours: 8:00 am - 4:00 pm, Monday-Thursday (Closed Fridays and Holidays)

(909) 370-5000 (**non-emergencies**)


**Emergencies: 9-1-1**

## v. CONFIDENTIALITY

### A. Limited Confidentiality within the University

CUSM respects the privacy of those reporting Sex-based Harassment and Sexual Discrimination also defined as Prohibited Conduct ([see Definitions section](#)) and will endeavor to respect requests for confidentiality to the greatest extent practicable.



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CUSM keeps confidential the identity of Complainants, Respondents, and witnesses, except as may be permitted by FERPA, as required by applicable law, or as necessary to carry out a proceeding under this Policy. To the extent that disclosure of the identity of Complainants, Respondents, and/or witnesses is required by applicable law or is necessary to carry out a proceeding under this Policy, the University will make such disclosure only to the extent necessary.

Parties, advisors, and witnesses are prohibited from photographing, scanning, or recording by audio, video, or other means the evidence, or disseminating the evidence to third parties or to the public. Should dissemination become necessary for litigation or other legal proceedings, the individual contemplating disclosure must advise all relevant participants of the pending disclosure and allow a reasonable time period for a Party to contest the disclosure.

The Title IX Coordinator may, within their discretion, require the Parties, advisors, and/or witnesses to sign appropriate non-disclosure agreements (in accordance with applicable law). The University retains the discretion to determine what additional measures, if any, are reasonably appropriate to allow the Parties to respond to use the evidence at a hearing, while preventing the evidence from being used in an impermissible manner as long as such measures apply equally to both Parties and do not restrict the ability of a Party to discuss the allegations under investigation or to gather and present relevant evidence. For example, such measures may be used to address sensitive materials such as photographs with nudity.


Nothing in a non-disclosure agreement, or in this Section or any other Section of this Policy, shall restrict the ability of a Party to discuss or communicate about the allegations under investigation (e.g., with a parent, friend, or other source of emotional support), or to gather and present relevant evidence.

**B. Confidential Resources within the Community**

Students and/or staff/faculty who wish to seek advice or assistance or to discuss options for dealing with issues involving Sex-based Harassment and any and all forms of Sexual Discrimination on a **strictly confidential basis** may do so by speaking with licensed counselors, clergy, medical providers in the context of providing medical treatment, rape crisis center counselors, and/or sexual violence advocates. Students, staff, and faculty who wish to speak to someone on a strictly confidential basis may contact the following confidential resources to discuss options available to you:

Partners Against Violence (Local Rape Crisis Center)

Free confidential advice and counseling available 24 hours, 7 days a week

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909-885-8884

Website: <https://www.partnersagainstviolence.org/>

*\*They are on campus the last Wednesday of each month.*

Project Sister Advocates & Counselors (Local Rape Crisis Center)

Free confidential advice and counseling available 24 hours, 7 days a week

909-626-HELP (909-626-4357)

Website: <http://projectsister.org/>

RAINN Advocates & Counselors (National Sexual Assault Crisis Center)

Free confidential advice and counseling available 24 hours, 7 days a week

800-656-HOPE (800-656-4673)

For Online Hotline Assistance: <https://ohl.rainn.org/online/>

Website: <https://rainn.org/>

**vi. GOOD SAMARITAN PROVISION (AMNESTY)**


To encourage reporting, individuals cooperating in a Title IX investigation or hearing may be provided immunity on sanctions related to alcohol and drug policy violations to determine consent or memory only under this Policy. This behavior will not serve as the foundation for discipline or independent proceedings under another University policy. However, the University may, at its discretion, require individuals who engaged in such behavior to participate in education programs or recommend a meeting with a counselor or other support persons.

**vii. RETALIATION**

Persons who believe that they have been retaliated against for making a complaint/report or for cooperating in an investigation should immediately contact the Title IX Coordinator. Retaliation is itself a violation of this Policy and is a serious, separate offense. Any person who retaliates against a person who has filed a complaint or cooperated in an investigation is in violation of University policy and will be subject to disciplinary action.

**viii. FALSE ACCUSATIONS**

Knowingly making a false accusation of sexual harassment (i.e., quid pro quo, hostile environment, sexual assault, domestic violence, dating violence, and/or stalking) under this Policy is itself a

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violation of this Policy and will be subject to disciplinary action, up to and including volunteer or contractor dismissal, student expulsion, or termination of employment from the University.

Reports of a false accusation shall not be addressed immediately but rather following the investigation of the Formal Complaint in question.

***NOTE:** Failure to prove a claim of sexual harassment, as defined within this Policy (see Definitions), is not the equivalent of a knowingly false accusation.*

## PROCEDURE

Inquiries about the application of Title IX and its implementing regulations may be referred to the Title IX Coordinator.


### (a) JURISDICTION & APPLICABILITY

All CUSM community members are prohibited from engaging in, or assisting or abetting another’s engagement in, sex-based harassment and sexual discrimination ([see Definitions Section](#)). This includes, without limitation, all students, faculty, and staff.

CUSM takes action to investigate and resolve a Title IX complaint of sex-based harassment and sexual discrimination when:

- i. The **“complainant”** (the individual who is alleged to be the victim of conduct that could constitute sex-based harassment or other sex discrimination) initiates a complaint and is a student or staff/faculty of CUSM who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or is a person other than a student or staff/faculty of CUSM who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating in or attempting to participate in CUSM’s education program or activity at the time of the incident;
- ii. A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant initiates a complaint; or
- iii. CUSM’s Title IX Coordinator initiates a complaint.

In situations where the alleged sex-based harassment or sexual discrimination occurred outside of the context of an education program or activity or where the respondent is not a member of the campus community (including when the respondent has graduated or left CUSM), the school typically will not take action to resolve the complaint (for example: conduct an investigation), but

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may address the situation and provide appropriate resources to impacted individuals and, where appropriate, the broader community.

**(b) GRIEVANCE PROCEDURES**


CUSM has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, staff/faculty , or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Officer, alleging any action that would be prohibited by Title IX or the Title IX regulations. Notice of a report may be made in person, by mail, by telephone, or by e-mail to the Title IX Coordinator.

While there is no time limit for reporting, reports of Prohibited Conduct ([see Definitions](#)), should be brought forward as soon as possible; all incidents should be reported even if significant time has elapsed but prompt reporting will better enable CUSM to respond, and provide an appropriate and equitable remedy.

Within this Policy, CUSM and the Title IX Coordinator do not treat CUSM applicants, students, or staff/faculty differently on the basis of sex or identity and therefore do not favor Complainants over Respondents or Respondents over Complainants. To that end, CUSM presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures. The Title IX Coordinator does not promote CUSM’s interests other than its interest in gender equity as evidenced in this Policy and provided by law. The Title IX Coordinator’s primary job is to ensure CUSM complies with Title IX regulations which includes (i) responding to reports and complaints of sex-based harassment and sexual discrimination, (ii) informing Complainants of the availability of supportive measures and of the process for filing a Complaint, (iii) offering appropriate supportive measures for Complainants designed to restore or preserve equal access to CUSM’s education program or activity, (iv) working with Respondents to provide supportive measures as appropriate, (v) coordinating the effective implementation of both supportive measures (to one or both parties) and remedies (complainant), and (vi) ensuring equitable and prompt resolution.

Although a report may come in through many sources, CUSM is committed to ensuring that all reports of Prohibited Conduct are referred to the Title IX Coordinator, which ensures consistent application of this Policy and Procedures.

*Please Note: CUSM and the Title IX Coordinator’s actions are not dependent on the initiation or outcome of criminal charges. Disciplinary proceedings may be carried out prior to, simultaneously with, or following civil or criminal proceedings.*

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**I. Initial Report and Supportive Measures**

As soon as practicable after receiving a report, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of supportive measures, consider the Complainant’s wishes with respect to the supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a complaint for an investigation, and explain to the Complainant the process for filing a complaint.

A. **Supportive Measures** means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

- i. Restore or preserve that party’s access to the recipient’s education program or activity, including measures that are designed to protect the safety of the parties or the recipient’s educational environment; and/or
- ii. Provide support during the recipient’s grievance procedures or during an informal resolution process.


**B. Range of Supportive Measures**

For Students and/or Staff/Faculty<sup>[OBJ]2[OBJ]</sup>

- Counseling services
- Course-related adjustments (exams, assignments, etc.)
- Work or class schedule modifications
- Academic support services
- Campus escort services
- Mutual No-Contact Order between parties (*see Section V. Confidentiality*) regarding confidentiality limitations with this option)
- Voluntary leaves of absence

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<sup>2</sup> Individuals unaffiliated with CUSM (i.e., non-students, non-employees, or visitors) that have experienced a Title IX violation by an affiliated CUSM student or staff/faculty member will be provided local resource information (such as law enforcement, rape crisis center information) when they have been in contact with the Title IX Office.

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- Increased security and monitoring in certain areas at CUSM
- And other similar remedies to support the goals of this Policy.

## II. Complaint (Preliminary Steps)

Various preliminary steps (listed below) take place once a Complaint has been made and the Complainant and/or the Title IX Coordinator elects to pursue an investigation.

### A. Notice of Allegation

A written notice of the allegations is emailed to all parties, which includes the identification of the parties involved, the alleged conduct, the date and time of the alleged conduct, CUSM’s grievance process, information on the Title IX informal process, details on having an advisor throughout the Title IX process, and information on the prohibition of false reports and retaliation.

### B. Safety and Risk Analysis

A Safety and Risk Analysis is immediately done by the Title IX Coordinator to see if there is an immediate threat to the physical health or safety of any student (such as the Complainant and/or the Respondent) or other individual arising from the allegations of sex-based harassment or sexual discrimination.

If there is an immediate threat regarding the accused, the Respondent may be removed from CUSM on an emergency basis, through the following classifications:

#### i. Student- Emergency Removal:


Based on the gravity of concern, a student Respondent will be given notice and then have a chance to challenge the decision immediately after removal.

#### ii. Employee- Administrative Leave:

Based on the gravity of concern, a staff/faculty Respondent will be placed on leave throughout part or the entire duration of the grievance process.

*Note: Any student emergency removal or staff/faculty administrative leave imposed pursuant to this section shall have no bearing on the presumption of non-responsibility established throughout the Grievance Procedures described within this Policy.*

### C. Dismissal of a Complaint

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If a Complaint cannot proceed legally and in accordance with Federal Title IX regulation, a Complaint will not be pursued in the following circumstances:


- a. The Title IX Office and CUSM are unable to identify the respondent after taking reasonable steps to do so;
- b. The Respondent is no longer enrolled or employed by CUSM;
- c. The Complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and CUSM determines that, without the complainant’s withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- d. The Title IX Coordinator determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. *(Please note: Before dismissing the complaint, the Title IX Office will make reasonable efforts to clarify the allegations with the complainant.)*

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

#### **D. Ability to Appeal the Dismissal of a Complaint**

The Title IX Coordinator notifies the complainant that a dismissal may be appealed and provides the complainant with an opportunity to appeal the dismissal of a complaint. If the dismissal occurs after the respondent has been notified of the allegations, then the Title IX Office will also notify the respondent that the dismissal may be appealed. Dismissals may be appealed on the following bases:

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

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**E. If an Appeal of the Dismissal Is Pursued**

If the dismissal is appealed, CUSM and the Title IX Office will:

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

**F. Dismissed Complaint Expectations**

The Title IX Coordinator will, at a minimum:

- a. Offer Supportive Measures (see “Initial Report and Supportive Measures” in this policy) to the complainant as appropriate;
- b. If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
- c. Take other prompt and effective steps, as appropriate, through the Title IX Office to ensure that sex discrimination does not continue or recur within CUSM’s education program or activity.


**III. Informal and Formal Resolution Procedures**

Following the filing of a Complaint, the Complainant can proceed with the Informal or Formal Resolution Procedures.

**A. Advisor Throughout Informal and Formal Resolution Procedures**

Regardless of the selection to proceed with Informal or Formal Procedures, the Complainant and Respondent may each have a support person of their choosing present with them at all meetings and any hearing associated with the Resolution Procedures. The support person is an



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advisor of choice and can include a current member of the CUSM community or be an external individual to the University such as an attorney, advocate, or family member. The support person cannot be involved in the underlying case and cannot be part of the investigation, such as be a witness.

*Note: Under Title IX 2020 and 2024 regulations, CUSM reserves the right to establish restrictions regarding the extent to which an advisor may participate in the proceedings, as long as the restrictions are applied equally to both parties.*

### **B. Standard of Evidence**

To ensure a fair process, it is important all parties understand that throughout the grievance process, either Informal or Formal, CUSM upholds the preponderance of the evidence standard (it is more likely than not that the claim is true) for all complaints of Prohibited Conduct, including those against staff/faculty.

### **C. Presumption of Non-Responsibility**

There is a presumption that the Respondent is not responsible for the alleged Sex-based Harassment and Sexual Discrimination described until a determination regarding responsibility is made at the conclusion of the Grievance Procedures.

### **D. Time Frames**


All grievance procedures, Informal or Formal, are concluded within a reasonably prompt time frame, unless notice of a short-term delay or extension for good cause will be temporary and limited. For example, if there is an investigation delay, the assigned investigator will notify the Title IX Coordinator, and the Title IX Coordinator will then provide a timeline update to all parties and their respective advisors.

Reasonable time frames include:

- thirty (30) business days for Informal Resolutions, and ninety (90) business days for Formal Resolutions.

### **E. Adjudication Process Options**

In Title IX cases, complainants have two options for resolving their concerns: Informal and Formal Processes. The Informal Resolution process usually involves mediation, or a resolution agreed upon by both parties without a formal investigation or hearing. The Formal Resolution process is more structured and includes an investigation, adjudication, and a formal determination of responsibility.

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Complainants can choose either route initially, and importantly, they can switch from one process to the other at any time before a decision or agreement is finalized. For example, if they start with the informal process but later decide that a more formal investigation is necessary, they can switch to the formal process, or vice versa. This flexibility ensures that complainants retain control over how their case is handled throughout the process.


The following visualization is intended to provide insight on the Informal and Formal Resolution Process options based on the prohibited conduct that is brought forward and reported to the Title IX Office. The Title IX Office always assumes full responsibility for the handling of all sex-based harassment and sexual discrimination complaints that are disclosed and brought to the attention of the Title IX Office.

PROHIBITED BEHAVIOR	ADJUDICATION PROCESS OPTIONS	
	<i>Informal Process</i>	<i>Formal Process</i>
Sexual Assault	Restorative Justice	Live Hearing
Stalking	Restorative Justice	Hearing
Interpersonal Violence (Domestic & Dating)	Restorative Justice	Hearing
Sex-Based Harassment: Quid Pro Quo	Restorative Justice*	Hearing*
Sex-Based Harassment: Hostile Environment	Restorative Justice*	Hearing*

**\*The following departments may work in conjunction with the Title IX Office to Resolve the Title IX Complaint:** Human Resources; Student Affairs; and/or Equity, Inclusion, Diversity and Partnerships. *This will be determined by Title IX Office.*

#### IV. Informal Resolution Procedures

After a Complaint is filed, an Informal Resolution process may be initiated. Informal Resolution Procedures do not involve a full investigation and adjudication, rather Informal Resolution Procedures facilitate a restorative justice approach, which can include mediation.

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For an Informal Resolution to take place, all parties must provide voluntary, written consent to move forward with this option.

**Scenarios where an Informal Resolution may take place:**

- Facts alleged in a Formal Complaint are not contested;
- The Respondent has admitted or wishes to admit responsibility; or
- Both parties want to resolve the case without a completed investigation or adjudication.

**Informal Process:**

In all cases, the Title IX Coordinator oversees the mediation/informal resolution that are classified as prohibited conduct under Title IX. The Title IX Coordinator will serve as the Informal Resolution Officer for all sexual assault, stalking, and domestic/dating violence cases. Cases that are categorized as sex-based harassment seeking informal resolution are resolved, at the discretion of the Title IX Coordinator, in conjunction with Human Resources, Student Affairs, and/or the Office of Equity, Inclusion, Diversity, and Partnership.

To initiate an Informal Resolution each party must submit a written request to become involved in the informal resolution process. CUSM subsequently sends a notice to the parties with specifics about how the process will work. For example, based on the prohibited conduct that has been alleged, parties will be informed on which department(s) will work to support them toward reaching an informal resolution.


Parties may consult their advisor or have their advisor present during informal resolution meetings. During mediation sessions, parties are kept separate and placed in separate meeting spaces, either virtually or in-person, where parties work with the Informal Resolution Officer(s) to reach a resolution. For all mediation, the Informal Resolution Officer(s) goes back and forth between parties, privately speaking with each party, to reach a resolution.

Once a resolution has been agreed upon, CUSM and the Title IX Office will send the parties a document to sign confirming that the parties have voluntarily agreed to the informal resolution.

*Note: Formal Complaints alleging sex-based harassment and sexual discrimination by a staff/faculty member are not provided an Informal Resolution option.*

**V. Formal Resolution Procedures**

After a Complaint is filed, a Formal Resolution process may be initiated. Formal Resolution Procedures involve a full investigation, decision making, and adjudication. The Title IX Coordinator shall select the Investigator, Hearing Officer, and Appeals Officer, for each investigation from a pool of University

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staff/faculty or third parties (such as external law firm professionals) specifically trained to serve in those roles.

**A. Conflict of Interest**

Neither the Title IX Coordinator nor any Investigator, Hearing Officer, or Appeals Officer shall make findings or determinations in a case in which they have a material conflict of interest or material bias. Any party who believes one or more of these University officials has a potential material conflict of interest or material bias must raise the concern to the Title IX Coordinator within two (2) business days of discovering the perceived conflict so that the University may evaluate the concern and find a substitute, if appropriate. The parties will be notified of the identity(ies) of Investigator, Hearing Officer, and, if applicable, the Appeals Officer before the specific grievance procedure starts. The Title IX Coordinator or designee determines whether a conflict of interest exists. The failure of a party to raise a concern of a conflict of interest or bias may result in a waiver of the issue for purposes of any appeal specified within this section listed under subsection (F) Appeals.

**B. Investigation**


All CUSM investigations shall be thorough, reliable, and impartial. All investigations entail interviews with all relevant parties and witnesses, to systematically obtain available evidence. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on CUSM and not on the parties.

The Title IX Coordinator emails a copy of the Investigation Process and Rights for both the Complainant and Respondent (Appendix A) to ensure they both understand the process and their rights at the start of the Formal Process.

The Title IX Office provides to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate. The parties shall have an equal opportunity to identify witnesses, including fact and expert witnesses, and to present other inculpatory and exculpatory evidence. The parties shall not be restricted in their ability to discuss the allegations under investigation or to gather and present relevant evidence. However, no individual shall attempt to alter or prevent a witness’s statement or participation.

CUSM, through the Title IX Office, provides the parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. Additionally,

- CUSM does not limit the choice or presence of the advisor for the complainant or respondent in any meeting or proceeding.

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- CUSM may establish restrictions regarding the extent to which the advisor may participate in these grievance procedures, as long as the restrictions apply equally to the parties.

CUSM takes reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps do not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures.


The parties cannot engage in retaliation, including against witnesses.

CUSM objectively evaluates all evidence that is relevant and not otherwise impermissible - including both inculpatory and exculpatory evidence. Credibility determinations are not based on a person's status as a complainant, respondent, or witness.

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

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

CUSM provides an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

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The Title IX Investigator(s) reviews all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

Each party is presented with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, in the following manner:

- CUSM provides an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. CUSM provides a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and
- CUSM takes reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. However, disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

The Investigator(s) shall complete the investigation and prepare an investigative report that fairly summarizes relevant evidence. The report may include credibility findings but shall not make a determination regarding responsibility. The investigator shall redact from the investigative report any information that is not relevant, which is contained in documents or evidence that is relevant. At least ten (10) business days prior to any hearing, the investigator shall send to each party and the party's advisor, if any, the investigative report, including all relevant evidence, in an electronic format or a hard copy, for their review and written response (if desired). The investigator shall concomitantly send the investigative report, including all relevant evidence, to the Title IX Coordinator. The parties will have five (5) business days to submit any written response to the Title IX Coordinator.

Allegations of misconduct other than sex discrimination or sex-based harassment will be investigated in accordance with this Policy but are not subject to the hearing procedures in this Policy; rather, when such allegations are found to be substantiated by the investigator, a decision will be made pursuant to the Student Code of Conduct or policies applicable to faculty or staff, as appropriate.

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At any time during the investigation, the investigator may recommend that interim protections or remedies for the complainant, respondent, or witnesses be provided by appropriate University officials. The University may recommend short term, or interim, protections or remedies. These remedial actions may include, but are not limited to:

- resources and support services
- issuance of No Contact orders to separate or limit contact between the parties
- modification of extracurricular, working or course schedules, assignments or tests
- increased monitoring, supervising, or security at applicable locations or activities
- and/or interim suspension(s) pending investigation.

These remedies or protections may apply in ground or online contexts. Failure to comply with the terms of interim protections may be considered a separate violation of this Policy or other applicable University policies.

### C. Pre-Hearing Conference<sup>3</sup>


Ten (10) business days prior to the Hearing, a conference with the Hearing Officer, who is the Decisionmaker, is held (i.e., in-person or virtually) with each respective party and their advisor at separate times. The purpose of the Pre-Hearing Conference is to educate parties on the decision-making process, answer questions, and discuss specific details such as expected scope of the Hearing, decorum, logistics, and to request a proposed witness list for the Hearing Officer to review.

Additional Details:

- The deadline for the submission of proposed witnesses, proposed questions for parties, and supporting documents is five (5) business days before the scheduled first date of the Hearing process.
- The Hearing Officer prescreens questions for relevance and permissibility and provides an explanation on any decision to exclude a question that is not relevant or otherwise impermissible. Approved questions that are prescreened will be provided solely to the respective party 2-3 business days prior to the Hearing start date.

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<sup>3</sup> Throughout the entire adjudication process the Title IX Coordinator is present ensuring fairness and that all Title IX processes are followed appropriately and as designated by Title IX federal regulation.

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- If a prescreened question is deemed unclear or harassing, parties will have an opportunity to clarify or revise these specific types of questions. If the party sufficiently clarifies or revises a question, the question will be asked.
- If witness statements from the investigation are deemed not relevant to the allegation(s) a witness may not be called to make a statement, and this will be noted in a preliminary witness list created by the Hearing Officer that will be shared 2-3 business days prior to the Hearing start date.

#### **D. The Hearing Process<sup>4</sup>**

Following the completion of the investigation and a Pre-Hearing Conference, the hearing process will be performed either in-person or virtually, by the Hearing Officer. The Hearing Officer is deemed the Decisionmaker to reach a fair, and accurate determination within the Title IX Grievance Procedure. The Hearing Officer will be a separate person from the Investigator and is under an obligation to objectively evaluate all relevant evidence, both inculpatory and exculpatory. Therefore, the Hearing Officer will independently reach a determination regarding responsibility and credibility by reviewing the Final Investigation Report and observing and questioning the parties present during the Hearing process, and through witness questioning (this includes the investigator, and fact and expert witnesses).

*Note: The Hearing Officer will independently reach a determination regarding responsibility based on statements provided within the Hearing process, without giving deference to the investigative report.*


##### **i. Live Hearing Process<sup>5</sup>**

CUSM provides a process that enables the Hearing Officer to solely question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment and sexual discrimination. Therefore, the following are specific guidelines for the Live Hearing by the Hearing Officer that will be upheld:


<sup>4</sup> Throughout the entire adjudication process the Title IX Coordinator is present ensuring fairness and that all Title IX processes are followed appropriately and as designated by Title IX federal regulation.

<sup>5</sup> The live hearing process of parties and witnesses is done in closed-door sessions, and the questioning is solely done by the Hearing Officer. (The questioning is not done by party advisors', as previously mandated within the 2020 Title IX Regulations.)



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- The Hearing Officer asks all initial and follow-up questions, proposed by the parties, as well as the Hearing Officer’s own questions, if any;
- The Hearing Officer must make relevance determinations for all questions asked;
- Each party is allowed to propose questions in writing to the Hearing Officer during the Live Hearing that the party wants asked of any party or witness and have those questions asked by the Hearing Officer, these questions may be asked if the Hearing Officer finds the questions to be relevant;
- If questions are excluded, the Hearing Officer will provide an explanation about irrelevance, and parties and advisors are prevented from challenging the relevance determination during the hearing;
- Upon any parties request, the entire Live Hearing may occur with the parties in separate rooms (e.g., technology will be used so that parties can hear and see each other virtually);
- If a party refuses to respond to questions, a Hearing Officer may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The Hearing Officer must not draw an inference about whether sex-based harassment or sexual discrimination occurred based solely on a party’s or witness’s refusal to respond to such questions.
- Questions about a Complainant’s prior sexual behavior are barred based on rape shield protections, with two (2) exceptions:
  - someone else may have committed the alleged behavior, or
  - if the questions/evidence relate to sexual behavior with respect to the Respondent and are offered to prove consent;
- Limits on evidence introduced at the Live Hearing that was not gathered and presented prior to the session, will be decided by the Hearing Officer and will be based on the following standard:
  - Relevant evidence is evidence of facts to prove or disprove a fact in issue. In other words, “is the evidence relevant to a fact at issue in the case?”
- A party’s medical or psychological records can only be used with the party’s voluntary consent;

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*Note: If a party does not have an advisor of choice for the hearing, CUSM provides an advisor (of CUSM's choice).*

### E. Written Determination

Following the conclusion of the decision-making process, the Hearing Officer provides a written determination regarding responsibility within five (5) business day. The written determination is sent simultaneously to both parties.

The written determination includes the following key elements:


- Use of the ‘preponderance of the evidence’ standard of proof to determine whether sex discrimination occurred<sup>6</sup> ;
- Identification of the specific allegations alleged to constitute sexual harassment as described in this Policy;
- The Hearing Officer’s evaluation of the relevant and not otherwise impermissible evidence and determination whether sex-based harassment occurred;
- Findings of fact supporting the determination;
- Conclusions regarding the application of CUSM’s Title IX Policy to the facts of the Prohibited Conduct alleged;
- Determination regarding responsibility for each allegation and the Hearing Officer’s rationale for the result;
- Any disciplinary sanctions that will be imposed on the Respondent and whether or not the Complainant will be provided remedies (a description of what remedies will be implemented, if any, will not be disclosed for privacy purposes); and
- Information regarding the appeals process and grounds for appeal.

#### i. Range of Possible Disciplinary Sanctions and Remedies

Student Sanctions may include but not limited to:

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<sup>6</sup> The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination occurred.

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- Warning- written or verbal
- Required counseling
- Required training or education
- Withholding diploma
- Revocation of degree
- Limits to away rotation
- Limits to the highest grade (e.g., no “honor” grade)
- Prohibition in participating in student interest groups
- Transcript notation
- Banning from campus
- Suspension
- Dismissal

Staff/Faculty Sanctions may include but not limited to:

- Warning- written or verbal
- Performance improvement plan
- Required counseling
- Required training or education
- Demotion
- Suspension without pay
- Suspension with pay
- Revocation of tenure
- Termination

Remedies may include but not limited to:

- Counseling services
- Course-related adjustments (exams, assignments, etc.)
- Work or class schedule modifications
- Academic support services
- Campus escort services
- Mutual No-Contact Order between parties (*see “Confidentiality”, regarding confidentiality limitations with this option*)
- Voluntary leaves of absence
- Increased security and monitoring in certain areas at CUSM

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**ii. Final Determination**

The University complies with the grievance procedures before the imposition of any disciplinary sanctions against a Respondent and does not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred. If neither party appeals the written determination, then the Title IX case will be considered closed and the conclusions by the Hearing Officer will be considered the Final Determination.

**F. Appeals**


Appeals are performed by an Appeals Officer who is deemed the decision-maker to reach a fair determination, free from bias and conflicts of interest. The Appeals Officer is, therefore, a separate person from the Title IX Coordinator, the Investigator, and the Decisionmaker.

Appeals rights are mandatory for Title IX procedures and therefore are equally available to both the Complainant(s) and the Respondent(s). Parties have the opportunity to appeal a determination regarding responsibility based on any of four grounds listed below. Additionally, parties also have the equal opportunity to appeal CUSM’s decision to dismiss a Formal Complaint or an allegation contained within the Formal Complaint.

**i. Grounds for Appeal, For Both Parties:**

- a. Procedural irregularity that affected the outcome of the matter;
- b. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- c. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against either party, that affected the outcome of the matter; and
- d. Disproportionate sanction that is considered excessively severe or insufficient.

**ii. Appeal Submission and Other Party Response**

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The appealing party shall have five (5) business days to submit a written appeal to the Title IX Coordinator from the date the Written Determination is delivered to both parties. Upon receipt of an appeal, the Title IX Coordinator will notify and provide a copy of the appeal to the other party. The other party shall then have an opportunity to respond in writing to the appeal within five (5) business days from the date of the appeal.

Requests for appeal and responses to the same must not exceed 10 pages (double-spaced, 12 point Times New Roman font). Nonconforming submissions will not be considered beyond the first 10 pages. Late submissions are not accepted. Either party may request a waiver of the page limitation. Such request must be made in writing to the Title IX Coordinator prior to the deadline for the appeal submission and should include a reason for the request.

Following the receipt of a written appeal, the Title IX Coordinator will contact the designated Appeal Officer. The Title IX Coordinator provides the Appeal Officer with a copy of the written appeal, the other party’s response, and any other relevant documents. The Appeal Officer determines whether any grounds for the appeal are substantiated, and if changes to the Written Determination should be made. The Appeal Officer provides a response to both parties within fifteen (15) business days of the initial appeal date.

**iii. Supportive Measures**

If an appeal is submitted, supportive measures (see page 14-15 of this policy) will stay in place until the appeal is resolved. Following the Appeals Officer’s decision to change or not change the Written Determination of responsibility, the disciplinary sanctions and remedies that coincide with the Appeal’s Officer’s decision will be implemented.


**iv. Final Determination**

If there is no appeal request, the Written Determination becomes final after the time period to file an appeal has expired (i.e., five (5) business days). Or, if an appeal request is made, and an appeal decision has been made and sent to both parties, the appeals decision becomes the Final Determination.

**RELATED POLICIES**

[1.15 - Pregnant and Parenting Policy](#)

[5.06 – Jeanne Clery Act Policy](#)


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## REFERENCES/CITATIONS




- Title IX of the 1972 Education Amendments to the Higher Education Opportunity Act, 20 U.S.C. § 1681, et seq. (34 C.F.R. § 106).
- California Education Code: Student Safety, Section 67386.
- Violence Against Women Act, 34 U.S.C. § 12291, et seq., “dating violence” as defined in 34 U.S.C. § 12291(a)(10), “domestic violence” as defined in 34 U.S.C. § 12291(a)(8), “stalking” as defined in 34 U.S.C. § 12291(a)(30).
- Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. § 1092(f) and implementing regulations, 34 C.F.R. § 668.41 and 668.46) (“Clery Act”): “sexual assault” as defined in 20 U.S.C. § 1092(f)(6)(A)(v).
- U.S Constitution. Amendments V and XIV.
- Title VII of the Equal Employment Opportunity Act of 1972 (as amended).
- Federal Civil Rights Statutes of 1964.
- Government Code Sections 12940 (i) and (j) of the California Fair Employment and Housing Act.
- Government Code Section 19702 of the State Civil Service Act.

## DOCUMENT REVISION TRACK

DATE of REVISION	AUTHOR	DOCUMENT CHANGES	DATE APPROVED
10/05/2020	Title IX Coordinator		
03/19/2021	Title IX Coordinator		
07/18/2024	Title IX Coordinator		
08/28/2024	Title IX Coordinator		

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**APPROVALS**

Compliance Committee    Chair, Compliance Committee 10/22/2024
Additional Authority Signatures – I.E. Chief Information Officer, HR Officer, or Finance Officer    Director of Title IX & Clery Act Compliance and Title IX Coordinator 10/29/2024
Dean – CUSM SOM    10/31/2024