



AZUSA PACIFIC
UNIVERSITY

Title IX And Other Sexual Misconduct Policy & Procedures

Interim Policy

Not Yet Approved by the Board of Trustees

TITLE IX & OTHER SEXUAL MISCONDUCT:

A. Introduction.....	3
B. Grievance Procedures.....	7
1. Allegations of Sexual Harassment.....	9
2. Title IX Coordinator promptly engages with the Complainant	10
3. Formal Complaint Process.....	10
4. Informal Resolution Process	12
5. Notice of Allegations	13
6. Investigation	14
7. Investigator’s Report.....	15
8. Hearing Panel	16
9. Dismissals or alternative grievance processes	17
10. Title IX Grievance Hearing	17
11. Decision issued.....	21
12. Appeals Process	23
13. Appeal Panel.....	24
14. Final Decision.....	24
C. Other Matters	25
1. Timing.....	25
2. Retaliation prohibited	25
3. False Complaints	25
4. Conditional Immunity	26
5. Disability Accommodations	26
6. Reports involving minors or suspected child abuse under California law	26
7. Modification and Review of Policy.....	26
APPENDIX A: Azusa Pacific University Title IX Process Flowchart	27
APPENDIX B: Definitions	28
1. Prohibited “Sexual Harassment” under Title IX.....	28
2. Other Title IX terminology and University Policy definitions	30
APPENDIX C: Supportive Measures and Resources.....	34

TITLE IX & OTHER SEXUAL MISCONDUCT: University Policy and Procedures

A. Introduction

Statement of Nondiscrimination

Azusa Pacific University does not discriminate and prohibits discrimination against any individual based on any category protected under applicable federal, state, or local laws.

Azusa Pacific University's mission statement describes the university as "an evangelical Christian community of disciples and scholars." Deep convictions about how we treat one another, anchored in the biblical truth that all human beings are created by God and bear His image, are foundational to our identity as a Christ-centered community. In keeping with those convictions, the University is committed to providing a learning, working, and living environment that promotes personal integrity, civility, and mutual respect and is free from discrimination on the basis of sex, which includes all forms of sexual violence.

Sex discrimination violates an individual's fundamental rights and personal dignity. APU considers sex discrimination in all its forms to be a serious offense. This policy refers to all forms of sex discrimination by employees, students, or third parties, including, but not limited to, sexual harassment, sexual assault, sexual violence, domestic and dating violence, and stalking.

Title IX of the Education Amendments of 1972

Title IX of the Education Amendments of 1972 (Title IX) prohibits discrimination based on sex in educational programs that receive federal financial assistance. It states, "No person in the United States, shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance..." Title IX of the Education Amendments of 1972, and its implementing regulation at 34 C.F.R. Part 106 (Title IX). Programs and activities that may be included are admissions, recruitment, financial aid, academic programs, athletics, housing, and employment. Title IX also protects women and men from unlawful sexual harassment in school programs and activities. Under Title IX, discrimination on the basis of sex can include sexual harassment, hostile environment harassment, unwelcomed sexual advances, or sexual violence, such as rape, sexual assault, sexual battery, and sexual coercion.

Azusa Pacific University is committed to providing a learning, working, and living environment that promotes personal integrity, civility, and mutual respect in an environment free of discrimination on the basis of sex, which includes all forms of sexual misconduct. Sex discrimination violates an individual's

fundamental rights and personal dignity. APU considers sex discrimination in all its forms to be a serious offense. This policy refers to all forms of sex discrimination, including, but not limited to, discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual harassment, sexual assault, and sexual violence by employees, students, or third parties.

The University has obligations under Title IX to provide certain supports and modifications to people experiencing pregnancy or pregnancy related conditions in order to ensure their equal access to the University's program or activity. For example, the University must treat pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions and must allow voluntary leaves of absence. Students, employees, or applicants should contact the Title IX Coordinator for more information. Employees or applicants may also contact the Human Resources office for more information, because additional workplace laws and policies apply.

Pregnancy or related conditions include pregnancy, childbirth, termination of pregnancy, lactation; medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; and recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

The University also prohibits retaliation against any person opposing sex discrimination or participating in any sex discrimination investigation or complaint process, whether internal or external to the institution. Sex-based harassment, sexual assault, dating and domestic violence, and stalking are forms of sex discrimination, which are prohibited under Title IX and by the University policy.

Grievance Process

APU is committed to providing a fair and equitable grievance process, whether handled formally or informally, concerning claims of conduct prohibited by this policy. Once this process is started, the parties are provided access to "supportive measures" during the determination process. The purpose of these measures is to restore or preserve the parties' equal access to the full benefits of their education opportunities and/or activities. These remedies are not disciplinary, and not intended to add an additional burden to any other party.

The grievance process moves from the filing of a complaint to an independent investigation characterized by an objective evaluation of all relevant evidence – including the gathering evidence from both parties. Designated individuals or a panel of individuals receive this evidence in a live hearing at which all parties participate, evaluated under a "preponderance of the evidence" standard, with the goal of reaching a well supported and just result for all parties.

All individuals implementing this grievance process, including the Title IX Coordinator, the Investigator(s), and the decision-maker(s) are only involved if they can act without any conflict of interest or bias for or against any of the parties. All grievance personnel are required to receive training in these matters, including training on legal definitions, the jurisdictional requirements for Title IX grievance proceedings, how to conduct investigations and participate in hearings, and how to serve impartially.

After you have gone through the materials in this Procedures document, please reach out to the Title IX Coordinator if you have any questions:

Carlee Anglin, Title IX Coordinator
626-815-2065
901 E. Alostia Ave., Azusa CA, 91702
Canglin@apu.edu

Prohibited Conduct:

Discrimination on the Basis of Sex:

Discrimination is defined as treating members of a protected category less favorably because of their actual or perceived membership in that category or as having a policy or practice that adversely impacts the members of one protected category more than others. Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, and pregnancy or related conditions.

Sex-Based Harassment:

Sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, and pregnancy or related conditions. Sex-Based Harassment includes the following:

a. *Quid pro quo harassment*: An employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the the University's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.

b. *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 the the University'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:

- The degree to which the conduct affected the Complainant's ability to access the University's education program or activity;
- The type, frequency, and duration of the conduct;
- The parties' ages, roles within the the University's education program or activity, previous interactions, and other factors about a party that may be relevant to evaluating the effects of the conduct;
- The location of the conduct and the context in which the conduct occurred; and
- Other sex-based harassment in the University's education program or activity.

c. *Sexual assault*: an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Specifically, this includes:

Rape—The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

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

Incest—Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape—Sexual intercourse with a person who is under the statutory age of consent.

d. *Dating violence*: violence committed by a person:

- Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship;
 - The type of relationship; and
 - The frequency of interaction between the persons involved in the relationship.Emotional and psychological abuse do not constitute violence for the purposes of this definition.

e. *Domestic violence*: felony or misdemeanor crimes of violence committed by a person who:

- Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the the University, or a person similarly situated to a spouse of the victim;
- Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- Shares a child in common with the victim; or
- Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction. Emotional and psychological abuse do not constitute violence for the purposes of this definition.

f. *Stalking*: Engaging in a course of conduct, on the basis of sex, directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress.

g. *Sexual coercion*: The application of unreasonable pressure, including emotionally or physically manipulative actions or statements, or direct or implied threats, in order to compel the person to engage in sexual activity.

h. *Sexual exploitation*: Sexual exploitation is the abuse or exploitation of another person's sexuality without consent, for the perpetrators own advantage or benefit, or for the benefit or advantage of anyone other than the one being exploited. Sexual Exploitation includes, without limitation, causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over that person; causing the prostitution of another person; electronically recording, photographing, or transmitting intimate or sexual utterances, sounds or images of another person; allowing third parties to observe sexual acts; engaging in voyeurism; distributing intimate or sexual information about another person; and/or knowingly transmitting a sexually transmitted infection, including HIV, to another person.

Scope of Policy:

The requirements and protections of this policy apply to all University community members, regardless of sex, status, or position. This includes former, prospective and current students, faculty, administrators, staff, all other permanent or temporary employees, volunteers, vendors, contractors, and visitors present in the United States, conducting business, studying, living, visiting, or having any official capacity with the University or on its property or in connection with any University program or activity. It integrates with the University's statements of policies and expectations found in the Undergraduate Community Expectations, Graduate and Professional Student Standards of Conduct, the Faculty Handbook, and/or the Employee Handbook.

B. Grievance Procedures

The University has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees or other individuals who are participating or attempting to participate in a university education program or activity, or made by the Title IX Coordinator, alleging discrimination, harassment, or retaliation.

Before we layout the grievance procedures, there are a few basic definitions that may be helpful:

“Complainant” – The Complainant is an individual who has reported being alleged to be impacted by conduct prohibited by the University's Title IX policy. In most cases, the Complainant has the most significant input into whether the matter advances as a formal complaint.

“Conditional Immunity” - The University understands that students are sometimes hesitant to report because they fear that they themselves may be charged with policy violations, such as underage drinking at the time of the incident.

To encourage reporting, the university pursues a policy of offering reporting parties (and at times witnesses) conditional immunity from being charged with policy violations related to the particular incident. While there may be no formal sanctions for these individuals, the University may provide elements of help, support, and education in response to the violations.

“Days” - any reference to days refers to business days when the University is in normal operation.

“Respondent” –Respondent means the individual(s) – whether students, employees, or other persons – who has been reported to be responsible for the conduct prohibited by the University’s Title IX policy. The status of the Respondent will determine which office will be assigned to investigate and adjudicate the complaint.

“Standard of Evidence” - The standard of evidence used in the investigation of sexual harassment, stalking, and sexual violence complaints, including domestic violence, dating violence, sexual assault, and stalking, will be the “preponderance of the evidence” standard, wherein the Investigators are to determine whether it is more likely than not that the behavior in question occurred and constituted a violation of university policy.

“Supportive Measures” – 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:

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

All parties have the right to request supportive measures from the University regardless of whether they desire to make a complaint or seek alternative resolution.

Supportive measures *may* include but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more parties; leaves of absence; changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative. Supportive measures are non-disciplinary and non-punitive. Supportive Measures will also be offered to Respondents when they are notified of the allegations.

Any Supportive Measures put in place will be kept private, except when doing so impairs the ability of the institution to provide the Supportive Measures.

1. Allegations of Sexual Harassment

This process begins with an allegation of conduct that is prohibited by this policy. APU encourages those who have experienced, or know of someone who has experienced, any form of sex discrimination or harassment, or who have been subjected to any form of sexual misconduct to report the incident promptly, ensuring that the potential Complainant has access to available resources and supportive measures as well as to understand their reporting options. APU takes complaints very seriously and will work with Complainants to ensure their safety and to remedy the situation as much as possible.

APU encourages those who have experienced or witnessed prohibited conduct to report these offenses to the Title IX Coordinator, the Title IX Deputy Coordinators, the Department of Campus Safety, or anyone else designated by the University to receive these complaints.

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting was themselves the one who was targeted), in person, by mail, by telephone, by email, or by any other written or verbal means that conveys the information to the Title IX Coordinator. Such a report can be made at any time, including during non-business hours, by using the contact information provided for the Title IX Coordinator in this Policy, on the University's website, and a variety of other locations.

In cases where a report is made by a third party, the Complainant will be notified by the Title IX Coordinator that a report has been received. The Title IX Coordinator will seek to meet with the Complainant to discuss the resources and reporting options available to the Complainant, both inside and outside the University. Upon receiving a formal allegation of sexual harassment, the Title IX Coordinator will assess the situation for immediate health or safety concerns. In cases of an immediate safety concern, an Emergency Removal action may be appropriate.

Responsible Employee Reporting Obligations:

To proactively identify and prevent incidents of sex discrimination, including sexual harassment, all university employees—unless serving in a designated confidential role—are deemed Responsible Employees and are required to promptly notify the Title IX Coordinator of any reports of sex discrimination, including any form of sexual harassment.

Upon receiving a report from a Complainant, the employee should make every effort to ensure that the Complainant understands (i) the Responsible Employee's duty to report the allegation, including the name of the Complainant and Respondent, and the relevant facts (date, time, and location of the incident, and the known circumstances) to the Title IX Coordinator; (ii) the goal of notifying the Title IX Coordinator is to ensure the Complainant knows what resources and supportive measures are available to them as well as what their reporting options are both on and off campus; and (iii) the Complainant's ability to share the information confidentially with counseling, health, mental health, or off campus sexual-assault-related services who are not required to report the incident without the consent of the Complainant.

The University also encourages employees who themselves experience sex discrimination to bring their concerns to the Title IX Coordinator, though they are not required to do so.

When providing this information to the Title IX Coordinator, the employee must include their own name and contact information, and all known details about an incident, which may include, if known, the dates, times, locations, names of involved individuals and the nature of the incident

2. Title IX Coordinator engages with Complainant

The first step in a Title IX process once the Title IX Coordinator is made aware of a potential violation, is the Title IX Coordinator doing an outreach to the potential Complainant. During this initial outreach, the Title IX Coordinator will ensure the Complainant knows what resources and supportive measures are available to them, as well as what their reporting options are both on and off campus. The supportive measures are available to the Complainant whether or not they wish to file a formal complaint. Additionally, the Title IX Coordinator will assess for and address any safety concerns.

Here, the Complainant has substantial autonomy to choose how the matter will proceed – by formal complaint or otherwise. As discussed above, the Complainant may express a desire not to proceed with a formal complaint but the Title IX Coordinator must also consider the overall safety of the community. In such circumstances, the Title IX Coordinator may have to move forward with a formal complaint on behalf of the university. In these situations, the Complainant still has the option for whether or not they participate in the process.

Supportive Measures can include – but are not limited to – restrictions on contact between the Complainant and the Respondent, bans from areas of campus, and appropriate changes in campus housing, academic or employment schedule. Failure to adhere to the parameters of any Supportive Measures is a violation of policy and could lead to independent disciplinary action.

Supportive Measures may also include counseling, extensions of deadlines or other course related adjustments, modifications of work or class schedules, campus escort services, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.

3. Formal Complaint Process

When a Complainant files an official complaint with the Title IX Coordinator, or their designee, an investigation process will be initiated.

An investigation process consists of five stages: written notice of investigation; evidence gathering; evidence review; hearing; option to appeal.

Prior to the start of an investigation, a written notice of allegation will be sent to both the Complainant and Respondent. This notice will include, but is not limited to, what policy has been alleged to have been violated, investigation process, resources and accommodations available, the university's retaliation

policy, a statement that the Respondent is presumed not responsible for the alleged policy violation until a determination is made at the conclusion of the resolution process, and a statement regarding an advisor of choice. Should additional allegations be brought forward, or new information regarding location or date of the incident(s), an updated notice of investigation will be provided to all parties.

There may be times in which the Title IX Coordinator uses their authority to move forward with investigating allegations of discrimination prohibited by Title IX even absent the filing of a formal complaint or lack of participation by the Complainant. In addition, the Title IX Coordinator may proceed with investigating a formal or informal complaint even if a Complainant specifically requests that the matter not be pursued, if it is determined that an investigation is necessary to comply with the university's regulatory obligations. In such a circumstance, the Title IX Coordinator or designee will take all reasonable steps to investigate and respond to the matter in a manner that is informed by the Complainant's articulated concern about pursuing the matter further.

Individuals found to have engaged in behavior that is in violation to the University's policy against sexual harassment, stalking, and/or sexual violence will be subject to disciplinary actions, which could include written warnings placed in the Respondent's personnel or student file, participation in appropriate education or counseling, no contact order, termination of employment or non-renewal of an employment contract, suspension or dismissal from academic programs, exclusion from university activities, and suspension or expulsion from the university.

Consolidation of Formal Complaints. When appropriate, APU may consolidate formal complaints as to allegations of sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances

Emergency Removal. Under appropriate circumstances, the Title IX regulation permits the University to remove a Respondent from campus, education program or activity on an emergency basis . Prior to removing a student Respondent, the University must undertake an individualized safety and risk analysis, determine whether an immediate threat to the physical health or safety of any student or other individual arises from the allegations of sexual harassment justifies removal, and provide the student Respondent with notice and an opportunity to challenge the decision immediately following the removal. The Title IX emergency removal team consists of the Title IX Coordinator, Department of Campus Safety, and the Dean of Students or designee. If the team determines a removal is necessary, the Respondent will receive written notice and have the opportunity to challenge the decision immediately following the removal. Such challenges should be submitted in writing to the Vice President for Student Belonging or designee within three (3) days of the student Respondent's receipt of notice.

Administrative Leave. Title IX does not alter APU's authority under its Employee Handbook or under California law to place a non-student employee Respondent on administrative leave during the Title IX Grievance Process.

4. Informal Resolution Process

Informal resolution is a voluntary process that parties can mutually agree to participate in rather than proceeding with an administrative hearing. Where informal resolution is appropriate, and properly invoked, it can further the biblical principle of pursuing reconciliation.

Abuse of the informal resolution process, for example for the purposes of delay, can subject the offending party to the University Accountability process.

Subject to approval by the Title IX Coordinator, the informal resolution process is available in matters involving a student Complainant and a student Respondent, a faculty/staff Complainant and a student Respondent, and a faculty/staff Complainant and a faculty/staff Respondent; the informal resolution process is not available in matters involving a student Complainant and a faculty/staff Respondent. The purpose of the informal resolution process is to eliminate the conduct which has been reported by the Complainant (and prevent its recurrence), and place both individuals in a position to pursue their academic, working, and non-academic interests in a safe, respectful, and productive educational and working environment. Under this process, there will be no disciplinary action taken against a Respondent. The informal resolution will be documented in each party's disciplinary file, as appropriate.

Initiation of the Informal Resolution Process

The informal resolution process may be initiated at any time prior to issuing a final determination regarding responsibility. The Title IX Coordinator will consider whether the informal resolution process is appropriate in the particular matter. In making this determination, the Title IX Coordinator will consider the following factors:

- The disciplinary record (or past conduct) of the Respondent relating to sexual misconduct, physical violence, failure to comply with a No Contact Order, and/or other relevant conduct;
- The nature of the alleged conduct, whether allegations involve multiple victims and/or a pattern of conduct, or other evidence-informed factors indicative of increased risk to campus safety;
- Whether proceeding with the informal resolution process is in accordance with the principles and objectives of the University's Title IX Sexual Harassment policy/University Policy, as determined by the Title IX Coordinator; and/or
- Whether proceeding with the informal resolution process in matters involving faculty and staff members is in accordance with University employment practices.

If the Title IX Coordinator determines that a case is not appropriate for the informal resolution process, the Title IX Coordinator will inform parties in writing that the informal resolution process is unavailable.

If the formal grievance process has already begun, either party may seek to initiate the informal resolution process up until five business days prior to the hearing. If both parties agree to participate in the informal resolution process and the Title IX Coordinator approves of the informal resolution process, the formal grievance process will be adjourned while the informal resolution process is pending; if an agreement is not reached, the formal grievance process will be resumed.

Upon initiation of the informal resolution process, the Title IX Coordinator will refer the matter to a trained informal resolution facilitator (“facilitator”). The facilitator will consult (separately) with each party in an effort to reach a resolution that best meets the interests and needs of the parties. Unless they mutually choose to do so as part of an agreement, the parties will not meet together in person as part of the process.

At any time prior to agreeing to an Informal Resolution, any party has the right to withdraw from the Informal Resolution process and resume the process with respect to the Formal Complaint.

Potential Outcomes of the Informal Resolution Process

Depending on the nature and circumstances of the particular situation, parties may agree to outcomes such as, but not limited to:

- A continued no-contact orders for remainder of time as APU community member,
- Apply a no contact order, placing the burden on the Respondent to limit their physical proximity to the Complainant;
- Restrictions on the Respondent from participation in particular organizations or events;
- Participation in a broad-based educational programming or training
- Changes to on-campus housing, subject to availability;
- Participation by the Respondent in the University-provided alcohol education program designed to reduce the harmful problems associated with alcohol misuse;
- Provision to the Respondent of an “impact statement” written by the Complainant (describing the impact(s) that the Respondent’s conduct had on the Complainant);
- Mediation through supported direct or indirect interaction with the parties through the Title IX Coordinator.
- Other measures deemed appropriate by the Title IX Coordinator.

Failure to Comply with the Informal Resolution Agreement

Failure to comply with the signed agreement may result in disciplinary action for either party, consistent with University Policy disciplinary procedures described in the Undergraduate Community Expectations, Graduate and Professional Students Community Expectations, or Employee Handbook sections 8.3 and 8.4 – as applicable.

During the informal resolution process, the parties may consult with their advisors.

The Title IX Coordinator will maintain records of all reports and conduct referred for informal resolution.

5. Notice of Allegations

Following the filing of a formal complaint, the Title IX Coordinator provides all parties with written notice of the complaint and the grievance process, including sufficient details of the allegation(s) known at the time of the complaint.

Content of Notice

Upon the filing of a formal complaint, all parties will receive written notice. The notice will include the following information:

- The allegation and the conduct that is alleged to have occurred;
- The identity of the parties;
- The date and location (if known) of the conduct that is alleged to have occurred;
- A copy of the Title IX Policy and Procedures, with an explanation of the investigation and grievance process;
- A statement that the Respondent is presumed not responsible for the alleged conduct until a determination is made at the conclusion of the investigation and decision making procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial Decision maker;
- A description of the range of possible disciplinary sanctions;
- An explanation that each party may consult with and – where appropriate – be accompanied by an advisor of their choice throughout the Title IX process;
- The date and time of the initial meeting with the Title IX Coordinator, with a minimum of three (3) business days' notice;
- APU's conditional amnesty policy;
- A statement that retaliation is prohibited;
- The University's prohibition against providing false information as part of an investigation or adjudication process;
- Information regarding supportive measures, which are available equally to the Respondent and to the Complainant;
- The potential availability of an Informal Resolution process; and
- The process for requesting any appropriate accommodations.

Should additional allegations be added to the investigation at a later time, both parties will again be provided with full written notice.

6. Investigation

The investigation proceedings will ordinarily be completed within 60-120 days. However, with good cause, reasonable extensions of the time for completion of the proceedings will be permitted. In such cases, the Complainant and Respondent will be provided with written notice, by the appropriate university official, of the extension and the reason for the extension.

Investigation, as used in this procedure, refers to the process the university uses to resolve allegations of sexual discrimination, including sexual harassment, stalking, and sexual violence complaints. The proceedings will be conducted by trained Investigators who do not have a conflict of interest or bias for or against the Complainant or the Respondent. If the Complainant or Respondent believes any university official in the proceeding is not suited to perform their role because of bias or conflict of interest, they must notify the Title IX Coordinator within five (5) calendar days of learning the identity of the official and their role.

APU will ensure that appropriate training for Investigators, Adjudicators/Hearing Panel, and Appeals Committee Officers are provided annually. Training will include a thorough understanding of the Title IX Sexual Harassment policy, how to conduct an investigation, how to conduct a hearing including asking questions of relevancy, and all processes under this policy.

Students

Where the Respondent is a student, the Title IX Coordinator will assign two trained Investigators to investigate the allegations. The Investigators will issue a written report which will be submitted to the Title IX Coordinator and Hearing Panel.

Staff/Faculty

Where the Respondent is a staff member, the Title IX Coordinator will assign two individuals to investigate: one trained HR representative and one additional trained staff member.

Upon conclusion of the investigation, if a Title IX violation or other violation of APU's Employee Handbook appears to have occurred, the Investigators will issue a written report and submit their findings to the Title IX Coordinator, and Hearing Panel.

Administrators

For any incident involving administrators (i.e., members of the President's Cabinet (PC) or the Academic Cabinet (AC)) as Respondent(s), the Title IX Coordinator, in consultation with the President, will assign one trained Human Resources representative to be joined by two Investigators assigned by the President to conduct the investigation. In the alternative, on advice of University counsel, the President may authorize the Title IX Coordinator to hire an external Investigator(s) to conduct the investigation.

In all cases, the Investigators will interview all parties and relevant witnesses to gather pertinent evidence provided by the parties and named witnesses. Interviews may be conducted in person or video conference.

If the Respondent is a member of staff or faculty, or an administrator, the decision process, including the imposition of any discipline, follows the Human Resources process under the direction of the AVP-HR, in accordance with the applicable Employee or Faculty Handbook requirements. The Title IX Coordinator, however, shall keep the Complainant informed of each step in the post-Title IX process, and afford the Complainant a right of response to the Investigators' report and shall be apprised of any decision by AVP-HR.

7. Investigator's Report

Following the investigation, the Investigators will provide both parties, and their advisors if they choose, the opportunity to review all relevant evidence including their report. This review process is to allow each party the equal opportunity to respond to, correct, or add any additional information. Each party will have a minimum of five (5) days to respond to the Investigator. This will be the final opportunity to submit evidence or provide names of witnesses.

Due to the sensitive nature of the information shared with the parties, no one, including their advisors, may copy, photograph, print, record, or any other way of duplicating the information provided. Any student or employee who fails to comply with this may be subject to disciplinary action. Any advisor who fails to comply with may be subject to disciplinary action and/or may be excluded from further participation in the process.

8. Hearing Panel

The hearing will be conducted by a Hearing Panel, of qualified employees, selected by the Title IX Coordinator. Hearing Officers receive annual training regarding the policies and procedures, the handling of student sexual misconduct cases, and other relevant issues. Hearing Officers must be impartial and free from bias or conflict of interest. The Parties will be informed of the identity of the Hearing Panel and vice versa before the pre-hearing meeting. If a Hearing Officer has concerns that they cannot conduct a fair or unbiased review, the Hearing Officer must report those concerns in advance of the pre-hearing meeting to the Title IX Coordinator and a different Hearing Officer will be assigned. Similarly, the parties will have three (3) business days to object to the Hearing Officer's selection on the basis of bias or conflict of interest. If either of the parties objects, the Title IX Coordinator will evaluate whether the objection is substantiated.

The Title IX Coordinator will remove and replace any Hearing Officer the Title IX Coordinator finds to have a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent.

The conduct of the hearing is governed by the principle that all parties must have a reasonable opportunity to address their case. Where a student has requested that the University provide them with an advisor, the Hearing Panel must assure that the student has at least three (3) business days prior to the Hearing to confer with their appointed advisor.

The Hearing Panel has broad discretion to determine the hearing format. However, in all instances the Hearing Panel must conduct a live hearing, at which they shall permit cross-examination of the Parties and witnesses by allowing the Parties' to submit questions for the Hearing Panel to ask of the other party and witnesses.

The Hearing Officers are responsible for maintaining an orderly, fair, and respectful hearing and have broad authority to respond to disruptive or harassing behaviors, including adjourning the hearing or excluding the offending person. During cross-examination, the Hearing Panel is responsible for ruling on every question put to a party or witness, prior to the question being asked, and has the authority to disallow any question it deems to be harassing or one that seeks information that is not relevant under this policy.

Parties may make requests to the Title IX Coordinator related to the format or the nature of their participation in the hearing. The Title IX Coordinator will work with the Hearing Officer to accommodate reasonable requests.

9. Dismissals or Alternative Grievance Processes

There are circumstances under which the Title IX Coordinator is permitted to dismiss a formal complaint after it has been filed, and there are circumstances under which the Title IX Coordinator is required to dismiss a formal complaint. Such dismissals can occur at any time during the formal investigation and hearing process. The formal complaint must be dismissed if alleged conduct does not constitute “Sexual Harassment” as defined under Title IX or if it does not meet the other jurisdictional requirements of the regulations. Please note that even if the Title IX aspects of the Complaint are dismissed, the University can continue with a grievance hearing under the applicable Community Expectations/Accountability process.

A formal complaint *may* be dismissed if a Complainant requests withdrawal of their complaint, if a Respondent is no longer enrolled or employed by the University, or when specific circumstances prevent gathering of evidence that is sufficient enough to reach a determination. In these permissive circumstances, however, the Title IX Coordinator has discretion nonetheless to continue the proceeding if it is in the interests of the overall safety of the community.

If a complaint is dismissed on either of these grounds, the Title IX Coordinator will give written notice to both parties stating the reasons for the dismissal; the parties each have an opportunity to appeal the dismissal. As indicated above, the University retains the discretion to pursue University conduct policies in any case in which it remains in issue.

10. Title IX Grievance Live Hearing

The hearing is an opportunity for the Parties to address the Hearing Panel in person, to submit questions for the other Party and/or witnesses, and for the Hearing Panel to obtain information following the investigation that is necessary to make a determination of whether or not a Policy violation occurred. The hearing will be conducted as follows:

- a. **Conduct of the Live Hearing.** The University will audio or visual record the hearing. Other recordings are not permitted in the hearing. Both parties may be accompanied by an Advisor. The Hearing Officers are responsible for maintaining an orderly, fair, and respectful hearing and have broad authority to respond to disruptive or harassing behaviors, including adjourning the hearing or excluding the offending person. During cross-examination, the Hearing Panel has the authority to refrain from asking questions submitted by a Party that are harassing or that seek information that is not relevant under this Policy.

Advisors do not have a speaking role at the hearing though they may confer with their party at the Hearing Panel’s discretion.

Parties may make requests to the Title IX Coordinator related to the format or the nature of their participation in the hearing. The Title IX Coordinator will work with the Hearing Officers to accommodate reasonable requests, including the option for the hearing to occur with the parties

located in separate rooms with technology enabling the Hearing Panel and the Parties to simultaneously see and hear the Party answering questions.

The live hearing will be closed. The only individuals permitted to participate in the hearing are as follows: the Complainant and Respondent, the Decisionmaker(s), the Advisor for each party, any called witnesses (only while being questioned), the Title IX Coordinator, and any individual providing authorized accommodations or assistive services.

Live hearings may be conducted with all parties physically present in the same geographic location or, at APU's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants to simultaneously hear each other. At the discretion of the Hearing Panel, short breaks may be provided during the hearing.

At University's discretion, the arranged virtual live hearing will occur with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions. An audio or transcript of any live hearing will be available upon request to review for the purpose of an appeal. Any other record of the hearing or any other recording is prohibited and violations are subject to the applicable APU Accountability Process.

b. Expectations of Support Person/Advisor. During the grievance process, both parties will have the opportunity to be accompanied to any meeting by a support person/advisor of their choice. A support person/advisor means any individual who is not involved in the alleged incident (i.e., witness), who can provide the Complainant or Respondent support, guidance, or advice.

If a party has been unable to arrange for an advisor, the University will appoint one (without charge) if that party desires one. A party must request an appointed advisor no later than ten (10) days before the formal hearing, and the party is entitled to meet with that advisor at least three (3) days before the hearing. A party requesting an advisor is responsible for making time to meet with their advisor prior to the hearing; failure to meet their advisor prior to the hearing is not a ground for delaying the hearing absent compelling circumstances.

The advisor may advise privately before the pre-hearing and hearing process, but not during the cross-examination hearing. The support person/advisor may not question witnesses, make statements before the Hearing Panel, or otherwise participate in proceedings. The support person/advisor who acts contrary to agreement and procedural expectations, may jeopardize the hearing process and will be required to leave the meeting.

c. Scheduling. The Title IX coordinator will forward a copy of the Investigation Report and the parties' responses thereto, if any, to the Hearing Panel. The Title IX Coordinator will schedule a hearing date, time, and location and notify the Parties simultaneously.

d. **Pre-Hearing Meeting.** The Title IX Coordinator will schedule a separate pre-hearing meeting with each party, their support person/advisor if they choose, and the Hearing Panel. At this pre-hearing meeting, each Party will receive an explanation of the hearing process and have the opportunity to ask any questions. The advisor may accompany the Complainant/Respondent to this initial meeting. Each Party has the option to provide their written questions for the Panel to review during the pre-hearing.

e. **Witnesses.** The Complainant, Respondent, and the Hearing Officer all have the right to call witnesses. Witnesses must have observed the conduct in question or have information relevant to the incident and cannot be called solely to speak about an individual's character.

When witnesses are approved, the Respondent and Complainant are provided with a list of witnesses and any relevant documents related to the witnesses' appearance at the hearing no later than three (3) business days before the Hearing.

Use of Witness Statements - The Title IX Coordinator will schedule critical witnesses to appear for a portion of the hearing. Critical witnesses must have been interviewed by the Investigators. If a party or witness is not available for cross examination at the live hearing, the decisionmaker *may consider* their prior statements, to the extent they are deemed credible, reliable, and relevant by the decision-maker, balancing the interests of all parties to a fair hearing.

The Hearing Panel cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross examination or other questions.

f. **Case Presentation.** The hearing is intended to provide a fair and ample opportunity for each side to present their account of the alleged conduct and for the Hearing Panel to determine the facts of the case and make a determination as to whether or not the Title IX policy was violated. The Hearing Panel will be well-versed in the facts of the case based upon the Investigation Report and the Parties' responses to the Investigation Report, if any. The hearing is not intended to be a repeat of the investigation.

During the hearing, each party will be given the opportunity to provide an introductory statement. Following the introductory statements, the Hearing Panel will call parties and witnesses for questioning. The order of questioning will be determined by the Hearing Panel, the parties will be informed of the order during the pre-hearing meeting. The Hearing Panel will pose questions to the parties and witnesses including the approved questions submitted by each party prior to the hearing. Each party will then be provided an opportunity to submit follow-up questions in writing to the Hearing Panel for the Hearing Panel to pose to the other party or witnesses. If the Hearing Panel determines that any questions are not relevant to the allegations, or seek otherwise impermissible evidence, the Hearing Panel shall exclude the question and explain the reason for excluding the question and offer an opportunity for the party to reframe or resubmit their question. Questions that are unclear or harassing of the party or witness being questioned will not

be permitted. Only the Hearing Panel is permitted to ask questions of parties and witnesses. Neither party, or their support person/advisor may directly question the other party or witness.

The Hearing Panel also will afford either party an opportunity at the end of the hearing to offer closing remarks. A decision whether to offer closing remarks is completely voluntary; however, closing remarks may only be made by the parties, and not their advisors.

Only Relevant Evidence Considered – The Hearing Panel will only consider relevant evidence in making a determination of responsibility. Relevant evidence is factual material that is of consequence to determinations being made. The Panel will not consider Complainant’s prior sexual behavior, or attempted evidence concerning specific prior incidents with respect to the Respondent, that consent was given.

g. Questioning at the Live Hearing

- At the live hearing, the Hearing Panel will allow each party to submit questions for the Hearing Panel to ask of the other party and any witnesses.
- Only relevant cross examination and other questions will be asked of a party or witness.
- Panel member(s) also have the right to question a party or witness.
- The Hearing Panel may rephrase objectionable questions themselves or may direct the asking party to modify, clarify, or rephrase their question, or to omit the question entirely. The Panel will explain to the parties any decision to exclude a question as not relevant.
- Questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior generally are not relevant. Such questions and evidence, however, may be allowed if offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if offered to establish a pre-existing relationship that bears on the issue of consent.

h. Expectations of the Complainant, Respondent, and Witnesses at a Hearing. Each Party has equal access to allegations and evidence. Students, staff, and faculty have a responsibility to participate fully and truthfully in any proceeding under this Policy; the consequence of a party’s refusal to participate will limit APU’s ability to fully respond to the complaint.

i. Record of Hearing. The hearing and any pre-hearing meetings or conferences are closed to the public. The Complainant and the Respondent are each allowed to have one advisor of their choice present throughout the hearing process. The hearing will be recorded either by audio or audiovisual. The audio recording will be made available to recipients for inspection and review after the hearing for the purpose of appeal. The University will keep record of the hearing; any other recording is prohibited. No camera, TV, or other equipment, including cell phones, will be permitted in the hearing, except as arranged by the University.

j. Standard of Evidence. The Hearing Panel will determine a Respondent’s responsibility by a preponderance of the evidence. This means that the Hearing Panel will decide whether it is “more likely than not,” based upon all of the evidence, that the Respondent is responsible for the alleged violation(s).

k. **Notice of Hearing Outcome.** Following the hearing, the Hearing Officer will consider all of the evidence and make a determination, by a preponderance of the evidence, whether the Respondent has violated the Title IX Policy. If the Respondent is found responsible for a violation of this Policy, the Formal Resolution process concludes with sanctions. If the Respondent is found not to have violated this Policy, the Formal Resolution has concluded.

l. **Conclusion of the Adjudication Process.** At the conclusion of the hearing process, both Complainant and Respondent will be concurrently notified in writing of the determination and appeal procedures within fourteen (10) days from the date of completion of the hearing process. If the determination is that the Respondent is responsible for the alleged policy violation, the disciplinary consequences shall also be included in the written notice of the determination.

11. Decision issued

Following the hearing, the Hearing Panel will consider all of the relevant evidence and deliberate regarding responsibility. The Panel will issue a written notice of hearing outcome (the Final Report), which will include findings of fact, their decision concerning all allegations, and a summary of the Panel's rationale in support of the hearing outcome. The Hearing Panel will make a determination, by a preponderance of the evidence, whether the allegations have been proved to be violations the University's policy, "Sexual Harassment' under Title IX, and other Instances of Sexual Misconduct." The Hearing Panel will write a written determination, which will contain:

- (1) ultimate findings (responsible or not responsible of violating Title IX Policy);
- (2) a summary of procedural steps taken in the matter;
- (3) findings of fact supporting the determination;
- (4) conclusions regarding the application of this policy to the facts;
- (5) a statement of, and rationale for, the result as to each allegation, including
 - a. a determination regarding responsibility (i.e., whether a policy violation occurred)
 - b. disciplinary sanctions imposed by the adjudicators if there has been a finding of responsibility and
 - c. whether any remedies designed to restore or preserve equal access to the University's education program or activity or working environment will be implemented; and
- (6) relevant appeal information for the parties.

Disciplinary sanctions and remedies will be determined consistent with Employee Handbook, Graduate and Professional Code of Conduct, Community Expectations. The parties and their advisers will simultaneously be provided with the written determination via electronic format.

Range of Imposing of Sanctions on Student Respondents

At the end of the information gathering and hearing process, the Hearing Panel will communicate their decision in writing to both parties. The written decision will include, where appropriate, a summation of findings. Sanctions are imposed when there is information indicating that the Respondent(s) violated the

Title IX/Sexual Misconduct Policy. This determination is made by an APU official responsible for the administration of the disciplinary process. The following are sanctions that may be imposed by a university official upon any student for violating the applicable Community Expectations:

- **Admonition:** An oral statement to the student that s/he is violating or may be violating university policies. The university official will review the policy and rationale and explore resources/supports for the student.
- **Warning:** Verbal or written warnings may be given for unacceptable behavior and the student is advised to change the behavior. (Disclaimer: This sanction may be given without a hearing.)
- **Restitution/reimbursement or fine:** Damage or misuse of university property or failure to follow university policy or procedure may require a student to make restitution or pay a fine.
- **Discretionary sanctions:** A student may be required to perform community service, write a paper, or perform any other activity deemed appropriate for the violation of the Community Expectations or any other university policies.
- **Loss of privileges:** A student may lose privileges such as visitation, leadership opportunities, living on campus, campus employment, noncurricular activities, parking, etc., appropriate to the violation of the Community Expectations or any other university policies.
- **Community Expectations probation:** A student may be placed on Community Expectations probation for a specified period. During this time, further violations of university policy may result in the student's suspension or expulsion from the university. Any student upon whom sanctions are imposed and/or is placed on probation may become immediately ineligible for service as an athlete, student leader, and/or student representative. Students who fail to comply with the terms and conditions of a sanction are subject to additional judicial action.
- **Interim suspension:** Imposed immediately when the seriousness of the offense is such that the members of the community, including the accused student, may be threatened by his/her continued presence. (This suspension will be for a stated period of time and followed by a student hearing.)
- **University suspension:** Separation of the student from the university for a specified period. A student may not be on campus or at university events while suspended without written permission from the Chief Judicial Officer or designee. (Conditions for readmission may be required.)
- **University expulsion:** Permanent separation of the student from the university. A person may not be on campus or at university events if expelled without written permission from the Chief Judicial Officer or designee.

Sanctions Applicable to Faculty and Staff Members

For violations of this policy by faculty or staff members, disciplinary sanctions may include (in accordance with the employment policies contained in the appropriate Employee and/or Faculty Handbooks governing the employee in question) counseling or training, a documented verbal warning, a written warning, a final written warning, financial penalty, suspension, demotion, and termination of employment, in accordance with applicable policies. The University may place a faculty or staff member on administrative leave during the pendency of a grievance process, provided that such action shall not modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

12. Appeals Process

Within five (5) business days of receiving written determination, both Parties are entitled to appeal the determination regarding responsibility or from a dismissal of a Formal Complaint to the Title IX Coordinator.

The appeal must consist of one or more of the following exclusive grounds for appeal:

1. *New Information* – There is new evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal that could affect the outcome of the matter.
2. *Procedural Irregularity* – A party asserts that the matter was not handled in accordance with these Procedures, and that these irregularities affected the outcome of the matter;
3. *Conflict of Interest or Bias* – A party asserts that the Title IX Coordinator, Investigator(s), or Hearing Panel member(s) had a conflict of interest or bias for or against Complainants or Respondents generally, or toward the individual Complainant or Respondent, that affected the outcome of the matter.

Complainants and Respondents will have only one opportunity to appeal. All appeal meetings are closed and the proceeding may be kept confidential at the discretion of the university. Appeal meetings may be recorded at the discretion of the university with notice to those involved.

Content of the Appeal

The appealing Complainant or Respondent must submit a written appeal within five (5) business days of the date of the written decision. In no more than 1000 words a written appeal must be submitted to the Title IX Coordinator.

The Title IX Coordinator will notify the other party in writing when an appeal is filed and that appeal procedures will be implemented. The Coordinator will submit the written appeal to the Appeals Committee for review.

When an appeal is submitted the non-appealing party will be provided an opportunity to submit a written statement to the Title IX Coordinator in response to the appeal within five (5) business days of receiving the appeal, which the Coordinator will provide to the Appeals Officer within two (2) business days .

13. Appeal Panel

The Appeal Panel consists of the Chief Judicial Officer, or their designee, and two trained appeal members in each appeal case. The Appeal Panel is an objective panel separate from the Title IX Office, Investigators, and Hearing Panel.

The Appeal Panel has the authority to deny the appeal on its face if the appeal grounds have not been met. If accepted, the Appeal Panel will review the petition for appeal, and any new evidence submitted by the appealing party in support of the appeal.

The Appeal Panel fills a review role, neither gathering new evidence nor re-deciding the matters decided by the Hearing Panel. The Appeal Panel, however, has broad discretion in serving its role and may, for example, seek clarification from the Hearing Panel on specific matters, pose questions to the Hearing Panel about their decision, or may return the case to a Hearing Panel for further proceedings.

There is no specific timetable during which the Appeals Panel must reach its decision, but its actions must be consistent with this Procedure's overall goal of resolving Title IX complaints promptly and fairly, generally within 30-60 days. Upon concluding its review of the appeal, the Appeal Panel will issue a written ruling describing each element of its decision, together with the basis for each element.

In general, the enforcement of sanctions imposed by the Hearing Panel that are the subject of the Appeal will be suspended ("stayed") while the Appeal is pending. If, however, the subsequent behavior of any party involves violent or dangerous behavior, related interim measures or sanctions imposed by the Hearing Panel to protect the parties or the broader APU community will remain in effect during the pendency of the Appeal.

14. Final Decision

Based on its review of all proper information relevant to the Appeal, and following their due deliberation, the Appeal Panel (by majority vote) will issue a written decision describing their resolution of the Appeal and the rationale for their result. This decision will be forwarded as their recommendation for the disposition of the Appeal to the Vice President for Student Belonging, or their designee, to either accept, reject, or modify the recommendation.

After a decision has been reached, both the Complainant and the Respondent will be notified in writing by the Title IX Coordinator, who will simultaneously notify the parties in writing within seven (3) business days of receiving the recommendation from the Appeal Panel. Decisions made in the appeal process are final and may not be addressed through any other "Grievance Process."

C. Other Matters

1. Timing

The University is committed to providing a prompt, thorough, and unbiased process to all complaints. While each investigation is unique, the investigation will be concluded, including reporting to the parties, within a reasonable amount of time, following the initial complaint. The Investigation and adjudication process generally takes between 60-120 business days. Delays may arise from complexity and scope of allegations, when witnesses and/or relevant evidence is unavailable, University holidays, and semester breaks. In the event of a delay, the Title IX Coordinator will notify the Complainant and Respondent of the reasons for the delay and the anticipated time adjustments. The University will make best efforts to complete the process in a timely manner while maintaining a balance between thoroughness and with

promptness. When the confidential investigation has been completed, the Complainant and Respondent will be concurrently notified by a letter of findings and notification via email or in person.

2. Retaliation prohibited

Any employee or student who feels they have experienced Sexual Harassment has the legal right to raise the issue to the Title IX Coordinator. The University has the responsibility to investigate and to report to the appropriate parties any allegations of the suspected prohibited conduct, and to protect those employees who, in good faith, exercise their right to report these activities to the appropriate authority.

Retaliation is absolutely prohibited. No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or Sexual Harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of Sexual Harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation. Any person engaging in any retaliatory action(s) will be subject to a separate complaint under the Community Expectations or Employee Handbook, as applicable. If found responsible, the party will be subject to appropriate sanctions or disciplinary action up to and including dismissal from the university or termination of employment.

3. False Statements

APU takes reports of Title IX violations seriously. When a complaint is made in good-faith and the findings result is that the Respondent is found not responsible, it is not considered a false report. Any Complainant who knowingly makes false charges alleging violations of this policy will be subject to disciplinary action up to and including termination of employment or dismissal from the University

4. Conditional Immunity/Response to other violations

The University understands that reporting parties (including witnesses) sometimes are hesitant to report because they fear that they themselves may be charged with other University policy violations, such as personal consumption of alcohol or drugs at the time of the incident. To encourage reporting, in appropriate cases, the university pursues a policy of offering reporting parties conditional immunity from being charged with conduct violations related to the particular incident. While there may be no formal sanctions for these individuals, the University may provide elements of help, support, and education in response to the violations.

5. Disability Accommodations

This Policy does not alter any institutional obligations under federal disability laws including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any point before or during the Title IX Grievance Process that do not fundamentally alter the Process. The Title IX Coordinator will not affirmatively provide disability accommodations not specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities.

6. Reports involving minors or suspected child abuse under California law

Under the University's policy on Child Abuse Prevention and Reporting, a University employee may have mandatory reporting obligations in cases involving minors.

7. Modification and Review of Policy

APU reserves the right to modify these procedures to take into account applicable legal requirements or extraordinary circumstances, and will review them at regular intervals to determine whether modifications should be made.

APPENDIX A

Azusa Pacific University Title IX Process Flowchart

APPENDIX B

Definitions

1. Prohibited “Sexual Harassment” under Title IX

Sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, and pregnancy or related conditions. Sex-Based Harassment includes the following:

a. **Quid pro quo harassment:** An employee, agent, or other person authorized by the the University to provide an aid, benefit, or service under the the University’s education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct.

b. **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 the the University’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:

- The degree to which the conduct affected the Complainant’s ability to access the the University’s education program or activity;
- The type, frequency, and duration of the conduct;
- The parties’ ages, roles within the the University’s education program or activity, previous interactions, and other factors about a party that may be relevant to evaluating the effects of the conduct;
- The location of the conduct and the context in which the conduct occurred; and
- Other sex-based harassment in the University’s education program or activity.

c. **Sexual assault:** an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Specifically, this includes:

- Rape—The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- 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 the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity. Incest—Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape—Sexual intercourse with a person who is under the statutory age of consent.

d. **Dating violence:** violence committed by a person:

- Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship;
 - The type of relationship; and
 - The frequency of interaction between the persons involved in the relationship.Emotional and psychological abuse do not constitute violence for the purposes of this definition.

e. **Domestic violence:** felony or misdemeanor crimes of violence committed by a person who:

- Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the the University, or a person similarly situated to a spouse of the victim;
- Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- Shares a child in common with the victim; or
- Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction. Emotional and psychological abuse do not constitute violence for the purposes of this definition.

f. **Stalking:** Engaging in a course of conduct, on the basis of sex, directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress.

g. **Sexual coercion:** The application of unreasonable pressure, including emotionally or physically manipulative actions or statements, or direct or implied threats, in order to compel the person to engage in sexual activity.

h. **Sexual exploitation:** Sexual exploitation is the abuse or exploitation of another person's sexuality without consent, for the perpetrators own advantage or benefit, or for the benefit or advantage of anyone other than the one being exploited. Sexual Exploitation includes, without limitation, causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over that person; causing the prostitution of another person; electronically recording, photographing, or transmitting intimate or sexual utterances, sounds or images of another person; allowing third parties to observe sexual acts; engaging in voyeurism; distributing intimate or sexual information about another person; and/or knowingly transmitting a sexually transmitted infection, including HIV, to another person.

2. Other Title IX terminology and University Policy definitions

The following definitions are integrated in University's statements of policies and expectations found in the Undergraduate Community Expectations, Graduate and Professional Student Standards of Conduct, the Faculty Handbook, and Employee Handbook.

Consent - Consent is a knowing, affirmative, conscious, and voluntary and mutual agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent. Affirmative consent may be given by words or actions unmistakable in meaning. In order to be effective, affirmative consent cannot be procured by the use of physical force, compelling threats, intimidating behavior, or coercion. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to another person 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. In order to give affirmative consent for purposes of this policy, one must be of legal age.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). Past consent does not imply future consent. A current or previous dating relationship is not sufficient to constitute consent.

In the evaluation of complaints of sexual violence under this policy, it is not a valid excuse to alleged lack of affirmative consent that the Respondent believed that the Complainant consented to the sexual activity under either of the following circumstances:

- The Respondent's belief in affirmative consent arose from the intoxication or recklessness of the Respondent, or
- The Respondent *did not* take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented.

Affirmative consent will not be found to have been given when it is determined by a preponderance of the evidence that the Respondent knew or reasonably should have known that the Complainant was unable to consent to the sexual activity because the Complainant was either:

- Asleep;
- Unconscious;
- Incapacitated due to the influence of drugs, alcohol, or medication such that the Complainant could not understand the fact, nature or extent of the sexual activity; and/ or
- Unable to communicate due to a mental or physical condition.

If an individual has sexual activity with someone known to be or should be known to be mentally or physically incapacitated (alcohol or other drug use, unconsciousness, or blackout), he or she is in violation of this sexual harassment, stalking, and sexual violence policy and may be in violation of the law. Any time sexual activity takes place between individuals; those individuals must be capable of controlling their physical actions and be capable of making rational, reasonable decisions about their sexual behavior.

Complainant - A Complainant is an individual who has reported being alleged to be impacted by conduct prohibited by the University's Title IX policy. In most cases, the Complainant has the most significant input into whether the matter advances as a formal complaint.

Confidentiality - Confidentiality means that information shared by an individual with designated campus or community professionals cannot be revealed to any other individual without the written permission of the individual. These campus professionals include Campus Pastors, University Chaplains, counselors from the University Counseling Center and Community Counseling Center, and health providers from the Student Health Center, all of whom are legally mandated to maintain confidentiality. These individuals are prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others. When a report involves suspected abuse of a minor under the age of 18, these confidential resources are required by state law and University Policy to notify child protective services and/or local law enforcement, and the University Office of General Counsel.

Confidentiality and Privacy - Those who have reported Sexual Harassment, stalking, and sexual violence violation should know that all university employees who are not designated as confidential, still seek to keep the information private but are required to report sexual misconduct to the Title IX Coordinator. University Counseling Center staff, Community Counseling Center staff, Student Health Center staff, Campus Pastors, and the University Chaplain are bound by confidentiality standards and do not have the obligation to report adult sexual misconduct to the Title IX Coordinator.

Discrimination on the basis of sex - Any behaviors and/or actions that deny or limit a person's ability to benefit from, and/or fully participate in the educational programs or activities or employment opportunities based on an individual's sex, including discrimination on the basis of sex stereotypes, sex characteristics, and pregnancy or related conditions. Examples of sex discrimination include, but are not limited to, sexual harassment, sexual violence, failure to provide equal opportunity in employment, education programs and co-curricular programs including athletics, discrimination based on pregnancy, and employment discrimination.

Formal Complaint - A complaint means an oral or written request to Title IX Coordinator that objectively can be understood as a request for the the University to investigate and make a determination about alleged sex discrimination under this policy. A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed on the Title IX website, or as described in this policy.

Investigation - Investigation, as used in this procedure, refers to the process the university uses to resolve allegations of sexual discrimination, including sexual harassment, stalking, and sexual violence complaints. The proceedings will be conducted by trained Investigators who do not have a conflict of interest or bias for or against the Complainant or the Respondent.

Nonconsensual Sexual Contact – Nonconsensual sexual contact is any intentional sexual touching, however slight, with any object, by a man or a woman upon a man or a woman, without affirmative consent.

Nonconsensual Sexual Intercourse – Nonconsensual sexual intercourse is any sexual intercourse (anal, oral, or vaginal), however slight, with any object, by a man or woman upon a man or a woman, without affirmative consent.

Privacy - Privacy generally means that information related to a report of Prohibited Conduct will only be shared with a limited circle of individuals who “need to know” in order to assist in the assessment, investigation, or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”), as outlined in the College’s FERPA policy. The privacy of an individual’s medical and mental health records may be protected by the Health Insurance Portability and Accountability Act (“HIPAA”), excepting health records protected by FERPA. Access to an employee’s personnel records may be restricted by applicable California and federal law.

All inquiries, complaints, and investigations are treated with discretion. Identity of the Complainant may be revealed to the Respondent(s) of such conduct.

Respondent – A Respondent means the individual(s) – whether students, employees, or other persons – who has been reported to be responsible for the conduct prohibited by the University’s Title IX policy. The status of the Respondent will determine which office will be assigned to investigate and adjudicate the complaint.

Sex Discrimination – Sex discrimination is any behaviors and/or actions that deny or limit a person’s ability to benefit from, and/or fully participate in the educational programs or activities or employment opportunities based on an individual’s sex. Examples of sex discrimination include, but are not limited to, discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual harassment, sexual violence, and failure to provide equal opportunity in employment, education programs, and co-curricular programs including athletics, discrimination based on pregnancy, and employment discrimination.

Sexual Assault – Sexual assault is a general term that covers a broad range of inappropriate and/or unlawful conduct, including rape, sexual battery, and sexual coercion. As defined under California law, rape is nonconsensual sexual intercourse that involves the use or threat of force, violence, or immediate and unlawful bodily injury or threat of future retaliation and duress. Sexual battery includes the nonconsensual touching of a person’s intimate parts, or the clothing covering the immediate area of those parts, or forcing a person to touch another’s intimate parts.

Sexual Coercion – Sexual coercion is the act of using pressure (including physical, verbal, or emotional pressure), alcohol, medications, drugs or force* to have sexual contact against someone’s will or with someone who has already refused. When an individual communicates verbally and/or physically that they do not want to go beyond a certain point of sexual interaction, any continued activity or pressure can be coercive

(***Force:** Force is 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 overcome resistance or produce consent.)

Sexual Exploitation – Sexual exploitation occurs when an individual takes or attempts to take nonconsensual or abusive sexual advantage of another for his/her own advantage or benefit, or to the benefit or advantage of anyone other than the one being exploited, and without the consent from the person being exploited. Examples include, but are not limited to, indecent exposure and invasions of privacy including voyeurism (e.g., non-consensual video or audio-taping of sexual activity).

Sexual Harassment Grievance Process - The purpose of addressing formal complaints of Sexual Harassment. The grievance process must be equitable for both Complainants and Respondents by providing each party with a fair grievance process. This process provides remedies to a Complainant where a determination of responsibility for Sexual Harassment has been made against the Respondent, and by following a grievance process as defined by Title IX Regulations. Remedies are designed to preserve or restore equal access to education at the University.

Stalking – Stalking is harassing or threatening another person to the point where that individual fears for their safety or the safety of their family. Stalking can occur in various forms including, but not limited to, in person and via electronic means (cyberstalking/cyberbullying). Stalking means to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; and to place under surveillance with the intent to kill, injure, harass or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to—that person; a member of the immediate family of that person; or the spouse or intimate partner of that person.

Cyber-stalking is a particular form of stalking in which electronic media such as the internet, social media, blogs, cell phones, texts, or other similar devices or forms of contact are used.

Examples of Stalking include, but are not limited to:

- Non-consensual communication including in-person communication, telephone calls, voice messages, text messages, email messages, social media postings, instant messages, postings of pictures or information on websites, written letters, gifts, or any other communications that are undesired and/or place another person in fear;
- Following, pursuing, waiting, or showing up uninvited at a workplace, place of residence, classroom, or other locations frequented by a person;
- Surveillance and other types of observation, whether by physical proximity or electronic means; and
- Gathering information about a person from family, friends, co-workers, and/or classmates.

APPENDIX C

Supportive Measures & Resources

At the Title IX Coordinators discretion, interim/supportive measures may be made available to both the Complainant and/or the Respondent during a Title IX matter, including but not limited to:

- access to counseling services and assistance in setting up an initial appointment, on and off-campus
- University No Contact Orders
- rescheduling of exams and assignments
- providing alternative course completion options
- changing class schedules, including the ability to transfer course sections or withdrawal from a course without penalty
- adjusting work schedules or job assignments
- changing a student's on-campus housing assignments
- limiting access to certain University facilities or activities, pending resolution of the matter
- voluntary leave of absence
- providing an escort to ensure safe movement between classes and activities
- providing academic support services, such as tutoring

Azusa Pacific University is committed to providing supportive resources for all of our students. Any student (Complainant, Respondent, or Third-Party) who is affected by violations under the Title IX or related policy has equal access to counseling and support from the following on-campus services:

On-campus confidential offices:

- Campus Pastors - Spirituallife@apu.edu | (626) 815-3855
 - Location: Building #31 (East Campus)
 - [Make an appointment](#)
- University Counseling Center - (626)-815-2109
 - 24/7 Crisis Line - (626)-815-2109
 - Location: Magnolia Court (East Campus)
 - [Make an appointment](#)
- Health Center (doctors and nurses) - (626) 815-2100
 - Location: Magnolia Court (East Campus)
 - [Make an appointment](#)

On-campus private offices:

- Student Affairs
 - Phone: (626) 815-2078
 - Location: Building #27 (East Campus)
- Department of Campus Safety

- Phone: (626) 815-5000
- Location: Smith Hall (East Campus)
- Residence Life
 - Phone: (626) 812-3056
 - Location: Engstrom Hall (East Campus)
- Office of Human Resources
 - Phone: (626) 815-4527
 - Location: Building One (West Campus)
 - Employee Assistance Program,
<https://www.apu.edu/humanresources/additionalresources/>

Off-campus resources:

- Project Sister, (909) 626-HELP, projectsister.org
- National Sexual Assault, (800) 656-HOPE, rainn.org

External Resources for Title IX

- Project Sister, (909) 626-HELP, projectsister.org
- YWCA - SGV WINGS 24-hour domestic violence hotline (626) 967-0658, ywca.org
- National Sexual Assault, (800) 656-HOPE, rainn.org
- Office for Civil Rights (OCR) U.S. Department of Education 400 Maryland Avenue, SW
Washington, DC 20202-1100

Customer Service Hotline #: (800) 421-3481 Facsimile: (202) 453-6012 TDD#: (877) 521-2172 Email: OCR@ed.gov Web: <http://www.ed.gov/ocr>