

LEGAL ADVISOR

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Title IX Policy

Center for Excellence in Higher Education, Inc. (“CEHE”), and the colleges that it owns and operates, have adopted and implemented this Title IX Policy prohibiting sex discrimination, including sexual harassment, effective as of August 14, 2020 for all of CEHE’s education programs and activities.

I. INTRODUCTION

A. Notification of nondiscrimination

CEHE and its colleges (herein, the “Company”) do not discriminate on the basis of sex in any of the Company’s education programs or activities. The Company is required by Title IX of the Education Amendments of 1972 and the federal regulations promulgated thereunder by the U.S. Department of Education (collectively, “Title IX”) not to discriminate in such a manner.

The requirement not to discriminate in such education programs or activities extends to admissions and employment. Inquiries about the application of Title IX to the Company, including the terms of this Title IX Policy Prohibiting Sex Discrimination, Including Sexual Harassment (“Policy”), may be referred to either of the Company’s Title IX Coordinators, to the Assistant Secretary for Civil Rights of the U.S. Department of Education, or to both.

This Policy is intended to memorialize the Company’s prohibition of sex discrimination, including sexual harassment (as defined

under Title IX), in all of the Company’s education programs or activities.

B. Interaction with other Company policies

Other Company policies address types of discrimination, harassment, and other misconduct that are not addressed by this Policy and Title IX. To the extent reported misconduct is *not* covered by this Policy, such conduct will *not* be investigated or adjudicated by the Company’s Title IX office under this Policy. However, such conduct may be referred to other Company personnel to be investigated pursuant to other Company policies.

C. Title IX Coordinators

The Company has designated and authorized two employees to coordinate the Company’s efforts to comply with its responsibilities under Title IX (each, a “Title IX Coordinator”).

For complaints of sex discrimination, including sexual harassment, where no current or prospective student is involved as either a Complainant or a Respondent (see below definitions of “Complainant” and “Respondent” in Section II (“Key Definitions”)), the Title IX Coordinator is Chelsea Jones.

For complaints of sex discrimination, including sexual harassment, where at least one current or prospective student is involved as either a Complainant or a Respondent, the

Title IX Coordinator is Danielle Lammi.

Title IX Coordinator Contact Information:

For complaints of sex discrimination, including sexual harassment, where no current or prospective student is involved as either a Complainant or a Respondent and in certain limited circumstances involving student-employees (*see Endnote 1*):

Chelsea Jones
Sr. Leave Programs Specialist
4021 South 700 East, Suite 400
Salt Lake City, Utah 84107
chelseaj.jones@collegeamerica.edu
801-281-6962

For complaints of sex discrimination, including sexual harassment, where at least one current or prospective student is involved as either a Complainant or a Respondent and in certain circumstances involving student-employees (*see Endnote 1*):

Danielle Lammi
Corporate Director of Career Services
4021 South 700 East, Suite 400
Salt Lake City, Utah 84107
danielle.lammi@collegeamerica.edu
801-284-7535

Any person may, at any time, report sex discrimination, including sexual harassment, in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinators, or by any other means that results in one or both of the Title IX Coordinators receiving the person's verbal or written report, regardless of whether the person is a victim of such conduct or not.

II. KEY DEFINITIONS

A. *Sexual harassment* means conduct on the basis of sex that satisfies one or more

of the following:

- (1) An employee of the Company conditioning the provision of an aid, benefit, or service of the Company on an individual's participation in unwelcome sexual conduct (so-called *quid pro quo* sexual harassment);
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to any of the Company's education programs or activities; or
- (3) "Sexual assault" as defined in the Clery Act (*see Endnote 2*), "dating violence" as defined in the Violence Against Women Act (*see Endnote 3*), "domestic violence" as defined in the Violence Against Women Act (*see Endnote 4*), or "stalking" as defined in the Violence Against Women Act (*see Endnote 5*).

B. *Complainant* means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

C. *Respondent* means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

D. *Program or activity* means all of the operations of the Company and includes locations, events, or circumstances over which the Company exercises substantial control over both the Respondent and the context in which the sexual harassment occurs against a person in the United States.

E. *Formal complaint* means a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the

Company investigate the allegation of sexual harassment. At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in an education program or activity of the Company.

A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed for the Title IX Coordinator in this Policy. As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the Company) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the formal complaint.

Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a Complainant or otherwise a party under Title IX, but the Title IX Coordinator will comply with the requirements of Title IX when handling a formal complaint.

F. *Actual knowledge* means notice of sexual harassment or allegations of sexual harassment to either of the Company’s Title IX Coordinators or to the Company’s CEO,

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4021 South 700 East, Suite 400
Salt Lake City, Utah, 84107
eric.juhlin@collegeamerica.edu
801-312-0078

Constructive notice does not constitute actual knowledge, nor is this standard met when the only official of the Company with actual knowledge is the Respondent. The mere ability or obligation to report sexual harassment or to inform a student about how

to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the Company for purposes of this Policy.

“Notice” as used in this Policy (i.e., in this definition of “actual knowledge”) includes, but is not limited to, a report of sexual harassment to either of the Title IX Coordinators.

G. *Supportive measures* means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the Company’s education programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the Company’s education environment, or deter sexual harassment.

Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures, including any actions required by applicable law. The Company treats supportive measures provided to the Complainant or Respondent confidentially, to the extent that maintaining such confidentiality would not impair the ability of the Company to provide the supportive measures.

The Title IX Coordinator is responsible for

coordinating the effective implementation of supportive measures.

III. COMPANY'S RESPONSE TO SEXUAL HARASSMENT

A. General response to sexual harassment.

If the Company has actual knowledge of sexual harassment in an education program or activity of the Company against a person in the United States, the Company will respond promptly and reasonably to such knowledge.

The Company's response will treat Complainants and Respondents equitably by offering to Complainants supportive measures, and by following a grievance process that complies with section IV of this Policy before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a Respondent.

Upon actual knowledge of sexual harassment, the Title IX Coordinator will contact the Complainant promptly (i) to discuss the availability of supportive measures, (ii) to consider the Complainant's wishes with respect to supportive measures, (iii) to inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint, and (iv) to explain to the Complainant the process for filing a formal complaint.

B. Response to a formal complaint.

In response to a formal complaint, the Company will follow a grievance process that complies with Title IX. With or without a formal complaint, the Company will comply with this Policy and with Title IX, including making offers of supportive

measures to parties and explaining how to pursue a formal complaint.

C. Emergency removal.

The Company reserves the right, consistent with applicable law, to remove a Respondent from any education program or activity of the Company on an emergency basis and based on an individualized safety and risk analysis that the Company has undertaken to determine that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal.

In the event of such an emergency removal, the Company will provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

D. Administrative leave.

The Company reserves the right, consistent with applicable law, to place a non-student employee Respondent on administrative leave (with or without pay) during the pendency of a grievance process occurring under this Policy.

IV. GRIEVANCE PROCESS

A. Persons who can initiate a formal complaint.

A formal complaint may be filed by a Complainant or signed by the Title IX Coordinator.

B. Procedure for a Complainant to file a formal complaint.

If a Complainant chooses to file a formal complaint, the Complainant must sign and submit a document to the Title IX Coordinator (in person, by mail, or by

electronic mail, by using the contact information for the Title IX Coordinator set forth in this Policy), alleging sexual harassment against a Respondent and requesting that the Company investigate the allegation of sexual harassment.

At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in an education program or activity of the Company.

C. Procedure for the Title IX Coordinator to initiate a formal complaint.

In the absence of a decision by a Complainant to file a formal complaint, the Title IX Coordinator can choose to sign a formal complaint alleging sexual harassment against a Respondent and requesting that the Company investigate the allegation of sexual harassment.

The Company desires to respect a Complainant's autonomy as much as possible; thus, if a grievance process is initiated against the wishes of the Complainant, that decision will be reached thoughtfully and intentionally by the Title IX Coordinator. In deciding whether to sign a formal complaint, the Title IX Coordinator will take into account the Complainant's wishes regarding how the Company should respond to the Complainant's allegations as well as other important safety considerations, including, but not limited to:

- The severity and pervasiveness of the alleged sexual harassment;
- Any pattern of alleged misconduct attributed to the Respondent (e.g., serial predation) in the Complainant's allegations;
- The risk of serious harm to any student, employee, or other

individual associated with the Company;

- Whether the Complainant's allegations involved violence, threats, use of weapons, or similar factors; and/or
- Whether the Complainant's allegations have prompted the involvement of law enforcement and/or criminal proceedings.

D. Grievance process for formal complaints of sexual harassment.

In response to a formal complaint, the Company will follow the grievance process set forth in this Policy.

This grievance process is designed to treat Complainants and Respondents equitably by providing remedies to a Complainant where a determination of responsibility for sexual harassment has been made against the Respondent, and by following a grievance process that complies with Title IX before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a Respondent.

1. Administrative processing of a formal complaint. When a formal complaint is made, the following administrative procedures will occur:

a. *Conflict Analysis.* As a preliminary matter, the Title IX Coordinator will analyze whether she has a conflict of interest that would preclude her from acting as the Title IX Coordinator for the formal complaint at issue. If such a conflict exists, the Company's CEO or his designee will designate another properly trained individual to serve as the Title IX Coordinator for the formal complaint at issue.

b. *Role Assignments.* The Title IX Coordinator handling a formal complaint will decide whether to personally investigate the formal complaint or to assign an investigator to investigate the formal complaint. Where the Complainant and Respondent voluntarily choose to attempt to reach an informal resolution of the formal complaint, the Title IX Coordinator handling a formal complaint will select a mediator to facilitate an informal resolution process. Where an informal resolution process is not elected, or where it is elected but is unsuccessful, the Title IX Coordinator handling a formal complaint will also identify the appropriate decision-maker. That decision-maker will serve as (i) the hearing officer presiding over the hearing of the formal complaint, (ii) the person who decides whether a finding of responsibility for sexual harassment should be made and (iii) if so, what remedies should be imposed against the Respondent. For each of these role assignments, the Title IX Coordinator will analyze whether a person selected as an investigator or decision-maker has a conflict of interest that would prevent such person from serving in the role at issue.

c. *Assignment of Properly Trained Individuals.* The Company will ensure that all Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, shall receive training on the definition of sexual harassment; the scope of the Company's education program or activity; how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable; and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. The Company will also ensure that decision-makers receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence,

including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant. The Company will ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence. Materials used to train the Company's Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process will not rely on sex stereotypes and will promote impartial investigations and adjudications of formal complaints of sexual harassment.

d. *Dismissal of a formal complaint.* If the Company determines that conduct alleged—even if proven to be true—(i) would not constitute sexual harassment under this Policy, (ii) did not occur in the Company's education program or activity, or (iii) did not occur against a person in the United States, then the Company will dismiss the formal complaint. However, the Company reserves the right to transfer such a case to other offices or personnel of the Company for investigation and processing under other Company policies, if appropriate. Furthermore, the Company may dismiss any formal complaint or any allegations therein, if at any time during the investigation or hearing, a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; the Respondent is no longer enrolled or employed by the Company; or specific circumstances prevent the Company from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein. Written notice of any dismissal decision under this Policy will be provided simultaneously to the parties.

e. *Offering of supportive measures.* The Title IX Coordinator will offer supportive

measures (as defined in this Policy) to a Complainant and Respondent following the filing of a formal complaint.

2. Investigation process for a formal complaint. The investigation of any formal complaint will be conducted in accordance with the following procedures:

a. *Notice of allegations.* Upon receiving a formal complaint, the Company will provide written notice of the allegations to the Respondent. This notice will be provided in a manner that gives the Respondent sufficient time to prepare a response before any initial interview. The notice will contain the following information:

- i. Notice of the grievance process set forth in this Policy, including any informal resolution process.
- ii. Notice of the allegations of sexual harassment potentially constituting sexual harassment as defined in this Policy, including sufficient details known at the time, such as the identities of the parties involved in the incident, if known; the conduct allegedly constituting sexual harassment under this Policy; and the date and location of the alleged incident, if known.
- iii. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process.
- iv. A statement informing the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, under this Policy, and may inspect and review evidence under this Policy.

- v. A statement informing the parties that Company policy prohibits the making of false statements in any official investigation or similar proceeding or in the conducting of any Company business and that the Company reserves the right to pursue and impose disciplinary action against anyone who makes a false statement when utilizing or participating in a Title IX grievance procedure or grievance process.

Note: If, in the course of an investigation, the Company decides to investigate allegations about the Complainant or Respondent that are not included in the notice described immediately above, the Company will provide notice of the additional allegations to the parties whose identities are known.

b. *Objective evaluation.* The Company will conduct an objective evaluation of all relevant evidence relating to a formal complaint. For purposes of this Policy, the term “relevant” shall have its ordinary meaning. The Federal Rules of Evidence may be relied upon as persuasive authority in determining whether a piece of evidence should be deemed “relevant”; however, this Policy does not require strict adherence to the Federal Rules of Evidence. Furthermore, no rule of evidence will be applied under this Policy if it would result in the exclusion of relevant evidence—even if such evidence is accorded little weight or credibility. Determinations regarding credibility will not be based on a person’s status as a Complainant, Respondent, or witness.

c. *Presumption of non-responsibility.* Formal complaints will be processed with a presumption that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance

process.

d. *Respect for legal privilege.* The Company will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

e. *Timeframes.* The Company intends and endeavors to complete the processing of any formal complaint within 90 days from the date on which a Complainant files, or the Title IX Coordinator signs, the formal complaint. However, the Company reserves the right to extend the grievance process time frames for good cause and, when exercising that right, will provide written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action. Good cause may include, without limitation, considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; a *force majeure* event; or the need for language assistance or accommodation of disabilities.

f. *Burdens of proof and gathering evidence.* The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the Company and not on the parties.

g. *Equal opportunity to present and inspect evidence.* The Company will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other evidence. Furthermore, both parties shall receive an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the Company does not intend to

rely in reaching a determination regarding responsibility, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

h. *Time to review evidence considered by the investigator.* Prior to completion of the investigative report, the investigator shall send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have at least 10 calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report. The investigator need not consider written responses submitted in an untimely manner so long as the same standard for refusing to consider such late submission is applied equally to Complainants and Respondents.

i. *Finalization of an investigation report.* The investigator shall create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to a hearing on the formal complaint, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

j. *No gag orders.* Complainants and Respondents are not restricted in their ability to discuss allegations under investigation pursuant to this Policy or to gather and present relevant evidence.

k. *Advisor participation.* The Company will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the

Complainant or Respondent in any meeting or grievance proceeding. The Company, however, reserves the right to establish restrictions regarding the extent to which the advisor may participate in the proceedings (with any such restrictions applying equally to both parties). For example, while advisors shall be permitted to cross-examine witnesses and parties at a live hearing conducted under this Policy, no advisor shall be free to act in a manner inconsistent with professional decorum or to harass or badger a witness during a hearing. Complainants and Respondents shall be free to confer with their respective advisors throughout a grievance process; provided, however, that reasonable time constraints may be imposed equally on the parties with respect to such advisor conferences and consultations.

l. *Notice with time to prepare.* Any party whose participation is invited or expected will receive written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with sufficient time for the party to prepare to participate.

m. *Standard of evidence.* The standard of evidence to be used to determine responsibility is the preponderance of the evidence standard; this standard of evidence applies to formal complaints against students, to formal complaints against employees, including faculty, and to all formal complaints of sexual harassment.

n. *Consolidation of formal complaints.* The Company reserves the right to consolidate related formal complaints as permitted under Title IX.

3. Informal resolution. If a formal complaint is filed, the parties may voluntarily agree to engage in an informal resolution process to attempt a resolution of any formal

complaint except those involving allegations that an employee sexually harassed a student. The Company will facilitate such an informal resolution process with the consent of the parties. Such an informal resolution process can occur at any time prior to reaching a determination regarding responsibility. If the parties resolve a formal complaint through an informal resolution process, the parties will be precluded from resuming a formal complaint arising from the same allegations that were included in the previously resolved formal complaint.

4. Live hearing procedures for formal complaints. Following an investigation of a formal complaint, the formal complaint will be submitted to a live hearing, presided over by the decision-maker. The following procedures shall apply to such a live hearing:

a. *Availability of Evidence.* The Company will make all evidence (which shall include only relevant evidence) that was considered in the preparation of the investigation report concerning the formal complaint available to the parties for their inspection and review at any hearing so that each party has an equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

b. *Questioning of Witnesses.* Within three (3) days of the investigation report being published to the Complainant and Respondent, the Complainant and Respondent must advise the Title IX Coordinator, respectively, whether the party intends to bring the party's own advisor to a hearing on the formal complaint. At the hearing, the decision-maker must permit each party's advisor to ask the other party and any witnesses all

relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. If a party does not have an advisor, the Company will provide without fee or charge to that party, an advisor of the Company's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.

- c. *Rulings on Witness Questions.* Only relevant cross-examination and direct-examination questions will be permitted. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the decision-maker will determine whether the question is relevant and explain any decision to exclude a question as not relevant. The decision-maker may rely on the Federal Rules of Evidence as persuasive authority when determining whether a piece of evidence should be deemed "relevant"; however, this Policy does not require strict adherence to the Federal Rules of Evidence, nor does it permit reliance on any evidentiary rule that would result in the exclusion of relevant evidence. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the

Respondent and are offered to prove consent.

- d. *Failure to Submit to Cross-Examination.* If a party or witness does not submit to cross-examination at the live hearing, the decision-maker will not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker will not 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.
- e. *Requests for Separation.* At the request of either party, the decision-maker will provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision-maker and parties to simultaneously see and hear the party or the witness answering questions.
- f. *Location of Hearings.* The Company reserves the discretion to conduct any hearing under this Policy with all parties physically present in the same geographic location (which the Company shall determine in its sole discretion) or with any or all parties or other participants appearing virtually with technology enabling participants simultaneously to see and hear each other.
- g. *Transcripts.* The Company will provide the parties an opportunity to inspect and review a transcript (or, at the Company's sole discretion, an audio or audiovisual recording) of any live hearing conducted under this

Policy. Consistent with the confidentiality mandates imposed by Title IX, no party, advisor or witness shall make any audio or visual recording of any live hearing conducted under this Policy.

h. *Written Determinations.* The decision-maker, who will be someone other than the Title IX Coordinator or the investigator assigned to a formal complaint, will issue simultaneously to each party a written determination regarding responsibility following the conclusion of a live hearing. Such written determination shall include the following:

- i. Identification of the allegations potentially constituting sexual harassment;
- ii. A description of the procedural steps taken from the receipt of the formal complaint through the determination (including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held);
- iii. Findings of fact supporting the determination;
- iv. Conclusions regarding the application of the Company's code of conduct to the facts;
- v. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the Company imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the Company's education programs or activities will be provided by the

Company to the Complainant; and

- vi. The Company's procedures and permissible bases for the Complainant and Respondent to appeal.

5. Potential outcomes from a finding that a Respondent engaged in sexual harassment. The following outcomes may result from a finding that a Respondent has engaged in sexual harassment in violation of this Policy. The Company reserves the right to determine, in its sole discretion, the appropriate disciplinary sanction and/or remedy or remedies to impose or award, as applicable, upon finding that a Respondent has engaged in sexual harassment.

a. Disciplinary sanctions and remedies.

A list of the range of possible disciplinary sanctions and remedies that the Company may implement following any determination of responsibility is as follows:

Disciplinary sanctions:

For employee Respondents:

- Verbal warning
- Performance/conduct improvement plan
- Written warning
- Disciplinary suspension (which may be with or without pay)
- Reassignment to a different department, team, or position (which may include a lateral transfer or a demotion)
- Adjustment of job description/authority
- Adjustment of salary or other forms of pay
- Termination of employment with eligibility to be rehired
- Termination of employment without eligibility to be rehired

For student Respondents:

- Written warning
- Suspension
- Dismissal from school with eligibility to re-enter
- Dismissal from school without eligibility to re-enter

For student-employee Respondents, any combination of the above-mentioned disciplinary sanctions may be imposed.

Remedies:

Remedies will be tailored to the circumstances unique to the allegations underlying each formal complaint and will be based on that which the decision-maker deems most appropriate given the circumstances.

6. Appeals. If a Complainant or Respondent wishes to appeal the decision of the decision-maker presiding over the live hearing of a formal complaint, the party wishing to appeal must comply with the following procedures:

- a. *Grounds for Appeal.* An appeal can be based on any one or more of the following grounds:
 - i. Procedural irregularity that affected the outcome of the matter;
 - ii. 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; or
 - iii. The Title IX Coordinator, investigator(s), or decision-maker had a conflict of interest or bias

for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

- b. *Notice of Appeal.* The Title IX Coordinator shall notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties.
- c. *Appellate Briefing.* Each party to an appeal shall have an equal opportunity to submit a written statement in support of, or challenging, the outcome of a live hearing in a case that is appealed under this Policy. Absent an extension granted by an appeal officer presiding over the case, any such written statement must be submitted to the Title IX Coordinator within 10 calendar days after the Title IX Coordinator has provided the notice of a hearing officer's decision of responsibility or no responsibility following a live hearing.
- d. *Appeal Officers.* The Company shall appoint an individual (who shall not be the person who served as the Title IX Coordinator, investigator or decision-maker for the underlying formal complaint) to serve as an appeal officer to consider and decide any appeal that is filed under this Policy. The appeal officer shall apply the preponderance of evidence standard in deciding an appeal.
- e. *Written Decision.* Following the briefing period, the appeal officer shall issue a written decision describing the result of the appeal

and the rationale for the result. Such written decision shall be provided simultaneously to the parties by the Title IX Coordinator.

- f. *Finality.* A determination regarding responsibility becomes final either on the date that the Company provides the parties with the written determination of the result of the appeal, if an appeal is filed, or on the eleventh (11th) calendar day following the Company's provision of the hearing officer's written determination to the parties (if no appeal is filed by either party during the 10-day period for filing an appeal).

V. RETALIATION PROHIBITED

This Policy prohibits retaliation against any individual for making a report or complaint, testifying, assisting with, or participating or refusing to participate in any manner in an investigation, proceeding, or hearing under this Policy.

However, a violation of this Policy, including without limitation the procedural rules set forth in this Policy, may result in disciplinary action against the violating party. Likewise, a party may be subject to discipline pursuant to other Company rules for having made a false statement while taking part in grievance procedures or any grievance process under this Policy. This Policy prohibits intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX. For example, 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 prohibited by this Policy.

The Company will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by FERPA, or as required by law, or to carry out the purposes of Title IX, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination required to be adopted under Title IX.

Notably, however, the exercise of rights protected under the First Amendment does not constitute retaliation prohibited under this Policy.

ENDNOTES

Endnote 1: If a student-employee (i.e., a person who is both enrolled as a student with the Company and who is also an employee of the Company) is involved as either a Complainant or Respondent in a report or formal complaint of sex discrimination, including sexual harassment, where the report or formal complaint arises in the context of the individual's student relationship with the Company, then the Title IX Coordinator is Danielle Lammi. If a student-employee is involved as either a Complainant or Respondent in a complaint of sex discrimination, including sexual

harassment, where the complaint arises in the context of the individual's employment relationship with the Company, then the Title IX Coordinator is Chelsea Jones.

Endnote 2: The Clery Act defines "sexual assault" as follows: an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

Endnote 3: The Violence Against Women Act defines "dating violence" as follows: violence committed by a person—(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

Endnote 4: The Violence Against Women Act defines "domestic violence" as follows: felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a

person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Endnote 5: The Violence Against Women Act defines "stalking" as follows: engaging in a course of conduct directed at a specific person that would cause a reasonable person to—(A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.

Written by:

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For

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