

Institute for Clinical Social Work

(Revised August 2020, effective August 14, 2020)

Sexual Misconduct Policy and Complaint Resolution Procedures

I. POLICY STATEMENT

Sexual misconduct, including sexual discrimination, harassment, non-consensual sexual intercourse and/or contact, exploitation, and interpersonal violence such as stalking, dating violence and/or domestic violence, will not be tolerated at the Institute for Clinical Social Work (ICSW). The Institute cares deeply about the health, safety, and well-being of all members of its community and is committed to fostering a community that promotes prompt reporting of all types of sexual misconduct, the timely and equitable resolution of sexual misconduct complaints, and educational and prevention programming.

This Policy applies to all members of the ICSW community, including students, faculty, staff, administrators, board members, contractors, vendors, and visitors. The Policy applies to on-campus and off campus conduct, including online or electronic conduct, when the off-campus conduct: (i) occurs during an ICSW-sponsored employment or educational activity or program; (ii) adversely impacts the education or employment of a member of the ICSW community; or (iii) otherwise threatens the health and/or safety of a member of the ICSW community.

Students and employees continue to be subject to city, state, and federal laws while at ICSW, and violations of those laws may also constitute violations of this Policy. In such instances, ICSW may proceed with an investigation under this Policy independently of any criminal proceeding involving the same conduct and may impose sanctions for violation of this Policy even if such criminal proceeding is not yet resolved.

For students and ICSW employees, this Policy applies to conduct that takes place from the time a person applies for enrollment as a student or applies for employment and continues until the student graduates or otherwise separates from ICSW or the employee ceases employment.

This policy was reviewed and amended based upon the new regulations issued by the Department of Education on May 6, 2020 with an effective date of August 14, 2020. An overview of these changes include:

Key procedure requirements mandated by the revised Title IX Regulations include:

- Prescribed definitions of sexual harassment, sexual assault, domestic and dating violence, and stalking that are prohibited under Title IX
- The sexual harassment definition is narrower than previous definitions of sexual harassment
- Applies to all complaints of Title IX prohibited conduct for all faculty, staff, and students
- Supportive measures available to complainants regardless of whether a matter is investigated
- A signed complaint from the complainant (the person who is reported to have experienced harm) or the Title IX Coordinator as a predicate to an investigation
- A dismissal of a matter if the reported conduct falls outside of Title IX's jurisdiction

- Because the reported conduct does not fall within the defined conduct covered by Title IX;
 - Because the reported conduct happened outside of the United States;
 - Because the reported conduct did not occur within a ICSW program or activity; or
 - Because the complainant is not participating or seeking to participate in a ICSW program or activity at the time of the filing of the complaint
- A preponderance of the evidence standard. Preponderance of the evidence means that the alleged conduct more likely than not occurred.
 - A presumption of innocence for the respondent (the accused)
 - An investigation with the opportunity for parties (the complainant and respondent) to make a statement, provide witnesses, and present evidence
 - Parties may be accompanied by an advisor of their choice to any meeting or proceeding
 - In a matter involving a student bringing a complaint against a faculty or employee, ICSW may not resolve the matter by agreement
 - A hearing by an adjudicator
 - At a hearing the parties have the following rights:
 - to be provided an advisor
 - to object to evidence at the hearing
 - Witness statements from a party who is not available for cross-examination cannot be considered by the adjudicator
 - to have their advisor cross-examine the other party and witnesses
 - Following a hearing, the parties have the following rights:
 - to receive a written outcome including the basis for the decision
 - if there is a finding of responsibility, to receive written sanctions and remedies
 - to appeal the decision of the adjudicator
 - Designated time frames for certain aspects of the procedure, including
 - 10 days for parties to comment on evidence
 - 10 days for parties to review the investigation report
 - ICSW can neither compel a party to participate in the Title IX Procedure nor retaliate against a party for not participating.
 - ICSW cannot violate a party's first amendment rights

Additional Aspects of the revised Title IX Procedure include:

To best effectuate the regulations and to ensure a fair process for ICSW parties, ICSW has crafted a Title IX Procedure with the following elements:

- Parties are provided these options:
 - To be advised by the Title IX coordinator on all aspects of the procedure
 - At the hearing stage, at ICSW's expense, to select an advisor trained in ICSW's procedure, to assist preparing for and during a hearing, and to conduct cross-examination

- For student parties, at ICSW’s expense, two hours of consultation with an advisor? from the panel; the consultation is available any time after a complaint has been filed
 - At any stage of the procedure, to work with an advisor, who can be an attorney, at a party’s own expense
- Except in matters in which a student is making a complaint against a faculty or staff member (see above), the matter can be resolved by agreement of the complainant, respondent, and Title IX Coordinator.
- The hearing adjudicator will be a member of ICSW’s administrative staff. The adjudicator will:
 - Make evidentiary determinations
 - Make findings of responsibilities
 - Following a finding of responsibility, issue sanctions and remedies
- The decision-maker for appeal will be a high ranking member of ICSW’s administrative team.
- Parties will be provided an option to waive cross-examination by their advisors and instead submit written questions to the adjudicator who will conduct the examination.

II. NOTICE OF NON-DISCRIMINATION

ICSW does not discriminate on the basis of sex in its educational programs or services or in the context of employment or admissions. Sexual misconduct, including sexual harassment as defined in this policy, is a form of sex discrimination that unjustly deprives a person of equal treatment. It is prohibited by Title IX of the Education Amendments of 1972, a federal law that provides that:

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.

This Policy prohibits sexual misconduct against all ICSW community members of any gender or sexual orientation or gender expression. This policy also prohibits harassment based on gender or sexual orientation that does not involve conduct of a sexual nature. ICSW’s non-discrimination policy can be accessed at (link).

Further information about Title IX and sex discrimination in education is available from the Office for Civil Rights (U.S. Department of Education, John C. Kluczynski Federal Building 230 S. Dearborn Street, 37th Floor Chicago, IL 60604, 312-730-1560, OCRChicago@ed.gov, ed.gov.ocr), or ICSW’s Title IX Coordinator as set forth directly below.

III. ROLE OF TITLE IX COORDINATOR

To manage ICSW’s compliance with Title IX, ICSW has a designated Title IX Coordinator, Michael Bauman (Vice President, Finance and Operations), trained in the ICSW’s policies and procedures, state and federal

law and other issues related to addressing sexual misconduct. Specifically, the Title IX Coordinator may do some or all of the following:

- Oversees the Title IX program at ICSW
- Advises any individual, including a claimant, a respondent, or a third party, about the courses of action available at ICSW and in the community for resolving cases of sexual misconduct;
- Conducts and/or reviews on-going climate checks, tracking, and monitoring of sexual misconduct allegations on campus;
- Oversees training, education, and prevention efforts; and
- Provides and participates in on-going training designed to assist in implementing these policies and procedures.

The Title IX Coordinator, Michael Bauman, can be reached at 1345 W Argyle Street, Chicago, IL 60640 at (773) 943-6503 or titleixcoordinator@icsw.edu

IV. PROHIBITED CONDUCT

ICSW prohibits sexual misconduct. Sexual misconduct is a broad term that, as previously indicated, encompasses sexual harassment, non-consensual sexual intercourse or contact, sexual exploitation, domestic and dating violence, and stalking.

Sexual misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual misconduct can be committed by a person of any gender identity, and can occur between people of the same or different gender identities. Sexual misconduct is a form of sex discrimination prohibited by federal and state discrimination laws. In addition, some forms of sexual misconduct violate the criminal laws of the State of Illinois. The following offenses are considered “sexual misconduct” and prohibited by ICSW.

V. AVAILABLE RESOURCES

There are various reporting options and resources available to the ICSW community. ICSW encourages those who have experienced sexual misconduct to talk to one or more of the individuals or agencies identified below.

- A. Confidential Resources:** The following resources are available to discuss incidents of sexual misconduct in confidence, and generally they only report to ICSW that an incident occurred without revealing any personally identifying information. Disclosures to these entities will not trigger an ICSW investigation into an incident. Faculty, staff and students wishing to obtain confidential assistance without making a report to ICSW may do so by speaking with one of the following confidential sources:

- **Resilience** (773-907-1062)

The following off-campus organizations also provide confidential assistance and additional resources:

- **The Chicago Rape Crisis Hotline:** 888-293-2080

- **National Sexual Assault Telephone Hotline:** 800-656-HOPE (4673)

All the above resources employ professionals specifically trained to work with individuals who report sexual misconduct and have knowledge about on-and off-campus resources, services, and options. Please note that limitations of confidentiality may exist for individuals under the age of 18.

VI. EDUCATIONAL PROGRAMMING

ICSW is committed to offering educational programs to promote awareness of sexual, gender and sexual orientation discrimination, including sexual harassment, non-consensual sexual contact and intercourse, domestic and dating violence, sexual exploitation, stalking and retaliation. Educational programs will include an overview of ICSW's policies and procedures; relevant definitions including prohibited conduct; discussion of the impact of alcohol and illegal drug use; consent; safe and positive options for bystander intervention; review of resources and reporting options available for students, faculty and staff; and information about risk reduction.

Incoming students and new employees will receive primary prevention and awareness programming as part of their orientation. Returning students and employees will also have ongoing opportunities for training and education.

VII. ACADEMIC FREEDOM

ICSW is committed to the principles of academic freedom. Rigorous discussion and debate are fundamental to ICSW's educational mission, and this policy is not intended to determine or restrict teaching methods, course content, or the processes of intellectual inquiry and debate. The fact that speech or a particular expression is offensive is not necessarily a basis to establish a violation of this policy.

TITLE IX GREIVANCE PROCEDURE

Effective August 14, 2020.

I. Steps in the Title IX Process:

- A. Contact Title IX Coordinator to report sexual misconduct*
- B. Complainant, if necessitated, will file a formal written complaint*
- C. Complaint will be reviewed by Title IX Coordinator*
- D. Complaint will be submitted to a Title IX Investigator*
- E. Title IX Investigator will submit all information to all parties and to the adjudicator*
- F. A hearing will be scheduled*

- G. *Adjudicator will render a decision*
- H. *Either party can appeal the decision*

**Informal resolution may be used at any time, after a formal complaint is filed*

II. INTRODUCTION

ICSW is committed to fostering a campus environment that is free from unlawful discrimination on the basis of sex, including sexual harassment and sexual assault. In support of that commitment, ICSW takes steps to increase awareness of such sexual harassment and sexual assault, eliminate its occurrence on campus and in ICSW programs and activities, encourage reporting, provide support for survivors, promptly respond to all reports of sexual harassment and sexual assault, deal fairly with accused Respondents,¹ and take appropriate action against those found responsible.

This Title IX Procedure is intended to ensure a safe and non-discriminatory educational and work environment and describe the process by which ICSW meets its obligations under Title IX and its implementing regulations.

III. SCOPE, APPLICABILITY, AND JURISDICTION

All students, faculty, staff, affiliates and others participating in ICSW programs and activities in the United States are subject to this Title IX Procedure. The Title IX regulations define “sexual harassment” to include three types of misconduct on the basis of sex which jeopardize the equal access to education that Title IX is designed to protect. These types of misconduct include: any instance of quid pro quo harassment by a ICSW employee; any conduct on the basis of sex that in the view of a reasonable person is so severe and pervasive and objectively offensive that it effectively denies a person equal access to a ICSW education program or activity; and any instance of sexual assault, dating violence, domestic violence, or stalking. An ICSW Program or Activity includes locations, events, or circumstances over which ICSW exercises substantial control over both the respondent and the context in which the Title IX Prohibited Conduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the ICSW. Both study-abroad programs and off-campus locations that are not within an ICSW Program or Activity are not covered by the Title IX regulations.

Given the federal mandates of Title IX and its implementing regulations, the rights and obligations provided in this Title IX Procedure necessarily supersede any conflicting rights or obligations provided in the student, faculty or staff handbooks and may be addressed through other ICSW processes.

IV. REPORTING TITLE IX PROHIBITED CONDUCT

A. What to Report

The types of sexual harassment covered by this Title IX Procedure (collectively “Title IX Prohibited Conduct”) includes conduct on the basis of sex that satisfies one or more of the prohibited items described above. Note that sexual misconduct or other discrimination on the basis of sex that does not fall within these specific definitions may still violate ICSW’s policy and should be reported to the Title IX Office.

B. Where to Report

1. Title IX Coordinator

The Title IX Coordinator is the individual designated by ICSW to coordinate its efforts to comply with Title IX responsibilities. All reports of Title IX Prohibited Sexual should be reported to the **Michael Bauman, Title IX Coordinator**, 1345 W Argyle Street, Chicago, IL 60645, (773)943-6503 or titleixcoordinator@icsw.edu

Any person may report Title IX Prohibited Conduct (whether or not the individual reporting is the person alleged to have experienced the conduct), in person, by mail, by telephone, or by email, using the contact information listed below. Such a report may be made at any time, including during non-business hours, by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator.

2. Other Senior ICSW Officials

Notice of allegations of Title IX Prohibited Conduct to the Title IX Coordinator or an official with authority to institute corrective measures on ICSW’s behalf, triggers the ICSW’s response obligations under Title IX. At ICSW, such officials include the President and Academic Dean.

3. Reports to Law Enforcement

If you are in immediate danger, or if you believe there could be an ongoing threat to you or the community, please call 911.

For conduct that could also constitute a crime under Illinois law, a Complainant is encouraged—but not required—to contact the police by dialing 911 or the local police agency in the jurisdiction in which the alleged incident occurred. Illinois law also provides that individuals who experience sexual violence are encouraged to preserve evidence and to note the identity and location of Witnesses. Contacting law enforcement to make a report allows for forensic evidence to be collected, including a SART exam if needed, which may be helpful if a decision is made to pursue criminal charges.

C. When to Report and Confidential Resources

There is no specific time frame for individuals who have experienced conduct that may constitute Title IX Prohibited Conduct to make an Initial Report pursuant to this Title IX Procedure. Individuals are, however, encouraged to make a report soon after the incident in question in order to maximize ICSW's ability to investigate and reach a finding. At any time (whether or not an individual decides to make a report of Title IX Prohibited Conduct to the Title IX Coordinator, or other Senior ICSW Official), an individual may contact ICSW Confidential Resources that can provide emotional support and counseling.

ICSW makes available Confidential Resources for consultation regarding reports of Title IX Prohibited Conduct or other offenses, and those individuals are not required to report to or share any information with the ICSW. Consultation with Confidential Resources does not constitute notice to the ICSW. However, as described below, certain Confidential Resources may be required by law to report law to law enforcement. In addition, ICSW cannot guarantee that conversations with a Title IX Coordinator or the academic dean might not be subject to disclosure in legal proceedings or pursuant to other legal process. Communications with attorneys and medical doctors, on the other hand, may be privileged under law.

Unless the alleged victim is a minor or there is a belief that there is an imminent threat of harm to self or others, reporting Title IX Prohibited Conduct to one of these resources will not lead to an ICSW investigation or police investigation.

Except in the event the person who is the subject of the potential criminal act is a minor, the name of this individual should not be released without the individual's consent.

D. How to Report

Complainants who experience any type of sexual harassment or violence are encouraged to seek help as identified above. Any person may report Title IX Prohibited Conduct, whether or not the individual reporting is the person alleged to have experienced the conduct. To make an Initial Report of Title IX Prohibited Conduct, the Title IX Office will require disclosure of the following information, if known:

- Name of Complainant
- Complainant's role, if any, within ICSW (student, faculty, staff, alumni, other, such as vendors)
- Name of Respondent
- Respondent's role within ICSW (student, faculty, staff, alumni, other, such as vendors)
- Date of the incident
- Location of the incident (be specific: not "classroom" but "classroom 254 at St. Augustine")
- Time of the incident
- Nature of the conduct (provide specific allegations: e.g., "Complainant felt Respondent touching their genital area without permission")
- Date of previous report (if any)
- To whom any previous report was made (if any)

V. PROCEDURE: INITIAL RESPONSE, FORMAL COMPLAINT, INVESTIGATION, INFORMAL RESOLUTION, HEARING, AND APPEAL

A. Receipt of an Initial Report of Title IX Prohibited Conduct

1. Offer of Supportive Measures

Upon receipt of notice of an Initial Report of Title IX Prohibited Conduct (which may come from any individual), the Title IX Coordinator will promptly contact the Complainant and inform the Complainant:

- of the availability of Supportive Measures, including that the Supportive Measures are available with or without filing a Formal Complaint;
- of the availability of confidential counseling resources both on and off campus;
- how to file a Formal Complaint;
- that, if the reported conduct could be a crime, the Complainant has the right but not the obligation to file a police report, and that if there is a police investigation, the Title IX Coordinator will coordinate with law enforcement; and of the importance of preserving evidence and identification and location of Witnesses.

If on the face of the Initial Report, the Title IX Coordinator determines that the conduct alleged does not fall within the scope of Title IX, the Title IX Coordinator may also inform the Complainant that the matter may be referred to another ICSW process. Even if the matter is referred, the Complainant will still receive an offer of Supportive Measures.

Supportive Measures will be different for every matter and will be based on individualized review. ICSW offers confidential counseling to community members, through the Confidential Support Team for students, and through the Faculty/Staff HELP Center for others. Other Supportive Measures may include 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 or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. ICSW will maintain as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of ICSW to provide the Supportive Measures.

The Title IX Coordinator responsible for coordinating the effective implementation of Supportive Measures. The Title IX Coordinator will consider the Complainant's wishes with respect to Supportive Measures.

2. Privacy and Confidentiality

Notice to the Title IX Coordinator or other Senior ICSW Official of conduct that could constitute Title IX Prohibited Conduct triggers ICSW's obligations under this Title IX Procedure. If the Title IX

Coordinator or other Senior ICSW Official becomes aware that Title IX Prohibited Conduct is alleged to have occurred, ICSW has an obligation to review the available information and determine whether to proceed to an Investigation.

In this context, Privacy and Confidentiality have distinct meanings.

- **Privacy** means that information related to a complaint will be shared with only a limited number of ICSW employees who “need to know” in order to assist in the assessment, Investigation, and resolution of the report. All employees who are responsible for ICSW’s response to Title IX Prohibited Conduct receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”), and the privacy of employee records will be protected in accordance with Illinois law and ICSW policy.
- **Confidentiality** exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. ICSW has designated individuals who have the ability to have privileged communications as Confidential Resources.

ICSW will make reasonable and appropriate efforts to preserve an individual’s privacy and to protect the Confidentiality of information. However, because of laws relating to reporting and other state and federal laws, ICSW cannot guarantee Confidentiality relating to incidents of Title IX Prohibited Conduct except where those reports are privileged communications to Confidential Resources. Even then, there are exceptions to maintaining Confidentiality set by law; for example, physicians and nurses who treat any physical injury sustained during a sexual assault are required to report it to law enforcement. Also, physicians, nurses, psychologists, psychiatrists, teachers and social workers must report a sexual assault committed against a person under age 18.

Except for Confidential Resources, information shared with other individuals is not legally protected from being disclosed. However, ICSW takes requests for Privacy and Confidentiality seriously, to the extent it can do so while at the same time fulfilling its responsibility to provide a safe and nondiscriminatory environment for all students and the ICSW community. ICSW in such circumstances will make sure the Complainant is aware he/she/they are protected from Retaliation.

Should a Complainant make a request that ICSW not disclose the Complainant’s identity to the Respondent, the Title IX Coordinator will inform the Complainant that ICSW’s ability to respond to the allegations and investigate may therefore be limited if the request is granted. A Complainant who initially requests Confidentiality is not prohibited from later requesting that ICSW conduct a full Investigation.

Whether or not the Complainant requests confidentiality, ICSW will keep private the identity of all Complainants, Respondents, and Witnesses, except as necessary to carry out this procedure or as may be required by FERPA or other law.

3. Emergency Removal/Administrative Leave

a. **Individualized Safety and Risk Analysis.**

Based on an Initial Report or Formal Complaint of Title IX Prohibited Conduct, the Title IX Coordinator, in consultation with the Threat Assessment Team or others as appropriate, may undertake an individualized safety and risk analysis to determine whether the allegations indicate the Respondent poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Title IX Prohibited Conduct. If ICSW determines removal is appropriate, the Respondent will be provided with notice and an opportunity to challenge the decision immediately following the removal.

b. **Administrative Leave of a Non-Student Respondent.**

ICSW may place a non-student Respondent on administrative leave after notice of a report of Title IX Prohibited Conduct and during the pendency of resolution of the matter.

B. Filing a Formal Complaint

After the Initial Report, the Title IX Procedure will not move forward until a Formal Complaint is filed. A Formal Complaint can be filed in one of two ways:

1. **Complainant submits Formal Complaint.** A Complainant may complete and sign a Formal Complaint alleging Title IX Prohibited Conduct against a Respondent and requesting that ICSW Investigate the allegation of Title IX Prohibited Conduct.
 - a. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in one of ICSW's Programs or Activities.
2. **Title IX Coordinator submits Formal Complaint.** The Title IX Coordinator may complete and sign a Formal Complaint.
 - a. A Complainant may request that ICSW not proceed with an Investigation or further resolution under this Procedure. A Complainant's wishes with respect to whether ICSW Investigates will be respected unless the Title IX Coordinator determines that signing a Formal Complaint over the wishes of the Complainant is not clearly unreasonable in light of the known

circumstances.

- The Title IX Coordinator will inform the Complainant that due to various federal and state laws and/or in order to protect the safety of the campus community some circumstances require ICSW to move forward with an Investigation, even if the Complainant requests otherwise. ICSW's decision is subject to a balancing test that requires ICSW to consider a range of factors, including:
- The status of the Respondent and whether the Respondent has authority over students and/or staff.
- Whether there have been multiple reports of Title IX Prohibited Conduct (or other violations of Student, faculty and staff handbooks) relating to a single Respondent;
- The seriousness of the alleged Title IX Prohibited Conduct (e.g., whether the alleged conduct involved a weapon, physical restraints or battery);
- Whether there is a likelihood that the Respondent would be a danger to the Complainant or the ICSW community;
- The age of the Complainant;
- Whether the report of Title IX Prohibited Conduct can be effectively addressed through another type of intervention; and
- The ability of ICSW to obtain relevant evidence.

C. Receipt of a Formal Complaint of Title IX Prohibited Conduct

1. **Notice of Formal Complaint.** Upon receipt of a Formal Complaint, ICSW will provide a Notice of Formal Complaint to the Parties for whom ICSW knows their identity, including the following details:
 - a. A description of ICSW's Title IX Procedure, including any ~~informal~~ resolution process.
 - b. A description of the allegations including sufficient details known at the time such as:
 - the identities of the Parties involved in the incident;
 - the conduct allegedly constituting Title IX Prohibited Conduct; and
 - the date and location of the alleged incident.
 - c. A statement that the Respondent is presumed not responsible for the alleged

conduct and that a determination regarding responsibility is made at the conclusion of a Hearing.

- d. A statement that the Parties may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence as described herein.

The Notice of Formal Complaint will be provided with sufficient time to respond and prepare for any investigative interviews.

Once a Notice of Formal Complaint is issued, a Respondent student's ability to receive a degree is placed on hold.

After receiving Notice of Formal Complaint, both the Complainant and the Respondent will be asked to identify any academic, employment, or other significant conflicts that would affect the timing of the Investigation and potential Hearing. The Adjudicator will consider this input in finalizing any Hearing Schedule.

- 2. **Ongoing Notice Requirement.** If, in the course of an Investigation, ICSW decides to investigate allegations about the Complainant or Respondent that are not included in the initial Notice of Formal Complaint provided, ICSW will provide notice of the additional allegations to the Parties whose identities are known.

D. Rights and Responsibilities of Parties and Witnesses

During an Investigation and Hearing under this Title IX Procedure, the Parties and Witnesses have the following responsibilities and rights.

- 1. Responsibilities of the Parties and Witnesses
 - a. The responsibility to be truthful, to cooperate with the process, and to follow the directions of ICSW staff and agents responsible for administering this process;
 - b. The responsibility not to Retaliate against or Intimidate (see Section V.A.) any individual who has reported Title IX Prohibited Conduct or who has participated as a Party or Witness in the process; and
 - c. The responsibility to keep private (by not disseminating beyond Advisors) documents, materials, and information received from ICSW during this process; and,
 - d. The responsibility to destroy, when so directed by ICSW, evidentiary materials and/or writings submitted by the other Party as party of the process.

2. Right of all Parties and Witnesses
 - a. The right to be protected from Retaliation and Intimidation (see Section V.A., below) where one has reported Title IX Prohibited Conduct or participated as a Party or Witness in the process;
 - b. The right to exercise First Amendment rights and not be subject to investigation for Retaliation for the exercise of such rights;
 - c. The right to receive information regarding consequences for knowingly making false statements or knowingly submitting false information during the Title IX Procedure under the corresponding handbook associated with the party.
3. Rights of Student Parties and Student Witnesses
 - a. The right not to be disciplined for drug and alcohol violations (relating to voluntary ingestion) or similar Fundamental Standard offenses in connection with the reported incident that do not place the health or safety of any other person at risk;
 - b. For student Parties, the right to two hours of consultation time with an ICSW-Identified Attorney, at no cost to the student Party, at any time after a Notice of Formal Complaint is issued (as described in Section IV.G.1.b.).
4. Rights of all Parties
 - a. The right to be treated equitably and receive the same equitable access to Supportive Measures;
 - b. The right to have each phase of the Title IX Procedure completed within a reasonably prompt timeframe (as set forth in Appendix C);
 - c. The right to a Process Support Person to support and/or advise the Party (as described in Section IV.H.1.a.);
 - d. The right to receive a Notice of Formal Complaint that provides sufficient detail about the allegations and the applicable ICSW policies for the Respondent to be able to respond and for both Parties to understand the scope of the Investigation;
 - e. The right to decline to give a statement about the allegations or attend a Hearing;
 - f. The right to participate in the Investigation, including by identifying fact Witnesses and Expert Witnesses and identifying and/or providing inculpatory, exculpatory and other relevant information and evidence to the Investigator;

- g.** The right to receive any Notice of Dismissal (as described in Section IV.I.1.d.);
- h.** The right to appeal any Notice of Dismissal (as described in Section IV.I.1.e.);
- i.** The right to review all evidence directly related to the allegations, in electronic format or hard copy, with at least 10 days for the Parties to inspect, review, and respond to the evidence.
- j.** The right to receive an Investigative Report that fairly summarizes relevant evidence, in electronic format or hard copy, with at least 10 days for the Parties to respond;
- k.** The right to have the matter heard at a live Hearing by a neutral Adjudicator who will determine the matter using a Preponderance of the Evidence standard and who will not prejudge the outcome of a case;
- l.** The right to a Hearing Support Person (as described in Section IV.H.1.d.) who will conduct oral cross-examination at the live Hearing on behalf of the Party;
- m.** The right to jointly agree with the other Party to waive cross-examination through the Hearing Advisors and instead submit written cross-examination questions to the Adjudicator to conduct the examination. Parties will not be pressured to make this election or be penalized in any way for electing to conduct cross-examination through their advisor;
- n.** The right to receive a Written Determination Regarding Responsibility (if any) (as described in Section IV.K.6.);
- o.** The right to appeal the Written Determination Regarding Responsibility to a neutral Appeal Officer (as described in Section IV.K.7.); and
- p.** The right to receive a Notice of Outcome of Appeal.

5. Rights of the Respondent

- a.** The right not to have any disciplinary Sanctions imposed before a finding of responsibility in accordance with this Title IX Procedure; and
- b.** The right to be presumed not responsible for the alleged Title IX Prohibited Conduct until a determination regarding responsibility is made at the conclusion of the Hearing.

E. Initial Assessment of Formal Complaint

The Title IX Coordinator shall make an initial assessment as to whether the Formal Complaint on its face alleges an act of Title IX Prohibited Conduct is covered by this Title IX Procedure. If it does not, ICSW will dismiss the matter as described below.

1. Dismissal of Formal Complaints Prior to Investigation or Resolution

- a. **Dismissal Prior to Investigation.** If the assessment above determines that the conduct alleged in the Formal Complaint would not constitute Title IX Prohibited Conduct even if true, did not occur against a person in the United States, or there is not enough information to carry out the Title IX Procedure (for example, the identities of the people involved are unknown), then ICSW shall dismiss the Formal Complaint for purposes of this Title IX Procedure. If the Formal Complaint alleges multiple claims that arise out of the same facts and circumstances, and the Title IX Coordinator determines that some conduct is covered under Title IX and some is not, all claims may proceed together to be resolved under this Title IX Procedure. If, however, some claims do not arise out of the same facts and circumstances, are not covered by Title IX, and could violate other ICSW policy, that conduct will be dismissed and referred to another ICSW process, and the Title IX Procedure will proceed with respect to the covered conduct only. Any conduct dismissed under this Title IX Procedure that could constitute a violation of Student, faculty and staff handbooks or any other ICSW policy may be handled through other applicable ICSW processes.
- b. **Notice of Dismissal Prior to Investigation.** Upon dismissal, ICSW shall send a Notice of Dismissal including the reason(s) therefore simultaneously to the Parties, within 7 calendar day of receipt of formal complaint.

F. Informal Resolution

1. Informal Resolution Process

At any time after a Formal Complaint is filed, the Title IX Coordinator may, in their discretion, choose to offer and facilitate an Informal Resolution process, so long as both Parties give voluntary, informed, written consent to attempt Informal Resolution. ICSW may not require the Parties to participate in an

Informal Resolution process or require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to a formal Investigation and adjudication of Formal Complaints of Title IX Prohibited Conduct. Any person who facilitates an Informal Resolution will be experienced and trained in dispute resolution and trained on this Title IX Procedure.

2. Withdrawing from an Informal Resolution 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.

3. Matters Not Eligible for Informal Resolution

- a. No Informal Resolution process will be offered before a Formal Complaint is filed.
- b. No Informal Resolution process will be offered to resolve Formal Complaints involving a student as Complainant and a staff or faculty member as Respondent.

G. Investigation

For any allegations in any Formal Complaint not subject to dismissal under this Title IX Procedure, the matter will proceed to an Investigation. The formal Investigation phase is the period during which the Investigator gathers information about the allegations. This period of time is the Parties' opportunity to provide input regarding the collection of evidence, but the burden of gathering evidence and the burden of proof is on ICSW. ICSW may, in its discretion, consolidate the Investigation of multiple Formal Complaints where the allegations arise out of the same facts.

1. Support During the Investigation and Hearing Process

a. **Advisors**

The Advisor may assist a Party on written submissions provided they are verified by the Party. The Process Support Person does not speak or advocate on behalf of the Party in ICSW proceedings, except as provided in Section IV.H.1.d., below. Any Process Support Person who violates these expectations may not be permitted to participate further in the process or as a Support Person.

Only one advisor will be allowed to accompany a Party to meetings with Investigators (including meetings that occur using technology, such as Zoom).

b. Title IX Coordinator/ICSW-Identified Advisor for Student Parties

ICSW has trained Title IX Coordinator to serve as Process Advisors for all Parties in all ICSW processes involving sexual harassment, sexual violence, relationship violence and stalking. Title IX Coordinator are available by appointment for consultation to students, staff and faculty to discuss all available ICSW procedures to resolve violations of Student, faculty and staff handbooks, including this Title IX Procedure. Title IX Coordinator are intended to maintain Privacy and Confidentiality to the extent permitted by law. This means that Title IX Coordinator do not have a responsibility to report information to others at ICSW and – except to the extent a Title IX Coordinator needs to share information to protect life – will hold in confidence information shared by community members. Note, however, that courts are not required to recognize the Confidentiality of Title IX Coordinator, and ICSW may be compelled by a court to disclose information or documents shared with a Title IX Coordinator.

Once a Notice of Formal Complaint is issued by ICSW, each Party will be offered a Title IX Coordinator to assist the Party as a Process Support Person. A Party may decline to work with a Title IX Coordinator, may decline to follow the advice of a Title IX Coordinator, and may work with their own identified Process Support Person.

c. Attorney as Process Support Person

Each Party may elect to identify an attorney to serve as an advisor. Such an individual is obligated to follow the requirements for Advisors stated in Section IV.H.1.a., above. While an advisor may be an attorney, the attorney has no different role in the process and serves as an advisor in the same capacity as a non-attorney, except as provided in Section IV.H.1.d., below.

d. Hearing Support Person/ICSW-Identified Advisors

As described in Section IV.K.4.a., below, if the matter proceeds to a Hearing, all oral cross-examination must be conducted by a Party's Hearing Support Person (which may be the same as the Party's Process Support Person), not by the Parties themselves. If a Party arrives at a Hearing without a Hearing Support Person, ICSW will designate an advisor of ICSW's choosing to conduct the oral cross-examination on behalf of the Party.

In the event a matter proceeds to a Hearing, an ICSW-Identified Advisor will be made available to all Parties for assistance with the Hearing stage. The ICSW-Identified Advisor will provide guidance around Hearing preparation, conduct cross-examination during a Hearing, and may provide assistance during an appeal period. Parties are not obligated to use this resource or to follow any guidance provided by an advisor. Should Parties wish to avail themselves of this resource, they should contact the Title IX Office to obtain the list of advisors. Each Party is responsible for selecting their own ICSW- identified Advisor from this list. If a student Party has elected to use an ICSW- Identified Advisor for consultation prior to the Hearing stage, and elects to use this resource for the Hearing stage, the student Party will be offered the same ICSW- Identified Advisor that provided the consultation services to serve as the student Party's Hearing Support

Person. A student Party may choose a different ICSW-Identified Advisor from the list to serve as the Hearing Support Person, but the student will not get another two hours of consultation time if the student Party switches ICSW-Identified Advisor.

While Parties are not required to have an ICSW-identified advisor for the Hearing and are otherwise permitted to engage an attorney, ICSW will not reimburse Parties for such services.

2. Investigation Process

a. Investigator. The Title IX Coordinator will designate an individual to conduct the Investigation of a Formal Complaint.

b. Notice of Interviews, Meetings or Hearings. The Title IX Coordinator will send the Parties and their Advisors advance written notice of any investigative interviews, meetings, or Hearings at which the Party is expected to be present. These notices will be sent out at least 10 business days prior to these sessions.

c. Method of Information Gathering. The Investigator may gather information in multiple ways. The Investigator may collect relevant documents and other information and may also interview Parties and/or Witnesses. In addition, a Complainant or Respondent may:

1. submit documentary information to the Investigator;
2. submit a list of Witnesses to be interviewed by the Investigator; and/or
3. request that the Investigator attempt to collect documents and other information that are not accessible to the requesting Party.

d. Disclosure of information. After the Investigator has concluded the collection of evidence, ICSW will send the Parties and their Advisors evidence directly related to the allegations, in electronic format or hard copy, with at least 10 days for the Parties to inspect, review, and respond to the evidence.

e. Investigative Report. After the Investigator has received the Parties' response to the evidence, the Investigator will complete the Investigative Report that fairly summarizes the relevant evidence. The Title IX Coordinator will make the Investigative Report available to the Parties and their Advisors in electronic format or hard copy, with at least 10 days for the Parties to respond. In the event the determination is made to dismiss the Formal Complaint (see below), that information will be included in the Investigative Report.

H. Post-Investigation Options

1. Dismissal of Formal Complaint After Investigation

- a. Mandatory Dismissal.** ICSW must dismiss the Formal Complaint if after the Investigation it is determined by the Title IX Coordinator that the conduct alleged in the Formal Complaint

does not constitute Title IX Prohibited Conduct or did not occur against a person in the United States. If the Formal Complaint alleges multiple claims that arise out of the same facts and circumstances, and the Title IX Coordinator determines that some conduct is covered under Title IX and some is not, all claims may proceed together to be resolved under this Title IX Procedure. If, however, the Title IX Coordinator determines some claims do not arise out of the same facts and circumstances, are not covered by Title IX, and could violate other ICSW policy, that conduct will be dismissed and referred to another ICSW process, and the Title IX Procedure will proceed with respect to the covered conduct only.

b. Discretionary Dismissal. ICSW may dismiss the Formal Complaint if:

- i.** The Respondent is no longer enrolled or employed by ICSW;
- ii.** Specific circumstances prevent ICSW from gathering sufficient evidence to reach a determination; or
- iii.** The Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the Formal Complaint or allegations therein.

- 1.** A Complainant may notify the Title IX Coordinator at any time that the Complainant does not wish to proceed with the Investigation and/or Hearing process. If such a request is received, the Title IX Coordinator will inform the Complainant that ICSW's ability to respond to the allegation may be limited if the allegations are withdrawn.
- 2.** The Title IX Coordinator will consider the factors in Section IV.B.2.b. in reaching a determination as to whether to terminate the Investigation and/or Hearing process. In the event that the Title IX Coordinator determines that the Investigation will continue, the Title IX Coordinator will notify the Complainant of that determination. The Title IX Coordinator will include in that notification a statement that the Complainant is not required to participate in the Investigation and/or Hearing process but that the process will continue. In the event that the Title IX Coordinator determines that the Investigation will be terminated, both Parties will be notified.

c. Referral. In the event of dismissal after the Investigation (mandatory or discretionary), the Title IX Coordinator may refer some or all of the matter for consideration under another applicable ICSW policy or procedure, if any.

d. Notice of Dismissal after Investigation. Upon dismissal, ICSW shall promptly send a Notice of Dismissal (mandatory or discretionary) and reason(s) therefor simultaneously to the Parties.

e. Right to Appeal Notice of Dismissal. The Parties may appeal a Notice of Dismissal. Each Party may submit a written appeal of up to 6,000 words in length, which will be shared with

the other Party. The Parties must submit the appeal by the date determined by the Title IX Office, generally ten calendar days from the receipt of the Notice of Dismissal. The appeal is submitted to an External Sexual Harassment/Assault Process Specialist and will be limited to the following grounds:

- i. Were there any procedural irregularities that substantially affected the outcome of the matter to the detriment of the Complainant?
- ii. Was there any substantive new evidence that was not available at the time of the decision that could not have been available based on reasonable and diligent inquiry that would substantially affect the outcome of the decision?
- iii. Is the decision one that a reasonable person might have made?

Upon receipt of a Party's appeal, the Adjudicator will share it with the other Party. Each Party may submit a response to the other Party's appeal (no more than 3,000 words). Each Party must submit this response by the date determined by the Adjudicator, generally seven (7) calendar days after the other Party's appeal has been shared. The appealing Party will have access to the other Party's response to the appeal, but no further responses will be permitted.

The Title IX Coordinator is permitted, but not required, to file a response to a Party's appeal to respond to concerns relating to procedural irregularities including the Investigation. The Title IX Coordinator may submit one response for each Party that files an appeal (that raises a procedural irregularity). Each response by the Title IX Coordinator should be no more than 1,500 words. The Parties will have access to the Title IX Coordinator response(s) to the appeal, but no further responses will be permitted.

The remedy is limited to directing the Title IX Coordinator to issue a Notice of Charge and proceed to a Hearing.

- 2. Notice of Charge/Setting of Hearing.** For any Formal Complaints not subject to Dismissal or Informal Resolution after Investigation, the matter will proceed to a Hearing. The Title IX Coordinator will notify both the Complainant and the Respondent in writing that the matter has been charged and referred to an Adjudicator to decide the matter. The Adjudicator will promptly set the Hearing based on the availability of the Parties and Witnesses.

I. Pre-Hearing Process

1. Creation of Hearing File.

The Adjudicator (working with the Investigator) will create the initial Hearing File within seven (7) calendar days after the issuance of the Notice of Charge. However, in more complex cases involving, for instance, multiple allegations and/or Witnesses, the creation of the Hearing File may take longer. Before

the Hearing File is made available to the Parties, the Investigator/Adjudicator will redact personally identifying information from the Hearing File, such as phone numbers, addresses, and medical information. The Investigator/Adjudicator will also propose redactions of non-permissible and unrelated information in the Hearing File, and highlight those proposed redactions to the Parties. The Parties will receive electronic access to view the Hearing File. Parties will also receive a log describing gathered materials that were not included in the Hearing File.

a. Expert Witnesses

Expert Witnesses may be permitted only if:

- i. the Adjudicator needs special expertise in order to understand a technical matter, such as relevant forensic evidence;⁸
- ii. an understanding of that technical matter is likely to affect the Adjudicator's finding; and/or
- iii. there is not a more efficient method of obtaining the information necessary to resolve that technical matter.

If allowed, an Expert Witness may be retained by a Party or by the Title IX Office. If an Expert Witness is retained by a Party, that Party will be responsible for any costs incurred, and the other Party will be allowed to respond to that Expert's written or oral testimony. If an Expert Witness is consulted by the Title IX Office and the expert's opinion or testimony is included in the Hearing File or offered to the Adjudicator, the Parties will be allowed to respond to that Expert's written or oral testimony. A Party's Expert Witness must be identified in the Investigation phase, unless good cause is shown as to a late discovery of need for such testimony, and must be willing to submit to an interview with the investigator, in part to determine whether the proposed testimony meets the standard set forth above.

b. Medical Records

For purposes of this Title IX Procedure, ICSW will not access, consider, disclose, or otherwise use a Party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the Party, unless ICSW obtains that Party's voluntary, written consent to do so.

c. New Evidence and/or Rebuttal Evidence

New Evidence is evidence that was not available at the time of the charge decision, could not have been available based on reasonable and diligent inquiry, and is relevant to the matter.

Rebuttal Evidence is evidence presented to contradict other evidence in the Hearing File, which could not have been reasonably anticipated by a Party to be relevant information at the time of the Investigation.

New Evidence and Rebuttal Evidence may be included or excluded from the Hearing File, as described in Section IV.I.2., below, but in no event is this section intended to permit a Party who has declined to give a statement about the incident during the Investigation to give such a statement for the first time after the Hearing File has been created. This section is intended to be invoked in rare instances to allow for the inclusion of information that was not available during the Investigation or that could not have been reasonably anticipated to be relevant to rebut an issue that came to light.

2. Evidentiary Review Process

If a Party objects to evidence included or excluded from the Hearing File, or if a Party wants to submit New Evidence and/or Rebuttal Evidence after the Parties have viewed the file, the Party may make a written request to have evidentiary concerns considered by the Adjudicator. Requests to review evidentiary concerns should include all evidentiary issues in one document, which should be no more than 1,500 words in length (including headers, footnotes, captions, charts, audio and/or video statements, and everything else except for the submission of proposed new or rebuttal evidence). New Evidence and/or Rebuttal Evidence, if any, should be attached to the written request and submitted to the Adjudicator, who will forward all information from the Parties to the Adjudicator.

In order to consider the objections to the Hearing File, the Adjudicator will have access to all materials gathered by the Investigator during the Investigation. The Parties must submit the objections by the date set in the Hearing Schedule, generally five (5) calendar days after the date the Hearing File is made available to the Parties. The Title IX Coordinator is permitted, but not required, to submit responses to the Parties' evidentiary objections to the Adjudicator. The Adjudicator has the authority to make all evidentiary decisions relating to what information is relevant; that is, what information should be included or excluded from the Hearing File. When the Adjudicator proposes to add New or Rebuttal Evidence to the file that not all Parties have reviewed, the Adjudicator is permitted to grant Parties the opportunity to review and bring forward evidentiary issues, limited to the New or Rebuttal Evidence that was added.

During the Hearing, Parties, Advisors, and Witnesses must comply with the evidentiary decisions that have been made by the Adjudicator.

Objections to the inclusion or exclusion of evidence cannot be the basis for appeal unless they were made through the Evidentiary Review process before the Hearing. The standard for review of evidentiary decisions on appeal will be whether the evidentiary decision was clearly erroneous and substantially affected the Adjudicator's decision to the detriment of the appealing Party.

3. Response Statement to Hearing File

Each Party may submit a written statement of their position to the Adjudicator that is no more than 1,500 words in length (including headers, footnotes, captions, charts, audio and/or video statements).

- a. This statement is each Party's opportunity to respond to the Hearing File and the charges made and to provide a statement to the Adjudicator about what the Party believes the evidence shows.

- b. No attachments will be accepted; references to evidence should be made to material in the Hearing File.
- c. No New and/or Rebuttal Evidence may be submitted.
- d. No information may be submitted that goes beyond the scope of the matter that is charged.

The Parties must submit this statement by the date set in the Hearing Schedule (see Appendix C), but generally five (5) calendar days from the date the Hearing File is made available to the Parties.

The Adjudicator, in consultation with the Investigator, will remove information from a position statement that goes beyond the scope of the charge.

4. Hearing Schedule

Within seven (7) days of when the Notice of Charge is issued, the Adjudicator will reach out to all Parties, Witnesses, and the Adjudicator to that schedule key dates for the matter (Hearing Schedule). The Hearing Schedule will take into consideration the academic and other conflicts identified in response to the Written Notice of Formal Complaint. Unless an extension is granted based on a showing of good cause, the Parties are obligated to follow the Hearing Schedule. The Hearing Schedule will be case-specific but generally will follow the timeframes set forth in Appendix C.

J. Hearings

1. Format of Hearing.

Hearings may be conducted with all Parties physically present in the same geographic location or, at ICSW's discretion, any or all Parties, Witnesses, and other participants may appear at the live Hearing virtually, with technology enabling participants simultaneously to see and hear each other. At the request of either Party, ICSW will provide for the Hearing to 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.

2. Recording of the Hearing.

Hearings will be transcribed or recorded through audio or audiovisual means, and ICSW will make the transcript or recording available to the Parties for inspection and review upon request.

3. Role of Hearing Advisors.

If a Party does not have a Hearing Support Person present at the Hearing, ICSW will provide without fee or charge to that Party, a Hearing Support Person of ICSW's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that Party.

4. Role of the Adjudicator.

The Adjudicator will be a neutral decision-maker experienced and trained in adjudicating matters of civil rights, sexual harassment and/or sexual violence and trained on this Title IX Procedure. The Adjudicator will preside over the Hearing and will issue the Written Determination Regarding Responsibility.

The Adjudicator will be identified to the Parties before the Hearing at least three days prior to the Hearing. Additionally, no person who has a conflict of interest may serve as the Adjudicator. A conflict of interest exists if the Adjudicator has prior involvement in or knowledge of the allegations at issue in the case, has a personal relationship with one of the Parties or Witnesses, or has some other source of bias.

Either Party may assert, in writing, that an Adjudicator has a conflict of interest. A request to recuse an Adjudicator based on a conflict must be submitted within 1 business day's receipt of the name of the Adjudicator. The request is submitted to the Adjudicator. A determination will be made whether an Adjudicator has a conflict of interest, and if so that Adjudicator will be replaced by an alternate.

At the Hearing, the Adjudicator will:

- a. **Permit Cross-examination.** At the Hearing, the Adjudicator will permit each Party's Hearing Support Person 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 Hearing Support Person of choice and never by a Party personally. The Parties may, however, jointly agree in advance to waive oral cross-examination and instead submit written cross-examination to the Adjudicator to conduct the examination. Even if the Parties so agree, the Parties are still required to have a Hearing Support Person present at the Hearing. ICSW has discretion to otherwise restrict the extent to which Hearing Support Person may participate in the proceedings.
- b. **Determine Relevance of Questions.** Only relevant cross-examination and other questions may be asked of a Party or Witness. Before a Complainant, Respondent, or Witness answers a cross-examination or other question, the Adjudicator must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
- c. **Provide Rape Shield Protections for Complainants.** The Adjudicator will prohibit any questions and evidence about the Complainant's sexual predisposition or prior sexual behavior as 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. Exclude Statements, as Relevant, in Reaching a Determination Regarding Responsibility.** If a Party or Witness does not submit to cross-examination at the live Hearing, the Adjudicator must not rely on any statement of that Party or Witness in reaching a determination regarding responsibility. The Adjudicator 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.

5. Hearing Process.

The Investigator will be available to answer any questions from the Adjudicator about the Investigation.

The Adjudicator may meet with the Parties and Witnesses for the purpose of making findings of fact. The Parties and Witnesses may not speak to matters beyond the scope of the Hearing File (for example, by raising potential misconduct allegations that go beyond the scope of the charged conduct). Parties and Witnesses must not disclose or reference information to the Adjudicator that was excluded from the Hearing File. The Adjudicator may ask questions of the Parties and/or Witnesses.

Parties are permitted to listen to Witnesses as they are speaking to the Adjudicator. The Adjudicator is not obligated to speak to all Witnesses.

6. Written Determination Regarding Responsibility.

The Adjudicator shall issue a Written Determination Regarding Responsibility, applying the Preponderance of the Evidence standard (as required by Illinois law), which shall include:

- a.** Identification of the allegations potentially constituting Title IX Prohibited Conduct;
- b.** 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;
- c.** Findings of fact;
- d.** Conclusions about whether the alleged Title IX Prohibited Conduct occurred, applying the definitions set forth in this Title IX Procedure to the facts;
- e.** The rationale for the result as to each allegation;
- f.** Any disciplinary Sanctions imposed on the Respondent;
- g.** Whether Remedies or Supportive Measures will be provided to the Complainant; and
- h.** Information about how to file an appeal.

The Adjudicator may ask the Parties to submit Sanctions statements at the conclusion of the Hearing. The Adjudicator may also consult with ICSW personnel regarding any Sanctions and Remedies appropriate to the specific Respondent and Complainant using the guidelines provided in Appendix B.

The Sanction determination will be provided to the Title IX Coordinator who will be responsible for implementing the Supportive Measures and/or Remedies, including the continuation of any Supportive Measures and/or any additional or on-going accommodations for both Parties. The Title IX Coordinator will cause the Written Determination Regarding Responsibility to be sent to the Parties. The Title IX Coordinator will provide copies of the Written Determination Regarding Responsibility and Sanctions and/or Remedies (if any) for the purpose of maintaining records as follows:

- a. For students, to the Office of Academic Affairs
- b. For staff, to ICSW Human Resources
- c. For faculty, to the Academic Dean
- d. For postdoctoral scholars and fellows, to the appropriate administrative manager

The Adjudicator must explain decisions on responsibility and Sanctions (if applicable) and Remedies with enough specificity for the Parties to be able to file meaningful appeals.

The consideration of whether Remedies and Sanctions go into immediate effect or are held in abeyance pending appeal or some combination thereof, will be determined on a case- by-case basis by the Title IX Coordinator.

The Written Determination Regarding Responsibility becomes final:

- a. if an appeal is not filed, the date on which an appeal would no longer be considered timely; or
- b. if an appeal is filed, on the date that ICSW provides the Parties with the written determination of the result of the appeal.

7. Appeal of a Written Determination Regarding Responsibility

a. Submission of Appeal

Both Parties have the right to an appeal from a Written Determination Regarding Responsibility on the bases set forth below. Appeals may be submitted by a Complainant or Respondent in writing to the Adjudicator, who will forward the appeal to a designated Appeal Officer to decide the appeal. The Appeal Officer will be a professional neutral decision-maker (such as a retired judge) experienced and trained in adjudicating matters of civil rights, sexual harassment and/or sexual violence and trained on this Title IX Procedure. The Appeal Officer will not have a current affiliation with ICSW.

Each Party may submit a written appeal of up to 6,000 words in length, which will be shared with the other Party. The Parties must submit the appeal by the date determined by the Title IX Office,

generally ten (10) calendar days from the receipt of the Written Determination Regarding Responsibility (if any).

The grounds for appeal are limited to the following:

1. Were there any procedural irregularities that substantially affected the outcome of the matter to the detriment of the appealing Party
2. Was there any substantive new evidence that was not available at the time of the decision or Hearing and that could not have been available based on reasonable and diligent inquiry that would substantially affect the outcome of the decision?
3. Did the Title IX Coordinator, Investigator(s), or Adjudicator have a conflict of interest or bias for or against Complainants or Respondents that affected the outcome of the matter?
4. For matters that proceeded to Sanctioning and imposition of Remedies, are the Sanction and/or Remedies ones that could have been issued by reasonable persons given the findings of the case?

In composing appeals, Parties should format their arguments following these four grounds as the organizational structure.

Upon receipt of a Party's appeal, the Adjudicator will share it with the other Party. Each Party may submit a response to the other Party's appeal (no more than 3,000 words). Each Party must submit this response by the date determined by the Adjudicator, generally ten (10) calendar days after the other Party's appeal has been shared. The appealing Party will have access to the other Party's response to the appeal, but no further responses will be permitted.

The Title IX Coordinator is permitted, but not required, to file a response to a Party's appeal to respond to concerns relating to procedural irregularities or bias in the Investigation and Hearing process. The Title IX Coordinator may submit one response for each Party that files an appeal (that raises a procedural irregularity). Each response by the Title IX Coordinator should be no more than 1,500 words. The Parties will have access to the Title IX Coordinator's response(s) to the appeal, but no further responses will be permitted.

b. [Appeal Decision](#)

The Appeal Officer will provide the Notice of Outcome of Appeal no later than ten (10) calendar days after receipt of all appeal documents.

As needed, the Appeal Officer will consult with the Title IX Coordinator regarding the management of ongoing Remedies. The Appeal Officer may reject the appeal in whole or in part, issue a new decision regarding responsibility, issue new or revised Sanctions and Remedies, or refer the matter to a new Adjudicator.

VI. ADDITIONAL INFORMATION AND APPENDICES

A. Retaliation and Intimidation.

It is a violation of Student, faculty and staff handbooks to Intimidate or Retaliate against any person making a complaint or responding to a complaint under this Title IX Procedure or against any person participating in the Investigation of any such allegation under this Title IX Procedure (including being the Respondent or testifying as a Witness). No person may threaten, coerce, or discriminate against any individual for pursuing or exercising any right or privilege secured by Title IX, or because the individual has made a report or complaint, responded to a complaint, testified, assisted, or participated or refused to participate in any manner in an Investigation, proceeding, or Hearing related to this Title IX Procedure.

1. **Retaliation** includes, but is not limited to, adverse action related to employment, academic opportunities, participation in ICSW programs or activities, or similar punitive action.
2. **Intimidation** includes any threatening statement or conduct made with the intent to prevent or dissuade any Party or Witness from reporting or participating in the process.

All Parties to a concern and all persons participating in the Investigation of a concern are prohibited from engaging in actions intended to retaliate or intimidate directly or through support persons.

Charging an individual with a handbook violation for making a materially false statement in bad faith in the course of an Investigation does not constitute Retaliation, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any Party made a materially false statement in bad faith. The exercise of rights protected under the First Amendment does not constitute Retaliation.

Reports of alleged violations of ICSW Directives or Court Orders prior to a finding of responsibility either will be incorporated into the pending matter or referred separately to another ICSW process. After a Respondent has been found responsible for Title IX Prohibited Conduct, if there is a new allegation that the Respondent has engaged in Retaliation, Intimidation, or violated a Court Order or ICSW Directive relating to the matter, the Title IX Office will investigate the allegation and determine whether to refer the matter to be handled through another ICSW process.

B. Process for Evaluating Requests for Disability Accommodations.

Parties or Witnesses may request disability-related accommodations from the Title IX Office. Upon receipt of a request for a disability-related accommodation, the Title IX Office will coordinate a meeting with the appropriate disability coordinator and the individual requesting the accommodation to explain the steps involved in the applicable Title IX process (*e.g.*, attorney meetings, interview, document submissions, Hearing). If a participant requests accommodations, if needed, an Investigation under this Title IX Procedure may be delayed (or that person's participation postponed) until the participant requesting such accommodations has had their request evaluated and, as appropriate, until accommodations have been implemented.

The appropriate disability coordinator will confirm with the participant their specific accommodation requests; the appropriate disability coordinator may coordinate with other ICSW offices, such as the Office of Accessible Education or Human Resources, to confirm existing accommodations.

In the circumstance that the Title IX Coordinator determines that the recommended accommodations create a fundamental alteration of the applicable review or Investigation process, the Title IX Coordinator will confer with the appropriate disability coordinator to identify alternate accommodations, if any. The Title IX Coordinator will provide a written statement of the accommodations that will be provided in the process.

If a Party seeking an accommodation does not agree with the statement of accommodations, the Party may seek written review of the accommodations from the appropriate disability coordinator or their designee. The request to review the accommodations must be made in writing. The appropriate disability coordinator will review and respond to the request, generally within three (3) days. The accommodations recommended by the appropriate disability coordinator are final unless there is a change of circumstance. A Party who continues to be dissatisfied with accommodations may raise the concern as procedural error at the conclusion of a Hearing.

Appendix A: Definitions

Affirmative Consent: affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that the person has the Affirmative Consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean Affirmative Consent, nor does silence mean Affirmative Consent. Affirmative Consent must be ongoing throughout a sexual activity and can be revoked at any time. Affirmative Consent may be based on a condition(s), *e.g.*, the use of a condom, and that condition(s) must continue to be met throughout an activity, unless there is mutual agreement to forego or change the condition. When there is no Affirmative Consent present during sexual activity, the activity at issue necessarily occurred “against the person’s will.”

Appeal Officer: a professional neutral decision-maker (such as a retired judge) experienced and trained in adjudicating matters of civil rights, sexual harassment and/or sexual violence and trained on this Title IX Procedure, who will review the Parties’ appeals and issue the Notice of Outcome of Appeal.

Complainant: the Party to the process who has allegedly experienced the alleged Title IX Prohibited Conduct at issue. ICSW uses this term to provide consistency with the Title IX regulations and many peer institutions. Use of this term does not necessarily indicate that this person either reported the conduct or requested that ICSW pursue the matter.

Confidential Resource: a person who by law is exempted from the obligation to report an allegation of conduct that could constitute Title IX Prohibited Conduct to any entity, including ICSW’s Title IX Coordinator or law enforcement in circumstances in which the reported conduct could be a crime (except, as to law enforcement, if the Complainant is a minor or if there is a belief that there is an imminent threat of harm to self or others).

Confidentiality: exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses.

Court Order: any formal order issued by a state or federal court or authorized police officer that restricts a person’s access to another ICSW community member, such as an emergency, temporary or permanent restraining order.

Dating Violence: violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant, including sexual or physical abuse or the threat of such abuse, but excluding acts covered under the definition of Domestic Violence.

Domestic Violence: a felony or misdemeanor crime of violence committed: (i) by a current or former spouse or intimate partner of the Complainant; (ii) by a person with whom the Complainant shares a child in common; (iii) by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner; (iv) by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of California; (v) by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of California. To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

Duress: a direct or implied threat of force, violence, danger, hardship, or retribution that is enough to cause a reasonable person of ordinary sensitivity to do or submit to something that they would not otherwise do or submit to. When deciding whether the act was accomplished by duress, all the circumstances, including the age of the Complainant and their relationship to the Respondent, are relevant factors.

Expert Witness: a Witness identified by a Party or the Title IX Office that has special expertise in a technical matter, such as forensic evidence.

External Sexual Harassment/Assault Process Specialist: a person with specialized knowledge in sexual harassment and sexual assault (such as a person with legal training) retained by ICSW, in the event of an appeal of a Notice of Dismissal.

Force: an act is accomplished by force if a person overcomes the other person's will by use of physical force or induces reasonable fear of immediate bodily injury.

Formal Complaint: a document filed and signed by a Complainant or filed and signed by the Title IX Coordinator alleging Title IX Prohibited Conduct against a Respondent and requesting that ICSW investigate the allegations.

Hearing: a live hearing conducted with all Parties physically present in the same geographic location or with participants appearing virtually with technology enabling participants simultaneously to see and hear each other. During the Hearing, the Adjudicator permits each Party's Hearing Support Person to ask the other Party and Witnesses all relevant questions and follow-up questions, including those challenging credibility. A recording or transcript of the hearing will be made.

Hearing Coordinator: the person who manages Hearings under this Title IX Procedure.

Hearing File: the information collected during the Investigation that is deemed relevant to be considered by the Adjudicator.

Adjudicator: a non-ICSW professional neutral decision-maker (such as a retired judge) experienced and trained in adjudicating matters of civil rights, sexual harassment and/or sexual violence and trained on this Title IX Procedure who will preside over the Hearing and will issue the Written Determination Regarding Responsibility.

Hearing Schedule: a time-table specific to each matter that schedules key dates for the matter after it has been charged.

Hearing Support Person: the person who will attend the Hearing with a Party and conduct the oral cross-examination of the other Party and Witnesses. The Hearing Support Person may be the same as the Party's Process Support Person.

Incapacitation: a person lacks the ability to voluntarily agree (that is, to give Affirmative Consent) to sexual activity because the person is asleep, unconscious, under the influence of an anesthetizing or intoxicating substance such that the person does not have control over their body, is otherwise unaware that sexual activity is occurring, or is unable to appreciate the nature and quality of the act. Incapacitation is not necessarily the same as legal intoxication.

Informal Resolution: a voluntary process that the Parties may consent to participate in, as described in Section IV.F.

Initial Report: a report of conduct that may constitute Title IX Prohibited Conduct, which may be made by any individual, even if not the person alleged to have experienced the conduct. An Initial Report is made prior to a Formal Complaint, and triggers the Title IX Coordinator's obligation to contact the Complainant and inform the Complainant of Supportive Measures, as described in Section IV.A.1.

Intimidation: includes any threatening statement or conduct made with the intent to prevent or dissuade any Party or Witness from reporting or participating in the Title IX Procedure.

Investigation: the phase of the Title IX Procedure when the Parties are invited to provide evidence and identify Witnesses to the Investigator related to the allegations in the Notice of Formal Complaint.

Investigative Report: a formal written document that fairly summarizes the relevant evidence gathered during the Investigation and that is provided to the Parties with at least 10 days to respond.

Investigator: the person assigned by the Title IX Coordinator to investigate Formal Complaints under this Title IX Procedure. The Investigator shall have been trained on all elements of an Investigation as required by federal and state law.

Menace: a threat, statement, or act showing intent to injure someone.

New Evidence: evidence that was not available at the time of the charge decision, could not have been available based on reasonable and diligent inquiry, and is relevant to the matter.

Nonforcible Sexual Violations: Any of the following acts:

- **Incest.** Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by California law.
- **Statutory Intercourse Violation.** Nonforcible sexual intercourse with a person who is under the statutory age of consent of California. The age of consent in California is 18.

Notice of Charge: the formal notification issued by the Title IX Coordinator following an Investigation that the matter will be charged and will proceed to a Hearing.

Notice of Dismissal: the formal notification issued by the Title IX Coordinator following a determination that the matter does not meet the definitional or jurisdictional standards of Title IX and stating the reasons for dismissal.

Notice of Formal Complaint: the formal notification issued by the Title IX Coordinator that a Formal Complaint has been filed and including the details set forth in Section IV.C.1.

Notice of Outcome of Appeal: a written determination describing the Appeal Officer's final decision of a matter brought forward on appeal.

Party/Parties: the generic or collective term used to refer to Complainant(s) and Respondent(s).

Preponderance of the Evidence: the standard of proof used by the Adjudicator. A finding by the Preponderance of the Evidence means that the credible evidence on one side outweighs the credible evidence on the other side, such that, as a whole, it is more likely than not that the alleged fact or conduct occurred. It does not mean that a greater number of Witnesses or documents is offered on one side or the other, but that the quality or significance of the evidence offered in support of one side is more convincing than the evidence in opposition.

Privacy: means that information related to a complaint will be shared with only a limited number of ICSW employees who "need to know" in order to assist in the assessment, Investigation, and resolution of the report. All employees who are responsible for ICSW's response to Title IX Prohibited Conduct receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act ("FERPA"), and the privacy of employee records will be protected in accordance with California law and ICSW policy.

Rebuttal Evidence: evidence presented to contradict other evidence in the Hearing File, which could not have been reasonably anticipated by a Party to be relevant information at the time of the Investigation.

Remedies: individualized measures implemented after a Hearing or as part of an Informal Resolution that are designed to restore or preserve equal access to ICSW Programs or Activities,

and may include Supportive Measures, but need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.

Respondent: the person alleged to have engaged in Title IX Prohibited Conduct.

Retaliation: includes, but is not limited to, adverse action related to employment, academic opportunities, participation in ICSW programs or activities, or similar punitive action taken against an individual because that person has made an Initial Report or Formal Complaint, responded to a Formal Complaint, testified, assisted, or participated or refused to participate in any manner in an Investigation, proceeding, or Hearing.

Sanctions: individualized measures implemented after a Hearing that may be disciplinary in nature, as described in Appendix B.

Senior ICSW Official: employees of ICSW (other than the Title IX Coordinator) with authority to institute corrective measures on ICSW's behalf, and for whom notice of a report of Title IX Prohibited Conduct constitutes actual knowledge of ICSW. At ICSW these individuals include: the President and Academic Dean.

Sexual Assault: Any of the following acts:

- **Rape.** 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 Complainant.
- **Sodomy.** Oral or anal sexual intercourse with another person:
 - forcibly and/or against that person's will; OR
 - not forcibly or against the person's will (non-consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- **Sexual Assault with an Object.** To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person:
 - forcibly and/or against that person's will; OR
 - not forcibly or against the person's will (non-consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- **Fondling.** The touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification:
 - forcibly and/or against that person's will (non-consensually); OR
 - not forcibly or against the person's will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent

mental or physical incapacity.

Stalking: engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (i) fear for the person's safety or the safety of others; or (ii) suffer substantial emotional distress. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Supportive Measures: 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 ICSW Programs or Activities without unreasonably burdening the other Party, including measures designed to protect the safety of all Parties or the ICSW educational environment, or deter sexual harassment. Supportive measures may include 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 or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

Title IX Coordinator: the individual at ICSW responsible for overseeing ICSW's compliance with Title IX, the Clery Act, and IL violence against women act (VAWA).

Title IX Prohibited Conduct: the collective term used in this Title IX Procedure to refer to the conduct described in the definitions for Title IX Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, and Stalking.

Title IX Sexual Harassment: conduct, on the basis of sex, that satisfies one or more of the following:

- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it denies a person equal educational access.
- An employee of ICSW conditioning the provision of an aid, benefit, or service of ICSW on an individual's participation in unwelcome sexual conduct.

ICSW Directive: a directive issued by ICSW restricting activities of an individual in connection with an allegation or finding of violation under this Title IX Procedure.

ICSW-Identified Advisor: an attorney made available by ICSW to serve as a Party's Hearing Support Person under a flat-fee structure, and, in the case of student Parties, to provide up to two hours of consultation services at any time after a Notice of Formal Complaint is issued.

ICSW Program or Activity: locations, events, or circumstances over which ICSW exercised substantial control over both the alleged Respondent and the context in which the Title IX Prohibited Conduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by ICSW.

Violence: the use of physical force to cause harm or injury.

Witness: a person asked to give information or a statement under this Title IX Procedure.

Written Determination Regarding Responsibility: the formal written notification issued by the Adjudicator after a Hearing that includes: (i) identification of the allegations potentially constituting Title IX Prohibited Conduct; (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 Hearing held; (iii) findings of fact; (iv) conclusions about whether the alleged Title IX Prohibited Conduct occurred, applying the definitions set forth in this Title IX Procedure to the facts; (v) the rationale for the result as to each allegation; (vi) any disciplinary Sanctions imposed on the Respondent; (vii) whether Remedies or Supportive Measures will be provided to the Complainant; and (viii) information about how to file an appeal.

Appendix B: Remedies and Sanctioning Guidelines

A. Remedies

Following a determination of responsibility under this Title IX Grievance Procedure that the Respondent engaged in Title IX Prohibited Conduct directed at the Complainant, Remedies are provided to a Complainant. Remedies must be designed to restore or preserve access to ICSW's educational Program or Activity. Remedies may include disciplinary Sanctions or other actions against a Respondent. They may include the same individualized services as those offered as Supportive Measures; however, Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.

The Adjudicator may consult with the Title IX Coordinator or other appropriate ICSW office in crafting Remedies. The Adjudicator will decide on the Remedies as the Adjudicator deems appropriate for the particular case.

The Adjudicator should provide remedies that will remediate a hostile environment for the Complainant and/or provide safety protections for the Complainant or for ICSW community members.

1. Remedies Relating to the Respondent

Remedies relating to all Respondents could include the following restrictions:

- a. Directive not to contact (directly or indirectly) the Complainant
- b. Limiting or denying access to all or parts of campus
- c. Limiting or denying participation in campus programs or activities
- d. Limiting or denying the opportunity to hold leadership positions

Additionally, for student Respondents, remedies could include the following restrictions:

- e. Limiting or denying housing on campus or part of campus (e.g., not permitting Respondent to live near the Complainant)
- f. Requiring that the Respondent not enroll in a course that the Complainant is enrolled in or teaching
- g. Limiting or prohibiting attendance at campus parties or social events

Additionally, for faculty or teaching Respondents, remedies could include the following restrictions:

- h. Limiting or denying certain advising activities
- i. Limiting or denying certain teaching activities
- j. Limiting access to students in private spaces

Remedies for all Respondents could include the affirmative requirement for personalized education or coaching.

2. Additional Remedies for the Complainant

Additional Remedies for the Complainant will be directed by the decision-maker and/or Title IX Coordinator. Unless one of these Remedies affects the Respondent, these should remain confidential and should only be included in the Written Determination Regarding Responsibility for the Complainant.

- a. Academic or workplace accommodations
- b. Safety accommodations
- c. Other reasonable and appropriate accommodations

3. Timeframe for Remedies

The Adjudicator should indicate a timeframe for the Remedies (noting that it might be appropriate for some Remedies to have different timeframes; e.g., no leadership position for two years and no housing for three years.) Restrictions should be put in place for a certain amount of time, to achieve the appropriate remedy. Generally, the remedy may be achieved in a number of months up to five years.

4. Implementation

The Title IX Coordinator is responsible for effective implementation of any Remedies under this Title IX Grievance Procedure. Remedies may be modified by the Title IX Coordinator as circumstances change over the course of a Complainant's or Respondent's student or work career at ICSW. The request for reconsideration may be submitted to the Title IX Coordinator, and the basis for such reconsideration will be limited to whether, given the changed circumstances, the Remedies are ones that could have been issued by reasonable persons. Upon request by a Party to reconsider a remedy, which if granted would impact the other Party, the Title IX Coordinator will provide notice and an opportunity to respond to the other Party. The Title IX Coordinator's decision on reconsideration will be provided in writing and maintains jurisdiction over the Remedies as the Parties move through ICSW.

B. Sanctions

Every violation of Student, faculty and staff handbooks is a serious matter and requires an appropriate Sanction issued after individualized review. A violation of Student, faculty and staff handbooks could lead to termination/separation from ICSW for faculty, staff, as well as expulsion for students. The Adjudicator must impose Sanctions that reflect the seriousness of the incident and the harm caused to the Complainant and, as relevant, the ICSW community.

ICSW offers the following guidance for disciplinary Sanctions for all policy violations under Student, faculty and staff handbooks. The Adjudicator may consult with the Title IX Coordinator or other appropriate ICSW office in crafting Sanctions. The Adjudicator will decide on the Sanctions as the Adjudicator deems appropriate for the particular case.

1. Most Serious Offenses, Termination/Expulsion

While any violation under the student, faculty or staff handbook is of concern and while any violation may lead to separation/termination or expulsion depending on the individual circumstances of the case, ICSW considers the following offenses to be particularly egregious and likely warrant separation/termination or expulsion unless there are significant mitigating circumstances that overcome the presumption:

- a. Rape, Sodomy, Sexual Assault with an Object including an aggravating factor
- b. Domestic or Dating Violence with a serious injury
- c. Any violation including two or more aggravating factors

2. Aggravating Factors

While any violation is of concern, ICSW considers the following factors to be aggravating factors that warrant increased Sanctions:

- a. The act is accomplished by Force, Violence, Duress, or Menace
- b. Inducing Incapacitation through involuntary ingestion or knowingly taking advantage of an Incapacitated person
- c. Past violations of ICSW policy by the Respondent, especially relating to Sexual Harassment and Prohibited Sexual Conduct as defined in student, faculty and staff handbooks (or prior policies)
 - i. Decision-makers may consider past disciplinary outcomes for similar matters but are not required to give any weight to past outcomes.
- d. More than one perpetrator
- e. Acts committed in the context of an initiation into membership and/or hazing
- f. Knowingly using the Respondent's power/authority within ICSW to obtain submission or to accomplish the violation

3. Mitigating Factors

- a. The Respondent did not have an intent to violate ICSW policy
- b. The Respondent has taken responsibility for their actions
- c. Other considerations that a reasonable decision-maker would rely on

4. Other Sanctions

Following a determination that termination/expulsion is not appropriate, a decision-maker may consider other Sanctions. The offenses listed above in Section B.1. are extremely serious and (in instances in which termination/expulsion is not warranted), for student and faculty Respondents separation from ICSW for some period of time is expected.

A decision-maker should consider the aggravating factors listed above in Section B.2. when imposing Sanctions. When one or more aggravating factors are present, the decision-maker should impose a Sanction that includes a reflection of the seriousness of the aggravating factor(s).

a. For Students

Aside from expulsion, other Sanctions could include the following:

- i. Suspension from ICSW for a period of between one – nine semesters (that is, up to three academic years).
- ii. Delay in the conferral of degree for a period of between one – nine (that is, up to three academic years) – this Sanction is only available for students in their final quarter at ICSW.
- iii. Probation with a Suspended Suspension period of one or two semesters – time away from ICSW is not immediately imposed but should the Respondent face any other disciplinary matter at ICSW that decision- making body would be informed in the Sanction phase that the student was on probation, would consider the probation as an aggravating factor in setting discipline, and would minimally impose the suspended suspension period as an actual suspension.
- iv. Probation – Should the Respondent face any other disciplinary matter at ICSW that decision-making body would be informed in the Sanction phase that the student was on probation and would consider the probation as an aggravating factor in imposing discipline.
- v. Required personalized education or coaching.
- vi. Community service hours.

b. For Faculty

Beyond termination, other Sanctions include the following:

- i. Suspension for a period of time.
- ii. Denying a pay raise for a period of time.
- iii. Denying the opportunity to hold committee or community roles, such as serving as a Resident Fellow or Department Chair.
- iv. Denying the opportunity for promotion.
- v. Letter in personnel file.
- vi. Public or private censure.
- vii. Required personalized education or coaching.

c. For Staff

Beyond termination, other Sanctions include the following:

- i. Suspension for a period of time.
- ii. Denying a pay raise for a period of time.
- iii. Denying the opportunity to hold committee or community roles, such as serving as a Resident Fellow or Department Chair.
- iv. Denying the opportunity for promotion.

- v.** Written warning in personnel file.
- vi.** Required personalized education or coaching.

Appendix C: Timeframes for Title IX Procedure

ICSW will strive to complete this Title IX Procedure in a prompt manner. Generally, ICSW will seek to complete a Hearing within 120 calendar days from the filing of a Formal Complaint. This 120-day guideline is based on the specific timeframes for each phase of the Title IX Procedure as set forth below, and accounts for unavoidable and reasonable delays, such as ICSW breaks (when Parties and/or Witnesses may be unavailable) and extensions to the Parties granted for good cause. In addition, the Title IX regulations require that the Parties have two 10-day periods to review the evidence and respond to the Investigative Report, which necessarily extend the total time for resolution of a matter under this Title IX Procedure. In any event, ICSW will not compromise a thorough and fair process in order to meet the 120-day timeframe from the filing of a Formal Complaint to a Hearing outcome. If any Party chooses to appeal the Hearing outcome, the timeframes below provide for an additional 30-day period to submit, respond to, and decide the appeal. If any deadline under the guidelines set forth below falls on a weekend or holiday, there will be an automatic extension to the next business day.

After receiving a Written Notice of Formal Complaint, both the Complainant and the Respondent will be asked to identify any academic or other significant conflicts that would affect the timing of the Investigation and potential. The Hearing Coordinator will consider this input in finalizing any Hearing Schedule.

If the Parties elect to engage in an Informal Resolution, the timeframes below will be suspended during the pendency of that process.

Extensions are only granted for good cause. A request for an extension must be made, in writing and with reasons provided, to the Hearing Coordinator. The Hearing Coordinator will endeavor to respond to an extension request promptly, in writing, ideally within 24 hours.

The timeframe guidelines for each phase of the Title IX Procedure after the filing of a Formal Complaint are as follows:

- 1.** The Title IX Coordinator will endeavor to determine whether to proceed with a Written Notice of Formal Complaint within **5 calendar days** of receiving a Formal Complaint signed by the Complainant. In the situation where the Complainant declines to file a Formal Complaint, and the Title IX Coordinator determines that proceeding over the wishes of the Complainant is not clearly unreasonable in light of the known circumstances, the Title IX Coordinator will sign the Formal Complaint and issue the Written Notice of Formal Complaint within **5 calendar days** of that determination.
- 2.** The Investigator will endeavor to complete the Investigation within **1 calendar month** of the date the Written Notice of Formal Complaint is sent to the Parties. Both Parties have the opportunity to present evidence and identify Witnesses during this timeframe. This timeframe may be extended in complex matters or matters with multiple Witnesses to give the Investigator enough time to gather relevant evidence and schedule Witness interviews.

3. As required by the Title IX regulations, after the Investigator has concluded the collection of evidence, the Parties will be given **10 calendar days** to review the evidence and provide a response.
4. After the Investigator has received the Parties' response to the evidence, the Title IX Coordinator will endeavor to send the Investigative Report to the Parties within **14 calendar days**. This timeframe may be extended, however, if the Parties' responses identify new sources of evidence that require additional Investigation.
5. As required by the Title IX regulations, the Parties will be given **10 calendar days** to review and provide a response to the Investigative Report.
6. The Title IX Coordinator will endeavor to issue either a Notice of Dismissal or Notice of Charge within **10 calendar days** of receipt of the Parties' responses to the Investigative Report.
7. Within **7 calendar days** of the issuance of a Notice of Charge, the Hearing Coordinator will:
 - a. Make the Initial Hearing File available to the Parties;
 - b. Identify the Adjudicator to the Parties and give the Parties the opportunity to object to the Adjudicator on the basis of a conflict of interest, as set forth in Section IV.J.4. If either Party objects to the Adjudicator, the timeframe for the Hearing Schedule will be delayed until the alleged conflict of interest can be reviewed and a new Adjudicator identified and agreed to, if necessary; and
 - c. Reach out to all Parties, Witnesses, and the Adjudicator to coordinate the Hearing Schedule. The scheduling of the Hearing will be determined by the availability of the Parties, Witnesses, the Parties' Hearing Support Persons, and the Adjudicator.
8. Within **5 calendar days** of the creation of the Hearing File, the Parties may submit a response to the Hearing File (as set forth in Section IV.I.3.) and any objections to the Hearing file (as set forth in Section IV.1.2.). Any objections to the Hearing File will be resolved by the Adjudicator at the outset of the Hearing.
9. At the conclusion of the Hearing, the Adjudicator may ask the Parties to submit additional materials or Sanctions statements. The Adjudicator will endeavor to issue the Written Determination Regarding Responsibility within **10 calendar days** of receipt of those materials by the Parties or within **10 calendar days** of the conclusion of the Hearing if no additional materials are requested.

10. Any Party wishing to appeal the Written Determination Regarding Responsibility must do so within **10 calendar days** of the issuance of the Written Determination Regarding Responsibility. The other Party will have **10 calendar days** to respond to an appeal. The Appeal Officer will endeavor to issue an Appeal Outcome within **10 calendar days** after any response to an appeal is received