

HUMAN RESOURCES
TITLE IX

KGI Sexual Discrimination, Harassment, and Misconduct Policy

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I. Introduction

Keck Graduate Institute (“KGI” or the “Institute”) is committed to maintaining an environment for students, faculty, administrators, staff, and visitors which is free of all forms of sex- and gender-based discrimination and harassment, including sexual misconduct. Consistent with this commitment and with obligations under Title IX of the Education Amendments of 1972 and other state and federal laws, the Institute has enacted this Sexual Discrimination, Harassment, and Misconduct Policy (“Policy”) to reflect and maintain KGI’s institutional values and community expectations, to provide fair procedures



for determining when this Policy has been violated, and to provide recourse for individuals and the community in response to violations of this Policy.¹

This Policy prohibits all forms of sexual or gender-based discrimination, harassment, and misconduct, including sexual assault, intimate partner violence, sexual exploitation, and stalking. This Policy also prohibits retaliation against a person who reports, complains about, or who otherwise participates in good faith in any matter related to this Policy. All of the foregoing conduct is collectively referred to as “Prohibited Conduct.”

The Institute strongly encourages all members of our community to take action to maintain and facilitate a safe, welcoming, and respectful environment on campus. In particular, the Institute expects that all KGI community members will take reasonable and prudent actions to prevent or stop Prohibited Conduct. The Institute strongly supports individuals who choose to take such action and will protect such individuals from retaliation.

Upon receipt of a report, the Institute will take prompt and equitable action to eliminate the Prohibited Conduct (if any), prevent its recurrence, and remedy its effects. The Institute’s process for investigating and responding to reported Prohibited Conduct are described below. Students and employees who are found to have violated this Policy may face disciplinary action up to and including expulsion/termination.

II. Title IX Coordinator

The Institute’s Title IX Coordinator has primary responsibility for the implementation and administration of this Policy. The Title IX Coordinator is supported by Deputy Title IX Coordinators all of whom can answer questions and accept reports under this Policy. The Institute’s Title IX Coordinator is:

Brittany Raygoza

Title IX and Clery Coordinator

Brittany_Raygoza@kgi.edu | 909.607.9649

535 Watson Dr., Claremont, CA 91711

Building 535 East, Office #30

¹ KGI prohibits discrimination and harassment in education and the workplace, including discrimination and harassment on the basis of race, color, sex (including pregnancy, childbirth, breastfeeding, or related medical conditions), gender identity (including transgender identity and transitioning), gender expression and sex stereotyping, national origin (including language usage and possession of a driver’s license issued to persons unable to prove their presence in the United States is authorized under federal law), ancestry, age, religion (including all aspects of religious belief, observance, religious dress, and grooming practices), sexual orientation, marital or registered domestic partner status, physical or mental disability, military service and veteran status, genetic information and characteristics, or any other basis protected by federal, state, or local law. KGI also prohibits discrimination and harassment based on the perception that someone is a member of a protected class or is associated with a member of a protected class.

The names and contact information of Deputy Title IX Coordinators are:

Cheryl Merritt

Assistant Vice President of Human Resources and Employee Engagement (and Deputy Title IX Coordinator)

cheryl_merritt@kgi.edu | 909.607.7853

535 Watson Dr., Claremont, CA 91711
Building 535 West, Office #150D

Cynthia Martinez

Dean of Students (and Deputy Title IX Coordinator)

Cynthia_Martinez@kgi.edu | 909.607.7150

535 Watson Dr., Claremont, CA 91711
Building 517 East, Office #120

Andrea Mozqueda

Assistant Director of Student Affairs and Disability Coordinator (and Deputy Title IX Coordinator)

Andrea_Mozqueda@kgi.edu | 909.607.0896

535 Watson Dr., Claremont, CA 91711
Building 517 East, Office #117

Veronica Clairmont

Assistant Director of Student Affairs (and Deputy Title IX Coordinator)

Veronica_Clairmont@kgi.edu | 909.607.0101

535 Watson Dr., Claremont, CA 91711
Building 517 East, Office #116

Anna Hickerson

Assistant Professor; Program Director, Master of Science in Medical Device Engineering (and Deputy Title IX Coordinator)

Anna_Hickerson@kgi.edu | 909.607.9541

535 Watson Dr., Claremont, CA 91711
Building 215, Office #217

Inquiries or concerns about Title IX may be referred to the Institute’s Title IX Coordinator and/or the Office for Civil Rights

U.S. Department of Education

50 United Nations Plaza, San Francisco, CA 94102

OCR.SanFrancisco@ed.gov | 415.486.5555

III. Scope of Policy

This Policy applies to all KGI community members, including students, student organizations, faculty, teaching/research assistants, lecturers, administrators, staff, volunteers, vendors, contractors, visitors (including visiting scientists), and individuals regularly or temporarily employed, conducting business, studying, living, visiting, or having any official capacity with the Institute or on its property.

The Policy applies to conduct occurring on Institute-controlled property, at KGI-sponsored events, in KGI programs or activities, and off-campus where the conduct has continuing adverse effects on any member of the KGI community in any KGI program or activity.

Even if KGI does not have jurisdiction over the person accused of Prohibited Conduct, KGI will still take prompt action to provide for the safety and well-being of the individual reporting and the campus community, including taking reasonable steps to stop and remedy the effects of the sexual misconduct and to prevent recurrence of the behavior.

IV. Definitions

Complainant

When used in this Policy, a complainant is the individual who is identified as the subject of Prohibited Conduct, whether or not that individual makes a report or is the first to make a report.

As necessary, the Institute reserves the right to initiate a complaint, to serve as complainant, and to initiate proceedings without a formal complaint by the subject(s) of the Prohibited Conduct.

Respondent

The respondent is the individual or student organization alleged to have engaged in Prohibited Conduct.

Third Party

A third party refers to any other participant in the process, including a witness or an individual, who makes a report on behalf of the complainant. A witness may be an individual who observed behavior that is alleged to be a violation of policy or may have communicated with one of the parties subsequent to an alleged incident of prohibited conduct.

Responsible Employee

A Responsible Employee is any KGI employee who:

- Has the authority to take action to redress the harassment;
- Has the duty to report sexual harassment or any other misconduct by students or employees to appropriate KGI staff; or
- A student could reasonably believe has the authority or responsibility to take action.

Responsible employees include supervisors, Campus Safety employees, student affairs staff, human resources staff, academic and club advisors, student support staff, faculty, instructors, lecturers, graduate teaching assistants, graduate students that are supervising other students (including Community Assistants), and individuals designated as Campus Security Authorities, (“CSA”).² Also designated as responsible employees are Deputy Title IX Coordinators.

KGI requires that any Responsible Employee who is aware of Policy violations to promptly inform the Title IX Coordinator. Responsible Employees are furthermore required to disclose all relevant information, including the names of the parties, even when individuals have requested that their names remain confidential. It is the employee’s responsibility to familiarize themselves with their reporting requirement through active participation of available trainings and written materials. Failure to report violations under this Policy may result in disciplinary action including up to termination.

² For more information on CSA’s please refer to Appendix D.

Affirmative Consent

Affirmative consent means clear, 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(s) to engage in sexual activity. Essential elements of affirmative consent are:

- **Informed and reciprocal:** All parties must demonstrate a clear and mutual understanding of the nature and scope of the act(s) to which they are consenting and a willingness to engage in those act(s).
- **Freely and actively given:** Consent cannot be obtained through the use of force, coercion, threats, intimidation or pressuring, or by taking advantage of the incapacitation of another individual.
- **Mutually understandable:** Communication regarding consent consists of mutually understandable words and/or actions that indicate an unambiguous willingness to engage in sexual activity. Consent may not be inferred from silence, passivity, lack of resistance, or lack of active response. An individual who does not physically resist or verbally refuse sexual activity is not necessarily giving consent. Relying solely upon non-verbal communication can lead to a false conclusion as to whether consent was sought or given.
- **Not indefinite:** Affirmative consent must be ongoing throughout the activity. Consent may be withdrawn by any Party at any time.
- **Not unlimited:** Consent to one form of sexual contact does not constitute consent to all forms of sexual contact, nor does consent to sexual activity with one person constitute consent to activity with any other person. Even in the context of a current or previous intimate relationship, the mere fact that there has been prior intimacy or sexual activity does not, by itself, imply consent to future acts.

The age of consent is the minimum age at which an individual is considered legally old enough to consent to participation in sexual activity. In California the age of consent is 18, and individuals aged 17 or younger are not legally able to consent to sexual activity.

Incapacitation

Incapacitation is a state in which an individual cannot make an informed and rational decision to engage in sexual activity because of a lack of conscious understanding of the fact, nature, or extent of the act and/or is physically helpless. An individual is incapacitated, for example, if the individual is asleep, unconscious, or otherwise unaware that sexual activity is occurring, or unable to understand the nature of the activity or communicate effectively due to a mental or physical condition.

An individual may be incapacitated due to the use of alcohol, drugs, or other medications. Consumption of alcohol, drugs, or medication alone is insufficient to establish incapacitation. An evaluation of incapacitation requires an assessment of how consumption impacts an individual's decision-making ability, awareness of consequences, ability to make informed judgments, or capacity to appreciate the nature and quality of the act(s).

Use of alcohol or other drugs will never function to excuse any behavior that violates this Policy. When determining the responsibility of the respondent with regard to whether affirmative consent was provided, an evaluation will be made using a reasonable person standard. It is irrelevant whether the respondent's own intoxication caused the respondent to misjudge the complainant's capacity to provide affirmative consent.

Force

In the context of this Policy, force is the use or threat of physical violence to overcome an individual's freedom of will to choose whether or not to participate in sexual activity or to provide consent. Consent obtained by force is not valid. Evidence of resistance by a complainant is viewed as clear demonstration of a lack of consent, but there is no requirement that a complainant must physically or verbally resist a sexual advance or request in order to demonstrate that force has been used. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.

Intimidation

Intimidation is the use of implied threats to overcome an individual's freedom of will to choose whether or not to participate in sexual activity or to provide consent. Consent obtained by intimidation is not valid.

Coercion

Coercion is the improper use of pressure to compel another individual to initiate or continue sexual activity against that person's will. A person is acting in a coercive manner if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Consent obtained through coercion is not valid. Coercion can include a range of behaviors, including but not limited to: intimidation, manipulation, threats, and blackmail.

Examples of coercion include, but are not limited to:

- Threatening to "out" a person based on their sexual orientation, gender identity, or gender expression, or

- Threatening to harm oneself or another if the other party does not engage in sexual activity. An evaluation of coercion requires consideration of the:
 - Frequency and duration of the application of pressure,
 - Intensity of the pressure, and
 - Degree of isolation of the person being pressured.

Preponderance of the Evidence

The standard used for determining whether a respondent has violated this Policy is preponderance of the evidence. This means that in the eyes of the evaluator, it is more likely than not that a violation occurred, based on all available evidence. The burden of collecting evidence and proving a violation of this Policy is on the Institute, not the parties.

V. Prohibited Conduct

Sex or Gender-Based Discrimination

Sex or gender-based discrimination refers to the disparate treatment of a person or group because of that person's or group's sex, sexual orientation, gender identity, or gender expression.

Sexual or Gender-Based Harassment

"Harassment" is conduct that creates an intimidating, offensive, or hostile working or learning environment or that unreasonably interferes with work or academic performance based on a person's protected status, including sex, sexual orientation, gender identity, or gender expression.

Generally speaking, prohibited harassment can be divided into two types of conduct:

1. **Quid Pro Quo Harassment:** Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, academic standing, or participation in any aspect of an Institute program or activity or is used as the basis for the Institute's decisions affecting the individual.
2. **Hostile Environment:** A hostile environment exists when the conduct is sufficiently severe, pervasive, or persistent that it unreasonably interferes with, limits, or deprives an individual from participating in or benefiting from the Institute's education or employment programs and/or activities. Whether conduct is sufficiently severe, pervasive, or persistent is determined both from a subjective and objective perspective.

Harassing conduct can take many forms. The determination of whether an environment is hostile is based on the totality of the circumstances, including but not limited to:

- The frequency of the conduct
- The nature and severity of the conduct
- Whether the conduct was physically threatening
- The effect of the conduct on the complainant's mental or emotional state, with consideration of whether the conduct unreasonably interfered with the complainant's educational or work performance and/or Institute programs or activities
- Whether the conduct was directed at more than one person
- Whether the conduct arose in the context of other discriminatory conduct
- Whether the conduct implicates concerns related to academic freedom or protected speech

A single isolated incident may create a hostile environment if the incident is sufficiently severe, particularly if the conduct is physical. A single incident of sexual assault, for example, may be sufficiently severe to constitute a hostile environment. In contrast, the perceived offensiveness of a single verbal or written expression is typically not sufficient to constitute a hostile environment.

Examples of harassment may include such conduct as direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades, or letters of recommendations; direct unwelcome propositions of a sexual nature; unwelcome subtle pressure for sexual activity, an element of which may be repeated requests for private meetings without an academic or employment purpose; patterns of conduct that would discomfort and/or humiliate, or both, a reasonable person at whom the conduct was directed that includes one or more of the following:

- Unnecessary touching, patting, hugging, or brushing against a person's body
- Remarks of a sexual nature about a person's clothing or body, whether or not intended to be complimentary
- Remarks about sexual activity or speculations about previous sexual experience
- Other unwelcome offensive comments of a sexual nature, including sexually explicit statements, questions, jokes, or anecdotes; certain unwelcome and offensive visual displays of sexually oriented images outside the educational context, including letters, notes or electronic mail containing comments, words, or images as described.

Sexually harassing conduct need not be motivated by sexual desire to violate this Policy. For example, hostile acts toward someone because of their gender can amount to sexual harassment, regardless of whether the treatment is motivated by sexual desire.

Harassment may be committed by anyone, regardless of gender, age, position, or authority. While there is often a power differential between two persons, perhaps due to differences in age, social, educational, or employment relationships, harassment can occur in any context. Harassment includes harassment of women by men, of men by women, and of any gender or identification by same gender and/or identification. It may affect the complainant and/or third parties who witness or observe harassment and are affected by it.

Sexual Assault

Non-Consensual Sexual Intercourse:

- Any sexual intercourse, however slight,
- With any object or body part,
- By a person upon a person,
- That is by force* or without consent.

Intercourse includes: vaginal penetration by a penis, object, tongue or finger, anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

Non-Consensual Sexual Contact:

- Any intentional sexual contact,
- However slight,
- With any object or body part,
- By a person upon a person,
- That is by force or without consent.

Sexual contact includes: Intentional contact with the breasts, buttock, groin, or genitals, or touching another individual with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth, or other orifice.

**Note: Sexual misconduct involving the use of physical force is not “worse” than such misconduct involving non-physical coercion. The use of physical force does, however, constitute a stand-alone, nonsexual offense, and in cases involving physical force, the aggressor will face additional charges for the assaultive behavior.*

Intimate Partner Violence

Also commonly referred to as “dating or domestic violence” is any physical violence or psychological aggression occurring between intimate partners. Intimate partners include current or former spouses, a person whom the complainant shares a child with, boyfriends or girlfriends, casual dating partners, romantic partners, and/or sexual partners. Intimate partner violence can occur between heterosexual or same sex couples and does not require sexual intimacy. Intimate partner violence can manifest through both physical violence and/or psychological aggression and can vary in frequency and severity.

- Physical violence is the intentional use of physical force with the potential for causing death, disability, injury, or harm. Physical violence includes, but is not limited to, scratching; pushing; shoving; throwing; grabbing; biting; strangulation; shaking; aggressive hair pulling; slapping; punching; hitting; burning; use of a weapon; and use of restraints or one’s body, size, or strength against another person.
- Psychological Aggression is the use of verbal and non-verbal communication which impacts another person mentally or emotionally, and/or to exert control over another person. Psychological aggression can include expressive aggression (e.g., name-calling, humiliating); coercive control (e.g., limiting access to transportation, money, friends, and family; excessive monitoring of whereabouts); threats of violence; control of reproductive or sexual health (e.g., refusal to use birth control; coerced pregnancy termination); exploitation of vulnerability (e.g., immigration status, disability); and presenting false information to the victim with the intent of making them doubt their own memory or perception (e.g., mind games, manipulation).

Stalking

Stalking is a violation of this Policy when gender based and is defined as:

- A course and/or pattern of conduct;
- Directed at a specific person;
- That is unwelcome, and
- Occurs on more than one occasion which collectively instills fear in a victim, and/or threatens their safety, mental health, or physical health.

Stalking may include but is not limited to pursuing, following, waiting for, surveilling/ monitoring, or cyber-stalking the individual, or showing up uninvited at or near a residence, workplace, classroom, or other place frequented by the individual.

Sexual Exploitation

Sexual exploitation is a form of sexual misconduct which occurs when a person takes non-consensual or abusive sexual advantage of another for his or her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and such behavior does not constitute one of the other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

- Invasion of sexual privacy;
- Prostituting another person;
- Non-consensual video or audio taping of sexual activity;
- Unauthorized sharing or distribution of digital, video, or audio recording of nudity or sexual activity;
- Going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex);
- Engaging in voyeurism;
- Knowingly transmitting a sexually transmitted infection, a sexually transmitted disease, or HIV to another person;
- Exposing one's genitals in non-consensual circumstances;
- Inducing another to expose his or her genitals

Retaliation

KGI prohibits individuals from engaging in retaliatory behavior, which is defined as any materially adverse action taken against a person for making a good faith report of Prohibited Conduct or for participating in any proceeding under this Policy. Adverse action includes conduct that threatens, intimidates, harasses, coerces or in any other way seeks to discourage a reasonable person from engaging in activity protected under this Policy.

Retaliation can be direct, such as denying a student access to a program, or it may be indirect, such as acting in a way that is intimidating, threatening, or harassing to an individual who has made a report of, or otherwise participated in an investigation of, Prohibited Conduct. Retaliation can be committed by or against any individual or group of individuals, not just a respondent or complainant.

Retaliation may be present whether or not there is ultimately a finding of responsibility on the allegations of Prohibited Conduct. Therefore, an individual reporting Prohibited Conduct is entitled to protection from any form of retaliation following a report that is made in good faith, even if the respondent is later not found responsible.

Any instance of retaliation should be reported to the Title IX Coordinator or a Deputy Title IX Coordinator. KGI will take immediate and responsive action to any report of retaliation and will pursue disciplinary action as appropriate.

VI. Reporting Prohibited Conduct

External Reporting

In the event of an incident of sexual misconduct, especially sexual violence, KGI strongly encourages that individuals seek assistance immediately from a medical provider and/or law enforcement. In Claremont, those resources include:

Pomona Valley Hospital Medical Center

800.576.5544

1550 N Garvey Avenue, Pomona, CA 91767

Campus Safety

909.621.8170 | 909.607.2000 (emergency)

150 E. 8th Street, Claremont, CA 91711

dispatch@claremont.edu

Claremont Police Department

909.399.5411 | Emergency Dial 911

570 W. Bonita Ave., Claremont, CA 91711

See Appendix C concerning what to do if you experience a sexual assault, the importance of seeking medical attention and procedures for preserving evidence.

As noted above, some incidents of sexual misconduct may also constitute criminal conduct. In such instances a person who is subjected to sexual misconduct is encouraged to file a report with an appropriate law enforcement agency and, if requested, the Institute will assist such persons in doing so. This is the best option to ensure preservation of evidence and to begin a timely investigative and remedial response. Police have unique legal authority, including the power to seek and execute search warrants, collect forensic evidence, make arrests, and assist in seeking emergency protective orders. Whether or not to file a police report is a personal choice.

The definitions of Prohibited Conduct and the burden of proof for internal processes are different from the definitions of criminal behavior and burden of proof used in the criminal justice system. These reporting options are not mutually exclusive and may be made simultaneously or at different times.

A criminal investigation or proceeding does not relieve KGI of its duty to conduct its own timely inquiry into the alleged misconduct. As a consequence, the Institute will not wait for the conclusion of any criminal investigation or proceedings to commence the KGI investigation and complaint resolution procedures outlined below. Neither law enforcement's determination of whether or not to prosecute a respondent nor the outcome of any criminal prosecution is determinative of whether conduct prohibited under this Policy occurred.

Complainants may also pursue civil remedies (including a temporary restraining order and injunction prohibiting harassment pursuant to California Civil Code, section 527.6) or file an administrative complaint with a government agency.

Internal Reporting

Anyone who witnesses, experiences, or is otherwise aware of conduct that the individual believes to be in violation of this Policy, including retaliation, is urged to contact KGI immediately. Reports may be made to any of the following individuals:

For student, staff, and/or faculty reports*

Brittany Raygoza

Title IX and Clery Coordinator

Brittany_Raygoza@kgi.edu | 909.607.9649

535 Watson Dr., Claremont, CA 91711
Building 535 East, Office #30

For staff and faculty reports

Cheryl Merritt

Assistant Vice President of Human Resources and Employee Engagement (and Deputy Title IX Coordinator)

cheryl_merritt@kgi.edu | 909.607.7853

535 Watson Dr., Claremont, CA 91711
Building 535 West, Office #150D

For student reports

Cynthia Martinez

Dean of Students (and Deputy Title IX Coordinator)

Cynthia_Martinez@kgi.edu | 909.607.7150

535 Watson Dr., Claremont, CA 91711

Building 517 East, Office #120

For student, staff, faculty, or third party reports

Campus Safety

909.621.8170 | 909.607.2000 (emergency)

150 E. 8th St., Claremont, CA 91711

dispatch@claremont.edu

Complainants are encouraged to make a report in a timely way in order to maximize KGI's ability to respond promptly and effectively. The complainant (or third party if making a report on behalf of another person) does not have to request a particular course of action, nor does the complainant or third party need to know the appropriate definition or label for what happened. The decision to make a report is a process that is likely to unfold over time.

Note: Under no circumstances is an individual required to report discrimination, harassment, sexual misconduct or retaliation to a supervisor or academic instructor who is the alleged respondent. If a complaint involves alleged conduct on the part of the Title IX Coordinator, the President will designate a deputy coordinator to act in place of the Title IX Coordinator under these procedures.

Other Reporting Considerations

Confidentiality

Reports concerning conduct prohibited under this Policy will be addressed confidentially to the extent possible. Such reports will be disclosed only to individuals who, in the interests of fairness and resolution, have an immediate need to know, and as otherwise required by law.

When individuals report conduct prohibited under this Policy and do not consent to the disclosure of their names and/or do not disclose the identity of or identifying information about the alleged respondent(s), the Institute's ability to respond may be limited. In cases where an

individual reporting Prohibited Conduct requests anonymity or does not wish to proceed with an investigation, the Institute will attempt to honor that request. In some cases, however, the Title IX Coordinator may determine that the Institute needs to proceed with an investigation based on concern for the safety or well-being of the broader KGI community (e.g., concern about the risk of future acts of sexual violence or a pattern of sexual misconduct). KGI reserves the right to take appropriate action in such circumstances, including in cases when the individual reporting the misconduct is reluctant to proceed.*

All participants in an investigation about a reported violation of this Policy will be informed that privacy helps enhance the integrity of the investigation, protect the privacy interests of the parties, and protect the participants from statements that might be interpreted to be retaliatory or defamatory. At the beginning of the investigation, the complainant and respondent will be asked to keep information related to the investigation private during the pendency of the investigation. This does not preclude the complainant or respondent from sharing information with family, attorney, advisors, or others as necessary in connection with the marshalling and presentation of evidence in connection with the investigation. Witnesses and advisors will, similarly, be asked to respect the privacy of the process.

**Note: In certain circumstances as defined under the California Education Code, Section 67383, the Institute is required to forward information concerning reports of violent crimes, including reports of sexual assaults, to a local law enforcement agency. The report is forwarded without identification of the complainant and respondent, unless explicit consent is provided by the complainant allowing for the sharing of personally identifying information.*

Note further that if the complainant is under the age of 18, the Institute is required to comply with child abuse reporting laws. See Appendix D for additional information on KGI's External Reporting, Timely Warning Obligations, and FERPA disclosure policy.

Members of the KGI community who wish to seek advice or assistance concerning, or to discuss options for dealing with, Prohibited Conduct on a strictly confidential basis may speak with licensed counselors, clergy, medical providers in the context of seeking medical treatment, and rape crisis counselors, who, except in very narrow circumstances specified by law, will not disclose confidential communications.

Students who wish to speak to an internal confidential resource may contact the following

Monsour Counseling and Psychological Services

Tranquada Student Services Center, 1st floor
757 College Way, Claremont, CA 91711
909.621.8202 | 909.607.2000 (after-hours emergency)
services.claremont.edu

Members of the clergy including the McAlister Center chaplains

McAlister Center for Religious Activities

919 North Columbia Avenue, Claremont, CA 91711
909.621.8685
services.claremonth.edu/chaplains

Rima Shah (Director)—EmPOWER Center

909.607.0690
1030 Dartmouth Avenue, Claremont, CA 91711
7csupportandprevention.com

Note: that only the Director of the EmPOWER Center has been designated as a confidential resource.

Student Health Services staff

Tranquada Student Services Center, 1st floor
757 College Way, Claremont, CA 91711
909.621.8222 | 909.607.2000 (after-hours emergency)
cuc.claremont.edu/shs

Employees may contact

Employee Assistance Plan (EAP)

1.800.234.5465 (Pacific Care Behavioral Health)
Eligible employees through their benefits program may contact Pacific Care Behavioral Health to get in contact with a clinical coordinator. A KGI Human Resources Representative can also assist you with this option.

Students, employees, or community members may also choose to contact one of the external confidential resources below

Project Sister

909.626.HELP (4357) (24/7 Crisis Hotline)

projectsister.org

Project sister provides crisis services to women and men who have been sexually assaulted or abused. Volunteer Advocates are also available to provide support and follow-up services to sexual assault or abused survivors.

WINGS

(626) 960-2995

ywcasgv.org

WINGS provides safe emergency shelter, support groups, and assistance to victims (and their families) affected by domestic violence.

House of Ruth

877.988.5559 (toll-free hotline)

houseofruthinc.org

House of Ruth provides advocacy and assistance to women and children affected by domestic violence by providing culturally competent shelter, programs, opportunities, and education.

RAINN

800.656.HOPE (4673) (24/7 hotline)

rainn.org

RAINN (Rape, Abuse & Incest National Network) is the nation's largest anti-sexual violence organization focusing on prevention programs and helping survivors.

Anonymous Reports

Any individual may make an anonymous report concerning an act of Prohibited Conduct, without disclosing the name of the respondent or requesting any action. However, KGI's ability to respond to such a report is limited by lack of information about the incident(s) or the individuals involved. The Title IX Coordinator will determine any appropriate steps to take in response to an anonymous report, including community-wide remedies as appropriate.

Individuals may make anonymous reports by utilizing MySafeCampus found at mysafecampus.com/ and search “Keck Graduate Institute.” MySafeCampus is a website that transmits data to the appropriate individuals within our organization while protecting the identity of the user, if the user chooses to remain anonymous.

To report an incident to Campus Safety as a silent witness (not for emergencies or crimes-in-progress), a “Silent Witness” online report form is available at: cuc.formstack.com/forms/silent_witness_incident_report

Amnesty Policy

Any student who participates in a report and/or investigation of Prohibited Conduct as a complainant, respondent, or third party will not be subject to disciplinary action by KGI for specific conduct violations related to the consumption of alcohol or other drugs in the context of the reported incident(s). This Policy is intended to encourage reporting of Prohibited Conduct in a complete and forthright manner. However, this amnesty does not apply to other forms of student conduct violations, nor does it prevent KGI from responding to violations of student conduct that place the safety or health of other individuals at risk. Furthermore, being intoxicated due to alcohol or other drugs is not a defense to any violation of this Policy and does not diminish one’s responsibility with regard to obtaining consent for any sexual activity with another person.

Bystander Intervention

KGI expects all of its community members to take reasonable and prudent actions to prevent or stop an act of gender-based or sexual misconduct. Taking action may include direct intervention, calling law enforcement, or seeking assistance from a person in authority. Community members who choose to exercise this positive moral obligation will be supported by the Institute.

False Accusations

Knowingly making a false accusation of discrimination, harassment, sexual misconduct, or retaliation under this Policy is itself a violation and a basis for disciplinary action, up to and including dismissal/expulsion from the KGI or termination of employment. Failure to prove a claim of discrimination, harassment, sexual misconduct, or retaliation is not the equivalent of a knowingly false accusation.

VII. Complaint Resolution Procedures

Time Limitations for Complaints

There is no time limit for when an incident of Prohibited Conduct may be reported for purpose of invoking complaint resolution procedures; however complaints should be made as soon as possible after the incident, preferably within one year, because the passing of time makes a review of the evidence more difficult and the memories of involved parties may become less reliable.

Advisor

All complainants and respondents are entitled to be accompanied by an advisor of their choosing throughout the complaint resolution process, including initial intake, investigation interviews, meetings, and hearings.

The advisor may be a friend, mentor, family member, attorney, member of The Claremont Colleges community, or any other person, as long as such person is not otherwise involved in these proceedings, such as serving as a witness.

All advisors are subject to this Policy, whether they are attorneys or not. Advisors may not make a presentation or represent the complainant or respondent during any meeting, or proceeding, except as otherwise provided herein.

Although reasonable attempts will be made to schedule proceedings consistent with the advisor's availability, the process will not be delayed to schedule the proceedings at the convenience of the advisor. The Title IX Coordinator has the discretion to remove the advisor from the proceedings if the advisor person interferes with the process.

Initial Assessment

Upon receipt of a report of Prohibited Conduct, the Title IX Coordinator or a Deputy Title IX Coordinator ("Coordinator") will make an initial assessment of the report which will include an immediate assessment of any risk of harm to individuals or to the campus community and will take steps necessary to address those risks.

During an initial intake meeting with a complainant, the Coordinator will:

- Assess the immediate physical safety and emotional well-being of the complainant or any other individual, and make medical referrals as appropriate;
- Inform the complainant of the right to notify (or decline to notify) law enforcement if the conduct is potentially criminal in nature, and the importance of the preservation of evidence;
- Make inquiries to understand the key facts upon which the complainant bases the report (i.e., the who, what, where, and when) to appropriately assess how to proceed;
- Assess the reported conduct to determine whether, under applicable federal law, the campus community should be notified;
- Discuss the range of support measures, including changes to academic, living, transportation, and/or working situations, or other protective measures, which are available to the complainant, regardless of whether the complainant files a formal complaint with KGI or local law enforcement;
- Provide the complainant with written information about on- and off-campus resources, and the options for resolution, including informal and formal resolution procedures under this Policy;
- Discuss the complainant's expressed preference for a manner of resolution and express wishes with regard to protecting privacy;
- Explain to the complainant the Institute's Policy prohibiting retaliation;
- Notify the complainant of the right to be accompanied to any meeting by an advisor of choice;
- Determine the respective ages of the complainant and respondent, and if one is a minor, make the appropriate notifications under California's child abuse and neglect reporting requirements; and
- If the conduct is potentially criminal in nature, arrange to enter non-identifying information about the report into the Institute's daily crime log.

The Coordinator may also meet with the respondent and other relevant parties as part of the initial assessment. If the Coordinator meets with the respondent, s/he will be provided with information on the respondent's rights and options under this Policy and these procedures, and written materials about the availability of, and contact information for campus and off-campus support resources.

At the conclusion of the intake process, the Coordinator or Deputy Title IX Coordinator, in consultation with the Title IX Coordinator, will make two threshold determinations: (1) Does the complainant's report state facts

that, if true, could constitute a violation of this Policy? (2) If yes, should the Institute proceed through formal or informal resolution procedures?

If the first threshold is not met under Title IX, or any other Institute complaint resolution process, the complainant will be so advised and the Institute will not proceed further. The Institute will, however, maintain a record of the reported conduct and this information may be considered in connection with any future complaint or investigation. If new evidence is provided at a later date, the Title IX Coordinator may reopen the investigation process.

Note: If a complaint does not rise to a level of actionable conduct, the complainant will still receive information on support resources and efforts will be made to deescalate the conduct concerning the complainant including a referral to the appropriate office if applicable.

Written Complaint

A written complaint signed by the complainant is required to utilize the informal or formal resolution procedures described below. A written complaint is a document submitted or signed by the complainant or signed by the Title IX Coordinator alleging a policy violation by a respondent and requesting that the Institute proceed with the resolution process. A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail.

Notice to the Respondent

When a decision is made to initiate the formal or informal resolution process, to impose supportive measures, or to take any other action that impacts a respondent, the Title IX Coordinator will ensure that the respondent is promptly notified and is provided with information on the respondent's rights and options under this Policy and these procedures, and written materials about the availability of, and contact information for, campus and off-campus support resources.

In connection with the formal resolution process, written notification will be sent to both parties sufficient to apprise the respondent of the nature of the allegations, including the complainant's name; the nature of the alleged policy violation(s) (e.g., sexual assault, harassment, intimate partner violence, or retaliation); the date(s) of the alleged policy violation(s); the location(s) where the violation(s) allegedly occurred; and the sanctions that may be imposed if the respondent is found to have violated this Policy. The notice will also include a statement that the respondent is presumed not responsible for the alleged conduct, and that a determination regarding responsibility will be made at the conclusion of the process. The notice will further inform the parties that they each may have an advisor of their choice, including an attorney, they will be afforded an opportunity to review and inspect evidence, and that Institute policy

prohibits knowingly making false statements or knowingly submitting false information in connection with the complaint resolution process.

The parties will also be informed that if, during the resolution process, conduct is disclosed which may constitute a further violation of this Policy, and the respondent will be notified and afforded an opportunity to respond before the complaint resolution process is concluded.

Informal Resolution Procedures

Informal resolution is a voluntary process for timely and corrective action through the imposition of individual and/or community-focused remedies designed to maintain the complainant's access to the educational, extracurricular, and employment activities at the Institute and to eliminate a potential hostile environment. The option to pursue informal resolution will be presented to the parties only after the Institute has sufficient information about the nature and scope of the conduct at issue. In cases involving allegations of sexual assault or intimate partner violence, informal resolution is generally not appropriate.

If the complainant, the respondent, and the Title IX Coordinator (or designee) all agree in writing to pursue an informal resolution, the Title IX Coordinator (or designee) will attempt to facilitate a resolution that is agreeable to all parties. The role of the Title IX Coordinator (or designee) is not to be an advocate for either party, but rather, to aid in the resolution of issues in a non-adversarial manner. Under the informal process, the Institute will only conduct such fact-finding as is useful to resolve the conflict and as is necessary to protect the interests of the parties, the Institute, and the Institute community.

The Institute will not compel a complainant or respondent to engage in mediation, to directly confront the other party, or to participate in any particular form of informal resolution. If at any point during the informal resolution process, the complainant, the respondent, or the Institute wishes to cease the informal resolution process and to proceed with formal complaint resolution, the informal resolution process will stop and the formal complaint resolution process described below will proceed.

Any informal resolution must adequately address the concerns of the complainant, the rights of the respondent, and the overall intent of the Institute to stop, remedy, and prevent policy violations. The Institute will take appropriate actions as necessary and use its best efforts to remedy any harm that occurred and to prevent any further incidents of Prohibited Conduct. Examples of potential remedies are provided in the "Supportive Measures" section of this Policy. The recommended resolution may also include other institutional responses or requirements imposed on the respondent.

The time frame for completion of informal resolution may vary, but the Institute will seek to complete the process within twenty (20) days of receipt of an initial report of Prohibited Conduct.

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

Formal Resolution Procedures³

A formal resolution process will occur when a formal complaint is made by (i) a complainant alleging a violation of this Policy by a respondent; or (ii) by the Title IX Coordinator based upon a determination that a formal resolution process is necessary after considering the safety of the broader campus community. The formal resolution process involves an investigation, hearing and appeal.

Note: A respondent may accept responsibility for the conduct alleged at any time during the investigation or hearing process, and acknowledge the identified policy violation(s). If a respondent accepts responsibility for the violation(s), the respondent may proceed to sanctioning rather than completing an investigation or hearing. In doing so, the respondent waives any right to appeal the determination of responsibility.

Investigation

Selection of Investigator

Once a decision has been made to proceed with a formal investigation, a trained investigator, or team of investigators (“investigator”) will be appointed by the Title IX Coordinator to conduct a prompt, thorough and impartial, investigation of the complaint.

The assignment of an investigator may vary depending on the availability of trained internal personnel and other factors. The Title IX Coordinator shall have the authority and discretion to assign an external investigator as circumstances may necessitate or warrant. The Title IX Coordinator may also serve as an investigator or a member of an investigative team. In those situations where the Title IX Coordinator serves as an investigator, a Deputy Title IX Coordinator will be designated to discharge the functions of the Title IX Coordinator in connection with these procedures.

³ In cases where the individual reported to have engaged in conduct prohibited under this Policy is an employee or student from one of the other Claremont Colleges, the Claremont University Consortium or affiliates (RSABG), KGI will review the matter and take steps to stop the conduct and remedy its effects to the extent reasonably possible. However, procedures that may lead to the imposition of discipline against the individual accused of misconduct will be those of the individual’s home institution. Generally, when a student from one of the other Claremont Colleges is accused by a member of the KGI community of prohibited conduct, the investigation will be conducted by an external independent investigator mutually agreed upon by KGI and the other College(s) involved.

The parties will have three (3) business days after being notified of an investigator's identity to object to the investigator's selection on the basis of actual or perceived conflict of interest, bias, or prejudice. If either of the parties object to the investigator selected, the Title IX Coordinator will evaluate whether the objection is substantiated, and, if so, the Title IX Coordinator will remove and replace the investigator.

Investigation Protocol

The investigator will interview the complainant, the respondent, and witnesses, treating each with appropriate sensitivity and respect, and will collect additional information. Prior to any meeting, including an investigative interview meeting, with a complainant or respondent, the investigator shall provide the party with written notice of the date, time, location, participants, and purpose of the meeting. The investigator shall provide the written notice with sufficient time for the party to prepare for the meeting.

The complainant and respondent will both have the opportunity to present the names of witnesses from whom they suggest the investigator solicit information and questions that they request the investigator to ask the other party or any witnesses. There are no restrictions on the ability of any party to discuss the allegations or gather and present relevant evidence, including presentation of expert witnesses. The investigator will consider the lists provided by the complainant and respondent when determining the persons to interview and the questions to ask, but these decisions remain in the investigator's discretion. The investigator may also choose to interview other witnesses not identified by the parties.

The investigator will prepare a summary of each interview. The investigator will share the summary with the interviewee. The interviewee will have the opportunity to correct or comment on any statements made in the summary. If no response is received from the interviewee, their summary may be included in the Preliminary Investigative Report and will be presumed to be accurate. In all instances where the investigator includes the interview summary as an exhibit to a report, the investigator will also include any response.

It is also the responsibility of the investigator to take possession and arrange for the safekeeping of any physical or electronic records, documents, or other tangible items to be used in making a finding.

The Investigator will not consider evidence which requires seeking information protected by a legally recognized privilege, unless the person holding the privilege has waived the privilege. The investigator may consider prior or subsequent conduct of the respondent in determining pattern, knowledge, intent, motive, or absence of mistake. The investigator will

generally not gather information related to the sexual history of either the complainant or respondent, except as provided in Section VIII.E., below.

All parties and witnesses are obligated to be completely honest during the course of the investigation. Any person who knowingly makes a false statement in connection with the investigation may be subject to disciplinary action. False statements include statements that omit a material fact, as well as statements that the person knows to be untrue.

It is important that investigations be thorough, reliable, fair, and impartial. Therefore, the investigator will continue to collect evidence until they determine that the investigation is complete.

Preliminary Investigative Report

The preliminary investigation report (preliminary report) shall include the investigator's summary of the investigation, the allegations at issue, disputed and undisputed facts, and all relevant evidence including witness statement summaries or other evidence, and a description and explanation for why any evidence submitted, and/or witnesses, and questions proposed by the parties were not considered.

The investigator will not state factual findings or ultimate findings as to whether the respondent has, or has not, violated this Policy. The investigator shall submit the preliminary investigative report to the Title IX Coordinator. Once the Title IX Coordinator has agreed that investigation is complete, the Title IX Coordinator will simultaneously make the preliminary report available to the parties and their respective advisors (if so desired by the parties) for review. The parties shall also be provided an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the complaint, including the evidence upon which the investigator does not intend to rely and inculpatory or exculpatory evidence whether obtained from a party or other source.

Both parties may provide written comments (which may include posing any follow-up questions for the other party or any witness, requesting a follow-up interview with the investigator to clarify or provide any additional information that such party believes is relevant to the investigation, identifying any new witnesses who should be interviewed, identifying any additional evidentiary materials that should be collected and reviewed to the extent that such items are reasonably available, identifying and objecting to any information that such party believes was inappropriately included in the preliminary report), in writing in response to the preliminary report, within ten (10) business days of receiving it. If these comments suggest that additional interviews or consideration of additional material evidence

is needed, the investigator, in consultation with the Title IX Coordinator, may determine that the investigation process will be extended.

Note: The Title IX Coordinator shall provide the report and referenced evidence to the parties in a secure manner. Neither the complainant nor the respondent (or their advisor, including but not limited to family members and/or legal counsel) may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided in the preliminary report.

Final Report

After addressing any comments timely submitted and updating the report as necessary, or after the ten (10) business day comment period has elapsed without comment, the investigator will prepare a final report which will contain all information from the preliminary report, supplemented by any additional information gathered. The final report will not state factual findings or ultimate findings as to whether the respondent has, or has not, violated this Policy.

The investigator shall submit the final report to the Title IX Coordinator. Once the Title IX Coordinator has agreed that the final report is complete, the Title IX Coordinator will make the final report available simultaneously to the parties, along with information regarding the hearing process. The parties will have five (5) business days to review the final report and submit any comments concerning the final report to the Title IX Coordinator.

Hearing

The Title IX Coordinator will provide the final report and the parties' response, if any, to the decision maker/hearing officer and schedule a hearing.

- For cases involving students, the decision maker will be the Dean of Students (or designee).
- For cases involving staff/faculty, the decision maker will be the Assistant Vice President of Human Resources and Employee Engagement (or designee).
- For cases involving both staff/faculty and students, the decision maker will be the Dean of Students (or designee) and the Assistant Vice President of Human Resources and Employee Engagement (or designee).
- For cases involving members of The Claremont Colleges, the decision maker will be the Dean of Students (or designee) and/or the Assistant Vice President of Human Resources and Employee Engagement (or designee).

The Title IX Coordinator, in consultation with appropriate administrators, may also elect to engage a qualified external hearing officer either to assist the decision maker in the conduct of the hearing or to serve as the decision maker. In determining whether to select a hearing officer, the Institute, will consider the nature of the allegations, the complexity of the case, whether there is any issue of conflict of interest, the availability of the decision maker referred to above, whether the Institute is in session or on break, and any other relevant factors.

The hearing is an opportunity for the parties to address the decision maker/hearing officer in person, to question the other party and/or witnesses, and for the decision maker/hearing officer to obtain information following the investigation that is necessary to make a determination of whether a policy violation has occurred.

The Title IX Coordinator will schedule a hearing date, time, and location and provide the parties with at least ten (10) calendar days prior written notice of the hearing. The parties will also be provided with the name of the decision maker/hearing officer. The parties will have three (3) business days after being notified of the identity of the decision maker/hearing officer to object to such person(s) on the basis of actual or perceived conflict of interest, bias, or prejudice. The Title IX Coordinator will evaluate whether the objection is substantiated, and if so, the Title IX Coordinator, will remove and replace the decision maker/hearing officer.

At least five (5) calendar days prior to the hearing, the parties shall provide, for consideration by the decision maker/hearing officer, the names of any witnesses the parties suggest be called. The decision maker / hearing officer shall decide the appropriateness of the potential identified witnesses and shall notify the parties prior to the hearing of the reasoning why any proffered witness would not be appropriate to call as a witness.

The decision maker/hearing officer shall likewise submit to the parties the names of additional witnesses who the decision maker/hearing officer would like to appear at the hearing. Although good faith attempts shall be made by the Institute to secure the attendance of all requested and approved witnesses, the parties must recognize that the Institute does not have the power to subpoena witnesses to appear, and that accordingly, the Institute, through the Title IX Coordinator, will only be able to use good faith efforts and the Institute's own policies regarding cooperation to obtain the attendance of witnesses.

The decision maker/hearing officer has broad discretion to determine the hearing format. However, whenever these procedures are used to adjudicate complaints of sexual misconduct, the decision maker/hearing officer shall permit cross-examination of the parties and witnesses. Neither party shall be allowed to directly question or cross-examine the

other or witnesses during the hearing. Instead, questions may only be posed by the party's advisor. If a party does not have an advisor the Institute will, upon request, appoint an advisor for the limited purpose of posing questions to the other party and witnesses at the hearing when required to do so under Title IX. Any such request should be submitted to the Title IX Coordinator as soon as possible, and preferably no later than five (5) calendar days prior to the scheduled hearing. Other than posing questions to the other party and witnesses, advisors may not participate directly in, or interfere with, the proceedings.

Only relevant questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a question, the decision maker/hearing officer must first determine whether the question is relevant and explain any decision to exclude a question as not relevant on the record. Questions related to the sexual history of either the complainant or respondent shall not be permitted, except as provided in Section VIII.E., below.

If a party or witness does not appear at the hearing, or appears and does not submit to cross-examination at the hearing, the decision maker/hearing officer may not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision maker/hearing officer 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.

A typical hearing may include brief opening remarks by the decision maker or hearing officer; questions posed by the decision maker/hearing officer to investigator and one or both of the parties; follow-up questions by one party to the other (typically with the respondent questioning the complainant first); questions by the decision maker/hearing officer to any witness including the investigator; and follow-up questions by either party (typically with the respondent questioning the witness first). The decision maker/hearing officer also will afford either party an opportunity to offer closing remarks at the end of the hearing. Offering closing remarks is completely voluntary.

The hearing is closed to all persons except the parties, the parties' respective advisors, appropriate witnesses while they are testifying, the Title IX Coordinator, and/or any person designated by the Institute to serve as a hearing coordinator. Note, If a party does not participate in, or attend, the hearing involving a claim of sexual misconduct, their advisor may still appear at the hearing and ask questions of the other party and witnesses.

The hearing shall be conducted with all persons physically present in the same geographic location or, at the discretion of the Title IX Coordinator, any or all parties, witnesses, and other participants may appear at the hearing virtually, with technology enabling participants simultaneously

to see and hear each other. Note, at the request of either party, the Title IX Coordinator shall 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.

A record of the hearing, ordinarily in the form of a digital or stenographic recording, will be made. Any such recording is Institute property, but shall upon reasonable request, be made available to the parties for inspection and review. No other recording of the hearing is permitted.

All participants at the hearing will behave in a respectful manner. The decision maker/hearing officer has discretion to remove any participant or observer who is not conducting themselves in a manner conducive to a fair, safe, and orderly hearing.

Following the close of the hearing, the decision maker/hearing officer will consider all of the evidence and make a determination, by a preponderance of the evidence, whether the respondent has violated this policy. This means that the decision maker/hearing officer will decide whether it is “more likely than not,” based upon all of the evidence, that the respondent is responsible for the alleged policy violation.

If the decision maker/hearing officer finds a violation of policy, the decision maker/hearing officer shall follow the procedures set forth in the Sanctions/Remedial Action section, below.

The decision maker/hearing officer will prepare a written determination which, shall include (i) a summary of the allegations which are the basis for the formal complaint; (ii) a description of the procedural steps taken in response to the complaint from the date of the receipt of the formal complaint through the determination; (iii) the findings of fact; (iv) conclusions as to whether the findings of facts evidence a violation of the policy; and (v) a statement of, and rationale for, a determination regarding responsibility and any disciplinary sanctions imposed.

The decision maker/hearing officer shall deliver the written determination to the Title IX Coordinator within ten (10) business days of the hearing, or as soon thereafter as possible, but in a case involving a finding of responsibility and imposition of sanctions against a student, not before the parties have had an opportunity to submit, and the decision maker/hearing officer has considered, impact and mitigation statements and the respondent’s disciplinary record as described in the Sanctions/Remedial Action section, below.

The parties shall be provided simultaneous written notice of the decision maker/hearing officer's determination and information concerning the appeal process.

Sanctions/Remedial Actions

This section applies only to proceedings involving student respondents. In the case of employee respondents found responsible for a policy violation, the decision maker/hearing officer will impose sanctions or will refer the matter to Institute's designated officer responsible for administering employee discipline.

Within five (5) calendar days of the last day of the hearing, the parties may submit an impact or mitigation statement, which will be considered by the decision maker/hearing officer only upon a finding of responsibility for the alleged policy violation. An impact statement is a written statement from the complainant in which the complainant describes the impact of the alleged policy violation on the complainant, expresses the complainant's preferences regarding appropriate sanctions, and identifies any aggravating circumstances that the complainant wishes the decision maker/hearing officer to consider. A mitigation statement is a written statement from the respondent in which the respondent explains any factors that the respondent believes should mitigate, or otherwise be considered in determining, the sanctions imposed. Impact and mitigation statements should be sent to the Title IX Coordinator.

If the decision maker/hearing officer determines there was a policy violation, the decision maker/hearing officer shall notify the Title IX Coordinator who will provide the decision maker/hearing officer with (i) any impact and mitigation statements, and (ii) any information concerning the respondent's prior disciplinary record which the Institute believes should be considered by the decision maker/hearing officer in connection with the imposition of sanctions.

Each of the parties shall be provided any statement submitted by the other party, but information concerning the prior disciplinary record of the respondent will not be shared with the complainant.

In connection with the imposition of sanctions, the decision maker/hearing officer should be guided by the following considerations: the severity of the violation on the complainant, documented disciplinary history of the respondent, and any mitigating or aggravating circumstances, and the interests of the community.

If it is determined that the respondent has violated this Policy, the decision maker/hearing officer shall impose sanctions commensurate with the violation and take such remedial actions as may be deemed appropriate. The determination of

sanctions/ remedial actions should be guided by the following considerations: the interests of the community, the impact of the violation on the complainant, documented student conduct history, and any mitigating or aggravating circumstances.

One or more of the following sanctions may be imposed by the Institute on a student respondent determined to have violated the Policy:

- **Warning:** Formal written notice to the student and official recognition that a violation has occurred.
- **Additional Training:** Including online training(s) or training(s) conducted by appropriate KGI officials that address the behavior or misconduct.
- **Community Service:** Performance of a pre-approved service location for a prescribed number of hours to the local or KGI community.
- **Creative/Educational Sanctions:** Attendance at educational programs, interviews with appropriate officials, planning and implementing educational programs, research papers and other educational activities related to the violation.
- **Restriction:** The withdrawal of specified privilege(s) for a definite period of time. Restrictions may include, but are not limited to requirements such as: not entering certain areas of housing or the campus (including The Claremont Colleges), not contacting a certain individual or group, or not operating a motor vehicle on campus. Students may also be restricted from holding office in any student organization or participating in some activities.
- **Restitution:** In cases where the respondent is found responsible for damaging or misappropriating property, s/he may be required to reimburse the property owner for all or some of the cost.
- **Probation:** A period of time during which any further violations of the Student Code of Conduct may impact or jeopardize the student's status in a specific manner.
- **Removal from Institute Housing:** Permanent removal from the housing system.
- **Suspension:** The termination of the student's attendance or an organization's representation at the Institute for an indefinite or specified period of time. A suspension means that students may not be on Institute property or that an organization is prohibited from being recognized at any time without prior approval from the Dean of Students or designee. Stipulations may be applied to either the student or organization as a condition for ending the suspension.
- **Expulsion:** The permanent separation of the student from the Institute.

- **Deferred Degree:** The holding of an academic degree for a specified period of time with or without conditions.
- **Withholding Degree:** The withholding of a student's diploma for a specified period of time and/ or denying a student participation in commencement or White Coat activities if the student has a grievance pending, or as a sanction if the student is found responsible for an alleged violation.

One or more of the following sanctions may be imposed by the Institute on a staff or faculty respondent determined to have violated the Policy:

- Additional training including online training or trainings conducted by appropriate KGI officials that addresses the behavior or misconduct.
- Verbal reprimand or warning in which case the respondent will be reminded of the policy.
- Written reprimand or warning in which case a copy will be placed in employee's personnel file.
- Performance improvement plan to be prepared by and/or in conjunction with the Director of Human Resources in order to facilitate constructive discussions about what is expected and appropriate behavior and what can be done to achieve this.
- Reassignment, realignment, or removal of certain responsibilities, including elimination of advisory or supervisory roles.
- Restricted access from or suspension of certain Institute privileges, Institute events or Institute property.
- Suspension without pay for a certain period of time and/or ineligibility for an annual pay increase.
- Probation for period of time during which any further violations may impact or jeopardize the employees' status in a specific manner.
- Termination from employment or other contracts or non-reappointment.

VIII. Appeal Rights

Grounds for Appeal

Either party may appeal a decision to dismiss a complaint⁴ prior to a determination of responsibility, the determination of responsibility, and the sanctions on the grounds set forth below. However, if, the respondent accepted responsibility for the policy violation, either party may appeal only the sanction determination.

⁴ See Appendix E concerning the dismissal of complaints.

Appeals are decided by the Institute's President (or designee). The grounds for appeal are:

Significant Procedural Error: A procedural error occurred which significantly affected the relevant decision/determination as it applies to the appealing party (e.g., substantiated bias, material deviation from established procedures). A description of the error and its impact must be included in the written appeal.

New Evidence: New evidence that was not reasonably available at the time the determination regarding dismissal, responsibility or sanction was made, that could affect the outcome of the matter. Information that was known to the party but which the party chose not to present is not new information. A summary of the new evidence and its potential impact on the decision or determination must be included in the written appeal.

Disproportionate Sanctions: Either party may appeal the sanction because they feel that the sanction imposed for the violation of this Policy was disproportionate to the conduct found to have occurred.

Disagreement with a decision to dismiss, a determination of responsibility or sanctions is not, by itself, grounds for appeals.

Appeal Procedures

The appealing party must submit the appeal in writing to the Title IX Coordinator within seven (7) business days after receiving notice that (i) a decision has been made to dismiss a complaint prior to a determination of responsibility, (ii) the hearing has not resulted in a finding that the respondent has violated the Policy, or (iii) sanctions have been imposed based on a finding that the respondent has violated the Policy. If either the complainant or respondent submits an appeal, the Title IX Coordinator will notify the other that an appeal has been filed and the grounds of the appeal. The non-appealing party may submit a written response within five (5) calendar days after notice of an appeal.

Note: in the event of an appeal, sanctions will normally be held in abeyance pending the outcome of the appeal. If, however, the Institute determines that there may exist a threat to the safety or welfare of the Institute community, sanctions will take effect immediately. If both the complainant and respondent appeal, the appeals will be considered concurrently.

The President (or designee) will notify the complainant and respondent of the final decision in writing and the rationale for the decision. Appeals decisions will be rendered as soon as practical. All appeal decisions are final.

IX. Miscellaneous Provisions

Timeline

The Institute will make a good faith effort to complete the grievance resolution process within a sixty-to-ninety business day time period, including appeal. The Title IX Coordinator may set reasonable time frames for required actions under this Policy. Those time frames may be extended for good cause as necessary to ensure the integrity and completeness of the investigation, comply with a request by external law enforcement, accommodate the availability of party, advisor and witnesses, the need to accommodate disabilities account for Institute breaks or vacations, or address other legitimate reasons, including the complexity of the investigation (including the number of witnesses and volume of information provided by the parties) and the severity and extent of the alleged conduct. Any extension of the timeframes, and the reason for the extension, will be shared with the parties in writing.

Consolidation of Complaints

Depending on the circumstances and in its discretion, the Institute may consolidate for investigation and/or adjudication formal complaints as to allegations of sexual misconduct against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual misconduct arise out of the same facts or circumstances.

Location of Records

The Institute will retain documents related to processes under this Policy for a period of seven (7) years. Documents related to this process include: formal complaints, remedies provided to a complainant, the investigation report and attachments, the hearing determination, any sanctioning determination, and all appeal-related documents, as well as any audio recording or transcript of the hearing.

The Institute will also retain, for a period of seven (7) years, all materials used to train the Title IX Coordinator and assistant coordinators, Investigators, hearing panel members/officers, and any person facilitating the informal resolution or appeal process. The Institute shall make this training material publicly available on its website.

Supportive Measures

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge, to the complainant and/or the respondent. The Title IX Coordinator serves as the primary point of contact for facilitating the issuance of supportive measures to stabilize the situation, stop the misconduct, support the parties involved and the community, and protect the integrity of the investigation. These measures may be put in place by the Institute whether the report is resolved informally or formally, or whether or not a full investigation is conducted.

Supportive measures include the following. In the case of students, such measures shall not be punitive and applied to the fullest extent possible to avoid depriving any student of their education.

- **No Contact Order:** Campus Safety, the Title IX Coordinator, Dean of Students and/or the Assistant Vice President of Human Resources and Employee Engagement may impose a “no-contact” order, which typically will include a directive that the parties refrain from having any contact with one another, directly or through third parties, whether in person or via electronic means, pending the investigation and/or outcome. When taking steps to separate the complainant and the respondent, the Title IX Coordinator, Dean of Students, and/or the Assistant Vice President of Human Resources and Employee Engagement will seek to minimize unnecessary or unreasonable burdens on either party.
- **Restraining Order:** The Institute may assist with providing information about or assistance in obtaining a restraining order from a court of law.
- **Safety Measures:** The Institute may coordinate any reasonable arrangements that are necessary for ongoing safety. This includes parking arrangements, providing security escorts, or transportation assistance.
- **Living Arrangements:** The Institute may assist in changing on-campus living arrangements, as available, for the respondent or that of the complainant to ensure safety and a comfortable living situation.
- **Campus Restriction:** The Institute may issue a directive prohibiting an individual from entering any part of campus. A campus restriction may also be imposed in order to restrict an individual from certain areas of campus, such as a residence hall (this can also include restrictions from KGI activities and/or events).
- **Employment Arrangements:** The Institute may assist with altering work arrangements for staff/faculty, including changes in work schedule or job assignment.

- **Academic Arrangements/Modifications:** The Institute may assist with adjusting academic schedules, withdrawals, absence notifications, deadline extensions, and testing accommodations as well as assist in providing resources to academic support services. Note that such services will be at the discretion of the Academic Dean and/or faculty overseeing the curriculum.

Other Interim Measures: The Institute may coordinate reasonable arrangements to address the effects of Title IX complaints, including connections with counseling, healthcare, immigration and/ or visa assistance and/or financial planning assistance.

The Institute may also suspend a student or employee pending the completion of an investigation and complaint resolution process, particularly when in the judgment of the Title IX Coordinator, the imminent physical health or safety of any member(s) of the KGI community may be jeopardized by the on-campus presence of the student.

A student who has been placed on interim suspension has the right, within three (3) business days of the notice of the suspension, to meet with the Dean of Students (or designee), to request re-consideration of the interim suspension. The Dean of Students will review the appeal to determine whether the decision to place the student on interim suspension was arbitrary or capricious. A decision is arbitrary and capricious where there is no rational connection between the facts presented and the decision made.

For staff/faculty, the Director of Human Resources, in consultation with the Title IX Coordinator and other Institute administrators, as appropriate, will determine whether to impose an interim suspension and the terms of any such suspension.

The imposition of supportive measures is not indicative of a determination of responsibility or any other outcome. These measures may be modified at any time and may be kept in place after a final decision is reached as to whether a violation of this Policy has occurred.

Prior Sexual History

The complainant or respondent's character or reputation with respect to other sexual activity is never relevant and will not be considered as evidence. However, prior sexual history may be considered under the following circumstances:

- Where there was a prior or ongoing relationship between the complainant and respondent, and the respondent asserts that consent was sought and given, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. As noted in

other sections of the Policy, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent.

- Where there is evidence of a pattern or conduct similar in nature by the respondent, either before or after the conduct in question, regardless of whether there has been a finding of responsibility, this information may be deemed relevant to the investigators findings of fact or decision maker/hearing officer determination of responsibility and/ or assigning of a sanction. The determination of relevance will be based on an assessment of whether the prior or subsequent incident was substantially similar to the present allegation or the information indicates a pattern of behavior and substantial conformity with that pattern by the respondent.

Academic Freedom

KGI adheres to principles of academic and expressive freedom. Nothing in this Policy shall be construed to limit the legitimate exercise of academic and expressive freedom, including but not limited to written, graphic, or verbal expression that can reasonably be demonstrated to serve a legitimate educational purpose. Nor shall this Policy be interpreted or applied in a manner that is inconsistent with California Education Code section 94367.

Consensual Relationships

Faculty and staff (“employees”) of KGI are prohibited from pursuing or engaging in consensual intimate, amorous, romantic or sexual relationships between students, including volunteers.

Faculty and staff (“employees”) of KGI are prohibited from pursuing or engaging in any consensual intimate, amorous, romantic or sexual relationships whenever a faculty or staff member incident to any instructional, research, administrative or other KGI employment responsibility is involved in a relationship with an “employee” who she/he exercises authority over, supervises, or evaluates. Although such relationships may be a matter of mutual consent, the power differentials inherent in such relationships can undermine the integrity of the work environment.

Note: For full details on consensual relationships including instructions on how to disclose such relationships, please refer to KGI’s Consensual Relationships Policy located in the office of Human Resources.

Training

Title IX Coordinators, investigators, hearing panel members/officers, and any person who facilitates an informal resolution process, shall receive training on the definition of sexual misconduct, when and under what circumstances

this Policy may be invoked, how to conduct an investigation and the formal complaint process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudice of the facts at issue, conflicts of interest, and bias. Such persons shall also receive such other training as is required by Title IX and the California Education Code §67386.

Education and Prevention Programs

As part of its commitment to the prevention of sexual misconduct, the Institute offers education and awareness programs. Incoming students and new faculty and staff receive prevention and awareness programming as part of their orientation, and all students and faculty and staff receive ongoing training and related programs on an annual basis.

Additional Recourse

In addition to utilizing this internal dispute resolution procedures, students and others participating in KGI's educational programs or activities who believe they have been subjected to prohibited discrimination may file complaints with the United States Department of Education's Office for Civil Rights ("OCR"). Information concerning the filing of a complaint with OCR can be found by visiting the agency websites at ed.gov/ocr/.

Employees who believe they have been subjected to prohibited discrimination, harassment, or retaliation have the option to file an external complaint with the California Department of Fair Employment and Housing and/or United States Equal Employment Opportunity Commission. Information concerning the filing of a complaint with one of these agencies can be found by visiting the agency websites at www.dfeh.ca.gov and www.eeoc.gov.

Amendments

The Institute may amend this Policy or the procedures from time to time. Nothing in this Policy or procedures shall affect the inherent authority of the Institute to take such actions as it deems appropriate to further the educational mission or to protect the safety and security of the KGI community.

X. Policy Dissemination

The Title IX Coordinator, along with the Dean of Students and the Assistant Vice President of Human Resources and Employee Engagement are responsible for distributing copies

of this Policy to the faculty, staff, and students. References to this Policy are included in faculty, staff and student orientation materials and handbooks. In addition, this Policy is continuously available at appropriate campus locations and on the KGI website.

XI. Policy Sources

This Policy is intended to comply with applicable law including the California Education Code (Cal. Ed. Code §§ 200, et seq.; 66250, et seq.; 94385); California Fair Employment and Housing Act (Cal. Gov't Code §§ 12900, et seq.); Title VII of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000e, et seq.); Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681, et seq.) and (34 C.F.R. §§ 106.30, et. seq.); Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. §§ 1092(f), et seq.); Violence Against Women Reauthorization Act of 2013 (34 U.S.C. 12291 et. seq.)

XII. Appendix Section

Appendix A—Prevention and Risk Reduction

Prevention

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner and yourself. These suggestions may help you avoid committing a nonconsensual sexual act and reduce your risk of being accused of sexual misconduct:

- Clearly communicate your intentions to your sexual partner and give your partner a chance to clearly communicate intentions to you.
- Understand and respect personal boundaries. Do not pressure a potential partner.
- **Don't make assumptions** about consent; about someone's sexual availability; about whether the individual is attracted to you; about how far you can go or about whether the individual is physically and/or mentally able to consent. If there are any questions or if there is any ambiguity then you **do not** have consent and you should stop.
- If you think you are receiving unclear or conflicting messages from your partner, this is a clear indication that you should stop, defuse any sexual tension and communicate better.
- Don't take advantage of someone's drunkenness, drugged, or otherwise incapacitated state.

- Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.
- Understand that consent to some form of sexual behavior does not automatically equal consent to any other form of sexual behavior.
- Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language. If you are not sure, stop.

Risk Reduction

Risk reduction tips can, unintentionally, take a victim-blaming tone. With no intention to victim blame, and with recognition that only those who commit sexual violence are responsible for such conduct, these suggestions may nevertheless help you to reduce your risk of experiencing a non-consensual sexual act.

- If you have sexual limits, make them known as early as possible.
- If you do not want to engage in a particular activity, tell the other person "NO" clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor, if you can do so safely.
- If someone is nearby, ask for help or if it is safe to do so, text or call someone.
- Acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views someone under the influence as a sexual opportunity.
- Take care of your friends and ask that they take care of you. Friends can help acknowledge when you are in potential danger or harm. Respect their concerns

Appendix B—Frequently Asked Questions

Does information about a complaint remain confidential?

The confidentiality of all parties to a complaint of sexual misconduct must be respected, insofar as it does not interfere with the Institute's obligation to fully investigate allegations of sexual misconduct. Where confidentiality is not strictly kept, it will still be tightly controlled on a need-to-know basis. Dissemination of information and/or written materials to persons not involved in the complaint procedure is not permitted. Violations of the privacy of the Complainant or the Respondent may lead to disciplinary action by the Institution. In all complaints of sexual misconduct, both the

Respondent and Complainant will be informed of the outcome. In some instances, the Institute may choose to make a brief public announcement of the nature of the violation and the action taken, without using the name or identifiable information of the Complainant. Certain Institute administrators are informed of the outcome within the bounds of student privacy (e.g., the President, Dean of Students, Campus Safety, Title IX Coordinator). If there is a report of alleged sexual misconduct to the Institute and there is evidence that a felony has occurred, local police will be notified if the Complainant consents. This does not mean charges will be automatically filed or that a Complainant must speak with the police. The Institute also must statistically report the occurrence on campus of major violent crimes, including certain sex offenses, in an annual report of campus crime statistics. This statistical report does not include personally identifiable information (see Appendix D).

Will I (as a complainant) have to pay for counseling/or medical care?

Complainants can access the Student Health and Counseling Services through The Claremont Colleges Services. The Counseling Services also hosts a support group for survivors of sexual assault. If you are accessing community and non-institutional services, payment for these services may be covered by your health insurance plan; please check your coverage.

What, if anything, will my parents be told?

The Institute's primary relationship is to you, the student, and not to your parent/guardian. Institute officials will only speak with your parents/guardians at your request or when there is a significant threat to your health or safety, in which case your emergency contact on file may be contacted.

Do I have to name the alleged respondent?

Yes, if you want the Institute to pursue its investigation and resolution procedures as outlined in the Institute's Policy On Discrimination, Harassment, And Sexual Misconduct. No, if you intend to pursue informal options such as interim measures. Complainants should be aware that not identifying the alleged respondent may limit the Institute's ability to respond comprehensively.

Will the alleged respondent know my identity?

Yes, if you would like to proceed with a formal investigation and resolution. Sexual misconduct is a serious offense and the Respondent has the right to know the identity of the Complainant.

What do I do if I am accused of sexual misconduct?

Do not contact the Complainant. You may want to speak with someone you trust who can act as your advisor. The Title IX Coordinator can explain the Institute's resolution procedures for addressing sexual misconduct complaints.

You may also want to seek confidential counseling through the Student Health and/or Counseling Services or seek support through off campus services in the community. See below regarding legal representation.

What about legal representation?

Complainants do not need private legal counsel to pursue criminal prosecution because representation will be handled by the District Attorney's office. However, you may want to retain an attorney if you are considering filing a civil action. Respondents may want to retain legal counsel given the potential for criminal and/or civil action. Neither party will need to retain legal counsel for the administrative process through the Institute, however, an attorney may accompany either party to all Institute proceedings as an advisor (see Advisor section, VII.B.)

Will the Complainant be sanctioned when reporting a sexual misconduct if they have illegally used drugs or alcohol?

No. The severity of the infraction will determine the nature of the Institute's response, but whenever possible the Institute will respond educationally rather than punitively to the illegal use of drugs and/or alcohol. The seriousness of sexual misconduct is a major concern and the Institute does not want any of the circumstances (e.g., drug or alcohol use) to inhibit the reporting of sexual misconduct. (see Amnesty Policy section. VI.C.3.)

Will the use of drugs or alcohol affect the outcome of a sexual misconduct complaint?

The use of alcohol and/or drugs by either party will not diminish the Respondent's responsibility. On the other hand, alcohol and/or drug use is likely to affect the Complainant's memory and, therefore, may affect the outcome of the complaint (see Affirmative Consent section IV.E.).

Will either party's prior use of drugs and/or alcohol be a factor when reporting sexual misconduct?

Not unless there is a compelling reason to believe that prior use or abuse is relevant to the present complaint.

What should I do if I am uncertain about what happened?

If you believe that you have experienced sexual misconduct, but are unsure of whether it was a violation of the Institute's Policy, you should contact the Institutes' Title IX Coordinator who can explain the Policy and resolution options. If you would like to speak with someone in strict confidence to explore the incident, you may want to first speak with a counselor at Monsour Counseling and Psychological Services, a chaplain from the McAlister Center, or a rape crisis hotline (see Confidentiality section VI.C.1).

Appendix C—What to Do If You Experience a Sexual Assault or Other Forms of Sexual Misconduct

Seek Safety and Support

The first priority for the victim/survivor of a sexual assault, sexual exploitation or gender based violence is to seek safety. If there is an immediate danger or need for an emergency police or medical response, persons on campus should call Campus Safety.

Campus Safety

909.621.8170 | 909.607.2000 (emergency)

150 E. 8th St., Claremont, CA 91711

dispatch@claremont.edu

Persons who experience sexual misconduct are encouraged to seek support, as soon as possible, from someone trusted, such as a friend, family member, KGI faculty or staff member. For a list of on-campus and community resources see Reporting Prohibited Conduct section VI.

Seek Medical Attention and Preservation of Evidence

Victims/survivors of a sexual assault (particularly forcible oral copulation or penetration) are urged to seek medical treatment as soon as possible by going to the nearest hospital emergency room, specialized sexual assault treatment and trauma center, Student Health Service, or private physician.

The emergency room nearest KGI, which is also a County designated SART Center, is located at:

Pomona Valley Hospital Medical Center

1798 N. Garey Avenue, Pomona, CA 91767

909.865.9500

SART is a victim-sensitive program designed to provide a team approach to responding to sexual assaults. Victims/survivors may take an advisor with them to the hospital. Students who need assistance arranging for transportation or would like a member of the KGI staff to accompany them to hospital should contact Campus Safety at 909.607.2000, and ask that a Dean or the Title IX Coordinator be contacted. Know that hospitals that treat any physical injury sustained during a sexual assault are required to report it to law enforcement. The victim/survivor may choose whether or not to speak to police at the hospital and do not need to make an immediate decision to press criminal charges. That decision can be made at a later time.

Victims/survivors who promptly seek medical attention benefit from being examined for physical injury, receiving preventative treatment for sexually transmitted diseases, a toxicology examination for date rape drugs, and emergency contraception. In addition, prompt reporting allows for the preservation of evidence, which will only be used if the victim/survivor decides (then or later) to press criminal charges or file civil suit.

To preserve evidence, victims/survivors should not bathe, douche, smoke, brush their teeth or change clothes (a change of clothes should be brought along). If clothes have been changed, the original clothes should be put in a paper bag (plastic bags damage evidence) and brought to the hospital. Do not disturb the scene of the assault. If it is not possible to leave the scene undisturbed, evidence (e.g. bedding, towels, loose fabrics, prophylactics, and clothing) should be placed in separate paper bags to be preserved.

Time is a critical factor in collecting and preserving evidence. The physical evidence of an assault is most effectively collected within the first 24–48 hours of the assault, but some evidence may be collected for up to 72 hours. If, however, a sexual assault victim/survivor chooses to report the incident days, weeks, or even months after the assault, important support systems are still available and can be arranged.

Victim/survivors who do not wish to go to the hospital may choose to contact

Planned Parenthood

1550 N Garvey Avenue, Pomona, CA 91767

800.576.5544

Planned Parenthood has healthcare providers who can test and provide preservative treatment for sexually transmitted diseases or see a personal health care provider for tests and treatment.

Know that while the preservation of evidence is important, lack of physical evidence should never deter a victim/survivor from reporting or seeking resources. Because the Institute's process uses a preponderance of the evidence standard, the need for physical evidence (while helpful) is never a requirement for proceeding with a formal or informal process.

Seek Counseling and Support

A victim/survivor of sexual and/or intimate partner violence can experience emotional as well as physical consequences. These incidents are traumatic experiences that can have both immediate and long-term effects. Victims/survivors are strongly encouraged to obtain help and/or support from a trained professional as soon as they are ready after the incident occurs. See Confidentiality section VI.C.1 for resources and support options.

Talk With the Title IX Coordinator about Your Options

The Title IX Coordinator will review your options and support resources both on and off campus. Regardless of when the incident occurred it is never too late to speak with someone regarding support resources and your options.

Brittany Raygoza

Title IX and Clery Coordinator

Brittany_Raygoza@kgi.edu | 909.607.9649

535 Watson Dr., Claremont, CA 91711

Building 535 East, Office #30

Appendix D—Keck Graduate Institute's External Reporting, Timely Warning, and FERPA Disclosure Obligations

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act")

Notification

In accordance with applicable law, KGI's annual security report includes statistics concerning reported sexual assaults and other crimes that occurred on campus; in certain off-campus buildings or property owned or controlled by KGI; and on public property within, or immediately adjacent to and accessible from, the campus. The Annual Campus Safety report, is available online at kgi.edu/clery and from The Claremont Colleges Services at services.claremont.edu/campus-safety/

safety-security-reports/. these reports never include personally identifiable information (e.g., the names or addresses of victims).

Statistical Reporting

Under the Clery Act, certain College officials have a duty to report certain misconduct for federal statistical reporting purposes. All personally identifiable information is kept confidential, but statistical information must be passed along to campus safety regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in the annual Campus Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. Mandated federal reporters, also known as Campus Security Authorities, include: student affairs staff, campus law enforcement, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations and any other official with significant responsibility for student and campus activities. The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category. This reporting protects the identity of the victim and may be done anonymously.

Timely Warning

Complainants should also be aware that Institute administrators must issue immediate timely warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. For purposes of the Timely Warning requirement, the Institute will not disclose a Complaint's name.

However, the Institute will provide enough information for community members to make safety decisions in light of the danger. The reporters for timely warning purposes are the same as those detailed in the paragraph above.

Family Educational Rights and Privacy Act ("FERPA")

A finding that a violation of KGI's sexual misconduct policy has occurred will become a part of the educational record of the Respondent, if they are a student, and the employee record if they are a faculty or staff member. The educational records of students are protected from release under a federal law, FERPA. The Institute complies with FERPA

regulations regarding the privacy of student records and observes the following exceptions to FERPA as mandated by the Clery Act:

The Complainant(s) have the right to be informed of the finding, in writing, and to be informed of any sanction(s) that directly relate to them, and to essential facts supporting the outcome when the outcome is “responsible”.

The Clery Act permits the Institute to release publicly the name, nature of the violation and the sanction(s) for any student who is found in violation of a policy that is a “crime of violence,” including: arson, burglary, robbery, criminal homicide, sex offenses, assault, intimidation (which may encompass stalking and/or bullying), hazing, destruction/damage/vandalism of property and kidnapping/abduction. The Institute will release this information to the Complainant in any of these offenses regardless of the outcome.

Appendix E—Title IX Requirements

The complaint resolution procedures outlined in the Institute’s Discrimination, Harassment and Misconduct Policy (“Policy”) apply to allegations which if true, would violate Title IX. The Institute also uses such procedures to investigate and adjudicate complaints of prohibited discrimination and harassment on the basis of protected classes and characteristics involving students, staff, administrators, or faculty members.

In the case of claims of sexual misconduct, the Institute will determine whether the alleged behavior satisfies Title IX jurisdictional requirements. Regulations promulgated by the United States Department of Education, and described below, impose exacting standards that must be met before a complaint of sexual misconduct may proceed under Title IX.

Under the regulations, the Institute must dismiss a Title IX complaint in certain circumstances and may dismiss such complaints in others. Dismissal determinations are made during an initial assessment of a report of sexual misconduct or, as appropriate, during the complaint resolution process.

In addition, only certain defined conduct falls with the definition of prohibited conduct for Title IX purposes.

Title IX—Jurisdiction (34 C.F.R. §106.30)

Alleged sexual harassment is only covered under Title IX if the alleged conduct occurred within KGI’s “education program or activity.” For purposes of this section, “education program or activity” means locations, events, or circumstances over which KGI exercised substantial control over both the respondent and the context in which the alleged sexual harassment occurred.

Under some limited circumstances, off-campus conduct may be covered under Title IX. For off-campus conduct to be covered under this section, one of the three following conditions must be met:

- The incident occurred as part of KGI’s “operations,”
- KGI exercised substantial control over the Respondent and the context of the alleged sexual harassment; or
- The incident occurred at an off-campus building owned or controlled by an officially-recognized KGI student organization.

Conduct that occurs outside of the United States, including conduct taking place within a KGI-sanctioned study abroad program, may not be entertained under Title IX.

Title IX—Definitions (34 C.F.R. §106.30)

Sexual Harassment is conduct on the basis of sex that satisfies one or more of the following:

- An employee conditioning the provision of an aid, benefit, or service of the institution on an individual’s participation in unwelcome sexual conduct (also known as quid pro quo sexual harassment);

Note: “Unwelcome conduct” is based on the Complainant’s subjective statement that the Complainant found the conduct to be unwelcome.

- Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to KGI’s education program or activity; or,

Note: “Unwelcome conduct” depends on a variety of factors and must be evaluated in the light of the known circumstances.

Note: “Severe, pervasive, and objective” must be evaluated in the light of the known circumstances, and is dependent on the facts in each situation. However, this element must be determined from the perspective of a reasonable person standing in the shoes of the Complainant.

- Sexual assault (as defined in the Clery Act), or dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).

Note: A single instance of any conduct as defined below is sufficient to constitute sexual harassment. Any instance of any of the conduct defined below does not need to demonstrate severity, pervasiveness, objective offensiveness, or denial of equal access to education or employment, because denial of equal access is assumed.

Sexual Assault: As defined in the Clery Act (20 USC 1092(f)(6)(A)(v), Sexual Assault is: an offense that meets the definition of

rape, fondling, incest, or statutory rape, as used in the FBI's Uniform Crime Reporting (UCR) Program. The relevant FBI UCR definitions are as follows:

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

Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of age or permanent mental incapacity.

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

Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent. In California, the statutory age of consent is 18.

Dating Violence: As defined in VAWA (34 USC 12291(a)(10), Dating Violence is: violence committed by a person:

- Who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and
- Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship.
 - The type of relationship.
 - The frequency of interactions between the persons involved in the relationship.

Domestic Violence: As defined in VAWA (34 USC 12291(a)(8), Domestic Violence is: acts that include felony or misdemeanor crimes of violence committed by one of the following:

- a current or former spouse or intimate partner of the Complainant;
- a person with whom the Complainant shares a child in common;
- a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner;
- A person similarly situated to a spouse of the Complainant under the domestic or family violence laws of California; or
- 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 the state of California.

Stalking: As defined in VAWA 34 USC 12291(a)(30), Stalking is: engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for his or her safety or the safety of others; or
- Suffer substantial emotional distress.

Title IX—Dismissal (34 C.F.R. §106.45(b)(3)(i))

As required by federal regulation, any formal complaint alleging a violation of Title IX must be dismissed when information gathered demonstrates that:

- Even if true, the alleged conduct would not meet the definition of sexual misconduct under Title IX;
- The alleged conduct was found to not have occurred within the Institute’s education program or activity; or
- The alleged conduct did not occur against a person in the United States.

Additionally, the Institute may decline to act upon a Title IX complaint under the following circumstances:

- There is not enough information to carry out a resolution process;
- To honor a complainant’s request that no resolution process occur;
- The respondent is no longer enrolled or employed by the Institute;
- Specific circumstances exist that prevent the Institute from gathering information and evidence sufficient to reach a determination; or,
- There is insufficient nexus between the conduct and the Institute to carry out the resolution process.

A decision to dismiss a complaint for purposes of Title IX on the basis of any of the above-listed factors is made at the discretion of the Title IX Coordinator. The Title IX Coordinator will provide written notice to the parties describing the reason for the dismissal.

Upon any dismissal, the Institute will promptly send written notice and the rationale for doing so simultaneously to the parties. A dismissal decision is appealable by a party under the procedures for appeal outlined in the Policy.

Note: The Institute may continue to pursue a complaint as a potential violation of another Institute policy dealing with student or employee conduct. If the Institute elects to continue to pursue the matter outside of the Title IX policy, the Title IX Coordinator shall provide written notice to the parties.