



KECK GRADUATE INSTITUTE
OFFICE OF TITLE IX

Sexual Discrimination, Harassment, and Misconduct Policy

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.

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.

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
909.607.9649

Brittany_Raygoza@kgi.edu

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

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

Cheryl Merritt

Director of Human Resources (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

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535 Watson Dr., Claremont, CA 91711
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Andrea Mozqueda

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

Andrea_Mozqueda@kgi.edu

909.607.0896

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

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535 Watson Dr., Claremont, CA 91711
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Anna Hickerson

Assistant Professor; Program Director, Master of Business and Science (and Deputy Title IX Coordinator)

Anna_Hickerson@kgi.edu

909.607.9541

535 Watson Dr., Claremont, CA 91711
Building 215, Office #105

Individuals experiencing harassment or discrimination also have the right to file a formal grievance with government authorities:

Office for Civil Rights (OCR)

San Francisco Office

U.S. Department of Education

50 United Nations Plaza

San Francisco, CA 94102

Telephone: 415.486.5555

Facsimile: 415.486.5570

OCR.SanFrancisco@ed.gov

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 Institute-sponsored events, in Institute 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

A. 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.

B. Respondent

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

C. 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.

D. 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, or CSA's (for more information on CSA's please refer to Appendix D). Also designated as responsible employees are staff/faculty Deputy Title IX Coordinators.

KGI requires that any Responsible Employee who is aware of Policy violations 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.

E. Affirmative Consent

Affirmative consent means clear, affirmative, conscious, and voluntary agreement to engage in sexual activity with an adult person. 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 California Age of Consent is 18 years old. In the United States, the age of consent is the minimum age at which an individual is considered legally old enough to consent to participation in sexual activity. Individuals aged 17 or younger in California are not legally able to consent to sexual activity.

Being intoxicated by drugs or alcohol is no defense to any violation of this policy and does not diminish one's responsibility to obtain consent.

F. 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.

G. 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.

H. 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.

I. 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.

J. 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.

V. PROHIBITED CONDUCT

A. 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.

B. 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. All such conduct is unlawful.

"Sexual Harassment" is any unwelcome sexual advance, request for sexual favors, or other unwelcome conduct of a sexual nature, whether verbal, physical, graphic, or otherwise.

"Gender-Based Harassment" is harassment based on sex, sexual orientation, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal, physical, graphic, or otherwise. To qualify as Gender-Based Harassment, the conduct need not involve conduct of a sexual nature.

Generally speaking, 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: (1) the frequency of the conduct; (2) the nature and severity of the conduct; (3) whether the conduct was physically threatening; (4) 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; (5) whether the conduct was directed at more than one person; (6) whether the conduct arose in the context of other discriminatory conduct; and (7) 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: (1) unnecessary touching, patting, hugging, or brushing against a person's body; (2) remarks of a sexual nature about a person's clothing or body, whether or not intended to be complimentary; (3) remarks about sexual activity or speculations about previous sexual experience; or (4) 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.

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.

C. Sexual Assault²

1. 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.

2. 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.*

² See Appendix A for information concerning Sexual Misconduct Prevention and Risk Reduction and Appendix B for Frequently Asked Questions About Sexual Assault and Sexual Misconduct.

D. 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.

1. *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.

2. *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).

E. 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.

F. 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

G. Retaliation

All parties are prohibited 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 Coordinator. KGI will take immediate and responsive action to any report of retaliation and will pursue disciplinary action as appropriate.

VI. REPORTING PROHIBITED CONDUCT

A. 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 St., 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 the complainant is encouraged to file a report with an appropriate law enforcement agency and, if requested, the Institute will assist the complainant 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 the complainant's 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. See, Section IX.G., below.

B. 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
909.607.9649

Brittany_Raygoza@kgi.edu

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

For staff and faculty reports:

Cheryl Merritt

Director of Human Resources (and Deputy Title IX Coordinator)
909.607.7853

Cheryl_Merritt@kgi.edu

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

535 Watson Dr., Claremont, CA 91711
Building 535 East, Office #21

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.

C. Other Reporting Considerations

1. 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 staff

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 Ave.
Claremont, CA 91711
7csupportandprevention.com

Please 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

Manuel Diaz (Director)—Queer Resource Center

909.607.1817
395 E. 6th Street
Claremont, CA 91711
Manuel.Diaz@pomona.edu

Please note that only the Director of the QRC has been designated as a confidential resource.

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.

2. 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.

3. 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.

4. Bystander Intervention

The Institute 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.

5. 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**A. 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.

B. Advisor:

All complainants and respondents are entitled to be accompanied by an advisor of their choosing throughout the investigation and resolution processes, 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.

C. 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 interim measures and remedies, 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, 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 that 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.

D. Notice to the Respondent

When a decision is made to initiate formal or informal resolution procedures, to impose interim 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 state facts 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, exploitation, or retaliation); the date(s) of the alleged policy violation(s); the location(s) where the violation(s) allegedly occurred; a brief description of the allegations; and the sanctions that may be imposed if the respondent is found to have violated this Policy.

The written notification shall also indicate that the respondent is presumed not responsible for the alleged policy violation and that a determination of responsibility will be made at the conclusion of the formal resolution process.

E. Informal Resolution Procedures

If the first threshold is met, the Title IX Coordinator will determine whether the complaint may, at the choice of the parties, proceed through informal resolution. Note, a complainant need not use informal resolution procedures as a prerequisite to filing of a formal complaint.

In determining whether the matter is appropriate for informal resolution, the Title IX Coordinator will consider a range of factors including the severity of the alleged Prohibited Conduct and the Institute's legal obligations. Note: mediation (which is different from informal resolution) is not appropriate for cases involving alleged sexual violence, including reports of alleged sexual assault, sexual battery, stalking, or intimate partner violence and abuse.

If the Title IX Coordinator concludes that informal resolution is an appropriate option, the Title IX Coordinator will ask both the complainant and the respondent whether they would agree to pursue informal resolution of the complaint.

The nature of informal resolution is flexible, and will vary according to the specifics of any particular allegation. Typically, the Title IX Coordinator will meet separately with both parties to discuss potential alternative resolutions based on the parties' desires and (if applicable) other information available, and to identify possible alternative resolution(s). Possible resolutions include:

- Temporary or permanent contact restrictions between the parties;
- Change of a student's residence location;
- Change of a student's work-study arrangements;
- Change of an employee or contractor's work arrangements;

Change of a student's academic class assignments, or other academic accommodations;

If all parties reach an agreement on an appropriate resolution, the Title IX Coordinator will issue a letter outlining the terms of the resolution to be distributed to both parties. Any party, including the Title IX Coordinator, may terminate the informal resolution process at any time, in which case both the complainant and the respondent would be notified in writing and the Title IX Coordinator would describe the steps to be taken under a formal investigation.

Note, with the agreement of the involved parties and KGI, a complaint may be informally resolved at any stage of these procedures.

F. Formal Resolution Procedures

A formal investigation into an alleged violation of this Policy will proceed when one or both of the following are present:

- The Institute has information to proceed and recognizes that it is in the best interest of the campus community's safety to proceed with a formal investigation and/or;
- The institute has information to proceed and the complainant wishes to proceed with a formal 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 reasonable, impartial, and prompt investigation of the complaint.*

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.

**Note that 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 with respect to the Formal Resolution Procedures.*

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

The investigator will interview the complainant, the respondent, and witnesses, treating each with appropriate sensitivity and respect, and will collect additional information.

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. 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 investigators' 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 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.

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 shall include the investigator's summary of the investigation, the allegations at issue, disputed and undisputed facts, and all evidence including witness statement summaries or other evidence. 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 the Preliminary Investigation is complete, the Title IX Coordinator will simultaneously make the Preliminary Investigative Report available to the parties for review. 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 Investigative Report), in writing in response to the Preliminary Investigative Report, within seven (7) 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.

Final Report*

After addressing any comments timely submitted and updating the report as necessary, or after the seven (7) 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 (including impact or mitigation statements) to the Title IX Coordinator.

**Note: The Title IX Coordinator shall provide the Report to the parties in a secure manner. Neither the complainant nor the respondent (or their support person, 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 or final report. A support person who fails to abide by this policy may be subject to discipline and/or may be excluded from further participation in the process.*

Hearing Before Decision Maker

The Title IX Coordinator will provide the Final Report and the parties' response, if any, to the decision maker and schedule a hearing.

For cases involving staff/faculty, the decision maker will be the Director of Human Resources (or designee).

For cases involving students, the decision maker will be the Dean of Students (or designee).

For cases involving both staff/faculty and students, the decision maker will be the Dean of Students (or designee) and the Director of Human Resources (or designee).

For cases involving members of the Claremont Colleges, the decision maker will be the Dean of Students (or designee) and/or the Director of Human Resources (or designee).

The hearing is an opportunity for the parties to address the decision maker in person, to question the other party and/or witnesses, and for the decision maker to obtain information following the investigation that is necessary to make a determination of whether a policy violation has occurred. The Title IX Coordinator shall have the discretion to engage a qualified hearing officer to assist the decision maker in the conduct of the hearing.

The Title IX Coordinator will schedule a hearing date, time and location and provide the parties with at least ten (10) business days prior written notice of the hearing. The parties will also be provided with the name of the

decision maker, and any hearing officer who will assist the decision maker conduct the hearing. The parties will have three (3) business days after being notified of the identity of the decision maker, and any hearing officer, to object on the basis of actual or perceived conflict of interest, bias, or prejudice. If either of the parties objects to the decision maker or hearing officer, 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 and/or hearing officer.

The decision maker has broad discretion to determine the hearing format. However, in all instances in which a respondent faces severe disciplinary sanctions (i.e., expulsion or suspension), and the credibility of witnesses (whether the complainant, other witnesses, or both) is central to the adjudication of the allegation, the decision maker shall permit cross-examination of the parties and witnesses. However, neither party shall be allowed to directly question or cross-examine the other during the hearing.

At least five (5) business days prior to the hearing, questions, if any, shall be submitted to the decision maker by both parties in writing that a party would like the decision maker to ask of another party. The decision maker will then decide whether those questions are relevant to the matter and otherwise appropriate. This does not preclude either party from submitting written questions during the hearing for the decision maker to ask of a party or witness.

The decision maker shall also have the discretion to permit cross-examination of the parties and witnesses by allowing the parties' advisors/support persons to question the parties and witnesses. Any such request should be submitted to the decision maker at least five (5) business days prior to the hearing.

In addition, five (5) business days prior to the hearing, the parties shall provide for the decision maker's consideration, the names of any witnesses they suggest be called. The decision maker shall decide the appropriateness of the potential identified witnesses, and shall accordingly 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 shall likewise submit to the parties the names of additional witnesses that the decision maker 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 accordingly, the Institute through the Title IX Coordinator will only be able to use good faith efforts and its own policies regarding cooperation to obtain the attendance of witnesses.

As reasonable and appropriate, and based on the request of the parties, the Title IX Coordinator will structure the hearing format to minimize or avoid any undue stress or burden on the other party, but to allow each party to hear each other's statement (such as participation by Skype, teleconference, or other means).

Upon completing the hearing, the decision maker shall, with due regard to the preponderance-of-the-evidence standard, make a determination as to whether or not the respondent has violated this policy.

Sanctions/Remedial Actions

If it is determined that the respondent has violated this policy, the decision maker 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.

Possible Sanctions for students include, but are not limited to, one or more of the following:

- **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 preapproved 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.

Possible Sanctions for staff/faculty include, but are not limited to, one or more of the following:

- **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.

The parties shall be provided simultaneous written notice of the Decision Maker's decision and of their right to appeal.

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 KGI community, sanctions will take effect immediately.

VIII. APPEAL RIGHTS

Grounds for Appeal

Either party may appeal the Decision Maker's decision. The grounds for appeal are limited to the following:

1. 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.
2. New Information: New information has arisen which was not available or known to the appealing party prior to the investigation determination; or information was improperly excluded from the investigation despite a request from the party to include it, which could have substantially affected the determination. Information that was known to the party but which the party chose not to present is not new information. A summary of the new or excluded evidence and its potential impact on the decision or determination must be included in the written appeal.
3. Disproportionate Sanctions: Either party may appeal the sanction because s/he feels that the sanction imposed for the violation of this Policy was disproportionate to the conduct found to have occurred. The written appeal must convey more than simple dissatisfaction with the sanction.

Appeal Procedures

Appeals must be made in writing and should be sent to the Title IX Coordinator within five (5) business days upon receiving the Decision Maker's decision letter. Appeals will be considered by the President or the President's designee.

If an appeal is submitted, the Title IX Coordinator shall promptly send the appeal, to the President (or the President's designee), who shall consider the appeal and take such action as s/he deems appropriate.

The appeal record will consist of the investigators' final report and any supporting documents that accompany the report; any responses to the report submitted by the parties; the Decision Maker's decision; and any other documents that the Title IX Coordinator deems relevant to the appeal itself.

Appeals will be decided by the President (or the President's designee) in a timely manner. There may, however, be circumstances that necessitate additional time for the President to reach a decision. While an appeal is under review, the Title IX Coordinator will update the parties about the timeline as necessary.

The President (or the President's designee) shall communicate to the parties, simultaneously, the decision of the appeal. The decision of the President (or the President's designee) is final.

IX. MISCELLANEOUS PROVISIONS

A. Timeline

Upon notice to the institute, the informal and/or formal process shall be completed within sixty (60) business days of a report. This time frame may be extended for good cause, which may exist if there is an unavoidable delay due to academic breaks or for other legitimate reasons, or if additional time is necessary to ensure the integrity and completeness of the investigation; to account for case complexities, including the number of witnesses and volume of information provided by the parties; or to accommodate the availability of witnesses and other person's integral to the complaint resolution process.

B. Location of Records

A copy of the complaint, investigative file (including any written materials, interview notes, and/or other items that make up the file), and the written report shall be maintained in the Title IX office. Should a violation of this Policy be found, a record of the complaint and disciplinary action taken shall be made part of the personnel or student file of the person(s) found to have violated the Policy. In the event that the investigation does not result in a finding of violation of this Policy, no record of the complaint or investigation will become a part of any individual's personnel or student file but will still remain on file within the Title IX office for the purpose of tracking trends, repeat offenders, and patterns.

C. Interim Measures

The Title IX Coordinator serves as the primary point of contact for facilitating the issuance of interim 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. Interim measures may be applied with respect to either the complainant or respondent. Examples of interim measures include but are not limited to:

Interim Suspension: An Interim Suspension is the immediate, non-disciplinary, temporary separation of a student or staff/faculty from the Institute. An Interim Suspension may be imposed:

- When it is determined that the respondent poses a potential threat to another;
- To ensure the safety and well-being of members of the campus community and/or the preservation of campus property;
- To ensure the respondent's own physical or emotional safety and well-being;
- When the respondent poses a threat of disruption or interference with the normal operations of the Institute; or
- If the respondent does not comply with the boundaries or restrictions set forth by the institute (for example No Contact Orders or Campus Access Restrictions)

For students, the Institute may impose either a Non-Academic or an Academic Interim Suspension. A student placed on Non-Academic Interim Suspension may not participate in any KGI related or affiliated activities on- or off-campus other than classes and may not be present on campus (including the Claremont Colleges Campuses) for any reason other than to attend class or with the express permission of the Title IX Coordinator (or designee). A student placed on Academic Interim Suspension is fully suspended from the Institute pending the outcome of the process and may not attend classes, may not participate in any KGI or Claremont College related or affiliated activities, and may not be present on campus for any reason without the expressed permission of the Title IX Coordinator or Designee.

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 the Dean's 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.

- **No Contact Order:** Campus Safety, the Title IX Coordinator, Dean of Students and/or the Director of Human Resources 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 Director of Human Resources 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, health care, immigration and/or visa assistance and/or financial planning assistance. Once the Title IX coordinator receives a report, the complainant and respondent (if appropriate) will be scheduled for separate meetings to review reporting options and interim measures (see Initial Assessment VII.C.).

D. 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:

1. 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.
2. 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 or Decision Maker(s) 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.

E. 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.

F. 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.

**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.*

G. Additional Recourse (OCR, EEOC, DFEH)

Employees, students and others participating in KGI's educational programs or activities may direct questions regarding Title IX or file complaints with the U.S. Department of Education Office for Civil Rights at ed.gov/ocr/.

In addition, employees have the right to file a complaint with the Federal Equal Employment Opportunity Commission at eoc.gov/ or the California Department of Fair Employment and Housing at dfeh.ca.gov/, which have the authority to remedy violations.

X. POLICY DISSEMINATION

The Title IX Coordinator, along with the Dean of Students and the Director of Human Resources 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

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.); Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. §§ 1092(f), et seq.); and Violence Against Women Reauthorization Act of 2013 (Pub. Law 113-4).

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:

1. Clearly communicate your intentions to your sexual partner and give your partner a chance to clearly communicate intentions to you.
2. Understand and respect personal boundaries. Do not pressure a potential partner.
3. 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.
4. 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.
5. Don't take advantage of someone's drunkenness, drugged, or otherwise incapacitated state.
6. 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.
7. Understand that consent to some form of sexual behavior does not automatically equal consent to any other form of sexual behavior.
8. 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.

1. If you have sexual limits, make them known as early as possible.
2. If you do not want to engage in a particular activity, tell the other person "NO" clearly and firmly.

3. Try to remove yourself from the physical presence of a sexual aggressor, if you can do so safely.
4. If someone is nearby, ask for help or if it is safe to do so, text or call someone.
5. 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.
6. 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

1. 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).

2. 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.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.)

8. 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.)

9. 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.).

10. 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.

11. 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 at 909.607.2000 and/or dial 911.

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. 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
909.607.9649
Brittany_Raygoza@kgi.edu
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.

TABLE OF CONTENTS

I.	INTRODUCTION	...2
II.	TITLE IX COORDINATOR	...3
III.	SCOPE OF POLICY	...4
IV.	DEFINITIONS	...4
A.	Complainant	...4
B.	Respondent	...4
C.	Third Party	...4
D.	Responsible Employee	...4
E.	Affirmative Consent	...5
F.	Incapacitation	...5
G.	Force	...5
H.	Intimidation	...6
I.	Coercion	...6
J.	Preponderance of the Evidence	...6
V.	PROHIBITED CONDUCT	...6
A.	Sex or Gender-Based Discrimination	...6
B.	Sexual or Gender-Based Harassment	...6
C.	Sexual Assault	...7
1.	Non-Consensual Sexual Intercourse	...7
2.	Non-Consensual Sexual Contact	...7
D.	Intimate Partner Violence	...8
E.	Stalking	...8
F.	Sexual Exploitation	...8
G.	Retaliation	...9
VI.	REPORTING PROHIBITED CONDUCT	...9
A.	External Reporting	...9
B.	Internal Reporting	...10
C.	Other Internal Reporting Considerations	...11
1.	Confidentiality	...11
2.	Anonymous Reports	...13
3.	Amnesty Policy	...13
4.	Bystander Intervention	...13
5.	False Accusations	...13

VII.	COMPLAINT RESOLUTION PROCEDURES	13
A.	Time Limitations for Complaints.....	13
B.	Advisor.....	14
C.	Initial Assessment.....	14
D.	Notice to the Respondent.....	15
E.	Informal Resolution Procedures.....	15
F.	Formal Resolution Procedures.....	16
VIII.	APPEAL RIGHTS.....	20
IX.	MISCELLANEOUS PROVISIONS.....	20
A.	Timeline.....	20
B.	Location of Records.....	20
C.	Interim Measures.....	21
D.	Prior Sexual History.....	22
E.	Academic Freedom.....	22
F.	Consensual Relationships.....	22
G.	Additional Recourse (OCR, EEOC, DFEH).....	22
X.	POLICY DISSEMINATION.....	23
XI.	POLICY SOURCES.....	23
XII.	APPENDIX SECTION.....	23