

## APPENDIX A

### Definitions

“ADA, Title VI and Title VII Coordinator (EO Coordinator), and Title IX Coordinator(s)” are the employee(s) designated at each College and the System Office to oversee all civil rights, including sexual misconduct, complaints. A “Deputy” EO and Title IX Coordinator may also be designated to act on behalf of the Coordinator. All references in policies and procedures to the Coordinator include the Deputy Coordinator.

“Coercion”, in the context of Sexual Misconduct, is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When a person makes it objectively clear that they do not want to engage in sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

“Complainant” is a person who is subject to alleged inappropriate or unlawful civil rights behavior. For purposes of this procedure, a Complainant can be a CCCS employee, student, authorized volunteer, guest, or visitor.

“Consent” for sexual activity must be clear, knowing, and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions demonstrate permission, based on an objective standard, regarding willingness to engage in (and the conditions of) sexual activity. Further, consent to any one form of sexual activity does not automatically imply consent to any other forms of sexual activity. Previous sexual activity or prior consent do not imply consent to future sexual acts. The consideration of prior, irrelevant sexual conduct, except relating to a prior relationship or history between the parties if relevant to some material issue in the process, is prohibited.

“Dating Violence” is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. There is no Colorado state law on dating violence; therefore, CCCS abides by the definition used in the Violence Against Women Reauthorization Act (VAWA) of 2013.

“Disciplinary Authority” is the individual with authority, or delegated authority, to impose discipline upon a Respondent.

“Discrimination” is any distinction, preference, advantage, or detriment given to a person based on one or more actual or perceived protected classes.

“Domestic Violence” includes any act or threatened act of violence upon a person with whom the actor is or has been involved in an intimate relationship. Domestic Violence

also includes any other crime against a person or property, including an animal or any municipal ordinance violation against a person, or against property, including an animal, when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in an intimate relationship. C.R.S. 18-6-800.3. Domestic violence further includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Colorado, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Colorado.

"Force" is the use of physical violence and/or imposing on someone physically to engage in sexual activity. Force also includes threats, intimidation (implied threats), and coercion that overcomes resistance.

"Harassment" is a form of discrimination that involves any unwelcome physical or verbal conduct, or any communication directed at an individual or group because of their membership or perceived membership in a protected class, which conduct is subjectively offensive to the Complainant and objectively offensive to a reasonable individual who is a member of the same protected class. It need not be severe or pervasive, but petty slights, minor annoyances, and lack of good manners do not constitute harassment. Types of harassment include quid pro quo and hostile environment. With respect to harassment based upon sex, types of harassment also include sexual assault, dating violence, domestic violence, and stalking.

"Hostile Environment" occurs when a person is subjected to harassment that unreasonably interferes with the individual's work or educational performance or creates an intimidating, hostile or offensive working or educational environment. Factors to consider include frequency, the number of individuals engaged in the conduct, type of conduct, duration, location, whether it is threatening, existence of a power differential, use of epithets/slurs that are humiliating or degrading, and stereotypes.

"Incapacitation" is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent. Incapacitation could result from mental or physical disability, sleep, unconsciousness, involuntary physical restraint, being underage, or from the ingestion of drugs or alcohol.

Sexual activity with someone whom one should know to be – or based on the circumstances should reasonably have known to be – mentally or physically incapacitated, is a form of Sexual Misconduct.

Use of alcohol or other drugs will never function as a defense to a violation of this procedure.

“Investigator” is a person charged to investigate the civil rights complaint by the Title IX/EO Coordinator.

“Jurisdiction” applies to behaviors that take place on a CCCS campus, at CCCS sponsored events, and may also apply to off-campus and online behavior when the Title IX/EO Coordinator determines that the off-campus or online behavior affects a substantial CCCS interest.

“Quid Pro Quo” is a type of harassment that exists when submission to the harassing conduct is explicitly or implicitly made a term or condition of employment or education, or when submission to or objection to the harassing conduct is used as a basis for employment or educational decisions.

“Respondent” is a person whose alleged conduct is the subject of a complaint. For purposes of this procedure, a Respondent can be a CCCS employee, student, authorized volunteer, guest, or visitor.

“Retaliation” is any adverse employment or educational action taken against a person because of the person’s participation, or perceived participation, in a complaint or investigation of discrimination and/or harassment. Retaliation includes acts to intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege provided by applicable civil rights laws, policies, and procedures.

“Sexual Assault” is an offense classified as a forcible or nonforcible sex offense as defined by the Federal Bureau of Investigations uniform crime reporting system. Sexual assault includes rape, fondling, incest, and statutory rape.

- *Rape* is the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.
- *Fondling* is the touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person’s will; or not forcibly or against the person’s will where the victim is incapable of giving consent because of their youth or because of their temporary or permanent mental incapacity.
- *Incest* includes non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- *Statutory Rape* includes non-forcible sexual intercourse with a person who is under the statutory age of consent.

Sexual assault further includes any sexual intrusion, sexual penetration, or sexual contact on a victim if the actor knows the victim does not consent, the actor knows the victim is incapable of appraising the nature of the victim’s conduct, the actor knows the victim submits erroneously believing the actor to be the victim’s spouse, the victim is not of legal age to consent, the actor knows the victim is physically helpless and has not consented, or any other circumstances defined by state law to be sexual assault or unlawful sexual contact. Sections 18-3-402 & -404, C.R.S.

“Sexual Misconduct” is any discrimination, harassment, or retaliation based on sex, including sex harassment, sexual assault (e.g., rape, fondling, incest, statutory rape), domestic violence, dating violence, and stalking.

“Stalking” is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety, or the safety of others, or suffer substantial emotional distress. Stalking further includes directly or indirectly through another person, knowingly:

- Making a credible threat to another person and, in connection with the threat, repeatedly following, approaching, contacting, or placing under surveillance that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship.
- Making a credible threat to another person and, in connection with the threat, repeatedly making any form of communication with that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship, regardless of whether a conversation ensues.
- Repeatedly following, approaching, contacting, placing under surveillance, or making any form of communication with another person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship in a manner that would cause a reasonable person to suffer serious emotional distress and does cause that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship to suffer serious emotional distress. Section 18-3-602, C.R.S.

“Supportive Measures” are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to educational and employment programs and/or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the educational/employment environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

CCCS will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of CCCS to provide the supportive measures. The Title IX/EO Coordinator is responsible for coordinating the effective implementation of supportive measures.