

## COLORADO COMMUNITY COLLEGE SYSTEM

### SYSTEM PROCEDURE

#### Civil Rights and Sexual Misconduct Resolution Process

SP 19-60a

APPROVED: August 12, 2020  
EFFECTIVE: August 12, 2020  
REVISED: September 8, 2021  
UPDATED: November 12, 2021  
REVISED: January 24, 2022  
RENUMBERED: April 13, 2022  
REVISED: August 9, 2023  
REVISED: August 1, 2024

APPENDIX A: August 1, 2024  
APPENDIX B: August 1, 2024

REFERENCE(S): Board Policy (BP) 19-60, Prohibition of Discrimination, Harassment, or Retaliation

APPROVED:

          / Joe Garcia /  
Joseph A. Garcia, Chancellor

#### Application

This procedure applies to the Colorado Community College System, including its Colleges (CCCS or System).

Allegations that an individual has engaged in any discriminatory, harassing, and/or retaliatory behavior, including sexual misconduct, after the effective date of this procedure will be resolved under this procedure.

#### Basis

Board Policy (BP) 19-60 provides that individuals affiliated with CCCS shall not discriminate or harass on the basis of sex, gender, race, color, age, creed, national or ethnic origin, ancestry, physical or mental disability, familial or marital status, veteran or military status, pregnancy status or related conditions, religion, genetic information, sexual orientation, sex characteristics, sex stereotypes, gender identity, or gender expression, or any other protected class or category under applicable local, state, or federal law (also known as “civil rights laws”), in connection with employment practices

or educational programs and activities (including in admissions). BP 19-60 further provides that individuals affiliated with CCCS shall not retaliate against any person who opposes discrimination, harassment, or retaliation, or participates in any complaint or investigation process.

### Definitions

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

“Harassment”: A form of discrimination that involves 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. Factors to consider include the degree to which the conduct affected the Complainant’s ability to access the education program or activity; parties’ ages; roles within the education program or activity; previous interactions; and other factors about each party that may be relevant to evaluating the effects of the alleged unwelcome conduct. With respect to harassment based upon sex, types of harassment also include sexual assault (e.g., rape, fondling, incest, statutory rape), dating violence, domestic violence, and stalking.

“Retaliation”: 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 also includes any act 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 Misconduct”: Any discrimination, harassment, or retaliation based upon sex, including sex harassment, sexual assault (e.g., rape, fondling, incest, statutory rape), domestic violence, dating violence, and stalking.

For a complete list of definitions applicable to this procedure, refer to Appendix A.

### Procedure

#### *Filing a Complaint:*

Any person who believes they have been subjected to a civil rights violation should follow this procedure to report their concerns. CCCS will review any complaint brought to the attention of the Title IX/EO Coordinator that is made under this procedure. If a complaint involves parties who are employed at or associated with different Colleges or the System Office, the Title IX/EO Coordinator in receipt of the complaint shall coordinate with applicable Title IX/EO Coordinators at other locations to carry out these procedures.

All complaints shall be made as promptly as possible after the occurrence, so that CCCS can more effectively address the reported concerns. A delay in reporting may result in the loss of relevant evidence and witness testimony and may affect the ability of CCCS to investigate the allegations. The complaint should describe the alleged incident, which may include when and where it occurred, the parties involved, and the desired remedy sought. Any supporting documentation and evidence may be referenced within the body of the complaint.

The System Office and each College must include a clearly visible link on its website for filing civil rights complaints, and publish the name, title, address, telephone number, and email address of the Title IX/EO Coordinator(s). Complaints may also be submitted directly to the Title IX/EO Coordinator verbally or in writing. Complainants may be asked to reduce verbal complaints to writing or confirm the content of their complaint in writing before proceeding through the resolution process. The System Office and each College must also annually distribute through electronic or other means of communication the institution's nondiscrimination policy, which includes the sexual misconduct policy and procedure, and shall make available educational programs to all incoming students and newly employed faculty and staff.

*Confidentiality:*

CCCS employees, depending on their roles, have varying reporting responsibilities and may not be able to maintain confidentiality of information reported to them. Confidential employees are limited to those individuals whose communications are considered privileged and confidential under federal or state law and who are employed by CCCS in that capacity. Information regarding potential civil rights violations may only be considered confidential if it is reported to a CCCS confidential employee who is functioning within the scope of that role. Any person who reports concerns of civil rights violations should not assume that confidentiality or anonymity can be protected in connection with making a report. Confidential employees must explain their confidential status to any person who informs them of a potential civil rights violation and provide contact information for the Title IX/EO Coordinator.

At individual Colleges, some confidential resources may be available, such as mental health counselors, either on or off campus; campus health service providers; off-campus rape crisis resources; legal professionals; and/or members of the clergy. Except in rare circumstances, such as the existence of an immediate threat of harm, these individuals can offer options and advice without any obligation to report internally or externally unless the Complainant has requested information be shared. Other outside confidential resources are available, and the Title IX/EO Coordinator can assist in connecting an individual to these resources.

Any person who reports concerns of civil rights violations should also be aware that CCCS must issue immediate emergency notifications and/or 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. CCCS will make every effort to ensure

that a Complainant's name and other identifying information is not disclosed, while still providing adequate information for community members to make safety decisions in light of the danger.

Participants in any proceeding outlined in this procedure are prohibited from disclosing information and evidence obtained solely through the proceeding without authorization.

*Employee Reporting Obligations:*

CCCS employees (including student employees), unless deemed a confidential resource by law, have an ethical obligation to promptly report any incidents they are aware of concerning civil rights violations. Reports should be made within 24 hours, unless there is reasonable justification for a delay. Employees unsure of the scope of this requirement may direct their questions to the Title IX/EO Coordinator. Failure to report will be considered a violation of BP 3-70, Ethics, and may result in discipline, up to and including termination. All other individuals affiliated with CCCS are strongly encouraged to report civil rights violations.

*Preliminary Steps and Timeline:*

Upon receipt of a complaint, the Title IX/EO Coordinator will review the complaint to determine:

- Whether the Complainant is participating or attempting to participate in a CCCS program or activity;
- Whether there is an identifiable Respondent;
- Whether the Respondent is participating in CCCS educational programs or activities, or is employed by CCCS;
- Whether there is jurisdiction over the alleged conduct; and
- Whether the complaint alleges sufficient information, if proven, to support that a civil rights violation has occurred (reasonable cause).

If the Title IX/EO Coordinator is unable to evaluate these factors in reviewing the complaint alone, the Coordinator may, at their discretion, reach out to the Complainant or others, as relevant, for clarification and/or additional information.

This preliminary review process will typically be completed within 7-14 days of receiving the information necessary to evaluate the complaint.

If, after reviewing the above factors, the Title IX/EO Coordinator determines not to proceed with the complaint, the Title IX/EO Coordinator will dismiss the complaint and inform the Complainant of this decision and discuss other options for addressing the reported concerns. Additionally, the Title IX/EO Coordinator may dismiss the formal complaint if the Complainant requests such dismissal in writing, or if one or more of the above factors is not met at any time before a final determination. If the Respondent has been notified of the complaint, the Title IX/EO Coordinator will also inform them of the dismissal. Dismissal of a complaint is subject to the appeal procedures outlined herein.

If, after reviewing the above factors, the Title IX/EO Coordinator determines to proceed with the complaint and the Complainant wishes to proceed, the Title IX/EO Coordinator will initiate an informal resolution or a formal investigation.

If the Complainant does not wish to proceed, the Title IX/EO Coordinator will give consideration to the Complainant's preference, but reserves the right, when necessary to protect the CCCS community, to initiate an informal resolution or formal investigation of the complaint. The Title IX/EO Coordinator also reserves the right to initiate an investigation and resolve a complaint without a participating or identifiable Complainant. The Title IX/EO Coordinator may consider a number of factors when determining whether to initiate an informal resolution or formal investigation without the Complainant's participation and/or without an identifiable Complainant.

These factors may include, but are not limited to, the following:

- Complainant's request not to proceed;
- Complainant's reasonable safety concerns;
- Seriousness of the alleged conduct;
- Risk that the Respondent will similarly harm others;
- Age and relationship of the parties, including whether the Respondent is an employee;
- Previous complaints or allegations involving similar conduct (pattern of behavior);
- Whether multiple Complainants were involved;
- Availability of evidence;
- Whether the conduct was facilitated by incapacitation;
- Whether a weapon or violence was used;
- Whether the Complainant is a minor and/or at-risk;
- Whether the conduct was predatory in nature;
- Whether conduct can be addressed without a formal investigation; and/or
- Any other information deemed relevant by the Title IX/EO Coordinator.

If, after considering these factors, the Coordinator initiates a complaint, the Coordinator will notify the Complainant in advance and appropriately address reasonable concerns about safety, including offering supportive measures.

The informal resolution and formal investigation processes are designed to address the reported concerns, end the inappropriate behavior, and prevent its reoccurrence. This may include providing a fair and reliable determination about whether policies or procedures have been violated.

CCCS shall make every effort to complete the resolution process within approximately 90 days from the date the complaint is filed. If CCCS cannot resolve the complaint within this timeline, the Title IX/EO Coordinator may extend the timeline, for good cause, to properly resolve the complaint. Written notice will be provided to the parties regarding the extension and the reason for delay.

*Interim Actions:*

The Title IX/EO Coordinator, in consultation with appropriate administrative personnel, may implement interim actions, including supportive measures, intended to protect the safety and security of the campus community, address the effects of the reported behavior, and prevent further violations, while the complaint is under review or investigation. These remedies may include, but are not limited to, placing an employee on administrative leave, interim actions outlined in the Student Behavioral Expectations and Responsibilities Resolution procedure (SP 4-30a), campus bans or emergency removals, referral to counseling and health services or to the Colorado State Employee Assistance Program (CSEAP), education to the community, altering housing situations, altering work arrangements, providing campus escorts, implementing contact limitations between the parties (e.g., no contact orders), offering adjustments to academic deadlines or course schedules, and/or suspending privileges such as attendance at College activities or participation in College-sponsored organizations. Any campus ban or emergency removal will be implemented only after a determination that the person poses an imminent and serious threat to the health or safety of another arising from the allegations of discrimination.

In all cases in which an interim action is imposed against a party, the party will be given the opportunity to meet with the Title IX/EO Coordinator, or a designee if the Coordinator was the individual who implemented the action in question, prior to such action being imposed, or as soon thereafter as reasonably possible, to show cause why the interim action should not be implemented. Additionally, a party may have an opportunity to challenge or request modification to an interim action if circumstances change materially.

The Title IX/EO Coordinator or designee, if applicable, shall have sole discretion to implement or stay an interim action, and to determine its conditions and duration. Violation of an interim action may be grounds for disciplinary action, up to and including expulsion, termination, a "Cease Communications" directive, or issuance of a "No Trespass" order, also known as a *persona non grata*.

Following the completion of the matter, interim actions may be ended, continued, or made permanent as deemed necessary.

*Rights of Involved Parties:*

Throughout the civil rights and sexual misconduct resolution process, Complainants and Respondents shall be entitled to the following:

- To be treated equitably and with respect by CCCS employees.
- To take advantage of supportive measures and other resources, such as counseling, psychological services, and health services.
- To experience a safe educational, living, and work environment.
- To have an advisor of their choice present at any meeting.
- To have access to the Title IX/EO Coordinator, investigator(s), decision-maker(s) for Title IX matters, and/or other individuals assisting with the resolution process who do not have a conflict of interest or bias for or against any party.

- To receive amnesty for minor student misconduct (such as alcohol or drug violations) that is ancillary to the incident.
- To be free from retaliation.
- To be informed of the outcome/resolution of the complaint, and the sanctions and rationale for the outcome, where permissible.
- To have assistance in contacting law enforcement, if desired.
- To request housing, employment, and/or educational modifications, as deemed appropriate and reasonable.
- To request no further contact with the opposite party, as deemed appropriate, allowable, and reasonable.
- A presumption that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility has been made at the conclusion of the resolution process.

*Informal Resolution:*

The Title IX/EO Coordinator, upon agreement of the parties, may determine that an informal resolution is appropriate to resolve the reported concerns. The Title IX/EO Coordinator, or designee, will facilitate the informal resolution process. The primary focus during an informal resolution remains the welfare of the parties and the safety of the CCCS community, but it does not involve a written investigation report or an opportunity to appeal. An informal resolution may include, but is not limited to:

- The provision of interim or long-term remedial measures;
- Referral to other resolution processes;
- Training or educational programming for the parties;
- The Title IX/EO Coordinator or a designee serving as a facilitator to discuss the reported concerns with the Complainant and Respondent (either separately or together), and to identify possible resolutions and/or appropriate future conduct; and/or
- Referral to a disciplinary authority to further address the reported behavior, as deemed appropriate.

Notice of the allegations and specific informal resolution process will be provided to all parties.

At any time during the informal resolution process, the Title IX/EO Coordinator may elect to initiate a formal investigation as deemed appropriate to resolve the matter. The parties can elect to cease the informal resolution process at any time before it concludes and proceed with a formal investigation.

*Formal Investigation:*

If a formal investigation is initiated, the Title IX/EO Coordinator shall provide written notice (Notice of Investigation) to the Complainant and Respondent notifying them of the investigation. The Title IX/EO Coordinator will assign one or more impartial investigators to conduct an investigation into the complaint. The investigator may be the Title IX/EO Coordinator. The investigation will include an objective evaluation of all relevant evidence, both inculpatory (incriminating or tending to show responsibility for a violation)

and exculpatory (exonerating or tending to negate responsibility for a violation). The investigator(s) may request an interview with the Complainant, the Respondent, and any witnesses deemed relevant by the investigator. The parties will be provided with sufficient details of the allegations (such as identity of parties, nature of the conduct, and date/location of the incident, if known). All parties and other witnesses or participants in the investigation process will be provided written notice of the date, time, location, participants, and purpose of any interview or meeting with sufficient time to prepare to participate.

Throughout the investigation, all questions will go through the assigned investigator(s), including questions about credibility of parties and witnesses. The Complainant and Respondent may offer any documentation, witnesses, or other materials in support of their position as it relates to the complaint. There will be a presumption that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility has been made at the conclusion of the resolution process. Any credibility determinations made by investigators will not be based upon a person's status as a Complainant, Respondent, or witness. If a party or witness does not respond to questions related to their credibility, the investigator may choose to place less or no weight on their statements.

The Complainant and the Respondent have the opportunity to be advised and accompanied by an advisor of their choice, at their expense, at any stage of the process. An advisor may consult and advise their advisee but may not speak on behalf of their advisee. These procedures are entirely administrative in nature and are not considered legal proceedings. The investigator may end a meeting or remove or dismiss an advisor who becomes disruptive or who does not abide by the restrictions on their participation as explained above.

No unauthorized recording will be allowed, and all parties must request permission to record in advance. CCCS, at its discretion, may grant authorization for recording of an interview, and in that case, CCCS will also record to ensure there is an accurate record.

Throughout the formal investigation process, the Complainant and Respondent will receive regular written updates on the status of the investigation.

The formal investigation process typically takes 30-60 days.

*Preliminary Investigation Report:*

Following the fact gathering stage of the formal investigation, the investigator(s) shall issue a Preliminary Investigation Report to the Complainant and Respondent (and their advisors, if applicable) for review. The Preliminary Investigation Report will include access to all relevant and not otherwise impermissible evidence as gathered by the investigators. The Complainant and the Respondent will have five (5) calendar days to review and respond to the Preliminary Investigation Report with any changes, clarifications, or questions.



If a matter involves sex-based harassment with a student as a party, special procedures shall apply. For all other civil rights cases, the investigator shall review the investigation file and make a determination as to whether or not, based on a preponderance of the evidence, the alleged behavior took place and whether that behavior constitutes a civil rights violation. In reaching this determination, the investigator must consider all relevant evidence, except for any privileged information (unless waived) or treatment records (unless specific, written consent is obtained). Evidence of the Complainant's prior sexual predisposition or behavior is not relevant, except to prove that someone other than the Respondent committed the alleged conduct or to prove consent concerning prior specific acts between the parties. The investigator shall issue a Final Investigation Report.

*Special Procedures for Sex-Based Harassment Involving a Student Party:*

Upon issuance of the preliminary investigation report, the parties will be given an opportunity to submit questions to the investigator to be asked to the parties and witnesses. The investigator will determine whether proposed questions are relevant and not otherwise impermissible. The investigator must explain any decision to exclude a question and provide the party with an opportunity to clarify or revise a question that is initially deemed impermissible because it is unclear or harassing.

Questions deemed relevant and not otherwise impermissible by the investigator must be asked during follow up meetings, along with any additional questions from the investigator. The follow up meetings will be recorded or transcribed, and the recording or transcription will be provided to the parties. The parties will have five (5) calendar days to review and submit additional follow up questions to the investigator. If additional relevant and not otherwise impermissible questions are submitted, the investigator will conduct additional follow up meetings to ask the questions, and record or transcribe the meetings and make them available to the parties. The investigator has the discretion to conduct additional meetings, as necessary, or proceed to the determination process.

The follow up questioning stage of the process is usually completed within 20-30 days.

The Title IX/EO Coordinator will assemble a panel, including the investigator, to review the investigation file and make a determination as to whether or not, based on a preponderance of the evidence, the alleged behavior took place and whether that behavior constitutes sex-based harassment. In reaching this determination, the panel must consider all relevant evidence, except for any privileged information (unless waived) or treatment records (unless specific, written consent is obtained). Evidence of the Complainant's prior sexual predisposition or behavior is not relevant, except to prove that someone other than the Respondent committed the alleged conduct or to prove consent concerning prior specific acts between the parties. The panel has the discretion to ask any additional questions of parties and witnesses, including questions regarding credibility. The panel shall issue a Final Investigation Report, typically within 14 days of the determination.

*Final Investigation Report:*

The Final Investigation Report in all civil rights cases shall include a description of the allegations, information about the policies and procedures used to evaluate the allegations, evaluation of the relevant and permissible evidence, findings of fact supporting the determination, conclusions regarding violation of applicable policies with supporting rationale, any disciplinary steps or remedial measures imposed, and the parties' appeal rights.

*Notice of Findings:*

Once a Final Investigation Report is received, the Title IX/EO Coordinator shall provide written notice (Notice of Findings) simultaneously to the Complainant and Respondent (and their advisors, if applicable) notifying them of the findings. A copy of the Final Investigation Report shall be attached to the Notice of Findings. The Complainant and Respondent shall be advised of their right to appeal, subject to the grounds below, by filing a written appeal with the Title IX/EO Coordinator within five (5) calendar days of service of the decision.

*Appeals:*

In the event of an appeal, the Title IX/EO Coordinator shall perform an initial review to determine if the appeal meets the limited grounds listed below and is timely (filed within five (5) calendar days, as noted above). If the appeal is found to meet these criteria, the Title IX/EO Coordinator shall forward the appeal to a designated appellate officer, who shall give written notice to the opposing party and provide a suitable time frame for the opposing party to submit a written response to the appeal. The appeal and any responses shall be reviewed by the appellate officer. The party requesting an appeal must show error, as the original finding is presumed to have been decided reasonably and appropriately.

The only grounds for appeal are as follows:

1. A procedural irregularity occurred that would change the outcome. The written appeal shall specify the procedural error and how it impacted the outcome of the decision.
2. The Title IX/EO Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against a party that would change the outcome. The written appeal shall specify the conflict or bias and how it impacted the outcome of the decision.
3. New evidence became available that would change the outcome and that was not reasonably available at the time the decision was made. Any new evidence and its impact must be included in the written appeal.

If the appellate officer determines a procedural error occurred that significantly impacted the outcome of the decision or there was a conflict of interest or bias that would change the outcome of the decision, the appellate officer shall return the complaint to the Title IX/EO Coordinator with instructions to convene a new investigation, or the appellate officer shall otherwise cure the procedural error, conflict of interest, or bias.

If the appellate officer determines there is new evidence that substantially impacts the original findings, the appellate officer shall conduct or request appropriate additional steps (such as requesting additional investigation by the investigators) and/or modify the findings accordingly.

Written notice of the outcome of the appeal and rationale shall be provided simultaneously to the parties.

The appeal process typically takes 14-21 days.

*Sanctions:*

Once the appeal process has been exhausted, if the Respondent is found not in violation of policies or procedures outlined herein, the complaint shall be closed with no further disciplinary action. If additional concerns, outside the scope of this procedure, are identified during the course of the investigation, the findings may be shared with appropriate administrative personnel to further address, as deemed appropriate.

If the Respondent is found in violation of policies or procedures outlined herein, the findings shall be provided to the disciplinary authority to proceed in accordance with applicable policies:

- For faculty, disciplinary action will be in compliance with BP 3-20, Due Process for Faculty: <https://cccs.edu/about/governance/policies-procedures/bp-3-20-due-process-for-faculty/>.
- For classified employees, disciplinary action will be taken pursuant to the applicable State Personnel Rules and Regulations: <https://www.colorado.gov/spb>.
- For students, disciplinary action will be taken pursuant to BP 4-30 and SP 4-30a, Student Behavioral Expectations and Responsibilities Resolution: <https://cccs.edu/about/governance/policies-procedures/sp-4-30a-student-behavioral-expectations-and-responsibilities-resolution-procedure/>.
- Instructors and Administrative, Professional, Technical (APT) employees are at-will under BP 3-10, Administration of Personnel, and may not be subject to additional procedures when issuing sanctions: <https://cccs.edu/about/governance/policies-procedures/bp-3-10-administration-of-personnel/>.

Disciplinary authorities may consider a number of factors when determining a sanction. These factors may include, but are not limited to, the following:

- The nature, severity of, and circumstances surrounding the violation;
- An individual's disciplinary history;
- Previous complaints or allegations involving similar conduct; and/or
- Any other information deemed relevant by the disciplinary authority.

The following sanctions may be imposed:

- For students: warning, probation, fines, restitution, denial of privileges, assignment to perform services for the benefit of the CCCS community, re-assignment to another class section (including the option for an on-line section), suspension, expulsion, a “Cease Communications” directive, or a “No Trespass” directive.
- For CCCS employees: warning, corrective action, probation, restitution, denial of privileges, suspension, demotion, reduction of pay, termination of employment, a “Cease Communications” directive, or a “No Trespass” directive.
- For authorized volunteers, guests, or visitors: warning, probation, denial of privileges, removal from CCCS property, a “Cease Communications” directive, or a “No Trespass” directive.

In addition to sanctions, other action may be taken as deemed appropriate to bring an end to the violation, to prevent future reoccurrence, and to remedy the effects of the violation.

*Student Privacy:*

The outcome of a CCCS investigation is an educational record of a student Respondent and is subject to privacy protections under the federal Family Educational Rights and Privacy Act (FERPA). However, CCCS observes the legal requirements to disclose the records as follows:

- Complainants in non-consensual sexual contact/intercourse, sexual exploitation, sexual harassment, stalking, and/or relationship violence incidents have an absolute right to be informed in writing of the outcome, essential findings, and sanctions without condition or limitation.
- CCCS may release publicly the name, nature of the violation, and the sanction imposed for any individual who is found to have committed a “crime of violence,” including: arson, burglary, robbery, criminal homicide, sex offenses, assault, destruction/damage/vandalism of property, or kidnapping/abduction. CCCS will release this information to the Complainant in any of these offenses regardless of the outcome.
- CCCS reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, and/or change in student status or conduct situation, particularly alcohol and other drug violations. CCCS may also notify parents/guardians of non-dependent students who are under the age of 21, of alcohol and/or drug policy violations. Where a student is non-dependent, CCCS will contact the appropriate next of kin to inform them of situations in which there is a significant and articulable health and/or safety risk. CCCS also reserves the right to designate which CCCS officials have a need to know about individual conduct complaints pursuant to FERPA.

*Outside Reporting:*

In addition to reporting to CCCS, any person has the right to file a police report. Complainants requiring assistance with this should contact the Title IX/EO Coordinator.

Student Complainants also have the right to make inquiries and/or file a complaint with:

Office for Civil Rights (OCR)  
U.S. Department of Education  
Cesar E. Chavez Memorial Building  
1244 Speer Boulevard, Suite 310  
Denver, CO 80204-3582  
Telephone: (303) 844-5695  
Facsimile: (303) 844-4303  
Email: [OCR.Denver@ed.gov](mailto:OCR.Denver@ed.gov)  
Web: <http://www.ed.gov/ocr>

Employee Complainants also have the right to make inquiries and/or file a complaint with:

Colorado Department of Regulatory Agencies (DORA)  
Colorado Civil Rights Division (CCRD)  
1560 Broadway, Suite 825  
Denver, CO 80202  
Telephone: (303) 894-2997  
Facsimile: (303) 894-7570  
Email: [dora\\_CCRD@state.co.us](mailto:dora_CCRD@state.co.us)  
Web: <https://www.colorado.gov/pacific/dora/civil-rights>

Or

United States Equal Employment Opportunity Commission (EEOC)  
950 17th Street, Suite 300  
Denver, CO 80202  
Telephone: (800) 669-4000  
Facsimile: (303) 866-1085  
Web: <https://www.eeoc.gov/field-office/denver/location>

#### Recordkeeping

Colleges must keep a repository of all written or oral complaints for seven (7) years including date, identity of the Complainant (or anonymous), identity of Respondent, and substance of the complaint. This repository is not a public record.

Other records related to civil rights complaints (including Sexual Misconduct) must be maintained for a period of seven (7) years. Such records may include: informal resolution outcomes, preliminary investigation reports, final investigation reports, determination reports, recordings or transcripts, notices of findings, appeals and appeal outcomes, and discipline or remedies imposed.

#### Revising this Procedure

CCCS reserves the right to change any provision or requirement of this procedure at any time and the change shall become effective immediately.

## APPENDIX A

### Definitions

“ADA, Title VI and Title VII Coordinator (EO Coordinator), and Title IX Coordinator” is/are the employee(s) designated at the System Office and each College to oversee all civil rights, including sexual misconduct, complaints. A “Deputy” EO and/or Title IX Coordinator may also be designated to act on behalf of the Coordinator, but the Coordinator retains ultimate oversight over the responsibilities. 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 alleged to have been subjected to conduct that could constitute unlawful civil rights discrimination or retaliation. For purposes of this procedure, a Complainant can be a CCCS employee, student, or other person who is participating or attempting to participate in an activity over which CCCS has jurisdiction.

“Complaint” means an oral or written request that objectively can be understood as a request for the System Office or College to investigate and make a determination about alleged prohibited conduct.

“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. Consent cannot be given if force, incapacitation, or coercion are used to engage in sexual activity.

“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 an employee’s work performance, denies or limits any person’s ability to participate in or benefit from an education program or activity, or creates an intimidating, hostile, or offensive working or educational environment. Factors to consider include the degree to which the conduct affected the Complainant’s ability to access the program or activity; the number of individuals engaged in the conduct; type, frequency, duration, and location of the conduct; the context in which the conduct occurred; other sex-based harassment in the education program or activity; the parties’ ages; previous interactions between the parties; whether the conduct is

threatening; the parties' roles within the System/College and the 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 or site, 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.

"Pregnancy or Related Conditions" means pregnancy, childbirth, termination of pregnancy, or lactation; medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

"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.

"Relevant" means related to the allegations that are under investigation. Evidence is relevant when it may aid a decision-maker in determining whether the alleged civil rights violation occurred.

"Respondent" is a person whose alleged conduct is the subject of a complaint. For purposes of this procedure, a Respondent may be a CCCS employee, student, or other person who engages in conduct over which CCCS has jurisdiction.

"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 also includes any act 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 Investigation’s 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 the 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. (C.R.S. §§ 18-3-402, 404).

“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. (C.R.S. § 18-3-602).

“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. Following the completion of the matter, supportive measures may be ended, continued, or made permanent as deemed necessary.

## APPENDIX B

### Compliance Requirements

#### Notice and Publication Requirements

Colleges must publish the following information on their website and in any employee or student handbooks/catalogs:

- Prohibition of Discrimination, Harassment, or Retaliation policy and Civil Rights and Sexual Misconduct Resolution Process procedure (or the College-specific nondiscrimination policy and complaint procedure).
- Title IX/EO Coordinator contact information including name, job title, office address, email, and phone number.

Colleges must also publish the following information on their website:

- A local, state, or national 24-hour hotline that provides information on sexual misconduct.
- Information about obtaining a Sexual Assault Nurse Examiner (SANE) forensic exam after a sexual assault, including local programs where the Colleges have MOUs for obtaining SANE exams, how to schedule an exam and arrange transportation, and who the individual can contact for more information. This publication must include a statement that says individuals can obtain a SANE exam without being required to participate in a law enforcement investigation or criminal justice response.
- All training materials used to train employees who have a role in Title IX or sexual misconduct complaint resolutions.

In addition, at least annually, Colleges must disseminate notice of their policy and procedure, and Title IX/EO Coordinator contact information, targeting current students and employees (e.g., by sending an email containing the information), and prospective students and employees (e.g., by including it with the admission or employment application).

For CTE publications, the notice of nondiscrimination must include: “[COLLEGE] will take appropriate steps to ensure that the lack of English language skills will not be a barrier to admission and participation in vocational education programs.”

For Colleges operating in a service area that contains a community of national origin minority persons with limited English language skills, public notification materials must be disseminated to that community in its language. (34 CFR § 100 Appx. B (IV-VI)).

#### Training Requirements

Colleges must ensure that employees receive regular training related to their role in civil rights or sexual misconduct matters.

All employees working with Title IX or sex-based harassment matters (including Title IX/EO Coordinators, investigators, hearing officers, and informal resolution facilitators) must receive training on the following topics:

- The Prohibition of Discrimination, Harassment, or Retaliation policy and Civil Rights and Sexual Misconduct Resolution procedure (or the College-specific nondiscrimination policy and complaint procedure);
- Definition of sexual harassment;
- The scope of the College's program or activity where the conduct may occur;
- How to conduct a preliminary review, investigation, appeal, or informal resolution, as applicable; and
- How to serve impartially, including avoiding prejudgment of facts, conflicts of interest, and bias.

Additionally, Colleges must offer training to promote awareness of and prevention of sexual misconduct and training on the Prohibition of Discrimination, Harassment, or Retaliation policy and Civil Rights and Sexual Misconduct Resolution procedure (or the College-specific nondiscrimination policy and complaint procedure). This training must be offered annually to all incoming students and new employees and to all students and employees anytime there is a substantial update to the policy or procedure.

#### Reporting Requirements

On or before October 1st every year, CCCS must provide to the Colorado Department of Higher Education:

- A copy of the Prohibition of Discrimination, Harassment, or Retaliation policy and Civil Rights and Sexual Misconduct Resolution procedure;
- A Statement as to how the System/Colleges are providing information to students on how to receive support regarding sexual misconduct and how it is promoting the information;
- A description of the sexual misconduct training provided by CCCS; and
- A statement as to any changes in the manner in which CCCS provides or promotes the information.