

CCS Administrative Procedure

2.30.01 - D Title IX Procedures for Employees

Implementing Board Policy [2.30.01](#)

Contact: Title IX Coordinator/Chief Compliance Officer, 279.6012

1.0 Purpose

In order to provide appropriate standards of response to incidents of Sexual Harassment, Community Colleges of Spokane (CCS) recognizes its duty to ensure a safe atmosphere in its educational and work environment. To this end, CCS has a responsibility to investigate, resolve, implement corrective measures, and monitor the educational environment and facilities to stop, remediate, and prevent discrimination on the basis of sex, as required by Title IX of the Educational Amendments of 1972, Title VII of the Civil Rights Act of 1964, the Violence Against Women Reauthorization Act, and Washington State's Law Against Discrimination, and their implementing regulations. See 34 C.F.R. § 106.

Thus, CCS has adopted the following Title IX procedure for receiving and investigating Sexual Harassment allegations arising during education programs, activities and employment. Harassment, sex discrimination, and sexual violence impairs individual's participation and benefit of CCS programs, activities and CCS employment. Any individual found in violation of CCS's Title IX procedure is subject to disciplinary action up to and including dismissal from CCS educational programs and activities and/or termination of employment.

2.0 Limitations and Requirements

- 2.1** This procedure is restricted to allegations of sex discrimination as defined in Title IX of the Education Amendments of 1972, relevant sections of the Violence Against Women Reauthorization Act, Title VII of the Civil Rights Act of 1964, and Washington law. Nothing in this procedure limits or otherwise restricts CCS's ability to investigate and pursue discipline based on alleged violations of other federal, state, and local laws; their implementing regulations; and other CCS policies/procedures prohibiting gender discrimination through processes set forth in CCS's employment contracts, policies/procedures, and collective bargaining agreements (CBA).
- 2.2** This procedure and CCS's administrative hearing practices and procedures under Chapter WAC 132Q-108 shall govern all disciplinary proceedings against a CCS employee, contractor, or volunteer Respondent alleged to have engaged in Sexual Harassment in violation of Title IX pursuant to regulations promulgated by the United States Department of Education. To the extent this procedure conflicts with WAC 132Q-108 and/or provisions set forth in employment contracts, collective bargaining agreements, and other CCS employment policies and procedures, this procedure will take precedence.
- 2.3** For sexual harassment complaints against students, please see CCS Administrative Procedure 3.30.01-B.
- 2.4** If Respondent is a tenured or probationary faculty member and the Employee Conduct Case Manager determines that the allegations in the investigation, if true, would warrant Respondent's dismissal from the College, the Employee Conduct Case Manager will refer the matter to the Tenure Dismissal Committee for a hearing pursuant to RCW 28B.50.863 and applicable procedures set forth in the faculty union CBA.
- 2.5** To the extent the Tenure Dismissal Committee procedures are inconsistent or conflict with this procedure this procedure will prevail. At the end of the hearing, the Tenure

Dismissal Committee will issue a recommendation consistent with the provisions set forth in Article 12 of the faculty Master Contract. The Complainant shall have the same right to appear and participate in the proceedings as the Respondent, including the right to present their position on the recommendation to the appropriate tenure dismissal Presiding Officer before final action is taken.

- 2.6** Please refer to Article 12 Section 6 of the CBA regarding the tenure dismissal process including advisor selection and the right to appeal.

3.0 Definitions

- 3.1** Actual Knowledge: means notice of Sexual Harassment or allegations of Sexual Harassment to CCS's Title IX Coordinator or any official of CCS who has authority to institute corrective measures on behalf of CCS.
- 3.2** Appeals Officer: is responsible for determining whether the grounds for appeal have merit, provides the rationale for this conclusion, and states whether the disciplinary sanctions and conditions imposed, if any, in the Initial Order are affirmed, vacated, or amended, and, if amended, sets forth the new disciplinary sanctions and conditions.
- 3.3** Complainant: means an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.
- 3.4** Consent: means knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity. Each Party has the responsibility to make certain that the other has consented before engaging in the activity. For Consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.
- 3.4.1** A person cannot Consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct.
- 3.4.2** Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.
- 3.5** Education Program or Activity: includes locations, events, or circumstances over which CCS exercised substantial control over both the Respondent and the context in which the alleged Sexual Harassment occurred. It includes conduct during the course of employment and conduct that occurs in any building owned or controlled by a student organization officially recognized by CCS.
- 3.6** Employee Conduct Case Manager: is responsible for reviewing the investigation report to determine whether it contains sufficient factual findings, which, if proven to be true, would be sufficient to find that the Respondent engaged in Sexual Harassment that is prohibited under this procedure. This individual is also responsible for presenting CCS's case at the hearing.
- 3.7** Exculpatory Evidence: Evidence that is favorable to or tends to absolve the Respondent. This type of evidence may justify or excuse the Respondent's actions, or show the Respondent is not guilty at all.

- 3.8** Formal Complaint: means a written and signed complaint submitted by the Complainant or a written and signed complaint submitted by the Title IX Coordinator or their designee, alleging Sexual Harassment against a Respondent and requesting that CCS conduct an investigation.
- 3.9** Grievance Procedure: is the process CCS uses to initiate, informally resolve, and/or investigate allegations that an employee, contractor or volunteer has violated Title IX provisions prohibiting Sexual Harassment.
- 3.10** Inculpatory Evidence: Evidence which incriminates the Respondent or proves their guilt. It is evidence that shows, or tends to show, a person's involvement in an act.
- 3.11** Preponderance of Evidence: is the evidentiary standard used in Title IX hearings by the hearing officer. They determine whether it is more likely than not, or a greater than 50% probability, that the accused individual committed a Title IX violation.
- 3.12** Respondent: means an individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.
- 3.13** Sexual Harassment: for purposes of this procedure, occurs when a Respondent engages in the following discriminatory conduct on the basis of sex:
- 3.13.1 Hostile Environment: Unwelcome conduct that a reasonable person would find to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to CCS's educational programs or activities or CCS employment.
- 3.13.2 Quid Pro Quo Harassment: A CCS employee, contractor, or volunteer conditioning the provision of an aid, benefit, or service of CCS on an individual's participation in unwelcome sexual conduct.
- 3.13.3 Sexual Assault: Sexual assault includes the following conduct:
- 3.13.3.1 Dating Violence: Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person (i) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (ii) where the existence of such a relationship shall be determined based on a consideration of the following factors:
- 3.13.3.1 The length of the relationship;
- 3.13.3.2 The type of relationship; and
- 3.13.3.3 The frequency of interaction between the persons involved in the relationship.
- 3.13.3.2 Domestic Violence: Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed 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, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the State of Washington, 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 the State of Washington, RCW 26.50.010.

- 3.13.3.3 Incest: Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of eighteen (18).
- 3.13.3.4 Nonconsensual Sexual Contact: Any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without Consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.
- 3.13.3.5 Nonconsensual Sexual Intercourse: Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without Consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.
- 3.13.3.6 Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (i) fear for their safety or the safety of others; or (ii) suffer substantial emotional distress.
- 3.13.3.7 Statutory Rape: Consensual intercourse between a person who is eighteen (18) years of age or older, and a person who is under the age of sixteen (16).
- 3.14** Supportive Measures: are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or Respondent regardless of whether the Complainant or the Title IX Coordinator or their designee has filed a Formal Complaint. Supportive Measures restore or preserve a Party's access to CCS's education programs and activities without unreasonably burdening the other Party, as determined through an interactive process between the Title IX Coordinator or their designee and the Parties. Supportive Measures include measures designed to protect the safety of all Parties and/or CCS's educational environment and/or to deter Sexual Harassment or retaliation. Supportive Measures may include, but are not limited to, (i) counseling and other medical assistance, (ii) extensions of deadlines or other course-related adjustments, (iii) modifications of work schedules (iv) alternative work assignment, (iv) administrative leaves of absence, (v) increased security or monitoring of certain areas of campus, and (vi) imposition of orders prohibiting the Parties from contacting one another in work situations. Determinations about whether to impose a one-way no contact order must be made on a case-by-case basis. If Supportive Measures are not provided, the Title IX Coordinator or their designee must document in writing why this was clearly reasonable under the circumstances.
- 3.15** Title IX Administrators: are the Title IX Coordinator or their designee, Title IX investigators, Employee Conduct Case Manager, Hearing Officer, and CCS-provided Advisors assigned to the Parties during Title IX proceedings.
- 3.16** Title IX Coordinator: is responsible for processing Title IX complaints and/or overseeing formal investigations and informal resolution processes under this procedure. Among other things, the Title IX Coordinator is responsible for:

- 3.16.1 Accepting and processing all Title IX reports, referrals, and Formal Complaints.
- 3.16.2 Executing and submitting a Formal Complaint when appropriate and necessary.
- 3.16.3 Handling requests for confidentiality.
- 3.16.4 Determining during the Grievance Process (i) whether a Formal Complaint should be dismissed either in whole or in part, and if so, (ii) providing notice to both Parties about why the dismissal was necessary or desirable, and (iii) referring the complaint to the Chief Administration Officer for proceedings outside the jurisdiction of Title IX.
- 3.16.5 Overseeing the maintenance of accurate records of all complaints, reports, and referrals, and retaining investigation files, complaints, reports, and referrals in compliance with the applicable records retention schedules or federal or state law, whichever is longer.
- 3.16.6 Assigning and overseeing investigations.
- 3.16.7 Engaging in an interactive process with both Parties to identify and provide Supportive Measures that ensure during the investigation and proceedings that the Parties have equitable access to education programs, activities, and/or employment and are protected from further discrimination or retaliation.
- 3.16.8 Upon completion of an investigation, issuing or overseeing the issuance of a final investigation report to the Parties and the Employee Conduct Case Manager in compliance with this procedure.
- 3.16.9 Recommending non-disciplinary corrective measures to stop, remediate, and/or prevent recurrence of discriminatory conduct to disciplinary authorities and other CCS administrators and supervisors.

4.0 Prohibited Conduct

- 4.1 Pursuant to RCW 28B.50.140(13) and Title IX of the Education Act Amendments of 1972, 20 U.S.C. §1681, CCS may impose disciplinary sanctions against an employee who commits, attempts to commit, or aids, abets, incites, encourages, or assists another person to commit, an act(s) of “Sexual Harassment.”
- 4.2 For purposes of this procedure, “Sexual Harassment” encompasses the following conduct:
 - 4.2.1 Quid Pro Quo Harassment. A CCS employee, contractor, or volunteer conditioning the provision of an aid, benefit, or service of CCS on an individual’s participation in unwelcome sexual conduct.
 - 4.2.2 Hostile Environment. Unwelcome conduct that a reasonable person would find to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to CCS’s educational programs or activities, or employment.
 - 4.2.3 Sexual Assault. Sexual Assault includes Nonconsensual Sexual Intercourse, Nonconsensual Sexual Contact, Incest, Statutory Rape, Domestic Violence, Dating Violence and Stalking. See section 3.0 for definitions of these terms.

5.0 Title IX Jurisdiction

- 5.1 This procedure applies only if the alleged misconduct:

- 5.1.1 Occurred in the United States;
- 5.1.2 Occurred during a CCS educational program or activity; and
- 5.1.3 Meets the definition of Sexual Harassment as that term is defined in this procedure.

- 5.2** Proceedings under this procedure must be dismissed if the Title IX Coordinator or Hearing Officer or their designee determines that one or all of the requirements of Section 5.1.1- 5.1.3 have not been met. Dismissal under this procedure does not prohibit CCS from pursuing disciplinary action against a Respondent based on allegations that the Respondent engaged in other misconduct prohibited by federal or state law or other CCS policies/procedures.
- 5.3** If the Title IX Coordinator determines after an initial inquiry that the facts in the Formal Complaint are not sufficient to support Title IX jurisdiction and/or pursuit of a Title IX violation, the Title IX Coordinator will issue a notice of dismissal in whole or part to both Parties explaining why some or all of the Title IX claims have been dismissed.
- 5.4** If the Employee Conduct Case Manager determines the facts in the investigation report are not sufficient to support Title IX jurisdiction and/or pursuit of a Title IX violation, the Employee Conduct Case Manager will issue a notice of dismissal in whole or part to both Parties explaining why some or all of the Title IX claims have been dismissed.

6.0 Grievance Procedure – Filing a Complaint

- 6.1** Any employee, volunteer, student, applicant, or visitor who believes that they have been the subject of Sexual Harassment by a CCS employee, volunteer or contractor should report the incident or incidents in writing to CCS's Title IX Coordinator identified below. If the complaint is against the Title IX Coordinator or their designee, the Complainant should report the matter to the Chancellor's Office for referral to an alternate designee.

**Title IX Coordinator/ADA
Compliance Officer**
Community Colleges of Spokane
2917 W. Whistalks Way, MS 3027
Spokane, WA 99224
Phone: 509.279.6012

Chancellor
Community Colleges of Spokane
501 N. Riverpoint Blvd, MS 1001
Spokane, WA 99202
Fax: 509.434.5025
Phone: 509.434.5006

7.0 Rights of Parties

- 7.1** The provisions of this procedure shall apply equally to all Parties.
- 7.2** CCS bears the burden of offering and presenting sufficient testimony and evidence to establish that the Respondent is responsible for a Title IX violation by a preponderance of the evidence.
- 7.3** The Respondent will be presumed not responsible until such time as the disciplinary process has been finally resolved.
- 7.4** During this process, the Complainant and the Respondent shall be represented by an Advisor. These Parties are entitled to an Advisor of their own choosing and the Advisor may be an attorney or, if the Respondent holds a represented position, a union representative. If a party does not choose an Advisor, then the Title IX Coordinator will appoint an Advisor of CCS's choosing on the Party's behalf at no expense to the Party.

- 7.5 Represented employees have a right to mandatory union representation during this process. Please refer to section 13 for more information.

8.0 Confidentiality

- 8.1 CCS will seek to protect the privacy of the Complainant to the fullest extent possible, consistent with the legal obligation to investigate, take appropriate remedial and/or disciplinary action, and comply with the federal and state law, as well as CCS policies and procedures. Although CCS will attempt to honor Complainants' requests for confidentiality, it cannot guarantee complete confidentiality. Determinations regarding how to handle requests for confidentiality will be made by the Title IX Coordinator or their designee. There are limits to disclosure of certain records concerning employees who are complainants of workplace sexual harassment or stalking as per chapter 42.56 RCW, the Public Records Act (PRA), at RCW 42.56.660 - RCW 42.56.675.

- 8.2 The Title IX Coordinator or their designee will inform and attempt to obtain consent from the Complainant before commencing an investigation of alleged Sexual Harassment. If a Complainant asks that their name not be revealed to the Respondent or that CCS not investigate the allegation, the Title IX Coordinator or their designee will inform the Complainant that maintaining confidentiality may limit CCS's ability to fully respond to the allegations and that retaliation by the Respondent and/or others is prohibited. If the Complainant still insists that their name not be disclosed or that CCS not investigate, the Title IX Coordinator or their designee will determine whether CCS can honor the request and at the same time maintain a safe and nondiscriminatory environment for all members of the CCS community, including the Complainant. Factors to be weighed during this determination may include, but are not limited to:

8.2.1 The seriousness of the alleged Sexual Harassment;

8.2.2 The age of the Complainant;

8.3.3 Whether the Sexual Harassment was perpetrated with a weapon;

8.3.4 Whether the Respondent has a history of committing acts of Sexual Harassment or violence or has been the subject of other Sexual Harassment or violence complaints or findings;

8.3.5 Whether the Respondent threatened to commit additional acts of Sexual Harassment or violence against the Complainant or others; and

8.3.6 Whether relevant evidence about the alleged incident can be obtained through other means (e.g., security cameras, other witnesses, physical evidence).

- 8.3 If CCS is unable to honor a Complainant's request for confidentiality, the Title IX Coordinator or their designee will notify the Complainant of the decision and ensure that Complainant's identity is disclosed only to the extent reasonably necessary to effectively conduct and complete the investigation in compliance with this Grievance Procedure.

- 8.4 If CCS decides not to investigate or take disciplinary action because of a request for confidentiality, the Title IX Coordinator or their designee will evaluate whether other measures are available to address the circumstances giving rise to the complaint and prevent their recurrence and implement such measures if reasonably feasible.

9.0 Complaint Resolution

- 9.1** The Title IX resolution processes are initiated when the Title IX Coordinator's Office receives a Formal Complaint alleging that a Respondent(s) sexually harassed a Complainant and requesting that CCS initiate an investigation. A Formal Complaint must be either written, signed and submitted by the Complainant or written and signed by the Title IX Coordinator or their designee on behalf of the Complainant. Formal Complaints submitted to the Title IX Coordinator or their designee may be resolved through either informal or formal resolution processes. CCS will not proceed with either resolution process without a Formal Complaint.
- 9.2** For purposes of this procedure, the Complainant must be participating in or attempting to participate in a CCS Education Program or Activity or employment at the time the Formal Complaint is filed.

9.2.1 Informal Resolution:

- 9.2.1.1 Under appropriate circumstances, and if the impacted and responding Parties agree, they may voluntarily pursue informal resolution during the investigation of a concern. Informal resolution is not appropriate when the allegations involve a mandatory reporting situation; an immediate threat to the health, safety or welfare of a member of the CCS community or in cases where an employee is alleged to have sexually harassed a student.
- 9.2.1.2 If an informal resolution is appropriate, the impacted Party and the responding Party may explore remedies or resolution through:
- 9.2.1.2.1 Guided conversations or communications conducted by the Title IX Coordinator or their designee / HRO representative or a mutually agreed upon third party;
 - 9.2.1.2.2 Structured resolution process conducted by a trained mediator; or
 - 9.2.1.2.3 Voluntarily agreed on alterations to either or both of the Parties' work or class schedules.
- 9.2.1.3 If the Parties agree to an informal resolution process, CCS will commence the process within ten (10) business days after the Parties agree to this option and conclude within thirty (30) business days of beginning that process; subject to reasonable delays and extensions for good cause shown. The informal process is voluntary. Either the impacted or responding Party may withdraw from the informal resolution process at any time, at which point the formal investigation process will resume.
- 9.2.1.4 If the impacted and responding Party voluntarily resolve a complaint, CCS will record the terms of the resolution in a written agreement signed by both Parties and provide written notice to both Parties that the complaint has been closed.

9.2.2 Formal Resolution:

Formal resolution means that the Complainant's allegations of Sexual Harassment will be subjected to a formal investigation by an impartial and unbiased investigator. The investigator will issue a report of the investigation findings. Upon completion of the investigation, the investigator will submit the final investigation report to the Employee Conduct Case Manager to determine whether disciplinary proceedings are warranted.

10.0 Investigation Notices

10.1 Upon receiving a Formal Complaint and determining that allegations comport with Title IX claims, CCS will provide the Parties with the following notices containing the following information:

10.1.1 Notice of formal and informal resolution processes. A description of CCS's grievance resolution procedures, including the informal resolution procedure.

10.1.1 The investigator will serve the Respondent and the Complainant with a Notice of Investigation in advance of the initial interview with the Respondent to allow the Respondent sufficient time to prepare a response to the allegations and to inform the Complainant that CCS has commenced an investigation. The investigation notice will:

10.1.2.1 Include the identities of the Parties (if known), a description of the conduct alleged constituting Title IX Sexual Harassment, and the time and location of the incident (if known).

10.1.2.2 Confirm that the Respondent is presumed not responsible for the alleged conduct and that CCS will not make a final determination of responsibility until after the grievance and disciplinary processes have been completed.

10.1.2.3 Inform both Parties that they are each entitled to have an Advisor of their own choosing, who may be an attorney.

10.1.2.4 Inform both Parties they have a right to review and inspect evidence.

10.1.2.5 Inform both Parties about employment policies that prohibit students and employees from knowingly submitting false information during the grievance and disciplinary processes.

10.1.3 Amended investigation notice. If during the course of the investigation, CCS decides to investigate Title IX Sexual Harassment allegations about the Complainant or Respondent that are not included in the investigation notice, CCS will issue an amended notice of investigation to both Parties that includes this additional information.

10.1.4 Interview and meeting notices. Before any interview or meeting with a Party about Title IX allegations, CCS shall provide the Party with a written notice identifying the date, time, location, participants, and purpose of the interview or meeting with sufficient time for the Party to prepare for the interview or meeting.

11.0 Principles for the Grievance Procedure

11.1 Respondent shall be presumed not responsible for the alleged conduct unless or until a determination of responsibility is reached after completion of the grievance and disciplinary processes.

11.2 Before imposing discipline, CCS is responsible for gathering and presenting evidence to a neutral third-party establishing responsibility for a Title IX violation by a preponderance of the evidence.

11.3 CCS shall treat both the Complainant and Respondent equitably by providing Complainant with remedies against Respondent who has been found responsible for Sexual Harassment through application of the institution's Title IX grievance and

applicable Title IX disciplinary procedures and by providing Respondent with Title IX procedural safeguards contained in this procedure.

- 11.4** The investigator shall base investigation results on all relevant evidence, including both Exculpatory and Inculpatory Evidence.
- 11.5** Formal and informal resolutions will be pursued within reasonably prompt timeframes with allowances for temporary delays and extensions for good cause shown. Investigations shall be concluded within a reasonable amount of time, normally ninety (90) business days unless there is good cause shown. Grounds for temporary delay include, but are not limited to, college breaks; inability to contact witnesses, Complainant or Respondent; or scheduling conflicts of necessary Parties including Title IX administrative personnel, witnesses, Complainant, Respondent, Advisors, and union representatives. Good cause supporting a request for an extension includes, but is not limited to, a Party, a Party's Advisor, or a witness being unavailable; concurrent law enforcement activity; and/or the need for language assistance or accommodation of disabilities. Both Parties will receive written notice of any temporary delay or extension for good cause with an explanation of why the action was necessary.
- 11.6** An employee found responsible for Sexual Harassment may receive discipline up to and including dismissal from employment. A description of possible disciplinary sanctions and conditions that may be imposed against employees can be found in Article 12 of the Master Contract, Article 29 of the CBA for classified staff and CCS Administrative Procedures 2.00.01-L and 2.30.01-A.
- 11.7** Both Parties may appeal the employee disciplinary decision to the Appeals Officer or their designee.
- 11.8** Consolidation of Formal Complaints
 - 11.8.1** When multiple Sexual Harassment allegations by or against different Parties arise out of the same facts or circumstances, CCS may consolidate the investigation of Formal Complaints, provided consolidation can be accomplished in compliance with confidentiality protections imposed by the Family Educational Records and Privacy Act (FERPA). This includes instances in which Complainant and Respondent have lodged Formal Complaints against one another or when allegations of Sexual Assault are lodged by a single Complainant against multiple Respondents, or when multiple Complainants lodge Sexual Assault complaints against single or multiple Respondents.
- 11.9** Emergency Removal
 - 11.9.1** Nothing in this procedure prohibits CCS from placing non-student employees, contractors, or volunteers on administrative leave pending final resolution of the allegations.
- 12.0** **Grievance Procedure – Investigation Process**
 - 12.1** During the investigation, the investigator:
 - 12.1.1** Will provide the Parties with equal opportunity to present relevant statements, and other evidence in the form of fact or expert witnesses and Inculpatory or Exculpatory Evidence.
 - 12.1.2** Will not restrict the ability of either Party to discuss the allegations under investigation or gather and present relevant evidence, except when a no contact

order has been imposed based on an individualized and fact specific determination that a Party poses a threat to the health, safety, or welfare of another Party and/or witnesses, or when contact with a Party and/or witness is prohibited by court order. A CCS-imposed no contact order shall be no broader than is necessary to protect the threatened Party or witness and must provide the impacted Party or their Advisor with alternative means of gathering and presenting relevant evidence from the protected witness and/or Party.

- 12.1.3 Will allow each Party to be accompanied by an Advisor of their choosing, who may be an attorney, to any grievance related meeting or interview. Advisors' roles during the investigation meetings or interviews will be limited to providing support and advice to the Party. Advisors will not represent or otherwise advocate on behalf of the Parties during the investigation process. An attorney representing a Party must enter a notice of appearance with the Title IX Coordinator or their designee and the investigator at least five (5) business days before the initial interview or meeting they plan to attend, so that CCS can secure its own legal representation, if necessary.
- 12.1.4 The investigator will provide both Parties and their respective Advisors with an equal opportunity to review the draft investigation report and to inspect and review any evidence obtained during the investigation that is directly related to the allegations raised in the Formal Complaint, including Inculpatory or Exculpatory Evidence, regardless of its source, as well as evidence upon which the investigator does not intend to rely in the final investigation report. After disclosure, each Party will receive ten (10) business days in which to submit a written response, which the investigator will consider prior to completion of the investigation report. If a Party fails to submit a written response within ten (10) business days, the Party will be deemed to have waived their right to submit comments and the investigator will finalize the report without this information.
- 12.1.5 The investigator will provide supplemental notice to the Respondent and Complainant and their Advisors for additional violations discovered during the investigation process.
- 12.1.6 The investigator will forward the final report to the Title IX Coordinator or their designee, who will distribute the report and evidence to the Parties, as well as the Employee Conduct Case Manager responsible for determining whether pursuing disciplinary action is warranted.

13.0 Grievance Procedure – Initiation of Discipline

13.1 Upon receiving the Title IX investigation report from the Title IX Coordinator or their designee, the Employee Conduct Case Manager will independently review the report to determine whether there are sufficient grounds to pursue a disciplinary action against the Respondent for engaging in prohibited conduct under Title IX.

13.2 If the Employee Conduct Case Manager determines that there are sufficient grounds to proceed under this procedure, the Employee Conduct Case Manager will initiate a Title IX proceeding by filing a written notice with the Hearing Officer or their designee and by serving the notice on the Respondent and the Complainant, and their respective Advisors. The notice must:

13.2.1 Set forth the basis for Title IX jurisdiction;

13.2.2 Identify the alleged Title IX violation(s);

- 13.2.3 Set forth the facts underlying the allegation(s);
- 13.2.4 Identify the range of possible sanctions that may be imposed if the Respondent is found responsible for the alleged violation(s);
- 13.2.5 Explain that each Party entitled to be accompanied by an Advisor of their own choosing during the hearing and that:
 - 13.2.5.1 Advisors will be responsible for questioning all witnesses on the Party's behalf;
 - 13.2.5.2 An Advisor may be an attorney and/or, if the Party is a represented employee, a union representative;
 - 13.2.5.3 A represented employee who chooses an Advisor who is not a union representative must submit a written signed waiver of union representation that includes consent from the union; and
 - 13.2.5.4 CCS will appoint a Party an Advisor of CCS's choosing at no cost to the Party, if the Party fails to choose an Advisor.
 - 13.2.5.5 Explain that if a Party fails to appear at the hearing, a decision of responsibility may be made in the Party's absence.
- 13.3** Service of the disciplinary notice or any other document required to be served under this procedure may be done personally; by first class, registered, or certified mail; or by electronic mail to the Party's email address on file with CCS.

14.0 Pre-Hearing Procedure

- 14.1** Upon receiving the disciplinary notice, the hearing officer or their designee will send a hearing notice to all Parties in compliance with WAC 10-08-040. The hearing date may not be scheduled for less than ten (10) business days after the Title IX Coordinator or their designee provided the Final Investigation Report to the Parties. CCS may, at its discretion, contract with an administrative law judge or other trained person to act as an Advisor, Hearing Officer or Appeals Officer.
- 14.2** A Party is entitled to be accompanied by an Advisor of their choice during the disciplinary process at the Party's own expense. The Advisor may be an attorney and/or, if the Party is a represented employee, a union representative.
 - 14.2.1 If the Advisor is an attorney, the Advisor must file a notice of appearance with the Hearing Officer or their designee with copies to all Parties and the Employee Conduct Case Manager at least five (5) business days before the hearing. If a notice of appearance is not filed within this timeframe, the Party will be deemed to have waived their right to have an attorney as an Advisor.
 - 14.2.2 If a Party is a represented employee who chooses not to use a union-provided Advisor, the Party must provide the Hearing Officer or their designee with a signed waiver of union representation, including written consent from the union.
 - 14.2.3 If a Party does not choose an Advisor, then the Title IX Coordinator will appoint an Advisor of CCS's choosing on the Party's behalf at no expense to the Party.
- 14.3** In preparation for the hearing, the Parties will have equal access to all evidence gathered by the investigator during the investigation, regardless of whether CCS intends to offer the evidence at the hearing.

15.0 Evidence

- 15.1** The introduction and consideration of evidence during the hearing is subject to the following procedures and restrictions:
- 15.1.1 Relevance: The Hearing Officer shall review all questions for relevance and shall explain on the record their reasons for excluding any question based on lack of relevance.
 - 15.1.2 Relevance means that information elicited by the question makes a fact in dispute more or less likely to be true.
 - 15.1.3 Questions or evidence about a Complainant's sexual predisposition or prior sexual behavior are not relevant and must be excluded, unless such question or evidence:
 - 15.1.3.1 Is asked or offered to prove someone other than the Respondent committed the alleged misconduct; or
 - 15.1.3.2 Concerns specific incidents of prior sexual behavior between the Complainant and the Respondent, which are asked or offered on the issue of Consent.
 - 15.1.4 No negative inference: The Hearing Officer or their designee may not make an inference regarding responsibility solely on a witness's or Party's absence from the hearing or refusal to answer questions.
 - 15.1.5 Privileged evidence: The Hearing Officer or their designee shall not consider legally privileged information unless the holder has effectively waived the privilege. Privileged information includes, but is not limited to, information protected by the following:
 - 15.1.5.1 Spousal/domestic partner privilege;
 - 15.1.5.2 Attorney-Client and attorney work product privileges;
 - 15.1.5.3 Privileges applicable to members of the clergy and priests;
 - 15.1.5.4 Privileges applicable to medical providers, mental health therapists, and counselors;
 - 15.1.5.5 Privileges applicable to sexual assault and domestic violence advocates; and
 - 15.1.5.6 Other legal privileges identified in RCW 5.60.060.

16.0 Initial Order

- 16.1** The Hearing Officer or their designee will be responsible for drafting an Initial Order that:
- 16.1.1 Identifies the allegations of Sexual Harassment;
 - 16.1.2 Describes the grievance and disciplinary procedures, starting with filing of the Formal Complaint through the determination of responsibility, including notices to Parties, interviews with witnesses and Parties, site visits, methods used to gather evidence, and hearings held;
 - 16.1.3 Makes findings of fact supporting the determination of responsibility;

- 16.1.4 Reaches conclusions as to whether the facts establish whether the Respondent is responsible for engaging in Sexual Harassment in violation of Title IX;
 - 16.1.5 Contains a statement of, and rationale for, the Hearing Officer's determination of responsibility for each allegation;
 - 16.1.6 Describes any disciplinary sanction or conditions imposed against the Respondent, if any;
 - 16.1.7 Describes to what extent, if any, Complainant is entitled to remedies designed to restore or preserve Complainant's equal access to CCS's education programs or activities; and
 - 16.1.8 Describes the process for appealing the Initial Order to the Appeals Officer or their designee.
- 16.2** The Hearing Officer or their designee will serve the Initial Order on the Parties simultaneously.

17.0 Decisions and Appeals

- 17.1** All Parties, including the Employee Case Conduct Manager, have the right to appeal from the determination of responsibility and/or from a dismissal, in whole or part, of a Formal Complaint, during the investigative or hearing process.
- 17.2** Appeals must be in writing and filed with the Title IX Coordinator within twenty-one (21) days of service of the initial order or notice of dismissal. The Title IX Coordinator will forward the appeal to the Appeals Officer.
- 17.2.1** Appeals must identify the specific findings of fact and/or conclusions of law in the initial order or dismissal being challenged and must contain argument as to why the appeal should be granted.
- 17.2.2** Failure to file a timely appeal constitutes a waiver of the right to appeal and the initial order or dismissal shall be deemed final.
- 17.3** Upon receiving a timely appeal, the Appeals Officer will serve a copy of the appeal on all non-appealing parties, who will have ten (10) business days from the date of service to submit written responses to the Appeals Officer addressing issues raised in the appeal. Failure to file a timely response constitutes a waiver of the right to participate in the appeal. Upon receipt of written responses, the Appeals Officer shall serve copies of the responses to the appealing party.
- 17.4** The appealing party shall have five (5) business days from the date of service to submit a written reply addressing issues raised in the responses to the Appeals Officer.
- 17.5** The Appeals Officer or their designee, based on their review of the parties' submissions and the hearing or investigative record, will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether a dismissal is affirmed or denied, or if the disciplinary sanctions and conditions, if any, imposed in the Initial Order are affirmed, vacated, or amended, and, if amended, set forth the new disciplinary sanctions and conditions.
- 17.6** The Appeals Officer or their designee shall serve the Final Decision on the Parties simultaneously.

- 17.7** All decisions reached through this process are final and may be judicially appealed pursuant to applicable provisions of RCW 34.05, including, but not limited to, the timelines set forth in RCW 34.05.542. No decisions or recommendations arising from this disciplinary procedure will be subject to grievance pursuant to any CBA.

18.0 Title IX Administrators

- 18.1** Title IX Administrators shall perform their duties free from bias or conflicts.
- 18.2** Title IX Administrators shall undergo training on the following topics appropriate to their role:
- 18.2.1 The definition of Sexual Harassment under this procedure,
 - 18.2.2 The scope of CCS's educational programs and activities,
 - 18.2.3 How to conduct an investigation,
 - 18.2.4 How to serve impartially without prejudgment of facts, conflicts of interest, or bias,
 - 18.2.5 Use of technology used during an investigation or hearing,
 - 18.2.6 The relevance of evidence and questions, and
 - 18.2.7 effective report writing.
- 18.2** All Title IX Administrator training materials shall be available on CCS's Title IX webpage.
- 18.4** Title IX Administrators may not require, allow, rely upon, or otherwise use questions or evidence that seeks disclosure of privileged communications, unless the privilege has been effectively waived by the holder. Please see section 15.1.6.

19.0 Grievance Procedure – Dismissal

- 19.1** Mandatory dismissal. The Title IX Coordinator or their designee will dismiss the Title IX allegations, if during the course of a formal investigation under this procedure, the investigator determines that the alleged misconduct in the Formal Complaint:
- 19.1.1 Does not meet the definition of Sexual Harassment under Title IX, even if proved;
or
 - 19.1.2 Did not occur in the context of a College Education Program or Activity; or
 - 19.1.3 Occurred outside the United States.
- 19.2** Discretionary dismissal. CCS may dismiss a Title IX claim in whole or in part, if:
- 19.2.1 The Complainant notifies the Title IX Coordinator or their designee in writing that they would like to withdraw the Formal Complaint in whole or in part;
 - 19.2.2 The Respondent is no longer employed by or affiliated with CCS; or
 - 19.2.3 Specific circumstances prevent CCS from gathering evidence sufficient to complete the investigation of the Title IX allegations in whole or in part.
- 19.3** The Title IX Coordinator or their designee will provide both Parties written notice if Title IX allegations are dismissed with an explanation for the dismissal.
- 19.4** Mandatory or discretionary dismissal of a Title IX claim does not preclude CCS from investigating and pursuing discipline based on allegations that a Respondent violated

other federal or state laws and regulations, CCS policies, and/or other contractual provisions governing employee conduct.

20.0 Other Discrimination Complaint Options

Discrimination complaints may also be filed with the following federal and state agencies:

20.1 [Washington State Human Rights Commission](#)

20.2 [U.S. Dept of Education Office for Civil Rights](#)

20.3 [Equal Employment Opportunity Commission](#)

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