



APPENDIX A

East-West Center Title IX Policy

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I. PURPOSE AND SCOPE

The definitions and procedures in this appendix apply only to complaints of sexual harassment, sexual assault, dating violence, domestic violence and stalking on the basis of sex (hereinafter referred to collectively as “Prohibited Conduct”) that occurred on or after August 14, 2020.

The procedures in this appendix are in accordance with the Department of Education’s Title IX Regulations, published May 19, 2020.

EWC shall have the discretion to refer complaints of misconduct not covered by this Appendix to be reviewed according to Prohibited Conduct stated in Section II and handled in accordance with the procedures in Section VI of the [Policy Against Harassment, Discrimination, and Sexual Misconduct](#), or to any other appropriate office for handling under any other applicable Center policy or code.

EWC reserves the right to make changes to this document as necessary, and once those changes are posted online, and an email is sent to the general EWC community, they are in effect.

II. PROHIBITED CONDUCT

Prohibited Conduct as used throughout this appendix is defined to include any of the following acts when they occur on or after August 14, 2020, in the United States and, either on campus or in a building controlled by an officially recognized Center organization, and/or in a Center program or activity.

1. **Dating Violence:** Violence committed by a person, who is in or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant’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. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.
2. **Domestic Violence:** Violence, on the basis of sex, committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, or by a person who is cohabitating with, or has cohabitated with the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Hawaii, or by any other person against an adult or youth Complainant who is protected from that person’s acts under the domestic or family violence laws of Hawaii. Allegations of child abuse under Hawaii law shall also be referred to Children’s Protective Services or local law enforcement.
3. **Sexual Harassment:** Conduct on the basis of sex committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved which is one of the following:

- A. When an EWC employee conditions the provision of an educational, research, scholarly or work benefit or service on an individual's participation in unwelcome sexual conduct (quid pro quo); and/or
- B. Unwelcome conduct¹ determined by a reasonable person to be so severe, and pervasive, and objectively offensive, that it effectively denies a person equal access to an educational, research, scholarly or work program or activity of EWC.

The Center recognizes community members' right to the free expression of ideas including those that may be controversial or unpopular. Nothing in this definition is intended to conflict with an individual's First Amendment rights. As a result, any conduct covered by those protections does not meet this definition of sexual harassment.

4. Sexual Assault, Includes any of the Following:

- A. **Sexual Offenses, Forcible:** Any sexual act directed against another person without the consent of the Complainant, including instances in which the Complainant is incapable of giving consent:
 - i. 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.
 - ii. Oral or anal sexual intercourse with another person, forcibly, and/or against that person's will (non-consensual), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - iii. The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly, and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - iv. The touching of the private body parts of another person (buttocks, groin, breasts), for the purpose of sexual gratification, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

¹ Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is below the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

B. Sex Offenses, Non-forcible, Includes Any of the Following:

- i. **Incest:** Non-forcible sexual intercourse between persons who are related to each other, within the degrees wherein marriage is prohibited by Hawaii law.
 - ii. **Statutory Rape:** Non-forcible sexual intercourse, with a person who is under the statutory age of consent of 16 years of age.
5. **Sex-Based Stalking:** Engaging in a course of conduct on the basis of sex 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.

For the purposes of this definition, "course of conduct" means two or more acts, including, but not limited to:

- i. Acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
 - ii. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
 - iii. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
6. **Retaliation:** Retaliation is defined as any materially adverse action against a person who reports, complains about, or who otherwise engages in protected activity under this policy, which includes making a good faith report (internally or externally) of Prohibited Conduct, assisting others in making such a report, participating in a grievance process under this Policy, acting in good faith to oppose conduct that constitutes a violation of this Policy, or otherwise assisting in, an investigation or proceeding related to an alleged violation of this Policy.

Materially adverse action includes conduct that threatens, coerces, harasses or otherwise discourages participation in or activity under this policy. Retaliation does not include good-faith actions lawfully pursued in response to a report of Prohibited Conduct. Any person who believes they have experienced retaliation under this policy should contact the Title IX Coordinator who forward any complaint of retaliation to the appropriate office for handling.

III. KEY DEFINITIONS

1. **Actual Knowledge:** EWC has Actual Notice when a report or Formal Complaint of Prohibited Conduct allegations is made to the EWC's Title IX Coordinator or Director of Human Resources or any official with authority to institute corrective measures on behalf of EWC. Such officials are those in the following positions: President, Vice President,

Director of Management Operations, Dean of Education, Department Directors, Director of Human Resources, Title IX Coordinator, or Deputy Title IX Coordinator. When such individuals receive a report of a potential violation of this Policy they will promptly forward to the Title IX Coordinator any report or information received. The mere ability or obligation to report Prohibited Conduct or to inform about how to report Prohibited Conduct, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of EWC. This standard is not met when the only EWC official with actual knowledge is the Respondent.

2. **Coercion:** unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of pressure used to obtain consent. When someone makes 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.
3. **Consent:** knowing, voluntary, and clear permission by word or action to engage in sexual activity. A person cannot give Consent if the person is under the age of consent for sexual activity, the person is developmentally or intellectually disabled, or the person is mentally incapacitated or physically helpless. Silence, or lack of protest or resistance, cannot be interpreted as Consent. Consent must be ongoing throughout any sexual activity and can be revoked at any time. The existence of a dating relationship, domestic partnership or marriage between the persons involved, or the existence of past sexual relations between the persons involved, is never by itself an indicator of Consent. Previous consent does not imply consent to sexual activity in the future. Anything but clear, knowing, and voluntary consent to sexual activity is equivalent to a “No.”
4. **Days:** any reference to days refers to business days unless otherwise specified.
5. **Force:** the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.
6. **Formal Complaint:** The term “Formal Complaint” has a very specific definition within this Policy, and whether one is filed does not depend on the label applied, but instead on whether certain specific elements are met. A Formal Complaint is a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by EWC) that contains: (a) the physical or electronic signature, of the Complainant or Title IX Coordinator, or otherwise indicates that the Complainant is the person filing the Formal Complaint; (b) alleged conduct which would constitute a violation of this Policy; (c) the name(s) of the Respondent(s) alleged to have engaged in the conduct, if known; and, (d) a request that EWC investigate the alleged conduct. A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail (email), by using the contact information listed on the Title IX website (LINK), or

as described in this Policy. Individuals who would like more information about filing a Formal Complaint are invited to contact the Title IX Coordinator for additional information.

In the event that the Title IX Coordinator signs the Formal Complaint, this act does not make the Title IX Coordinator the “Complainant” for purposes of this Policy.

7. **Hearing Advisor:** During a hearing, a Complainant and Respondent shall have a Hearing Advisor. The Hearing Advisor may be the same person who served as the Advisor throughout the investigation. This person may be of the Complainant’s or Respondent’s own choosing. If a Complainant or Respondent does not have a Hearing Advisor who can be present for the hearing, EWC will provide a Hearing Advisor for the purpose of asking questions of the other party, and witnesses. Other than asking questions at the hearing of the other party or of witnesses, the Hearing Advisor may not participate directly in, represent, impede or interfere with the hearing proceedings.
8. **Incapacitation:** A state or condition in which someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g. to understand the “who, what, when, where, why, or how” of their sexual interaction). Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk. Incapacitation also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs. A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. A Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent, .

Being intoxicated or impaired does not diminish one’s responsibility to obtain consent. EWC will evaluate whether the Respondent knew or reasonably should have known that the Complainant was unable to consent due to Incapacitation.

IV. MAKING A REPORT

EWC encourages individuals to report incidents involving Prohibited Conduct and other potential violations of this Appendix whether or not the individual reporting is the person alleged to have experienced the conduct. EWC does not limit the timeframe for reporting an incident regardless of when the incident occurred. However, EWC encourages individuals to report as soon as practical, as memories may fade and evidence may be lost over time.

Individuals may also notify the Title IX Coordinator if they believe someone else may have experienced conduct that would be a violation of this Policy.

Reports of potential violations of this Policy may be made in-person during business hours or at any time including during non-business hours to the EWC Title IX Coordinator by mail, by telephone, or by email, using the contact information listed below.

Title IX Coordinator (Interim)

Paul Adrians

1601 East-West Road

Honolulu, HI 96848

Phone: (808) 944-7743

Email: titleix@EastWestCenter.org

Reports to the Title IX Coordinator of potential violations of this policy will be kept private to the extent possible for EWC to respond to the report, but reports made to the Title IX Coordinator are not confidential.

Upon being notified of a report the Title IX Coordinator or designee shall contact the Complainant to schedule an Intake Interview and will also provide Complainant information regarding resources, rights, Supportive Measures, and reporting options, and will explain that Supportive Measures are available without filing a Formal Complaint, and explain to the Complainant the process for filing a Formal Complaint.

Responsibility to Report: EWC encourages all members of the EWC community to make EWC a safe and supportive environment for everyone including calling 911 or campus police in an emergency situation or to report a crime or other incident that poses a risk of harm to the EWC community. However, EWC employees have a particular duty to report safety or security concerns and crimes or Policy violations, including potential violations of this Policy. ***Any*** EWC employee who witnesses, is advised of, or learns about, an alleged violation of this Policy ***must promptly notify*** the Title IX Coordinator of the incident. The employee must report to EWC's Title IX Coordinator all relevant details about the alleged misconduct known to the employee or shared with them.

Amnesty: A Complainant or Third Party who reports a violation of this policy, or any participant in an investigation or hearing under this policy will not be subject to the EWC's policy concerning alcohol or drug use for actions that may have occurred at or near the time of Prohibited Conduct, unless the action threatens the health or safety of another.

Reports to Law Enforcement: If an individual is in immediate danger, or believes there could be an ongoing threat to the individual or the community, please call 911 or the local police agency.

For conduct that could also constitute a crime under Hawaii law, a Complainant is encouraged, but not required, to contact the police by dialing 911 or the local police agency in the jurisdiction in which the alleged incident occurred. The EWC reporting process is separate and distinct from the criminal reporting process. Reports made to the EWC regarding prohibited conduct will not necessarily result in a report to law enforcement. Should an individual wish to report allegations to law enforcement or initiate civil proceedings, they may do so.

V. FILING A FORMAL COMPLAINT

In order to proceed to a Resolution Process to address and resolve reported conduct, a Formal Complaint must be filed and signed by either Complainant or the Title IX Coordinator. In the event that the Title IX Coordinator signs the Formal Complaint, such action does not make the Title IX Coordinator the “Complainant” for purposes of this Policy.

A Formal Complaint has a very specific definition under this policy, and differs from solely making a report to the Title IX Coordinator. Filing a Formal Complaint results in written notification to the Respondent and the commencement of the Resolution Process, unless the Title IX Coordinator determines that the Formal Complaint should be dismissed as set forth in Section VI below.

At the time of filing a Formal Complaint, the Complainant must be participating in or attempting to participate in a EWC program or activity or be an applicant to, or employee of, EWC. Anyone who wishes to discuss their options for resolving a complaint prior to filing a Formal Complaint is encouraged to contact the Title IX Coordinator.

A Formal Complaint is a written document or electronic submission containing all of the following:

- A. The Complainant’s digital or physical signature, or an indication that the Complainant is the person filing the Formal Complaint;
- B. An allegation of Prohibited Conduct as defined under this Policy. This may include:
 - i. Where the incident(s) occurred
 - ii. What incident(s) occurred
 - iii. When the incident(s) occurred
- C. Identity of Respondent, if known; and,
- D. A request for an investigation.

A Formal Complaint may be made to the EWC Title IX Coordinator by US mail, email, or web portal using the contact information listed below.

Title IX Coordinator
Paul Adrians (Interim)
1601 East-West Road
Honolulu, HI 96848
Phone: (808) 944-7743
Email: titleix@EastWestCenter.org

If a complaint is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to confirm a Complainant’s intent to file a Formal Complaint. Further, if the Formal Complaint does not have sufficient information to determine whether or

not the conduct as alleged will fall under this Policy, the Title IX Coordinator will contact the Complainant to schedule an Intake Interview.

Upon receipt of a Formal Complaint, the Title IX Coordinator will contact the Complainant to conduct an Intake Interview and to discuss and implement Supportive Measures. In the event that the Complainant declines to participate in an Intake Interview, and if the Formal Title IX Complaint contains an allegation meeting all of the jurisdictional elements of this Policy, contains a request for an investigation, and the Formal Complaint is signed or includes an electronic submission from the Complainant, the Title IX Coordinator will timely put the Respondent and Complainant on notice of the allegation and commence the investigation process.

Reports to the Title IX Coordinator of potential violations of this policy will be kept private to the extent possible for EWC to respond to the report, but reports made to the Title IX Coordinator are not confidential nor are they treated as such.

VI. MANDATORY AND DISCRETIONARY DISMISSAL

There are circumstances when EWC has an obligation to dismiss a complaint (Mandatory), and circumstances when EWC has the discretion to dismiss a complaint (Discretionary). In the event EWC dismisses a complaint, both parties will be notified in writing of the decision and the rationale for the decision, and of the opportunity for both parties to appeal the decision.

Mandatory Dismissal

At any time following the submission of a Formal Complaint and prior to the commencement of a hearing, any case proceeding under this Policy will be dismissed if it is determined that the conduct at issue does not meet the definitional or jurisdictional requirements of this Policy. If the alleged conduct would, if true, support a finding that another EWC Policy or Code has been violated, EWC may transfer the case for further handling under the appropriate Policy or Code. EWC may use evidence already gathered during the Title IX process for the further handling of the complaint.

Discretionary Dismissal

EWC may, at any time during an investigation or hearing dismiss a complaint when: a) Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations within the Formal Complaint; b) the Respondent is no longer enrolled or employed at EWC; or c) circumstances prevent EWC from gathering evidence sufficient to reach a determination. If the alleged conduct would, if true, support a finding that another EWC Policy or Code has been violated, EWC may transfer the case for further handling under the appropriate Policy or Code. EWC may use evidence already gathered during the Title IX process for the further handling of the complaint.

VII. OUTREACH AND INITIAL ASSESSMENT

Intake Interview

Upon receipt of information alleging a potential violation of this Policy, the Title IX Coordinator shall contact the Complainant to schedule an intake or informational interview and provide a copy of this policy and the following information:

- Availability of Supportive Measures with or without filing a Formal Complaint;
- How to file a Formal Complaint;
- Right to notify law enforcement and the right not to notify law enforcement;
- Importance of preserving evidence;
- Information about seeking a personal protection order from the local courts;
- Resources for counseling, health care, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and other available services; and,
- Right to an Advisor of choice.

The Title IX Coordinator will discuss the Complainant's rights and options, and will also assess for, and provide, appropriate Supportive Measures, which are available with, or without, the filing of a Formal Complaint. If a Formal Complaint has not already been filed, the Title IX Coordinator will explain to the Complainant the process for filing a Formal Complaint and the steps that follow the filing of a Formal Complaint.

The Title IX Coordinator will assess the facts as presented to determine whether the information provided suggests a potential violation of this Policy, and if so, discuss with Complainant the options to resolve the complaint including those offered under this Policy (alternative resolution or investigation and hearing). If the complaint does not meet the required definitions of this Policy, then the Title IX Coordinator will not initiate either Resolution Process. A Complainant may choose to receive Supportive Measures only and not proceed with the filing of a Formal Complaint, or any other resolution process.

The Title IX Coordinator shall have the discretion to sign a Formal Complaint and initiate an investigation when a Complainant's allegations involve violence, use of weapons, serial predation, or similar factors. When the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator does not become the "Complainant" for purposes of this Policy.

Emergency Removal Provisions

If at any time EWC determines that the conduct, as alleged, poses a risk of physical harm to one or more members of the EWC community or to EWC's educational, research, scholarly, or work environment, EWC may instruct that: (a) a student Respondent be suspended, on an interim basis, from specific programs or activities; or, (b) an employee may be placed on paid administrative leave pending the outcome of an investigation and hearing. Any such assessment will be made on a case-by-case basis, based on an individualized safety and risk analysis. The decision to enact an interim suspension, removal or leave will be provided to Respondent in writing with a rationale for the decision, and an explanation of the process for challenging the emergency removal decision.

The decision to place any Respondent on an interim suspension, removal or leave shall not be considered as evidence that any determination has been made regarding potential responsibility for violating this Policy.

Opportunity to Challenge Decision to Suspend or Remove: A student Respondent shall have an opportunity to challenge the decision of suspension or removal by contacting the Director of Management Operations or their designee within five (5) days of the interim suspension, who will schedule a meeting during which the student may present their challenge to the decision. An employee Respondent shall have an opportunity to challenge the decision of removal or leave by contacting the Director of Human Resources within five (5) days of the removal or leave, who will set up a meeting for the employee to present their challenge to the decision.

Consolidation of Cases: In the event that the allegations under this Policy also involve allegations of a violation of a separate policy, the Title IX Coordinator shall have sole discretion to consolidate those other allegations within one investigation and/or hearing. Allegations of a violation of a separate policy are not required to be handled using the procedural requirements set forth in this Policy.

VIII. RESOLUTION METHODS

Prior to the initiation of one of the two available resolution methods under this policy (alternative resolution or investigation and hearing), a Formal Complaint must first be submitted to the Title IX Coordinator.

Alternative Resolution

Participation in the Alternative Resolution process is a voluntary process for both Complainant and Respondent to arrive at mutually agreeable terms to address the alleged conduct. As such, both parties and the Title IX Coordinator must agree to the use of Alternative Resolution to resolve a complaint. Allegations that an employee has engaged in Prohibited Conduct toward a student are not permitted to be handled through the Alternative Resolution process.

The Complainant may request that the Alternative Resolution method be used to resolve the complaint by submitting a request in writing to the Title IX Coordinator. If an Alternative Resolution option is preferred, the Title IX Coordinator will assess whether the complaint is suitable for Alternative Resolution and will then take steps to determine if the Respondent is also willing to engage in Alternative Resolution. Both parties must agree, in writing, to an Alternative Resolution.

When the Complainant requests an Alternative Resolution, the Title IX Coordinator will provide the Complainant and Respondent written notice that includes:

- The specific allegation and the specific conduct that is alleged to have occurred;
- The requirements of the Alternative Resolution process including the circumstances under which use of the process precludes the parties from resuming a Formal Complaint arising from the same allegations;

- Any consequences resulting from participating in the Alternative Resolution process, including the records that will be maintained or could be shared;
- A statement indicating that the decision to accept a complaint does not presume that the conduct at issue has occurred, and that the Respondent is presumed not responsible for violating this policy as a result of participating in the Alternative Resolution process, unless Respondent admits to violations of this policy;
- An explanation that each party may be accompanied by an Advisor of their choice, who may be a parent, friend, or attorney;
- The date and time of the initial meeting with the Title IX Coordinator, with a minimum of two (2) days notice;
- Information regarding Supportive Measures, which are available equally to the Respondent and to the Complainant.

If either party does not voluntarily agree in writing to pursue an Alternative Resolution, or if the Complainant, Respondent, or Title IX Coordinator, at any time, determines that Alternative Resolution is no longer appropriate, the Title IX Coordinator will promptly inform the Complainant and Respondent in writing that the complaint will proceed through the Investigation and Hearing Process.

Once the final terms of an Alternative Resolution have been agreed upon by both parties, in writing, the matter shall be considered closed, and no further action shall be taken.

The Alternative Resolution process is generally expected to be completed within thirty (30) days and may be extended for good cause by the Title IX Coordinator. Both parties will be notified, in writing, of any extension and the reason for the extension.

Records of any Alternative Resolution will be maintained and can be shared with other offices as appropriate.

Investigation Process

EWC expects that all individuals who participate in the investigation process do so truthfully and that all who have a responsibility for carrying out one or more aspects of the investigation process do so fairly and without prejudice or bias.

Notice of Investigation, and Investigation Process

Within a reasonable period of time from the filing of a Formal Complaint and prior to the start of an investigation, the Respondent and Complainant shall be provided a written Notice of Investigation communicating the initiation of an investigation. Such notice shall include:

- The specific allegation and the specific conduct that is alleged to have occurred;
- The identity of the Complainant;
- The date and location (if known) of the conduct that is alleged to have occurred;
- A copy of this Policy, which contains the process that will be followed, including an explanation that each party shall have the right to offer relevant witnesses and evidence, and inspect and review all evidence prior to the completion of the investigation;

- A statement indicating that the decision to accept a complaint does not presume that the conduct at issue has occurred, and that the Respondent is presumed not responsible, unless and until, at the conclusion of the process below, there is a determination of responsibility;
- An explanation that each party may be accompanied by an Advisor of their choice, who may be a parent, friend, attorney, or union representative;
- The date and time of the initial interview with the investigator, with a minimum of five (5) days notice;
- Information regarding amnesty granted during this process;
- The name and contact information for the assigned investigator;
- Information regarding Supportive Measures.

Should additional allegations be brought forward, a revised Notice of Investigation shall be provided to both parties, in writing.

Conflict of Interest or Bias

After a Notice of Investigation is issued to Complainant and Respondent, each party may object to the participation of the Title IX Coordinator or designated investigator on the grounds of a demonstrated bias or actual conflict of interest. Both parties will have three (3) days from the date of the Notice of Investigation to object to the selection of the investigator or the Title IX Coordinator. Objections to the Title IX Coordinator shall be made, in writing, to the Director of Management Operations or their designee. Objections to the appointment of the investigator shall be made, in writing, to the Title IX Coordinator. If the objection is substantiated as to either the Title IX Coordinator or the Investigator, that individual shall be replaced.

Timeline

EWC strives to complete the investigation process, up to evidence review, within forty (40) days, which may be extended for good cause by the Title IX Coordinator. Both parties shall be notified, in writing, of any extension to the timeline that is granted, the reason for the extension and the new anticipated date of conclusion of the investigation.

Interviews

The investigator will interview all parties and relevant witnesses and gather relevant documentary evidence provided by the parties and any identified witnesses. Interviews may be conducted in person, or via video conference. The investigator shall make the interview notes available to the person interviewed for review. The interviewee will have three (3) days to correct or comment on any statements in the interview notes. The deadline may be extended for good cause, upon request to the investigator. If the interviewee has corrections or comments to the notes, the interviewee may submit a written response within three (3) days reflecting any additions or changes which the interviewee believes are necessary to ensure the accuracy of the interviewee's statement. If no response is received from the interviewee by the deadline, their interview notes be presumed to be accurate.

Information or evidence that is not provided to the investigator during the investigation process will not be allowed during the hearing, unless it can be clearly demonstrated that such information was not reasonably known to exist, nor available, at the time of the investigation.

Exclusion of Questions Regarding Complainant's Past Sexual Behavior, or Predisposition

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant and will not be permitted, unless such questions and evidence about the Complainant's prior sexual behavior are offered for one of two reasons: (a) to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or (b) if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Evidence Review

Once all interviews have been conducted and evidence gathered, the investigator will provide each party, and their Advisor, the opportunity to review all of the evidence the investigator gathered that is directly related to the allegation(s). This shall include both inculpatory and exculpatory evidence. Given the sensitive nature of the information provided, the information will be provided in a secure manner (e.g., by providing digital copies of the materials through a protected, "read-only" web portal). Neither the Complainant nor the Respondent (nor their Advisors) may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided or forward, post or otherwise make available the information to any individual, group, organization or agency. Any student or employee who fails to abide by this Policy may be subject to discipline. Any Advisor who fails to abide by this Policy may be subject to discipline and/or may be excluded from further participation in the process.

Each party may provide written response to the evidence gathered. Each party shall have ten (10) days in which to provide written response to the investigator. Along with their response to the evidence, each party may also submit new witnesses or other new evidence, a request for additional investigation, such as a request for a follow-up interview(s) with existing witnesses to clarify or provide additional information, including offering questions to the investigator to pose to witnesses or to the other party. This response may include written, relevant questions that a party would like the investigator to ask of any party or witness.

Upon receipt of each party's response to the evidence reviewed, the investigator will determine if any additional investigation is needed. The investigator will also determine if any of the questions posed by a party will be excluded as not relevant, or not likely to lead to relevant information and explain to the party who proposed the questions any decision to exclude a question as not relevant.

If new relevant evidence is provided by either party, or gathered by the investigator, the newly-gathered evidence (including answers to clarifying questions) will be made available for review by each party. Each party shall have ten (10) days in which to respond to the new evidence. Each may provide a response in writing to the investigator.

Information that is not provided to the investigator during the investigation and evidence review process will not be allowed during the hearing itself, nor considered by the Hearing Officer unless it can be clearly demonstrated that such information was not reasonably known to, nor available to, the parties at the time of the investigation. Should new evidence be presented at the hearing, the Hearing Officer shall have the authority to either exclude the evidence, or to send the matter back to the investigator for further, limited investigation.

Investigation Report

The investigator shall prepare a written report summarizing all of the relevant evidence gathered and all steps taken during the investigation process, and which shall include as an attachment all relevant evidence gathered during the investigation, as well as all interview notes and interview summaries, showing the original notes (as sent to each interviewee for review) and the revised version, after corrections or additions by each interviewee. For those cases in which there are allegations that other EWC policies may have been violated, the investigator shall also make preliminary factual findings on those allegations if requested to do so by the Title IX Coordinator. The Title IX Coordinator will review the final Investigation Report, with attachments. Based on the Title IX Coordinator's review of the investigation report, the Title IX Coordinator may require that the investigator conduct additional investigation in order to fully address the allegations under investigation.

Conclusion of Investigation, Notice of Hearing

Once the Investigation Report is final, the report together with all attachments shall be provided to each party and to their Advisor in a secure manner (e.g., by providing digital copies of the materials through a protected, "read-only" web portal). Each party, as well as their Advisor, shall be provided with a copy of the written report and shall have ten 10 days to provide a response. Upon receipt of any response(s), the investigator shall then complete the Investigation Report.

At the same time, each party shall be provided with a Notice of Hearing, which shall include information regarding the date of the hearing, the identity of the Hearing Officer, and any deadlines for submission of evidence, names of witnesses, or questions to be reviewed by the Hearing Officer to ensure they are relevant to the allegations. The hearing shall be scheduled no less than ten 10 days from the date of the Notice of Hearing.

Within three (3) days of receipt of the Notice of Hearing, either party may object to the Hearing Officer on the basis of a demonstrated bias or actual conflict of interest. Any objection is to be in writing and sent to the Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator shall remove the Hearing Officer and appoint another.

Hearing Procedures

EWC expects that all individuals who participate in the hearing process do so truthfully and that all who have a responsibility for carrying out one or more aspects of the hearing process do so fairly and without prejudice or bias.

Hearing

EWC will appoint a Hearing Officer who will determine whether a violation of EWC policy has occurred. The Hearing Officer shall have the authority to limit the time allotted to any phase of the hearing, and/or to limit the time allotted to the full hearing. Any such limitation shall be communicated to the parties no later than three (3) days before the hearing.

EWC does not compel any individual to participate in a hearing. However, the Hearing Officer may not take into consideration in either the hearing or in their final determination the statements made during the investigation of any individual who does not participate in the hearing and

submit to questioning. Additionally, the Title IX Coordinator may choose to continue with the hearing in the absence of the Complainant, Respondent or any witness.

Hearings may be conducted in person or via videoconferencing. If by videoconference, prior to the hearing, the Hearing Officer shall have received instruction regarding the operation of any audio-visual equipment that will be used for the hearing. The Hearing Officer shall also provide the participants instructions regarding how to participate in the hearing and any rules or guidelines for hearing participation.

Each hearing shall be recorded by the Hearing Officer and this recording will be considered the only official recording of the hearing. No other individual is permitted to record while the hearing is taking place. The recording is the property of EWC but shall be available for listening until the conclusion of the appeals process to Complainant, Respondent, their respective Advisors, Hearing Officer and Appeal Officer by contacting the Title IX Coordinator.

The Complainant, Respondent, and the Hearing Officer all have the right to call witnesses. Witnesses must have information relevant to the allegations. No party will be permitted to call as a witness anyone who was not interviewed by the investigator as part of EWC's investigation. Each party shall submit to the Hearing Officer the names of witnesses they would like to call no less than five (5) days in advance of the hearing.

Three (3) days prior to the hearing, each party shall submit to the Hearing Officer a preliminary list of questions they wish to pose to the other party, or to a witness. If the Hearing Officer determines that any questions are not relevant to the allegations, the Hearing Officer shall explain the reason for the exclusion of the question at the hearing.

Hearing Advisor

Each party is entitled to one Advisor at the hearing which shall be referred to as the Hearing Advisor. The role of the Hearing Advisor is to ask questions of the other party and of witnesses, but not to advocate for, or respond for or otherwise speak on behalf of, the Complainant or Respondent during the hearing. No party shall be permitted to ask questions of the other party, or of a witness. In the event that a party does not appear for the Hearing, the Advisor for that party shall appear and may question the other party, and witnesses.

A Hearing Advisor of EWC's choosing shall be provided for any party who does not have a Hearing Advisor.

Hearing Participation Guidelines

The Hearing Officer shall have the authority to maintain order and decorum at the hearing. The Hearing Officer also has the authority to determine whether any questions are not relevant, abusive, intimidating, or disrespectful, and will not permit such questions. Any party or witness who is disruptive may, at the discretion of the Hearing Officer, be directed to continue their participation via video conferencing. Any Hearing Advisor who is disruptive may, at the discretion of the Hearing Officer, be directed to continue their participation via video conferencing or removed from the hearing entirely. In the event the Hearing Officer removes a Hearing Advisor, the Hearing Officer will appoint another Hearing Advisor for the remainder of the hearing.

Following the hearing, the Hearing Officer will then prepare a report. To the extent credibility determinations need to be made, such determinations shall not be based on a person's status as Complainant, Respondent, or witness.

The Hearing Officer's report will include:

- The allegations;
- Description of all procedural steps taken to date;
- Findings of fact;
- Conclusion of application of facts to the Policy; and
- Rationale for each allegation.

The Hearing Officer's report shall be provided to the Title IX Coordinator. If the Hearing Officer determines that there is no finding of responsibility, the Title IX Coordinator shall communicate the findings, along with a copy of the Hearing Officer's report, to the parties, together with [procedures for appeal](#).

If there is a finding of responsibility, the Title IX Coordinator shall contact the appropriate sanctioning officer who will determine the sanction and notify the Title IX Coordinator of the sanctioning determination. The Title IX Coordinator will then provide each party with written communication regarding the Hearing Officer's decision, the sanction determination, and the [procedure for appeals](#), along with a copy of the Hearing Officer's report. The Title IX Coordinator will also provide written communication to the Complainant regarding any appropriate remedies,

Sanctions and Remedies

Upon conclusion of the investigation and hearing process, when there is a finding of responsibility that Respondent has violated the Title IX policy, the Complainant will be offered such remedies designed to restore or preserve equal access to the institution's education program or activity or work environment. Some examples are academic support and/or opportunity to retake a class or resubmit work or time extensions on course or degree completion, or non-academic support such as counseling, or changes to work assignments or locations. The Title IX Coordinator is responsible for implementation of remedies.

Persons who violate one or more of EWC's policies will be disciplined. The particular form of discipline or sanction will depend on the nature of the offense, as well as any prior disciplinary history. Such discipline or sanction will be imposed pursuant to and in accordance with any and all applicable EWC rules, policies, and procedures. A person against whom such discipline or sanction is imposed will have the right to contest the imposition of a discipline or sanction.

One or more of the sanctions or disciplinary steps listed here may be imposed on a Respondent who is found responsible for a violation of EWC's policies. Sanctions or disciplinary steps not listed here may be imposed in consultation with the Title IX Coordinator. Sanction and discipline are assessed in response to the specific violation(s) and any prior sanction or discipline of the Respondent.

Possible sanctions and disciplinary steps include, but are not limited to:

Warning: Verbal Notice, with documentation in the student or personnel file, that continuation or repetition of Prohibited Conduct may be cause for additional disciplinary action.

Censure: A written reprimand for violating EWC Policy. This conduct status specifies a period of time during which the Respondent's good standing with EWC may be in jeopardy. The Respondent is officially warned that continuation or repetition of Prohibited Conduct may be cause for additional conduct action including probation, suspension, expulsion or termination from EWC.

Behavioral Contract: Formal, written notice that the Respondent will be expected to adhere to EWC expectations regarding their conduct as may set forth in a behavior contract. Any violation of that contract may result in further disciplinary action.

Demotion or Change in Employment Status: Temporary or permanent changes or demotions in employment position, status or title which may or may not include an adjustment in salary.

Restrictions on Access or Duties: Conditions which specifically dictate and limit the Respondent's presence on campus, restrict employment duties, and/or participation in EWC sponsored or related activities. The restrictions will be clearly defined and may include, but are not limited to, presence in certain buildings or locations on campus.

Restitution: Repayment to EWC or to an affected party for damages (amount to be determined by the EWC) resulting from a violation of this Policy. To enforce this sanction, EWC reserves the right to withhold its transcripts and degrees or to deny a student participation in graduation ceremonies and privileged events.

Probation: Formal, written notice that the employee is in violation of EWC's policies and an expectation that the employee exhibit good behavior for a defined period of time. Any violation during the probationary period may result in further disciplinary action.

Termination of Employment: Permanent separation of the employee from EWC.

Expulsion: Permanent separation from EWC effective immediately. Any refund of tuition or fees as result of the expulsion shall be in accordance with applicable policies. No academic credit may be earned for that semester.

Withholding Degree: EWC may withhold awarding a certificate otherwise earned until the completion of the process set forth in this Policy, including the completion of all sanctions imposed, if any.

Other: Other sanctions may be imposed instead of, or in addition to, those specified here. Service, education, or research projects may also be assigned.

Multiple Disciplinary Actions: More than one of the actions listed above may be imposed for any single violation.

IX. APPEALS

Appeals may be filed by either party. Appeals shall be sent to the Title IX Coordinator, who will then send the appeal to the appeals officer.

The appeals officer shall not have any actual conflict of interest or bias. Within three (3) days of the assigned Appeals Officer, either party may object to the Appeals Officer on the basis of an actual bias or conflict of interest. Any objection is to be in writing and sent to the Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator shall remove the appeals officer and appoint another.

When an appeal is filed, the other party shall be notified, in writing, within one day, and shall then have five (5) days to respond to the appeal. Any party's decision not to submit a reply to an appeal is not evidence that the non-appealing party agreed with the appeal. Each party shall be allowed to meet with the Appeals Officer.

Union Grievance Process

If discipline or sanction is imposed upon a union member, and following an appeal under this Policy, the Respondent has a right to challenge that sanction pursuant to the grievance and arbitration provisions of the appropriate collective bargaining agreement. The arbitrator shall not have the right to change the underlying findings of the Hearing Officer or the Appeals Officer.

Appeals May be Filed Only on the Following Three Grounds:

1. **Procedural Error:** A procedural error occurred that significantly impacted the outcome of the investigation or hearing. A description of the error and its impact on the outcome of the case must be included in the written appeal; or,
2. **New Evidence:** New evidence or information has arisen that was not available or known to the party during the investigation or hearing, and that could significantly impact the findings. Information that was known to the Appellant during the investigation or hearing but which they chose not to present is not new information. A summary of this new evidence and its potential impact on the investigation findings must be included in the written appeal; or,
3. **Actual Conflict of Interest or Demonstrated Bias:** The Title IX Coordinator, investigator, or decision-maker had an actual conflict of interest or demonstrated bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent, that affected the outcome of the matter.

The written decision of the Appeals Officer which communicates the decision of the appeals officer including the rationale for the decision shall be sent simultaneously to both parties. The decision of the Appeals Officer is final.

X. RIGHTS, EXPECTATIONS, & RESPONSIBILITIES

Individuals making a complaint to the Title IX Coordinator (“Complainant”) and individuals responding to a complaint (“Respondent”) each have rights throughout the complaint resolution and adjudication process, and may expect a fair, neutral process that will follow this policy.

Complainant and Respondent Rights

- Be treated with respect by all EWC officials throughout this process;
- Be informed of the available support resources or measures available;
- Be free of any form of retaliation and free to report such retaliation for disciplinary action;
- Obtain a mutual no contact directive with the other party upon request;
- Be accompanied by one [Advisor](#) throughout the process, including at any interviews or hearing;
- Have an adequate, reliable, impartial and prompt investigation of the allegations conducted within a reasonable period of time after a [Formal Complaint](#) is filed;
- Receive written notice of the date, time and location of any interview scheduled with the investigator;
- Be informed of the status of the investigation, to the extent possible;
- Review all evidence which is directly related to the allegations prior to the conclusion of the investigation;
- Meet with the investigator and present information on their own behalf, identify witnesses or other third parties who might have relevant information and identify or provide relevant documents or other information that may be helpful to the investigation;
- Have past unrelated behavior excluded from the investigation process;
- Question the selection of the investigator or Hearing Officer on the basis of an actual conflict of interest or demonstrated bias;
- Have a Hearing Advisor of EWC’s choosing provided, at no charge, for purposes of asking questions of the other party or witnesses during the hearing proceeding;
- Be notified of the hearing outcome and any sanctions applied, if applicable;
- Initiate and participate in an appeal process;
- Waive any of the rights contained herein.

No Conflict of Interest or Bias

Any individual carrying out this Policy shall be free from any actual conflict of interest or demonstrated bias that would impact the handling of this matter. Should the Title IX Coordinator have a conflict of interest, the Title IX Coordinator is to immediately notify the Director of Human Resources, who will take the role of Acting Title IX Coordinator for purposes of carrying out the handling and finalization of the matter at issue. Should the Director of Human Resources have a conflict of interest, the Director of Human Resources is to immediately notify the Title IX Coordinator, who will take the role of Acting Director of Human Resources for purposes of carrying out the handling and finalization of the matter at issue. Should any investigator, hearing officer (for matters under Appendix A processes) or appeal officer have a conflict of interest, the

investigator, hearing officer or appeal officer is to notify the Title IX Coordinator or Director of Human Resources upon discovery of the conflict.

Presumption of Non-Responsibility

The decision to proceed with an investigation is not in and of itself a determination that the Respondent has engaged in the conduct as alleged. Any Respondent is presumed not responsible for the conduct that is the subject of the investigation, unless and until a decision of responsibility has been made upon the completion of the adjudication process.

Requests for Delays, and Extensions of Time

The Title IX Coordinator may extend any deadlines within this Policy, for good cause. The Complainant and Respondent will be notified in writing of any extension, the reasons for it, and projected new timelines.

XI. TRAINING FOR INVESTIGATORS, HEARING OFFICERS, HEARING PANEL, APPEALS OFFICERS, TITLE IX COORDINATOR

All individuals involved in the Title IX response, investigation, hearing and appeals process receive training in accordance with 34 C.F.R. §106.45(b)(10)(i)(D). This training may be viewed at EWC's Title IX website.

XII. RECORD RETENTION

The Title IX Office will maintain all records relating to complaints and resolutions under this Policy for a period of seven (7) years.