CDU Policy I.E.00400 Anti Sexual Harassment and Sexual Violence

ISSUING OFFICER: Chief Human Resources Officer

RESPONSIBLE OFFICE: Department of Human Resources

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POLICY I.E. 00400 Anti Sexual Harassment and Sexual Violence

A. ANTI-SEXUAL HARASSMENT AND SEXUAL VIOLENCE

Charles R. Drew University of Medicine and Science is committed to creating and maintaining a community in which all persons who participate in University programs and activities can work together in an atmosphere free of all forms of harassment, exploitation, or intimidation, including sexual. Specifically, every member of the University community should be aware that the University prohibits sexual harassment and sexual violence and that such behavior violates both law and University policy. It is the intent of the University to respond promptly, effectively to reports of sexual harassment and sexual violence, and will take whatever action may be needed to prevent, correct, and, if necessary, discipline behavior which violates this policy on Anti-Sexual Harassment and Sexual Violence.

The University’s policy against Sexual Harassment and Sexual Violence applies to all employees, faculty, and students of the University. The University prohibits managers, supervisors and employees from sexually harassing and committing sexual violence against co-workers as well as the University’s students, vendors, suppliers, independent contractors and others doing business with the University. In addition, the University prohibits its students, vendors, suppliers, independent contractors and others doing business with the University from sexually harassing and committing sexual violence against employees.

The Anti-Sexual Harassment and Sexual Violence policy applies to all locations of Charles R. Drew University of Medicine and Science.

Violation of this policy will subject an employee to disciplinary action, up to and including immediate termination. Additionally, under California law, employees may be held personally liable for harassing conduct that violates the California Fair Employment and Housing Act.

B. RETALIATION

Charles R. Drew University also prohibits retaliation against any employee or person seeking employment for bringing a complaint of discrimination or harassment, sexual harassment, or
sexual violence pursuant to this policy. This policy also prohibits retaliation against a person who assists someone with a complaint of discrimination or harassment, sexual harassment, or sexual violence or participates in any manner in an investigation or resolution of a complaint of discrimination or harassment, sexual harassment, or sexual violence. Retaliation includes threats, intimidation, reprisals, and/or adverse actions related to employment.

An individual who is subjected to retaliation (e.g., threats, intimidation, reprisals, or adverse employment or educational actions) for having made a report of sexual harassment of sexual violence in good faith, who assisted someone with a report of sexual harassment of sexual violence, or who participated in any manner in an investigation or resolution of a report of sexual harassment or sexual violence, may make a report of retaliation under these procedures. The report of retaliation shall be treated as a report of sexual harassment or sexual violence and will be subjected to the same procedures.

Consensual Relationships
The Anti-Sexual Harassment and Sexual Violence policy covers unwelcome conduct of a sexual nature. Consensual romantic relationships between members of the CDU community are subject to other University policies. For example, policies governing faculty-student relationships are detailed in the Student Handbook and Faculty Handbook under Code of Conduct. While romantic relationships between members of the CDU community may begin as consensual, they may evolve into situations that lead to charges of sexual harassment or sexual violence, subject to this policy.

Gender Identity, Gender Expression, or Sexual Orientation Discrimination
Harassment that is not sexual in nature but is based on gender, gender identity, gender expression, sex-stereotyping, or sexual orientation also is prohibited by CDU’s nondiscrimination policies if it denies or limits a person’s ability to participate in or benefit from University educational programs, employment, or services. While discrimination based on these factors may be distinguished from sexual harassment, these types of discrimination may contribute to the creation of a hostile work or academic environment. Thus, in determining whether a hostile environment due to sexual harassment exists, CDU may take into account acts of discrimination based on gender, gender identity, gender expression, sex-stereotyping, or sexual orientation.

C. DEFINITIONS
Consent is informed and consists of an affirmative, conscious decision by each participant to engage in mutually agreed-upon sexual activity. Consent to some form of sexual activity does not imply consent to other forms of sexual activity.

Consent is voluntary. It is given without coercion, force, threats, or intimidation; it is a positive cooperation in the act or expression on intent to engage in the act pursuant to an exercise of free will.

Consent is given when the person is not impaired or incapacitated. A person cannot consent if he or she is unconscious or coming in and out of consciousness. A person cannot consent if he or she is under threat of violence, bodily injury or other forms of coercion, or has a mental disorder,
developmental disability, or physical disability that would impair his or her understanding of the act.

Incapacitation is the physical and or mental inability to make informed, rational judgments. States of incapacitation include, but are not limited to, unconsciousness, sleep and blackouts.

Where alcohol or drugs are involved, incapacitation is distinct from drunkenness or intoxication, and is defined with respect to how the alcohol or other drugs consumed impacts a person’s decision-making capacity, awareness of consequences, and ability to make fully informed judgments.

The factors to be considered include whether the accused knew, or a reasonable person in the position of the accused should have known, that the complainant was impaired or incapacitated.

**Executive Officer** is defined as the University President, the Provost, the Chief Operating Officer, the Chief Financial Officer, and the Assistant Provost.

**Sexual Harassment** is unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, when submission to or rejection of this conduct explicitly or implicitly affects a person’s employment or education, unreasonably interferes with a person’s work or educational performance, or creates an intimidating, hostile or offensive working or learning environment. Sexual harassment includes sexual violence. In the interest of preventing sexual harassment and sexual violence, the University will respond to reports of any such conduct.

Sexual harassment may include incidents between any members of the University community, including faculty and other academic appointees, staff, students, interns, work-study students, student employees (when acting within the course and scope of employment), temporary employees, and non-student or non-employee participants in University programs, such as vendors, contractors, visitors, and patients. Sexual harassment may occur in hierarchical relationships or between peers, or between persons of the same sex or opposite sex. In determining whether the reported conduct constitutes sexual harassment, consideration shall be given to the record of the conduct as a whole and to the totality of the circumstances, including the context in which the conduct occurred.

Sexual harassment includes a broad spectrum of conduct including harassment based on gender, transgender and sexual orientation (meaning one’s heterosexuality, homosexuality, or bisexuality). By way of illustration only, and not limitation, some examples of unlawful and unacceptable behavior include:

- unwanted sexual advances;
- offering an employment benefit (such as a raise or promotion or assistance with one’s career) in exchange for sexual favors, or threatening an employment detriment (such as termination, demotion, or disciplinary action) for an employee’s failure to engage in sexual activity;
• visual conduct, such as leering, making sexual gestures, displaying sexually suggestive objects or pictures, cartoons or posters, or transmitting or downloading sexually-related websites or e-mails;
• verbal sexual advances, propositions, requests or comments;
• verbal abuse of a sexual nature, graphic verbal commentaries about an individual’s body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes or invitations, including those made by e-mail, voicemail or blogging;
• physical conduct, such as touching, assault, impeding or blocking movement;
• physical or verbal abuse concerning an individual’s actual sex or one’s perception of the individual’s sex;
• verbal abuse concerning a person’s characteristics such as vocal pitch, facial hair or the size or shape of a person’s body, including remarks that a man is too feminine or a woman is too masculine.

In addition to the above listed conduct, the University strictly prohibits harassment concerning race, color, religion, national origin, age, disability or other protected characteristic. By way of illustration only, and not limitation, prohibited harassment concerning race, color, religion, national origin, age, disability or other protected characteristic includes:

• slurs, epithets, and any other offensive remarks;
• jokes, whether written, verbal, or electronic;
• threats, intimidation, and other menacing behavior;
• other verbal, graphic, or physical conduct; and
• other conduct predicated upon one or more of the protected categories identified in this policy.

Employees with questions about what constitutes harassing behavior should ask their supervisor or a member of the Department of Human Resources.

Harassment of students, faculty members, vendors, suppliers or independent contractors by employees is also strictly prohibited. Such harassment includes the types of behavior specified in this policy.

Harassment may also occur towards employees that have not experienced any of the above-described behaviors. Sexual favoritism may occur when a subordinate employee receives preferential treatment in exchange for sexual favors. Such preferential treatment could include actions such as higher compensation, promotion or other benefits of a favored employee or avoidance of an employment detriment. Sexual favoritism occurs when the treatment results solely from the employee providing sexual favors to the decision maker and is unrelated to the employee’s ability to perform the responsibilities of the job.

Harassment that is not sexual in nature but is based on gender, sex-stereotyping, or sexual orientation also is prohibited by the University’s nondiscrimination policies if it is sufficiently severe to deny or limit a person’s ability to participate in or benefit from University educational programs, employment, or services. While discrimination based on these factors may be distinguished from sexual harassment, these types of discrimination may contribute to the
creation of a hostile work or academic environment. Thus, in determining whether a hostile environment due to sexual harassment exists, the University may take into account acts of discrimination based on gender, sex-stereotyping, or sexual orientation.

**Sexual Violence** is physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent. This includes:
- sexual assault,
- rape,
- battery,
- sexual coercion,
- domestic violence,
- dating violence, and
- stalking.

**Domestic Violence** is abuse committed against an adult or a minor who is a spouse or former spouse, cohabitant or former cohabitant, or someone with whom the abuser has had a child or is having or has had a dating or engagement relationship.

**Dating Violence** is abuse committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

**Sexual Assault** occurs when physical sexual activity is intentionally engaged in without the consent of the other person. The conduct may include physical force, violence, threat, or intimidation; ignoring the objections of the other person; causing the other person’s intoxication of impairment through the use of drugs or alcohol; taking advantage of the other person’s incapacitation (including voluntary intoxication), state of intimidation, or other inability to consent.

**Stalking** is behavior in which a person repeatedly engages in a course of conduct directed at another specific person, that places that person in reasonable fear of his or her safety or the safety of a third person or persons.

**PROCEDURES I.E.00400 Anti-Sexual Harassment and Sexual Violence**

As part of CDU’s commitment to providing a working and learning environment protected from sexual harassment and sexual violence, this policy shall be disseminated widely to the CDU community through publications, websites, new employee orientations, student orientations, and other appropriate channels of communication. The University shall make educational materials available to all members of the University community to promote compliance with this policy and familiarity with local reporting procedures. In addition, the University shall designate University employees responsible for reporting sexual harassment and sexual violence and provide training to those designated employees. Generally, such persons include supervisors, managers, academic administrators, deans, department chairs, student advisors, graduate advisors, campus safety and security personnel, and counselors. The University shall post a copy of this policy in a prominent place on its website.
Reporting of Sexual Harassment or Sexual Violence
Any member of the CDU community may report conduct that may constitute sexual harassment of sexual violence under this policy to any supervisor, manager, executive, dean, or the Title IX Officer. In addition, supervisors, managers, executives, deans, and other designated employees are responsible for taking whatever action is necessary to prevent and address sexual harassment or sexual violence and to report it promptly to the Title IX Compliance Coordinator (Title IX Officer) or other appropriate official designated to review and investigate sexual harassment and sexual violence complaints. An individual also may file a complaint or grievance alleging sexual harassment or sexual violence under the applicable University complaint resolution or grievance procedure.

ANTI-SEXUAL HARASSMENT AND SEXUAL VIOLENCE COMPLAINT RESOLUTION

Sexual harassment and sexual violence towards faculty, staff and students is prohibited by University policy as well as by federal and state law. Complainants should be advised of reporting procedures, including written information about:

1. to whom the alleged offense should be reported;
2. options regarding reporting to law enforcement (both on campus and local police), and to be assisted by campus authorities in notifying law enforcement authorities if the complainant so chooses, or to decline to notify law enforcement authorities;
3. their rights and the University’s responsibilities regarding orders of protection, no contract orders, restraining orders, or similar lawful orders issued by criminal or civil courts; and
4. the importance of preserving evidence as may be necessary to the proof of criminal domestic violence, dating violence, sexual assault, or stalking, or in obtaining a protection order.
5. written notification to students or employees about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims both on campus and in the community.
6. Written notification to victims about options for, and available assistance in changing academic, transportation, and working situations, if requested by the complainant and if reasonable available, regardless of whether the victim chooses to report the crime to campus safety and security or local law enforcement.

If a student or employee reports to CDU that the student or employee has been a victim of domestic violence, dating violence, sexual assault, or stalking, whether the offense occurred on or off campus or any University location, the student or employee shall be provided with a written explanation of the student or employee’s rights and options.

CDU shall identify and publish their campus implementing procedures of this policy on and off campus resources for reporting sexual harassment or sexual violence, including law enforcement, medical, and victim support services.
Response to Reports of Sexual Harassment or Sexual Violence
CDU shall provide a prompt and effective response to reports of sexual harassment or sexual violence in accordance with the procedures. A prompt and effective response may include early resolution, formal investigation and/or targeted training or educational programs. Individuals making reports also shall be informed about policies applying to confidentiality or reports under this policy. CDU shall respond to the greatest extent possible to reports of sexual harassment or sexual violence brought anonymously or brought by third parties not directly involved in the asserted offenses. However, the response to such reports may be limited if information contained in the report cannot be verified by independent facts.

Upon findings of sexual harassment or sexual violence, CDU may offer remedies to the individual or individuals harmed by the harassment and/or sexual violence consistent with applicable complaint resolution and grievance procedures. Such remedies may include counseling, an opportunity to repeat course work without penalty, or other appropriate interventions. Any member of the CDU community who I found to have engaged in sexual harassment or sexual violence is subject to disciplinary action up to and including dismissal in accordance with the applicable University disciplinary procedure or other University policies.

Generally, disciplinary action will be recommended when the conduct is sufficiently severe, persistent, or pervasive that it alters the conditions of employment or limits the opportunity to participate in or benefit from educational programs. Any manager, supervisor, or designated employee responsible for reporting or responding to sexual harassment or sexual violence who knew about the incident took no action to stop it or failed to report the prohibited act also may be subject to disciplinary action. Conduct by an employee that is sexual harassment, sexual violence, or retaliation in violation of this policy is considered to be outside the normal course and scope of employment.

Procedures for reporting and responding to sexual harassment or sexual violence complaints should be brought forward as soon as possible after the alleged conduct occurs. While there is no stated timeframe for reporting, prompt reporting will better enable CDU to investigate the acts, determine the issues, and provide an appropriate remedy and/or action. All incidents should be reported even if a significant amount of time has passed. However, delay in reporting may impede CDU’s ability to conduct an investigation and/or effect appropriate remedial actions. CDU will respond to reports of sexual harassment or sexual violence to the greatest extent possible, taking into account the amount of time that has passed since the alleged conduct occurred.

Procedures for Early Resolution
The goal of early resolution is to resolve concerns at the earliest stage possible, with the cooperation of all parties involved. CDU is encouraged to utilize early resolution option when the parties desire to resolve the situation cooperatively and/or when a formal investigation is not likely to lead to a satisfactory outcome. Early resolution may include an inquiry into facts, but typically does not include a formal investigation. Means for early resolution shall be flexible and encompass a full range of possible appropriate
outcomes. Early resolution includes options such as mediating an agreement between the parties, separating the parties, referring the parties to counseling programs, negotiating an agreement for disciplinary action, conducting a follow-up review after a period of time to assure that the resolution has been implemented effectively. Early resolution may be appropriate for responding to anonymous reports and/or third party reports. Steps taken to encourage early resolution and agreements reached through efforts should be documented.

While CDU encourages early resolution of a complaint, the CDU does not require that parties participate in early resolution prior to CDU’s decision to initiate a formal investigation. Some reports of sexual harassment and sexual violence may not be appropriate for mediation (such as when the facts are in dispute in reports of serious misconduct, or when reports involve sexual violence or individuals with a pattern of inappropriate behavior or allege criminal acts such as stalking, sexual assault or physical assault) but may require a formal investigation at the discretion of the Title IX Officer or other appropriate official designated to review and investigate sexual harassment and sexual violence.

1. Assignment of Responsibility

a) It is the responsibility of department heads, managers, and supervisors to take reasonable steps to prevent sexual harassment and sexual violence and to correct it when it occurs. This responsibility involves being aware and sensitive and includes taking disciplinary action when appropriate. It should be made clear through verbal and/or written communication to all parties that inappropriate behavior shall stop immediately and that administrative intervention and/or action will be taken as warranted. When information or acts come to the attention of these officials, they should immediately determine the facts and ensure that the people involved are informed about this policy.

b) Department heads, managers, and supervisors are responsible for providing pertinent information to their students and employees regarding the procedures and resources. Because of the serious and sensitive nature of sexual harassment and sexual violence and the frequently changing case law in this area, it is strongly recommended that persons with inquiries or complaints be referred to the Title IX Officer. Department heads, managers, and supervisors should also refer to these resources for information when attempting to resolve sexual harassment or sexual violence complaints.

2. Sexual Harassment and Sexual Violence Complaint

For purposes of these procedures, a complaint will be distinguished from an inquiry or a formal grievance. A complaint shall be defined as any written or oral statement to a University official (e.g., Title IX Officer, director, supervisor, department head, dean), the purpose of which is to inform the University that sexual harassment or sexual violence may be occurring and to provide the
appropriate University officials with information sufficient to investigate the complaint. Once such a statement is made, the University is considered by law to be "on notice" and is required to investigate the complaint.

In cases where there is no written request, the title IX Officer or other appropriate official designated to review and investigate sexual harassment and sexual violence complaints, in consultation with the administration, may initiate a formal investigation after making a preliminary inquiry into the facts.

NOTE: In a sexual harassment or sexual violence inquiry, unlike a complaint or formal grievance, the inquirer/complainant is not asked to reveal the identity of the alleged harasser or department when requesting information about sexual harassment or violence. This preserves the anonymity of the case, and allows the inquirer the full range of options available.

The primary purpose of the complaint resolution procedure is to attempt resolution of the complaint at the earliest stage possible. In cases where a complainant states he or she does not want to pursue a formal investigation, the Title IX Officer should inform the complainant that the ability to investigate may be limited. In determining whether to go forward with a formal investigation, the Title IX Officer may consider:

1. The seriousness of the allegation,
2. In the case of a student complainant, the age of the student,
3. Whether there have been other complaints or reports against the accused, and
4. The rights of the accused individual to receive information about the complainant and the allegations if formal proceedings with sanctions may result.

Even if a complainant does not want to pursue an investigation, under some circumstances, the Title IX Officer may have an obligation to investigate, such as when there is a risk to the campus community if the accused remains on campus. The complainant should be made aware of this independent obligation to investigate the complaint.

If the alleged conduct is also the subject of criminal investigation, the campus may not wait for the conclusion of the criminal investigation to being an investigation pursuant to this policy. However, a campus may need to delay temporarily the fact-finding portion of the sexual harassment or sexual violence investigation while the police are gathering evidence. Once notified that the police department has completed its gathering of evidence (not the ultimate outcome of the investigation of the filing of any criminal charges), the campus must promptly resume and complete its fact-finding for the sexual harassment or sexual violence investigation.
Upon request, the complainant and the accused may each have a representative present when he or she is interviewed, and at any subsequent proceeding or related meeting. Other witnesses may have a representative present at the discretion of the investigator or as required by applicable University policy.

The complaint resolution procedure is available to Charles R. Drew University students, faculty, and staff.

3. **Time Limits**

There are no time limits for initiating a sexual harassment or sexual violence complaint. There are, however, time limits for filing a formal complaint with outside agencies.

a) **Relationship of complaint resolution process to other University grievance procedures.**

There are two circumstances under which a complainant may wish to use a formal University grievance procedure:

i) If the complainant wishes to use a formal grievance procedure instead of the Complaint Resolution Procedures, the complainant must follow the time limits set forth in the relevant grievance procedure. In most cases, this is 30 days after the last alleged incident of harassment or from the time the complainant knew or reasonably should have known of an action (for example, an act of retaliation) taken as a result of the allegation of sexual harassment or sexual violence.

ii) If the complainant has filed a complaint under these Sexual Harassment and Sexual violence Procedures but is not satisfied that management action has resolved the complaint or believes that there has been no action, the complainant may utilize the relevant grievance procedure. The grievance procedure time limit is measured from the time of the act complained of, that is, commencing upon completion of the investigation or mediation process, which shall be deemed concluded upon the date a decision is issued under the Sexual Harassment and Sexual Violence Complaint Procedures.

b) **Relationship of complaint resolution process to outside agency time limits.**

The filing of a complaint under the Complaint Resolution Procedure does not excuse the complainant from meeting the time limits of outside agencies, which are described below.

i) The California Department of Fair Employment and Housing (DFEH): 365 days from the last alleged incident of harassment or from the time the complainant knew or reasonably should have known of an action taken as a result of the alleged sexual harassment or sexual violence.
ii) The Equal Employment Opportunity Commission (EEOC): 300 days from the last alleged incident of harassment or from the time the complainant knew or reasonably should have known of an action taken as a result of the alleged sexual harassment or sexual violence. EEOC has responsibility for investigating allegations of sexual harassment or sexual violence under Title VII and Violence Against Women Act, relating to employment.

iii) The Office for Federal Contract Compliance: 180 days from the alleged violation.

iv) The Office of Civil Rights (OCR): 180 days from the last incident. OCR has responsibility for enforcement of Title IX as it relates to educational opportunities.

4. Complaint Resolution Procedures

Initiating an Investigation Alleging Sexual Harassment and Sexual Violence

- Inquirer (including complainant, department, head, manager, and supervisor) contacts Title IX Officer to file a complaint of sexual harassment or sexual violence.
- Title IX Officer provides information regarding applicable laws, University policies, and procedures. The information provided must be written and will include: names and locations of Complaint Resolution Officers, how to initiate a complaint, and if applicable, information about possible steps to prevent further sexual harassment or sexual violence.
- Title IX Officer will advise the inquirer/complainant regarding available options, including mediation and the fact-finding investigation, timeframes, and possible remedies.
- Upon request of complainant or alleged harasser and with consent of both parties, Title IX Officer may attempt early informal mediation without filing of a written complaint or at any point after a complaint is filed. Both parties may also be referred to mediation. Informal mediation does not negate or defer the requirement for completion of a fact-finding investigation by the University, if circumstances so warrant.
- Title IX Officer informs complainant that in order to initiate a fact-finding investigation, a written statement will be required.
- Title IX Officer informs complainant that any records kept by HR after a written complaint is filed shall be kept confidential to the maximum extent permitted by law, but that disclosure of those records may also be required by law.
- Title IX Officer provides written record of complaint to appropriate administrator or designee.
- Title IX Officer conducts investigation which may include:
  1. Interviewing the complainant,
  2. Interviewing the alleged harasser,
3. Interviewing witnesses, as appropriate,
4. Collecting written documentation, as appropriate.

Participants in an investigation shall be advised that maintaining confidentiality is essential to protect the integrity of the investigation.

Note: At the initial interviews with the complainant or alleged harasser, the CRO provides information regarding the fact-finding process (e.g., estimated timeframes and other pertinent information).

If the alleged harasser is not subject to Academic Personnel Policies, HR submits an investigatory report to the appropriate administrator(s).

The following administrators have been designated for these procedures:

- Administrator - Academic Personnel
- Administrator - Student Affairs
- Administrator – Office of the President

The Administrator may initiate or refer discipline against the alleged harasser. The person to be disciplined must be provided with a copy of the charges and materials on which discipline is based and an opportunity to respond.

- If the alleged harasser is subject to the Academic Personnel Policies, HR submits fact-finding report to the Assistant Provost - Academic Personnel.
- If there is a finding that a basis of probable cause has been substantiated, the Assistant Provost - Academic Personnel informs the appropriate administrator. Either the administrator or complainant may file a charge with the Charges Committee of the Academic Senate.
- If probable cause is not found, the investigation is considered concluded. HR advises complainant of his/her right to file a charge with the Charges Committee of the Academic Senate.

Based on the results of the fact-finding investigation, the remedies may include:

- Restoring complainant to pre-harassment status (e.g., restoration of pay, benefits, or rights lost).
- Initiating other corrective measures as appropriate.
- Taking other steps to effect resolution of the complaint.
- Based on Title IX Officer’s report, informs complainant of the results of the investigation and the outcome. If complaint is not resolved to the complainant's satisfaction, informs complainant of available grievance procedures.
- Based on Title IX Officer’s report, informs alleged harasser of the results of the investigation and if actions are to be taken to effect resolution of the complaint.
The complainant shall be informed if there were findings made that the policy was or was not violated and actions taken to resolve the complaint, if any, that are directly related to the complainant, such as an order that the accused not contact the complainant. In accordance with University policies protecting individuals’ privacy, the complainant may generally be notified that the matter has been referred for disciplinary action, but shall not be informed of the details of the recommended disciplinary action without the consent of the accused.

**Remedies and Referral to Disciplinary Procedures**

Findings of violations of the policy may be considered in determining remedies for individuals harmed by the sexual harassment or sexual violence and shall be referred to applicable disciplinary procedures. Procedures under this policy shall be coordinated with the applicable complaint resolution, grievance, and disciplinary procedures to avoid duplication in the process whenever possible. Violations of the policy may include engaging in sexual harassment or sexual violence, retaliating against a complainant reporting sexual harassment or sexual violence, violating interim protections, and filing intentionally false charges of sexual harassment or sexual violence. Investigative reports made pursuant to this policy may be used as evidence in subsequent complaint resolution, grievance, and disciplinary proceedings as permitted by the applicable procedures.

**NOTE:** The alleged harasser may have the right to file a grievance. That right is derived from grievance policies and procedures applicable to the alleged harasser.

**5. Confidentiality**

During the complaint resolution process, and in accordance with existing policies and laws, every reasonable effort shall be made to protect the privacy of all parties. Extremely sensitive information is gathered during the processing of a sexual harassment complaint. California law provides constitutional and statutory protection for the privacy of individuals. The right of privacy includes both limitations on disclosure of personal information about an individual and a right of access to information about oneself. Disclosure of information gathered in the processing of a sexual harassment complaint requires a balancing of privacy interests of the complainant and the accused. The University cannot make an absolute guarantee that information that is provided regarding possible sexual harassment or sexual violence will remain confidential. The University can assure individuals that it will keep the information confidential to the extent required by law and to the extent the due process protections afforded the accused are protected.

The University shall identify confidential resources with which members of the CDU community can consult for advice and information regarding making a report of sexual harassment or sexual violence. These resources provide individuals who may be interested in bringing a report of sexual harassment or sexual violence with a safe place to discuss their concerns and learn about the procedures and potential outcomes involved. These resources shall be posted on
the University’s website and prominently displayed in common areas. Confidential resources include licensed counselors in the employee assistance programs or student counseling centers. Individuals who consult with confidential resources shall be advised that their discussions in these settings are not considered reports of sexual harassment or sexual violence and that without additional action by the individual, the discussions will not result in any action by the University to resolve their concerns.

a) Files pertaining to investigations conducted by HR shall be kept confidential to the maximum extent permitted by law, but disclosure of these records may also be required by the applicable law. The Department of Human Resources shall maintain records of complaints, investigative reports, and the outcome of recommendations in conformance with privacy requirements.

b) Written records of mediation agreements may be retained by HR.

c) As permitted by law and University policy, information about the final results of the investigation may be disclosed to the complainant.

6. **Privacy**

A report of sexual harassment or sexual violence may result in the gathering of extremely sensitive information about the individuals in the CDU community. While such information is considered confidential, University policy regarding access to records and disclosure of personal information may require disclosure of certain information concerning a report of sexual harassment or sexual violence. In such cases, every effort shall be made to redact the records in order to protect the privacy of individuals. An individual who has made a report of sexual harassment or sexual violence may be advised of sanctions imposed against the accused when the individual needs to be aware of the sanctions in order for it to be fully effective (such as restriction on communication or contact with the individual who made the report).

In addition, when the offense involves a crime of violence or a non-forcible sex offense, the Family Education Rights and Privacy Act (FERPA) permits disclosure to the complainant the final results of a disciplinary proceeding against the alleged accused, regardless of whether the University concluded that a violation was committed. Information regarding disciplinary action taken against the accused shall not be disclosed without the accused’s consent, unless permitted by law as noted above, or unless it is necessary to ensure compliance with the action or the safety of individuals.

The resource location shall notify the CDU community that certain University employees, such as Title IX Officer, managers, executives, supervisors, and other designated employees have an obligation to respond to reports of sexual
harassment or sexual violence, even if the individual making the report requests that no action be taken. An individual’s request regarding the confidentiality of reports of sexual harassment or sexual violence will be considered in determining an appropriate response; however such requests will be considered in the dual contexts of the University’s legal obligation to ensure a working and learning environment free from sexual harassment and sexual violence and the due process rights of the accused to be informed of the allegations and their source. Some level of disclosure may be necessary to ensure a complete and fair investigation, although the University will comply with requests for confidentiality to the extent possible.

7. **Intentionally False Reports**

Individuals who make reports that are later found to have been intentionally false or made maliciously without regard for truth may be subject to disciplinary action under the applicable University disciplinary procedures. This provision does not apply to reports made in good faith, even if the facts alleged in the report cannot be substantiated by an investigation.

8. **Reprisals**

No person shall be subject to reprisal for using or participating in the informal process or complaint resolution process, or for using or participating in the formal grievance process. A claim that a person has been subject to reprisal or retaliated against for using or participating in the informal process or complaint resolution process or for using or participating in the formal grievance process on account of a claim of sexual harassment shall be treated for the purposes of these procedures as though it were a claim of sexual harassment.

9. **Formal Grievance Procedures Alleging Sexual Discrimination**

If the complainant chooses not to use the Complaint Resolution Procedures or, having chosen to use the Complaint Resolution Procedures, is not satisfied that management action has resolved the complaint, the complainant may file a grievance. For that process, the grievance must meet all the conditions for acceptability under the applicable complaint or grievance policy. The appropriate Human Resources Officer, as determined by the complainant's status, should be consulted if there is a question regarding which of the policies apply to a specific complainant. The investigation and mediation process performed by HR, as detailed in the APM, may constitute the first step of the grievance procedures.

10. **Retention of Records Regarding reports of Sexual Harassment and Sexual Violence**

The Department of Human Resources is responsible for maintain records relating to sexual harassment and sexual violence reports, investigations, and resolutions.
Records shall be maintained in accordance with University records policies, generally five years after the date the complaint is resolved. Records may be maintained longer at the discretion of the Title IX Officer in cases where the parties have a continuing affiliation with the University. All records pertaining to pending litigation or a request for records shall be maintained in accordance with instructions from legal counsel.

Applicability: All Employees, Faculty, and Students