



Procedures for Complaints of Sexual Misconduct Under Title IX and the California Education Code

I. Introduction and Scope

Caltech's Sex and Gender-based Misconduct Policy reflects Caltech's commitment to support and encourage individuals who have been subjected to prohibited conduct to come forward. Caltech takes all allegations of prohibited conduct seriously and responds appropriately.

Caltech will take prompt and appropriate action to address all reports of prohibited conduct in a fair and impartial manner. Complainants, respondents, and all other participants in the process will be treated with dignity, care, and respect.

Caltech's policy and these procedures are intended to ensure that individuals accused of engaging in prohibited conduct are not prejudged; that they have notice and a full and fair opportunity to respond to allegations before findings and conclusions are reached; and that decisions are based on the evidence gathered in a process that is fair to both complainants and respondents when an investigation is conducted. Caltech will conduct a fair, impartial, timely, and thorough investigation that provides all parties with appropriate due process.

Consistent with Section 6.0 of the Sex- and Gender-Based Misconduct Policy, Caltech encourages students and other members of its community who are not designated Responsible Employees to report to the Title IX Coordinator sexual harassment and other misconduct by third parties (i.e., report situations on behalf of others). The contact information for the Title IX Coordinator and Deputy Coordinators and methods of reporting are fully provided in Section 6.0 of the policy. Reporting options include contacting the Title IX Coordinator by email (equity@caltech.edu), telephone (626-395-3130), in-person visit (Center for Student Services, 414 S. Holliston Avenue, Suite 205), and the [online report form](#) which can be submitted anonymously. Caltech will respond to any such reports to address or prevent a hostile educational environment or to ensure a student's access to education.

Notice of the Sex- and Gender-Based Misconduct Policy and these Sexual Misconduct Procedures, which include information on where and how reports and complaints may be filed, is provided to all Caltech students on the [Equity and Title IX Office website on the Resources page](#) as well as by email at the start of the academic year.

These procedures are to be applied, when both parties are covered persons, to address allegations of prohibited conduct that (a) fall within the scope, as set out in Section I, 2.0, of the Sex- and Gender-Based Misconduct Policy, *and* (b) fall within the definitions of sexual harassment, as defined by Title IX and the California Education Code and set out in Sections 15.0 or 16.0, respectively, of the Caltech Sex- and Gender-Based Misconduct Policy (policy). All other prohibited conduct under the policy is addressed under the Procedures for Unlawful Discrimination, Harassment, and Retaliation. The Title IX Coordinator determines whether these procedures apply.

Throughout these procedures, any reference to a Caltech or JPL administrator is understood to include not only that administrator but also their designee.

Information, including statistics, concerning the prevalence of sexual harassment and sexual violence in the educational setting and the differing rates at which students experience such misconduct based on race, gender, gender identity, sexual orientation, and disability can be found on [Caltech's Equity and Title IX Office website, on the Resources/Policies page](#), under Reports. See Association for American Universities Campus Climate Survey 2019 and the National Academies of Science Engineering and Medicine 2018 Report on Sexual Harassment of Women. [AAU survey data](#) is also provided on Caltech's Institutional Research Office website.

II. Retaliation

Retaliation against any member of the Caltech community at any point in time for making a good-faith report of prohibited conduct or participating or refusing to participate in any manner in an investigation, proceeding, or hearing conducted by Caltech or a state or federal agency, is strictly prohibited. Retaliation is defined as overt or covert acts of reprisal, interference, discrimination, intimidation, or harassment against an individual or group for exercising their rights under Title IX or other federal and state laws. Threats of retaliatory action also constitute retaliation. Retaliation violates this policy and is unlawful.

Caltech will maintain the confidentiality of persons involved in reports and complaints of prohibited conduct, except as required or allowed under the Sex- and Gender-Based Misconduct Policy, these procedures, the Unlawful Harassment Policy and related procedures, or federal or state law.

The following actions do not constitute retaliation: the exercise of rights protected under applicable law or charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a resolution process. However, a determination that a respondent was or was not responsible for alleged prohibited conduct, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

Allegations of retaliation that are alleged at the time of a formal complaint of sexual harassment, as defined in policy Sections 15.0 and 16.0. will be addressed as part of that complaint. Complaints of retaliation that are not alleged at the time of a sexual harassment complaint will be addressed under the Procedures for Complaints of Unlawful Discrimination, Harassment, and Retaliation. The Title IX Coordinator will have the ultimate discretion over which procedures apply to a claim of retaliation.

III. Adviser or Support Person

The complainant and respondent may have an adviser or support person (hereinafter, collectively, "adviser") of their choice (other than a witness), including a victim advocate or an attorney, accompany and generally support them at any virtual or live meetings or phone calls at any point in the procedures discussed below. However, Caltech resolution processes, including the investigation process, are not legal proceedings and the adviser may not speak or submit written statements on behalf of the individual they are advising, other than at the hearing as described below in Section XIII(D)(8). Caltech will be responsible for communicating information to advisers, or scheduling meetings around advisers' availability, except to the extent required to comply with Section XIII(D)(8) of these procedures. Advisers are required to sign and abide by Caltech's Adviser Policy and Confidentiality Agreement setting forth the parameters of their role.

The role of the adviser is to (a) provide general support to a party participating in any step of the processes outlined below, (b) encourage the party whom the adviser supports to

communicate for themselves, and (c) respect the process and procedures. All communications, whether oral or written, will be between the Equity and Title IX Office staff member(s), investigator(s), or other appropriate participating administrator(s), or their designees, ("Title IX process administrators"), and the party only. The adviser may not speak during any meeting, including on behalf of the party whom they support, ask questions of the administrator(s) or of the party whom they support, or otherwise interfere with or disrupt the meeting, conversation, or procedure. Nor may an adviser communicate on behalf of the party in emails or other correspondence with the Equity and Title IX Office. However, during meetings, the adviser may provide written notes or instructions to the party whom they support.

All parties have the right to consult with an attorney at their own expense, at any procedural step set forth below, if they wish to do so. An attorney may serve, but is not required to serve, as an adviser.

Caltech is not required to identify or provide advisers to parties, except as provided below in Section XIII(D)(8).

IV. Timelines

These procedures set forth reasonably prompt time frames for major procedural stages.

The Title IX Coordinator, at their own discretion or upon the request of a party or witness, may extend a time frame for good cause, providing prompt written notice to the parties of any delays or extensions and the reasons therefor.

Good cause may include but is not limited to the absence of a party, a party's adviser, or a witness; concurrent law enforcement activity; the need for language assistance or accommodation of disabilities; the breadth and scope of the allegations, in terms of content and date, the number of potential witnesses, the amount of available, relevant documentary evidence; the need to conduct a thorough, fair, and accurate investigation; and office closures.

The Title IX Coordinator shall not unreasonably deny a party's request for an extension of a deadline related to a complaint during periods of examinations or school closures.

V. Initial Title IX Assessment

Within 14 days of receiving a report of prohibited conduct, Caltech's Title IX Coordinator will make an initial assessment of the report to determine the following:

1. a reasonable assessment of any safety concerns posed to any member of the Caltech community or Caltech's campus;
2. whether the allegations on their face present a potential violation of the Sex- and Gender-Based Misconduct Policy, and if so, whether they are covered under these procedures or under Caltech's Unlawful Discrimination, Harassment, and Retaliation procedures; or, if not, whether they should be addressed under a different Caltech policy and process;
3. whether and what supportive measures are warranted; and
4. whether emergency removal is warranted.

The Title IX Coordinator or their designee will promptly reach out (in writing, to the extent appropriate) to each identifiable complainant or alleged victim of the report to inform them, as

appropriate, of the receipt of the report, discuss the availability of supportive measures, consider their wishes with respect to supportive measures, inform them that supportive measures are available with or without the filing of a formal complaint, and explain to them the process for filing a formal complaint and the importance of preserving evidence and identifying witnesses and their locations. The Title IX Coordinator's outreach will also include a statement that retaliation for filing a complaint or participating in a resolution process, or both, is prohibited by Caltech policy and federal and California law. The Title IX Coordinator will provide them a copy of these Sexual Misconduct Procedures. Where a crime may have occurred, the Title IX Coordinator will provide the complainant/alleged victim notice of their right, but not the obligation, to report the matter to law enforcement and information on how Caltech can help facilitate such reporting. The Title IX Coordinator will also describe how Caltech responds to reports of prohibited conduct, as well as potential disciplinary consequences. The Title IX Coordinator will also refer them to and help coordinate, if desired, support resources, including providing information on the availability of and contact information for on-campus and off-campus resources and services. Finally, the Title IX Coordinator will request for the complainant/alleged victim to meet with them to discuss options for responding to the report.

The Title IX Coordinator may also meet with the respondent and other relevant individuals in order to make an initial assessment. The respondent also will be offered the opportunity to request and receive supportive measures at this time.

The complainant and the respondent will be provided with the following:

- Information on their rights and options under the Sex- and Gender-Based Misconduct or Unlawful Harassment policies and related procedures as appropriate, and copies of these documents
- Written materials outlining information on on-campus and off-campus support resources and services, including contact information and days and hours of availability, as well as information on coordination with law enforcement
- Information on the importance of and policy concerning evidence preservation
- Information on the policy against retaliation for filing a complaint or participating in a complaint process

VI. Supportive Measures

Supportive measures are non-disciplinary, nonpunitive individualized services offered as appropriate and reasonably available to the parties before or after the filing of a formal complaint or where no formal complaint has been made or no investigation has been undertaken. Supportive measures are available to parties regardless of whether they participate in a resolution process. They are designed to restore or preserve equal access to Caltech's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Caltech's educational environment, or to deter prohibited conduct.

Supportive measures may include counseling, academic accommodations (e.g., extensions of deadlines, course-related adjustments), modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, including in a virtual or electronic environment, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of campus, referrals to campus and off-campus support resources, and other similar measures. Caltech will maintain as confidential any supportive measures provided to any party to the extent such confidentiality does not impair Caltech's

ability to provide the supportive measures (e.g., notifying appropriate administrators involved in academic accommodations). The Title IX Coordinator will coordinate the effective implementation of supportive measures. Academic accommodations should be requested in a timely manner, reasonably in advance of deadlines. Retroactive accommodations, such as re-taking tests or extensions after the due date has passed, will not be granted.

Supportive measures affecting faculty, postdoctoral scholars, and staff, including employees at JPL, might include transfer of supervisory or evaluative responsibility regarding grading, supervision, tenure review, letters of recommendation, and/or changes to office assignments.

Caltech will endeavor to minimize the burden on the party receiving supportive measures without unreasonably burdening the other party. If a complainant wishes to seek a temporary restraining order or similar judicial order, Caltech will help the complainant with that process. Parties may seek the assistance of the Campus Sexual Violence Advocate, who can be contacted directly or through the Equity and Title IX Office.

When requested by a complainant or otherwise determined to be appropriate, Caltech will issue a mutual no-contact order. Caltech will not issue such an order automatically but instead shall consider the specific circumstances of each case to determine whether the order is necessary or justifiable to protect the non-complaining party's safety or well-being, or to respond to interference with a resolution process. Upon the issuance of a mutual no-contact order, Caltech will provide the parties with a written justification for the order, an explanation of its terms, and the circumstances, if any, under which violation could be subject to disciplinary action.

Moreover, Caltech shall consider and respond to requests for accommodations relating to prior incidents of sexual harassment that could contribute to a hostile educational environment or otherwise interfere with a student's access to education where both individuals are, at the time of the request, subject to Caltech's policies.

The imposition of supportive measures is not indicative of a determination of responsibility or any other outcome. These measures may be modified at any time and may be kept in place after a final investigative decision is reached.

All parties are expected to comply with any supportive measures that may be imposed. Failure to comply with supportive measures may be grounds for disciplinary action. A party may be subject to discipline under the appropriate Caltech policy for failure to comply with a supportive measure even if they are found not responsible for the underlying report of prohibited conduct.

NOTE: The Institute may undertake remedies and systemic remedies set forth below in Section XIII(D)(9) (*Potential Sanction, Remedies, and Systemic Remedies*), as appropriate and consistent with the requirements of Title IX and this Section VI, to safeguard a complainant's access to education, at any time. The complainant's engagement in a resolution process is not a prerequisite for such action by Caltech.

VII. Emergency Removal

The Title IX Coordinator will undertake an individualized safety and risk analysis for the purpose of determining whether the respondent, based on the alleged conduct, is an immediate threat to the physical health or safety of any student or other individual, justifying their removal. The Title IX Coordinator may consult with any individuals they consider pertinent and appropriate to making the emergency removal determination. The safety and risk factors that the Title IX Coordinator will consider include but are not limited to the nature of the allegations, the alleged

number and age of the complainant(s), the power differential between the respondent and complainant(s), whether the respondent is alleged to have used a weapon, violence, drugs, or alcohol to intimidate, harm, or control a complainant, and whether the allegations present a pattern of behavior or otherwise suggest a likelihood of repeated misconduct.

Where the Title IX Coordinator has determined that emergency removal of a student respondent is appropriate, the respondent will be provided with notice and an opportunity to challenge the decision immediately following the removal. To challenge a removal decision by the Title IX Coordinator, the respondent must submit a written appeal to the associate vice president for human resources within seven (7) calendar days of receipt of notice. In deciding this appeal, the associate vice president for human resources may consult with any individuals they consider pertinent and appropriate to making the decision. The decision of the associate vice president for human resources is final.

Caltech may place nonstudent employee respondents on administrative leave while a complaint resolution process is pending.

VIII. Complainant's Ability to Exercise Options

With respect to allegations of prohibited conduct under the Sex- and Gender-Based Misconduct Policy, the Title IX Coordinator and deputy coordinators make every effort to respect the concerns and goals of complainants, as well as their capacity to make independent choices regarding resolution options for addressing their complaints under the policy and these procedures.

In instances where a complainant requests that their name not be used, that Caltech not pursue any action against the respondent, including an investigation, or that no disciplinary action be taken, Caltech will seriously consider the request but weigh the request against Caltech's responsibilities, including under applicable laws, to take action to provide a safe, nonthreatening, and nondiscriminatory environment for all community members, including the complainant. The Title IX Coordinator will discuss with the complainant the reasons for their requests and attempt to address the underlying concerns, such as taking steps to prevent retaliation.

Where the complainant remains committed to the requests mentioned above, and the prohibited conduct falls under Section 15.0 below, the Title IX Coordinator will weigh the request against factors that may lead the Title IX Coordinator to take action on behalf of Caltech, which may be contrary to the wishes of the complainant, including potentially disclosing the complainant's name and/or proceeding to an investigation, to protect the health and safety of the complainant and the Caltech community. The factors considered are within the discretion of the Title IX Coordinator and include, but are not limited to, the nature and seriousness of the alleged conduct, whether the allegations are contested, the involvement of multiple respondents, the existence of multiple or prior reports of misconduct against the respondent, whether there was a weapon, physical restraints, battery, or other violence involved, whether the use of alcohol or drugs to induce vulnerability to sexual activity without consent was allegedly involved, whether there is evidence of a pattern of conduct, the presence of other circumstances that suggest there is a significant risk that the respondent will commit further acts of prohibited conduct, the age of a complainant, whether the respondent is a faculty or staff member with oversight of students, whether there is a power imbalance between the complainant and respondent, whether the complainant believes that the complainant will be less safe if the complainant's name is disclosed or an investigation is conducted, and whether Caltech is able to conduct a thorough investigation and obtain relevant evidence in the absence of the complainant's

cooperation. Where the complainant remains committed to the requests above, and the prohibited conduct does not fall under Section 15.0, but only under 16.0 and/or 17.0, the Title IX Coordinator may elect to pursue action on Caltech's behalf without considering these factors.

If Caltech determines that it can honor the student's request for confidentiality, it shall still take reasonable steps to respond to the complaint, consistent with the request, to limit the effects of the alleged prohibited conduct and prevent its recurrence without initiating formal action against the alleged respondent or revealing the identity of the complainant. These steps may include increased monitoring, supervision, or security at locations or activities where the alleged misconduct occurred; providing additional training and education materials for students and employees; or conducting climate surveys regarding sexual violence. The Institute shall also take immediate steps to provide for the safety of the complainant while keeping the complainant's identity confidential as appropriate. These steps may include changing living arrangements or course schedules, assignments, or tests. The complainant shall be notified that the steps Caltech will take to respond to the complaint will be limited by the request for confidentiality.

If Caltech determines that it must disclose the complainant's identity to the respondent or proceed with an investigation, it shall inform the complainant prior to making this disclosure or initiating the investigation. The complainant is not required to participate in the ensuing process. Caltech shall also take immediate steps to provide for the safety of the complainant where appropriate. In the event the complainant requests that Caltech inform the respondent that the student asked Caltech not to investigate or seek discipline, Caltech shall honor this request.

If the complaint includes allegations that may constitute a possible crime, the Title IX Coordinator will notify the complainant of their right to file a criminal complaint or to choose not to notify law enforcement. Caltech does not report sex- and gender-based misconduct to law enforcement on a complainant's behalf, unless such a report is mandated by law (e.g., sexual assault of a person under 18, de-identified reporting as required under California Education Code Section 67383). If the complainant chooses to notify law enforcement, they may seek the assistance of the Equity and Title IX Office. The Equity and Title IX Office will facilitate the contact with law enforcement and the scheduling of a meeting, if the complainant chooses to make a report.

The Title IX Coordinator, depending on facts and circumstances, may also elect to file a formal complaint and initiate an investigation even if the complainant does not have standing to do so.

Formal complaints may be filed even if a complainant elects not to notify law enforcement and/or pursue a criminal complaint.

All final determinations and decisions taken under this provision 10.0, except the complainant's decision to file a criminal complaint or to choose not to notify law enforcement, rest solely with the Title IX Coordinator.

IX. Filing a Formal Complaint

In order to exercise resolution options for addressing and resolving complaints of alleged prohibited conduct covered under these procedures, the complainant must file a formal complaint document with the Title IX Coordinator in person or by regular or electronic mail requesting that Caltech initiate a complaint resolution process. The document must contain the complainant's physical or digital signature or otherwise indicate that the complainant is the person filing the formal complaint.

At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in an education program or activity of Caltech. The term “attempting to participate” includes when a complainant has: (a) applied for admission; (b) graduated but intends to apply for a new program; (c) graduated but intends to participate in alumni programs and activities; (d) gone on leave but is still enrolled; (e) gone on leave but intends to re-apply after the leave; or (f) withdrawn due to alleged sexual harassment and expresses a desire to re-enroll if Caltech responds appropriately to the allegations.

The term “education program or activity” includes prohibited conduct occurring in locations, events, or circumstances, on or off-campus, over which Caltech exercised substantial control over both the respondent and the context in which the alleged prohibited conduct occurred, and also includes any building owned or controlled by a student organization that is officially recognized by Caltech. For reports of conduct occurring off-campus, the Title IX Coordinator will determine whether the alleged prohibited conduct occurred in a Caltech education program or activity.

However, even if a complainant is not qualified to bring a formal complaint, the respondent is outside the jurisdiction of Caltech’s policy, or the alleged prohibited conduct took place outside of Caltech’s educational programs and activities, if there is any reason to believe that the alleged prohibited conduct could contribute to a hostile educational environment, interfere with a student’s access to education, or otherwise compromise the safety of the Caltech community, Caltech will still take prompt action, as warranted and appropriate, to provide for the safety and well-being of the individual reporting and the campus community, including taking reasonable steps to stop and remedy the effects of the prohibited conduct and to prevent recurrence of the behavior. This may include the Title IX Coordinator’s initiating a formal complaint under their own authority on Caltech’s behalf.

Where the Title IX Coordinator initiates activity under their own authority, as authorized under Policy Section 10.0 and reiterated above in Section VIII of these procedures, the formal complaint requirements must still be met.

Formal complaints may be filed even if a complainant elects not to notify law enforcement and/or pursue a criminal complaint.

X. Consolidation of Formal Complaints

The Title IX Coordinator may consolidate formal complaints of allegations covered under these procedures against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations arise out of the same facts or circumstances.

XI. Notice of Allegations

Upon receiving or initiating a formal complaint, within fourteen (14) calendar days, the Title IX Coordinator must provide written notice to the parties of the following, with sufficient time for the parties—generally fourteen (14) calendar days—to prepare a response before any initial interview:

1. resolution processes set out below;
2. allegations, including sufficient details known at the time, including the identities of the parties involved in the incident, if known, the misconduct alleged, and the date and location of the alleged incident, if known;
3. alleged institute policy violations under review;
4. procedures that will be used;
5. statement that the respondent is presumed not responsible for the alleged misconduct (i.e., innocent) and that a determination regarding responsibility is made at the conclusion of an investigation process or by an administrative resolution in which the respondent takes responsibility for the alleged misconduct;
6. that the parties may have an adviser of their choice, who may be, but is not required to be, an attorney, accompany them at any stage of the process;
7. that the parties may review and inspect evidence under an investigation process; and that knowingly making false statements or submitting false information is prohibited and may subject the offending party to discipline;
8. information regarding appropriate counseling and other support resources developed and maintained by the Institute;
9. copies of the policy and pertinent procedures.

Any new allegations that arise during the course of the investigation that could subject either party to new or additional sanctions shall be subject to these same notice requirements.

XII. Dismissal of a Formal Complaint

Upon receiving a formal complaint, within fourteen (14) calendar days, the Title IX Coordinator must dismiss the complaint for resolution under these procedures if the conduct alleged does not constitute sexual harassment, as defined either under Title IX (policy Section 15.0) or the CA Education Code (policy Section 16.0). If the conduct alleged does not fall under either section, the Title IX Coordinator, if appropriate, will refer the allegations for resolution under other appropriate Caltech policies and procedures, including the Unlawful Harassment Policy and related procedures.

The Title IX Coordinator may also dismiss a formal complaint or allegations therein if at any time during a resolution process a complainant notifies the Title IX Coordinator in writing that they would like to withdraw their complaint or certain allegations; if the respondent is no longer enrolled or employed at Caltech; or if, as determined by the Title IX Coordinator, specific circumstances prevent Caltech from gathering evidence sufficient to reach a determination as to the complaint or certain allegations.

The Title IX Coordinator will promptly and simultaneously send written notice to the parties of any dismissal and the reason(s) for the dismissal.

The parties may submit an appeal of any dismissal decision, in writing, to the associate vice president of human resources, within seven (7) calendar days of receiving the dismissal decision.

This appeal of a dismissal of a formal complaint, or of certain allegations therein, is limited to one or more of the following grounds: a procedural irregularity that affected the dismissal decision; new evidence (including a new witness) that was not reasonably available at the time of the dismissal decision that could affect that decision; and the Title IX Coordinator, investigator(s), or decision maker(s) had a conflict of interest or bias for or against complainants

or respondents generally or the individual complainant or respondent that affected the dismissal decision.

If a party submits an appeal of a dismissal, the other party will have the opportunity to submit a written response to the appeal within ten (10) calendar days of the filing of the appeal. The parties simultaneously will be informed, in writing, of the outcome of the appeal. The appeal decision letter will state the rationale for the result. Appeal decisions are final.

Even where dismissal of a formal complaint occurs, the Title IX Coordinator may still provide supportive measures to parties or take other appropriate action in response to alleged concerns.

XIII. Resolution Options

The outcomes of each of the three options set out below—the remedy-based resolution, the administrative resolution, and the investigation, subject to any appeal process—are considered final. In other words, once one option has concluded, a party may no longer exercise another option regarding the same alleged conduct. However, a party may elect to raise or pursue another option before the option currently being pursued has concluded.

Under any of the three options, remedies must be designed to restore or preserve equal access to Caltech's education program or activity. They may include actions that qualify as supportive measures, but unlike supportive measures, remedies may include actions that are disciplinary, punitive, or burden the other party.

Any person designated by Caltech to facilitate any of the resolution processes set out below (e.g., Title IX Coordinator, investigators, decision maker, administrators who determine sanctions and remedies, administrator hearing an appeal of an outcome of an investigation process) may not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Parties will be provided an opportunity at appropriate junctures in a process to object to a person carrying out a facilitation role in the process for the consideration and decision of the Title IX Coordinator on the grounds of a conflict of interest or bias. Where an objection is made about the Title IX Coordinator, the decision as to their suitability will be made by the associate vice president for human resources.

Any consideration of impartiality, or objections based on conflict of interest or bias, of those involved in Title IX processes must be reviewed with thoughtful consideration of individual circumstances. Determination of whether a conflict of interest or bias exists in a particular instance will be a matter of judgment involving all the material facts of the situation.

In addition, any person designated by Caltech to facilitate any of the resolution processes set out below (e.g., Title IX Coordinator, investigators, decision maker, administrators who determine sanctions and remedies, administrator hearing an appeal of an outcome of an investigation process) will receive training that is trauma-informed and comprehensive and that includes information appropriate to their respective roles.

The Administrative Resolution process and the Remedy-Based Resolution process are available only at the discretion of the Title IX Coordinator under circumstances they deem appropriate. Civil law remedies may also be available to complainants. A complainant may, on their own, choose to pursue any such remedies independent of and in addition to any of Caltech's resolution processes. Caltech does not provide legal advice about civil law remedies.

A. Administrative Resolution

The Title IX Coordinator, with the voluntary written consent of the parties, may offer the opportunity to resolve the complaint by administrative resolution. Administrative resolution (AR) provides an opportunity for the respondent to accept responsibility for their alleged conduct and proceed to a resolution without a formal investigation. Complainants and respondents participating in this process may have an adviser of their choice accompany them when engaging in this resolution process, as set forth above in Section III.

If the AR option is agreed to by a complainant, the Title IX Coordinator will meet with the respondent to review the allegations. The Title IX Coordinator will provide the respondent with information on the respondent's rights and options under the policy and these procedures. The Title IX Coordinator will also provide the respondent with written materials outlining information on campus support resources and services, including their contact information and days and hours of availability.

The Title IX Coordinator will offer the respondent the opportunity to resolve the complaint by AR by accepting responsibility for the alleged conduct. It is the respondent's option and decision whether to do so. If the respondent elects to acknowledge that the alleged conduct occurred and takes responsibility for the alleged conduct, the respondent will sign a written acknowledgement, and the matter will be referred to the appropriate decision maker for a decision concerning sanctions and remedies that may be appropriate.

Generally, for purposes of determining sanctions in connection with an AR, the decision maker shall be determined based upon the respondent's affiliation (the vice provost of research or administration for faculty, the assistant vice president for human resources for postdoctoral scholars and campus staff, or the deputy director for Human Resources at JPL for JPL employees). In the case of student respondents, the appropriate dean will serve as the decision maker.

In determining sanctions and remedies, decision makers will consult with the Title IX Coordinator and may consult with any other individual they deem appropriate.

The parties will both be notified simultaneously in writing of the resolution, including any sanctions and remedies. Within ten (10) calendar days of receiving this letter, either party may appeal in writing as outlined below in Section D, 11.

An AR process will be concluded within a reasonably prompt time frame after the complaint has been made, generally forty-five (45) calendar days. The Title IX Coordinator will keep the parties informed of the status of the process. The Title IX Coordinator may delay the process temporarily or extend the time frame for good cause, providing written notice to the parties of any delays or extensions and the reasons therefor. Good cause may include but is not limited to the absence of a party or a party's adviser; the need for language assistance or accommodation of disabilities; the breadth and scope of the allegations and number of parties; and office closures.

If a resolution is not reached under this process within a reasonable amount of time, or if the Title IX Coordinator determines that one or both parties are not participating in good faith or a timely or appropriate manner in the process, the Title IX Coordinator may terminate the process, and the complainant may pursue the other resolution options.

An AR is the final resolution of the allegations contained therein.

B. Remedy-Based Resolution

The RBR is not available to resolve allegations made by a student of Title IX-covered prohibited conduct set out in Section 15.0 of the policy against a Caltech employee.

A remedy-based resolution (RBR) is a mutual agreement entered into among Caltech and the parties to a formal complaint. The Title IX Coordinator determines whether an RBR is an appropriate option for resolving the allegations at issue. Factors the Title IX Coordinator may consider in determining the appropriateness of an RBR include those set forth in Section VIII., paragraph 3 of this document. Depending on the allegations and circumstances, a respondent agrees to undertake, or all parties agree to undertake, certain social, academic, and/or administrative steps, on a certain timeline, as a means of resolving a complaint of prohibited conduct without an investigation and a finding regarding responsibility or discipline against a respondent. All parties must voluntarily agree to all the terms of the RBR as the complete and final resolution of the formal complaint(s). In other words, if an agreement is reached, the complainant cannot subsequently file a formal complaint for an investigation regarding the same alleged conduct, unless a respondent does not fulfill their agreed upon commitments under the RBR as determined by the Title IX Coordinator. Complainants and respondents participating in this process may have an adviser of their choice accompany them when engaging in this resolution process, as set forth above in Section III.

Key aspects of an RBR include that it:

- is a voluntary process when available to resolve allegations; unlike an investigation process, there are no circumstances (e.g., safety of a minor, safety of a party or the community) under which Caltech can undertake this process against the wishes of a party;
- focuses on non-disciplinary remedies to the concerns underlying the alleged prohibited conduct. For example, under an RBR, a respondent can agree to undertake a counseling and/or education program to address behavioral issues. In an investigation process, a decision maker cannot compel counseling as part of the sanction;
- provides a measure of control to the complainant in crafting measures and remedies undertaken by the respondent, allowing the complainant to focus on remedying specific social, academic, or administrative concerns;
- leaves open to the parties the alternative option of pursuing an investigation at any time during the negotiation process, or if the parties ultimately cannot come to a mutually acceptable agreement or if a party fails to comply with any or all of their commitments under an executed RBR as determined by the Title IX Coordinator;
- provides both parties a final resolution of the complaint, if an agreement is reached; and
- does not involve an adjudication of the allegations and a potential finding of responsibility against the respondent.

In cases in which the Title IX Coordinator determines an RBR may be appropriate, the Title IX Coordinator will discuss with a complainant potential elements of an RBR pertinent to their concerns and allegations to help them determine whether an RBR is an option they wish to pursue. If all parties to a formal complaint are agreeable to pursuing a resolution through the RBR process and provide voluntary written consent to engage in the RBR process, the Title IX Coordinator will work with the parties to negotiate and craft the agreement. The parties do not engage directly with one another. The Title IX Coordinator, with the consent of the parties, may seek the assistance of academic and administrative leadership, as appropriate, to make possible and implement elements of the agreement.

There are certain situations, however, where the Title IX Coordinator may determine that the parties' ability to discuss and reach a resolution of the concerns requires intervention and facilitation by a third-party mediator outside the Caltech community. If the parties agree to work with a mediator, the Title IX Coordinator will make the arrangements. The decision to use a third-party mediator is within the sole discretion of the Title IX Coordinator.

Potential elements of an RBR agreement include, but are not limited to, counseling or substance abuse treatment for a respondent; training for a respondent provided by the Title IX Coordinator and/or other resources; and other supportive measures, as described above in Section VI.

An RBR process culminating in a signed agreement will be concluded within a reasonably prompt time frame after the complaint has been made, generally forty-five (45) calendar days. The Title IX Coordinator will keep the parties informed of the status of the process. The Title IX Coordinator may delay the process temporarily or extend the time frame for good cause, providing written notice to the parties of any delays or extensions and the reasons therefor. Good cause may include but is not limited to the absence of a party or a party's adviser; the need for language assistance or accommodation of disabilities; the number of parties; and office closures.

If a resolution is not reached under this process within a reasonable amount of time, or if the Title IX Coordinator determines that one or both parties are not participating in good faith or a timely or appropriate manner in the process, the Title IX Coordinator may terminate the process, and the complainant may pursue the other resolution options.

A remedy-based resolution is the final resolution of the allegations it addresses, unless a party fails to carry out their commitments under the agreement, as determined by the Title IX Coordinator.

C. Facilitation of Administrative Resolution or Remedy-Based Resolution During Investigation Process

At any time following the filing of a formal complaint, including during an investigation process, prior to reaching a final determination regarding responsibility, inclusive of any appeal process, the Title IX Coordinator may facilitate an administrative resolution (AR) or a remedy-based resolution (RBR), if determined to be appropriate, provided that the Title IX Coordinator:

1. Provides to the parties written notice disclosing the allegations, the requirements, and consequences of the AR or RBR process, including that: (a) completing either resolution precludes the parties from initiating or resuming a formal complaint arising from the same allegations; (b) at any time prior to completing the AR or RBR process, either party has the right to withdraw and initiate or resume the investigation process; and (c) notice of records that will be maintained or could be shared and with whom.
2. Obtains the parties' voluntary written consent to the AR or RBR process.

D. Investigation Process

1. *Introduction*

This option provides both parties with an investigation and adjudication of the allegations. The investigation and adjudication of alleged prohibited conduct under this section is not an adversarial process between the complainant, the respondent and the witnesses, but rather a process by which Caltech complies with its obligations under existing law. The complainant does not have the burden to prove, nor does the respondent have the burden to disprove, the allegations of prohibited conduct. If the decision maker determines that a preponderance of the evidence substantiates alleged prohibited conduct and a violation of the Sex- and Gender-Based Misconduct Policy, sanctions, remedies, or systemic remedies, as appropriate, will be imposed. The decisions made by the decision maker, subject to the resolution of any appeal, represent the final resolution of the formal complaint, whether or not a respondent is found responsible.

Caltech's investigation will occur independently from any legal/criminal proceedings that may take place. Caltech may defer fact gathering for an appropriate time during a criminal investigation.

The Title IX Coordinator will assign appropriate investigator(s) to carry out the investigation. The investigator(s) must be impartial and free of any conflict of interest. Generally, for complaints involving students, staff, or faculty, the Title IX Coordinator will refer the investigation to the lead investigator and appropriate deputy Title IX Coordinator. The Title IX Coordinator may appoint different investigator(s).

All participants in an investigation will receive a fair and impartial process and be treated with dignity, care, and respect. Caltech's policy and investigation procedures are intended to ensure that individuals reported for prohibited conduct are not prejudged and are provided with adequate notice and an opportunity to be heard regarding the allegations made against them. Respondents are presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the investigation process.

The purpose of the investigation is to gather the evidence relating to the complaint, and decisions are based on an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence. Evidence may include statements from the parties and witnesses; documents relating to the complaint, such as texts, photographs, and emails; and physical evidence, such as clothing, rape kit evidence, and weapons.

Credibility determinations may not be based on a person's status as a complainant, respondent, or witness.

The investigation will be trauma-informed and impartial. Those involved in questioning parties and witnesses—namely, the Title IX Coordinator and Title IX deputies, the investigators and the decision maker—will receive training in conducting fair and trauma-informed investigations and hearings.

The investigation will be treated as private to the extent possible. Caltech administrators will be informed on a need-to-know basis. Caltech will make reasonable and appropriate efforts to preserve the privacy of the parties and witnesses and protect the confidentiality of information. With the exception of the hearing portion of the investigation process, as set out below, no

meetings or conversations that take place as part of the investigation process may be recorded by anyone. Investigation files, including the recording of the hearing, will be maintained by the Equity and Title IX Office.

Caltech does not tolerate retaliation and will take steps to prevent retaliation and strong responsive action if it occurs. All participants, including complainants, respondents, and witnesses, are protected against retaliation, and will be advised to notify Caltech immediately if retaliation occurs.

Any new allegations that arise during the course of the investigation that could subject either party to new or additional sanctions shall be subject to the notice requirements set out above in Sections V (Initial Title IX Assessment) and XI (Notice of Allegations).

Parties and witnesses who elect to participate in the investigation process are expected to do so in good faith and in a timely, reasonable, and appropriate manner. If the Title IX Coordinator determines that an individual is not complying with this expectation (e.g., failing to schedule meetings with the investigator, not showing up to meetings, neglecting to provide evidence they said they would provide, failing to respond to the draft investigation report), the Title IX Coordinator may conclude the investigation phase without further opportunity by such individual to provide evidence.

2. Limitations on Questioning

The investigators and decision maker will not ask parties or witnesses questions that are repetitive, irrelevant, or harassing. Consistent with federal and state law, the investigators and the decision maker will not ask questions or seek evidence of a complainant's or respondent's prior or subsequent sexual conduct with anyone other than the respondent, except to the extent such questions and/or evidence are used to determine whether someone other than the respondent committed the conduct alleged by the complainant. Furthermore, evidence of a prior consensual sexual, romantic, or intimate relationship between the complainant and respondent does not by itself imply consent or preclude a finding of prohibited conduct. The investigators and decision maker shall not consider the existence of a dating relationship or prior or subsequent consensual sexual relations between the parties unless the evidence is relevant to how the parties communicated consent in prior or subsequent consensual sexual relations. Where the investigators or decision maker allow consideration of evidence about a dating relationship or prior or subsequent consensual sexual relations between the parties, the mere fact that the parties engaged in other consensual sexual relations with one another is never sufficient, by itself, to establish that the conduct in question was consensual. Before allowing the consideration of any evidence described in this section, the investigators or decision maker shall provide a written explanation to the parties as to why consideration of the evidence meets the requirements for consideration.

The investigation, at any stage, will not require, allow, rely upon, or use questions or evidence that constitute or seek the disclosure of information protected under a legally recognized privilege (e.g., attorney-client, doctor-patient, clergy-penitent), unless the person holding such privilege has waived the privilege. Questions that seek information about any party's medical, psychological, and similar records are not permitted unless the party has given written consent.

3. Amnesty Concerning Student Policy Violations: Complainants and Witnesses

The investigators will investigate any allegations that alcohol or drugs were involved in the incident.

A student who participates as a complainant or witness in an investigation of sexual assault, dating violence, domestic violence, or stalking will not be subject to disciplinary sanctions for a violation of Caltech's student conduct policies at or near the time of the incident, including but not limited to the Substance Abuse Policy, unless Caltech determines that the violation was egregious, including but not limited to, an action that places the health or safety of any other person at risk or involves conduct that violates Caltech's policies prohibiting discrimination, or other serious misconduct like plagiarism, cheating, research misconduct, or other forms of academic dishonesty.

Whether a student's violation of the Student Health and Hygiene Policies and other COVID-19-related measures warrants amnesty will be determined on a case-by-case basis by the Title IX Coordinator. However, absent conduct showing a deliberate and reckless disregard for the health of others - for example, by hiding one's own known infected status and exposing others – a student who participates as a complainant or witness in an investigation of sexual assault, dating violence, domestic violence, or stalking will not be subject to disciplinary sanctions for a violation of such policies and measures.

4. Standard of Evidence

All decisions made in the course of this investigation process will utilize the preponderance of evidence standard. A preponderance of evidence means that it is more likely than not that the alleged prohibited conduct occurred. Stated another way, it means that the likelihood the alleged prohibited conduct occurred is any amount over 50%. The decision maker will make a decision on the disputed facts and also decide whether the evidence makes it more likely than not that the alleged prohibited conduct occurred based on the evidence available at the time of the decision. When the decision maker is presented with two different but plausible versions of alleged prohibited conduct, credibility determinations may affect the outcome.

5. Identity of the Decision Maker

The Title IX Coordinator shall have the discretion to determine which appropriately trained individual will serve as the decision maker in the investigation process. As set forth below, the decision maker conducts any hearing that takes place under these procedures. The parties will be notified of the identity of the decision maker before the hearing as well as the process for objecting to the identity of the decision maker on the basis of a conflict of interest or bias.

6. Determination of Sanctions, Remedies, and Systemic Remedies

At the conclusion of the investigation process, if there is a finding of responsibility, the appropriate administrator will determine the appropriate sanctions, remedies, and systemic remedies.

Generally, the appropriate administrator shall be determined based upon the respondent's affiliation (the vice provost for research or administration for faculty, the assistant vice president for human resources for postdoctoral scholars and campus staff, the deputy director for human resources at JPL for JPL employees, and the appropriate dean for student respondents).

In determining sanctions, remedies, and systemic remedies, these administrators will consult with the Title IX Coordinator and may consult with any other individual they deem appropriate.

7. *Timeline*

Complaints will be investigated and resolved within a reasonably prompt time frame after the complaint has been made, generally 120 calendar days.

The Title IX Coordinator will provide the parties written updates of the status of the investigation every thirty (30) days, including the date by which the parties shall be notified of the outcome of the investigation and the deadlines and process for parties to appeal. The Title IX Coordinator may delay the investigation process temporarily or extend the time frame for good cause, providing prompt written notice to the parties of any delays or extensions and the reasons therefor.

Good cause may include but is not limited to the absence of a party, a party's adviser, or a witness; concurrent law enforcement activity; the need for language assistance or accommodation of disabilities; the breadth and scope of the allegations, in terms of content and date, the number of potential witnesses, and the amount of available, relevant documentary evidence; the need to conduct a thorough, fair and accurate investigation; and office closures. The Title IX Coordinator shall not unreasonably deny a party's request for an extension of a deadline related to a complaint during periods of examinations or school closures.

8. *Procedural Steps for Investigation*

- 1) The Title IX Coordinator initiates the investigation process with a notification sent to both parties. This initial notification will identify the assigned investigator(s) and will notify the parties of their right to and process for objecting to either of the investigator(s) or to the Title IX Coordinator on the basis of conflict of interest or bias. The notification will include the estimated date by which the parties will be notified of the outcome of any investigation.
- 2) The complainant and respondent may have an adviser of their choice, in accordance and subject to the requirements set out above in Section III of these procedures and the Adviser Policy and Confidentiality Agreement.
- 3) The Title IX Coordinator or associate vice president of human resources, as appropriate, will consider any objections by the parties on the basis of conflict of interest or bias and determine the Title IX Coordinator and investigator(s) for the process.
- 4) After a reasonable amount of time to review the notice of allegations and applicable policies and procedures, the parties will be given equal opportunity to meet with the investigator(s). In those meetings, the investigator(s) will seek and gather evidence about the allegations, including any documents or physical evidence, as well as the identification and location of witnesses.
- 5) Throughout the process, the parties may suggest witnesses and documents to the investigator(s) as well as questions for the investigator(s) to ask the other party and any witnesses. The investigator(s) will determine whether the suggestions are relevant and appropriate. Caltech asks the parties to keep the investigation private but cannot and will not prohibit the parties from discussing the investigation with others in connection with identifying evidence for the investigator(s) to gather.

The parties may not, however, engage in coercion, pressure, undue influence, or retaliation with respect to potential witnesses or other parties in the course of identifying evidence for the investigator(s). The parties may seek guidance from the Title IX Coordinator and the investigator(s) on avoiding these concerns. Communications between parties and witnesses deemed to have resulted from coercion, pressure, undue influence, or retaliation may be discounted altogether by the decision maker or may be considered by the decision maker in making credibility determinations and weighing evidence deemed subject to the undue influence.

- 6) The investigator(s) will interview relevant witnesses and gather other evidence related to the allegations, if any. Witnesses may also submit documents or written statements to the investigator(s), to supplement their in-person or video interviews.
- 7) In addition to providing information orally during meetings with the investigator(s), the parties may submit written statements and evidence to the investigator(s) that document their experiences. Written statements, however, may not wholly supplant live face-to-face or video interviews with the investigator(s). Live face-to-face or video meetings and questioning are important to enable the investigators to conduct a fair, thorough, and efficient investigation. While Caltech cannot compel any party or witness, to meet with the investigator(s), appropriate due process may require Caltech to discount any written statements, and even information provided orally, that the investigators cannot inquire about in an in-person or video meeting.
- 8) The investigator(s) will prepare a draft investigation report identifying the facts disputed by the parties for each allegation, as well as summarizing and identifying the relevant, related evidence gathered, including facts relevant to the credibility of parties or witnesses or items of evidence. The investigators will also provide appendices containing the evidence gathered. The complainant and respondent will be given equal opportunity to review and respond to the investigation report. The report will also be provided to the parties' advisers. All those receiving access to the report will be required to sign a non-disclosure agreement to protect the confidentiality of the material. The non-disclosure agreement will not prohibit the parties from discussing the investigation with others in connection with identifying additional evidence for the investigator(s) to gather. Failure to comply with the nondisclosure agreement on the part of a party or their adviser may subject the appropriate party to discipline. If an adviser violates the nondisclosure agreement it will be grounds for excluding the adviser from further participation in the proceedings. The parties will have at least ten (10) calendar days to submit a written response to the report. The investigators will determine whether the parties' responses require any follow-up investigatory action or an opportunity for the other party to respond.
- 9) The investigator(s) will finalize the investigation report. This finalized investigation report will be provided to the parties and their advisers, and the decision maker at least thirty (30) calendar days before any hearing.
- 10) Where the investigation addresses allegations that **only** fall within the policy Section 16.0, setting out conduct prohibited by the California Education Code, Caltech will determine whether a hearing is necessary to determine whether that alleged prohibited conduct more likely than not occurred. In making this decision, Caltech will consider whether the parties elected to participate in the investigation, as well as the fact that each party had the opportunity to suggest questions for other parties, or witnesses, or both, during the investigation. If Caltech determines a hearing is necessary, that

hearing will not involve any cross-examination of any party or witness conducted directly by a party or a party's adviser.

- 11) Prior to any hearing, the parties will be notified of the identity of the decision maker and will be given an opportunity to object to that individual on the basis of a conflict of interest or bias.
- 12) At any hearing conducted under the investigation process, the decision maker will meet face-to-face, in person or via video, separately, with the parties, and others whom the decision maker deems appropriate, prior to deciding how to resolve the disputed facts, make credibility determinations, and determine whether the allegations and any policy violations are substantiated by a preponderance of the evidence. Any hearing is private and closed to the public. Only the decision maker, the parties and their advisers, witnesses, appropriate administrators, and others determined by Caltech to be necessary to the hearing may attend. The decision-maker will determine an appropriate and reasonable scope and time frame for the hearing, as well as logistical processes for the hearing, such as for making objections and submitting questions.
- 13) The hearing will be conducted with the appropriate technology to allow the parties to virtually observe each other's meeting, and any witness meetings, with the decision maker while maintaining their physical separation. Parties or witnesses may request to appear by video from a remote location. Caltech will grant the request of any party that the entire hearing, including cross-examination, be held virtually. In making this request, the party does not need to provide a reason. In the absence of such a request, the Title IX Coordinator has the discretion to allow any party or witness to appear at the hearing virtually, with technology enabling participants simultaneously to see and hear each other, as appropriate. Any requests for disability accommodations should be made to the Title IX Coordinator and Caltech's Accessibility Services Specialist.
- 14) All of the evidence that was made available previously in the investigation report will be made available at the hearing to give each party equal opportunity to refer to such evidence during the hearing.
- 15) Before and during the hearing, the parties may submit written questions for the lead investigator and decision maker to ask the other party and any witnesses with whom the decision maker is meeting (indirect cross-examination). The parties can submit written questions during the hearing through the appropriate technology while maintaining their physical separation. The decision maker will facilitate the questioning and may consult with the lead investigator. The decision maker will have the discretion to exclude any question(s) that they determine inappropriate. At the hearing, the other party shall have the opportunity to note an objection in writing to a question posed. Neither the decision maker nor Caltech is obligated to respond to the objection but may consider it and must include it in the record. The decision maker shall have the authority and obligation to discard or rephrase any question that the decision maker deems to be repetitive, irrelevant or harassing. In making these determinations, the decision maker is not bound by, but may take guidance from, the formal rules of evidence.
- 16) The parties may not introduce evidence, including witness testimony, at the hearing that the party did not identify during the investigation and that was available at the time of the investigation. However, the decision maker has the discretion to accept for good cause, or to exclude, such new evidence offered at the hearing.

- 17) In addition, consistent with guidance issued by the Department of Education Office of Civil Rights, the following procedural steps in this paragraph (q) apply only at hearings adjudicating allegations of prohibited conduct covered under Title IX (policy Section 15.0) and occurring, in whole or in part, on or after August 14, 2020: (i) each party's adviser (but not the parties themselves) may directly and orally ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility (direct cross-examination); (ii) before a party or witness answers an adviser's direct question, the decision maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant or otherwise inappropriate; and (iii) for the purpose of the hearing only, if a party does not have an adviser, Caltech will provide without fee or charge to that party an adviser of Caltech's choice who may be, but is not required to be, an attorney, to conduct direct cross-examination on behalf of that party.

In conducting direct cross-examination of a party or witness, the adviser of a party may ask only those questions drafted by the party whom they are advising. The adviser may not ask questions their party has not drafted. The adviser, moreover, must maintain a calm and respectful tone throughout the direct cross-examination. An adviser may not make objections, statements, or arguments during the cross-examination or otherwise during the hearing. The decision maker may disqualify an adviser who does not follow these rules.

- 18) The decision maker will comply, and ensure others when allowed to ask questions comply, throughout the hearing with Section XIII(D)(2) (*Limitations on Questioning*) of these procedures.
- 19) Caltech cannot compel either party, or any witness, to meet with the decision maker at the hearing. However, if a party or witness does not attend the hearing or, when required, refuses to submit to direct cross-examination at the hearing, the decision maker will not rely on any statement of that party or witness in reaching a determination regarding the respondent's responsibility. Police reports, medical reports and other documents and records may not be relied upon to the extent they contain statements of a party or witness who has not submitted to cross-examination. However, the term "statements" does not include, for example, evidence such as videos or photographs of the underlying incident. The decision maker may consider texts or emails that in themselves constitute the alleged sexual harassment. The decision maker will decide what evidence may be relied upon with respect to this paragraph (t). The decision maker cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer direct cross-examination questions. This means, for example, that the decision maker may not make any decisions about a party's credibility based on their decision not to participate in a hearing or submit to cross-examination. The decision maker may re-evaluate the relevance of any question a party or witness refuses to answer after the hearing has concluded.

If a party or witness submits to cross-examination by a party's adviser but does not answer a question posed by the decision maker, the decision maker may still rely on that person's statements. The decision maker may not draw any inference about the party's credibility in making the responsibility determination based solely on a party's refusal to answer questions posed by the decision maker.

- 20) Caltech will create an audio or audio-visual recording, or transcript, only of the hearing and make it available to the parties upon request for their inspection and review. No party, adviser, or witness is permitted to make independent recordings of the hearing or any other meeting or conversation that takes place under the investigation process.
- 21) The decision maker will resolve the disputed facts, make credibility determinations, and decide whether the allegations and any policy violations are substantiated by a preponderance of the evidence. In making these decisions, the decision maker will consider the final investigation report and appendices of evidence, the parties' responses to the draft investigation report, the information gathered in the hearing, and the decision maker's credibility assessments of those interviewed at the hearing, as appropriate. The potential conclusions the decision maker can reach include but are not limited to: a violation of Caltech's Sex- and Gender-Based Misconduct Policy occurred; inappropriate behavior but no violation occurred; the complaint was not supported by the evidence; the complaint was brought without a reasonable good-faith basis.

After making these decisions, the decision maker will meet with the appropriate administrator who will determine any sanctions, remedies, and systemic remedies, in order to brief them on the process and factual findings and conclusions. That administrator will be identified and will determine any sanctions, remedies, and systemic remedies, if appropriate, in accordance with Section XIII(D) (5)(*Identity of the Decision Maker*), (6)(*Determination of Sanctions, Remedies, and Systemic Remedies*), and (9)(*Potential Sanction, Remedies, and Systemic Remedies*) of these procedures.

The decision maker will notify the parties simultaneously of all of these determinations in writing. The letter will include:

- identification of the allegations;
 - a description of the procedural steps taken from the receipt of the formal complaint through the determination of responsibility, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
 - findings of fact supporting the determination;
 - conclusions regarding the application of the Sex- and Gender-Based Misconduct Policy and any other applicable Caltech policy to the facts;
 - a statement, and rationale for, the result as to each allegation, including a determination regarding responsibility and any sanctions, remedies, and systemic remedies determined by the appropriate administrator; and
 - procedures and permissible bases for the complainant and respondent to appeal.
- 22) The determinations regarding responsibility and sanctions, remedies, and systemic remedies become final either on the date that the parties are provided the result of any appeal, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.
 - 23) The Title IX Coordinator will be informed of the outcome of the investigation and any appeal in order to carry out their responsibilities to consult on and coordinate implementation of any sanctions, remedies, and systemic remedies, monitor outcomes, identify and address areas of needed education and training presented by the case, and assess and address effects on the campus climate.

- 24) Exceptions to or modification of these procedures can be made at any time by the Title IX Coordinator, provost, deans or associate deans, associate vice president for human resources, or director for human resources at JPL in order to ensure these procedures promote fairness to both parties and compliance with the law.

9. *Potential Sanctions, Remedies, and Systemic Remedies*

If a violation of Caltech's Sex- and Gender-Based Misconduct Policy has occurred, appropriate sanctions, remedies, and systemic remedies, as appropriate, will be imposed. The appropriate administrator may impose any one or more of the following:

Sanctions

- Verbal warning;
- Training;
- Mandatory coaching;
- Mandatory substance abuse treatment;
- A formal written warning placed in the respondent's file;
- Exclusion from participation in certain activities for a specified period of time;
- Temporary or permanent exclusion from campus;
- Suspension of the right to accept new graduate students or postdoctoral scholars;
- Transfer of advisees;
- Removal from positions of administrative responsibility;
- Suspension from positions requiring supervision or interaction with students or other members of the Caltech community;
- Restricted access to Caltech premises;
- Restricted access to Caltech's educational programs or activities;
- Removal from Caltech housing;
- Removal from a supervisory position;
- Involuntary leave of absence/suspension;
- Expulsion;
- Termination of employment;
- Permanent separation from the Institute;
- Revocation of admission;
- Delay or revocation of degree.

Remedies

- Access to counseling services and assistance in setting up initial appointment, both on and off campus;
- Imposition of "No Contact Letter;" where a no-contact directive is issued after a finding of responsibility has been made, it shall be unilateral and apply only against the party found responsible;
- Rescheduling of exams and assignments, and reassignment of grading or other evaluative responsibilities (in conjunction with appropriate faculty and deans as necessary);
- Providing alternative course completion options (with the agreement of the appropriate faculty);

- Change in class schedule, including the ability to take an “incomplete,” drop a course without penalty, or transfer sections (with the agreement of the appropriate faculty);
- Change in work schedule or job assignment;
- Change in on-campus housing, when feasible;
- Arranging to dissolve a housing contract and prorating a refund in accordance with campus housing policies;
- Assistance from Caltech support staff in completing housing relocation;
- Limiting an individual or organization’s access to certain Caltech facilities or activities pending resolution of the matter;
- Voluntary leave of absence;
- Providing an escort to ensure safe movement between classes and activities;
- Providing medical services;
- Providing academic support services, such as tutoring;
- Any other remedy that can be tailored to the involved individuals to reasonably achieve the goals of this policy.

Systemic Remedies

- Institute-wide, division-wide, and/or option-wide, or other team-based communication or outreach effort and training, as appropriate;
- Addition of information to Equity and Title IX Office website, or other Institute website, as appropriate;
- Conduct of appropriate climate survey to gather information pertinent to preventative outreach efforts.

If the respondent was found not to have violated Caltech’s Sex- and Gender-Based Misconduct Policy, but the investigation concluded that they committed some other wrongful or improper act, appropriate corrective action will be taken. Effective corrective action may also require remedies for a complainant and/or systemic remedies for the broader Caltech community. Caltech will take appropriate measures to prevent the reoccurrence of any prohibited conduct, and to correct and prevent any discriminatory or retaliatory effects, as appropriate.

In determining sanctions, remedies, and systemic remedies, as appropriate, the administrator will consult with the Title IX Coordinator and other persons they deem appropriate, to enable Caltech to take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and, if appropriate, others.

NOTE: The Institute may undertake remedies and systemic remedies, as appropriate, to safeguard a complainant’s access to education, at any time. The complainant’s engagement in a resolution process is not a prerequisite for such Institute action. Moreover, Caltech shall consider and respond to requests for accommodations relating to prior incidents of sexual harassment that could contribute to a hostile educational environment or otherwise interfere with a student’s access to education where both individuals are, at the time of the request, subject to Caltech’s policies.

10. Disclosure of Outcomes

Outcomes of disciplinary proceedings may be disclosed consistent with applicable law, including FERPA, Title IX, and the Clery Act. Upon request, Caltech will disclose the outcomes of a disciplinary proceeding against a student who is the alleged perpetrator of any crime of sexual violence to the alleged victim.

Outcomes of the investigation process will be disclosed on a need-to-know basis, as determined by the Title IX Coordinator, in order to effect sanctions and/or other remedies and systemic remedies.

11. Appeal

Appeals may be submitted by either party. They must be in writing and submitted within ten (10) calendar days of notification of the decision to the appropriate administrator (the provost for faculty, the associate vice president for human resources for postdoctoral scholars and campus staff, the vice president of student affairs for students, or, the director for human resources at JPL for JPL employee respondents). In assessing appeals, these administrators may consult with any individual they deem appropriate. The recipient of the appeal will notify the Title IX Coordinator and any other party in writing when an appeal is filed.

Appeals of decisions resulting from the investigation process are limited to one or more of the following grounds: a procedural irregularity that affected the outcome of the matter; new evidence (including a new witness) that was not reasonably available at the time the determination regarding responsibility was made and that could affect the outcome of the matter; the Title IX Coordinator, investigator(s), decision maker(s), or administrator who determined and imposed any sanctions or remedies had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter; the sanctions or remedies are substantially disproportionate to the conduct for which the respondent was found responsible.

If a party submits an appeal, the other party will have the opportunity to submit a written response to the appeal within ten (10) calendar days of the filing of the appeal. The parties simultaneously will be informed, in writing, of the outcome of the appeal. The appeal decision letter will state the rationale for the result. Appeal decisions are final.

XIV. Further Complaints

If the corrective action does not end the prohibited conduct, the complainant should immediately notify at campus the Title IX Coordinator, or a deputy Title IX Coordinator, the provost or a division chair, dean or associate dean, Employee and Organizational Development director; or at JPL, the Deputy Title IX Coordinator. In such cases, the complainant has the right to file another formal complaint based on new prohibited conduct.

Related Policies and Procedures:

- [Sex- and Gender-Based Misconduct Policy](#)
- [Nondiscrimination and Equal Employment Opportunity Policy](#)
- [Unlawful Harassment Policy](#)
- [Procedures for Complaints of Unlawful Discrimination, Harassment and Retaliation](#)
- [Violence Prevention Policy](#)