INSTITUTE POLICY

Procedures for Complaints of Sex- and Gender-Based Misconduct under Title IX

I. Introduction and Scope

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 reflects its 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’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. Caltech will conduct a fair, impartial, timely, and thorough investigation that provides all parties with appropriate due process.

These procedures are to be applied to address allegations of prohibited conduct that (a) fall within the scope of Caltech’s policy, as set out in Section I, 2.0 of the Sex- and Gender-Based Misconduct Policy, and (b) either fall within the scope of Title IX, as set out in Section III, 14.0, or involve a student respondent.

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

II. Retaliation

No one may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the Sex- and Gender-Based Misconduct Policy or these procedures, or the Unlawful Harassment Policy and related procedures, or because the individual has made a report or complaint, testified, assisted, participated, or refused to participate in any manner in any action or process under these procedures. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve prohibited conduct under the Sex- and Gender-Based Misconduct Policy but arise out of the same facts or circumstances as a report, complaint, or formal complaint of prohibited conduct, for the purpose of interfering with any right under the Sex- and Gender-Based Misconduct Policy or these procedures, or the Unlawful Harassment Policy and related procedures, constitutes retaliation.

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 Caltech’s charging an individual with a policy violation for making a materially false
statement in bad faith in the course of a resolution process. For example, 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.

Complaints of retaliation will be addressed under the Unlawful Discrimination procedures.

III. Avoiding Bias

Any consideration of impartiality, or objections based on conflict of interest or bias, of those involved in Title IX processes must be reviewed by thoughtful and shared 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.

IV. Initial Title IX Assessment

Upon receiving a report of misconduct, 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 will promptly contact the complainant to discuss the availability of supportive measures, consider the complainant’s wishes with respect to supportive measures, inform the complainant that supportive measures are available with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

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 and Unlawful Harassment policies and related procedures and copies of these documents
- Written materials outlining information on campus support resources and services, including their contact information and days and hours of availability, as well as information on coordination with law enforcement

V. 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. 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 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, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of campus, 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.

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.

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 found in violation of the policy for failure to comply with a supportive measure even if they are found not responsible for the underlying report of prohibited conduct.

VI. Emergency Removal

The Title IX coordinator will undertake an individualized safety and risk analysis for the purpose of determining whether the respondent is an immediate threat to the physical health or safety of any student or other individual, arising from the reported prohibited conduct, 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 risks 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 the prohibited conduct is covered under these procedures, 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. In deciding this challenge, 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.
VII. Complainant’s Ability to Exercise Options

If the allegations, on their face, present potential violations of the policy, the Title IX coordinator will work with the complainant to determine the most appropriate response under these procedures. The Title IX coordinator will review with the complainant the process for filing a formal complaint as well as the options for responding to and addressing their allegations.

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.

The Title IX coordinator will make every effort to respect the complainant’s choices, concerns and goals as the complainant considers their resolution options.

However, 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 must weigh the request against its obligation, including under applicable law, to take action to provide a safe, nonthreatening environment. 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, the Title IX coordinator will weigh the request against factors that may lead the Title IX coordinator to take action, against the wishes of the complainant, on behalf of Caltech to protect the health and safety of the complainant and the 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, circumstances that suggest there is a significant risk that the respondent will commit further acts of prohibited conduct, whether there was a weapon or violence involved, whether there is evidence of pattern, and the age of a student complainant. Circumstances speaking to a significant risk of further acts of prohibited conduct by the respondent may include whether there have been other reports/complaints of prohibited conduct involving the respondent, the intentional exploitation of a power differential, or the use of alcohol or drugs to induce vulnerability to sexual activity without consent.

Where the Title IX coordinator determines that the safety of the community requires Caltech to take action, they will determine the action to be taken and notify the complainant. The Title IX coordinator will attempt to address the prohibited conduct consistent with the complainant’s request(s), to the extent protecting the health and safety of the complainant and the Caltech community allows. Where a complainant declines to participate in any response to the alleged prohibited conduct, Caltech’s ability to respond may be limited.

In those instances where the Title IX coordinator determines that Caltech must file a formal complaint despite the request of the complainant, the Title IX coordinator will inform the complainant of Caltech’s intention to do so. The complainant is not required to participate in the ensuing process.

All final determinations and decisions taken under this provision, 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.
VIII. Filing a Formal Complaint

In order to exercise resolution options for addressing and resolving complaints of 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 the 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 the formal complaint, the complainant must be participating in or attempting to participate in the employment or education program or activity of Caltech, which includes locations, events, or circumstances over which Caltech exercised substantial control over both the respondent and the context in which the alleged prohibited conduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by Caltech.

Where the Title IX coordinator initiates activity under their own authority to protect the safety of the Caltech community, the formal complaint requirements must still be met.

IX. 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.

X. Notice of Allegations

Upon receiving a formal complaint, the Title IX coordinator must provide written notice to the parties of the following, with sufficient time for the parties 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. 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;
4. that the parties may have an adviser of their choice, who may be, but is not required to be, an attorney;
5. 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

XI. Dismissal of a Formal Complaint

Upon receiving a formal complaint, the Title IX coordinator must dismiss the complaint for resolution under these procedures if the conduct alleged is not covered under Title IX, unless the respondent is a student, and, if appropriate, refer it 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 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.

**XII. 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 and punitive, and burden the other party.

Any person designated by Caltech to facilitate any of the resolution processes set out below (e.g., Title IX coordinator, investigator, decision maker, adviser, etc.) 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. 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.

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 appropriate training.

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.
A. **Administrative Resolution**

The Title IX coordinator, with the agreement 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. The adviser may not speak on behalf of the individual they are supporting.

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. 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, for faculty and staff respondents, 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 10 days of receiving this letter, either party may appeal in writing only on the grounds that the sanction is substantially disproportionate to the acknowledged prohibited conduct. Appeals shall be submitted and resolved by the following administrators based upon the respondent’s affiliation: 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, and the director for human resources at JPL for JPL employees. In assessing appeals, these administrators may consult with any individual they deem appropriate. Appeal decisions are final.

An AR process will be concluded within a reasonably prompt time frame after the complaint has been made, generally 30 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.

An AR is the final resolution of the allegations contained therein.
B. Remedy-Based Resolution

The remedy-based resolution process is not available to resolve allegations that a Caltech employee has engaged in prohibited conduct under this policy.

A remedy-based resolution (RBR) is a mutual agreement entered into among Caltech and the parties to a formal complaint. 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 Title IX 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.

Key aspects of an RBR include that it:

- 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, the Title IX coordinator will work with the parties to negotiate and craft the agreement. 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 solutions that can be elements of an Remedy-Based Resolution (RBR) 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.
An RBR process culminating in a signed agreement will be concluded within a reasonably prompt time frame after the complaint has been made, generally 30 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 the process does not result in a resolution within a reasonable amount of time, the Title IX coordinator will terminate the process, and the parties 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 determination regarding responsibility, 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. If the decision maker determines that the allegations are substantiated by a preponderance of the evidence, they will make a formal finding that a respondent has violated the Sex- and Gender-Based Misconduct Policy and impose sanctions and remedies. 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 determine the facts relating to the complaint, and decisions are based on an objective evaluation of all relevant evidence, including both incriminating 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. Consistent with federal and state law, the investigators will not ask questions or seek evidence of a complainant’s prior 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. Credibility determinations may not be based on a person’s status as a complainant, respondent, or witness. The investigation 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. The investigator(s) will investigate any allegations that alcohol or drugs were involved in the incident, and the amnesty provision below will apply.

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.

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 keep the parties informed of the status of the investigation. The Title IX coordinator may delay the investigation 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, 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.

2. Amnesty Concerning Student Policy Violations: Complainants and Witnesses

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.

3. **Standard of Evidence**

All recommendations and 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 incident occurred. Stated another way, it means that the likelihood the incident occurred is any amount over 50%. The investigator(s) will make recommendations as to whether the evidence shows it is more likely than not a disputed fact occurred. The decision maker will make a final decision on the disputed facts and also decide whether the evidence makes it more likely than not that the alleged prohibited conduct occurred. When the investigator(s) and decision maker are presented with two different but plausible versions of an incident, credibility determinations may affect the outcome.

4. **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. 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.

5. **Determination of Sanctions**

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

Generally, for faculty and staff respondents, the administrator who determines the sanctions and remedies 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 and remedies, administrators will consult with the Title IX coordinator and may consult with any other individual they deem appropriate.

6. **Procedural Steps for Investigation**

a. 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.

The complainant and respondent may have an adviser of their choice accompany them to any meetings at any point in the investigatory process. However, the Caltech investigation process is not a legal proceeding and the adviser may not speak on behalf of the individual they are accompanying (other than at the hearing as described below). Caltech will not assume the responsibility of communicating information to advisers, except as otherwise indicated below. Advisers are required to sign Caltech’s Adviser Policy and Confidentiality Agreement setting forth the parameters of their role.
b. The Title IX coordinator or associate vice president of human resources, as appropriate, will consider any objections by the parties and determine the Title IX coordinator and investigator(s) for the process.

c. 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 gather evidence about the allegations, including any documents or physical evidence.

d. 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 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.

e. 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 face-to-face or video interviews.

f. 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, do 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 and to weigh the credibility of those providing evidence in order to resolve disputed facts. While Caltech cannot compel either party, or any witness, to meet with the investigator(s), appropriate due process may require Caltech to discount any written statements, and even information provided orally, that cannot be inquired about in a face-to-face or video meeting.

g. The complainant and respondent will be given equal opportunity to review and respond to an evidence report, which includes all the information and evidence gathered by the investigator(s). The evidence will also be provided to the parties’ advisers. All those receiving access to the information 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 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. The parties will have at least ten (10) days to submit a written response to the evidence. The investigators will determine whether the parties’ responses require any follow-up investigatory action or an opportunity for the other party to respond.

h. The investigator(s) will prepare a draft report concerning facts disputed by the parties. The parties and their advisers will have the opportunity to review, and the parties will have the opportunity to respond, to the draft report and all the information and evidence gathered by the investigator(s). The investigators will determine whether the parties’
responses require any follow-up investigatory action or an opportunity for the other party to respond.

i. The investigator(s) will finalize the investigation report and make recommended findings regarding the disputed facts for each allegation and provide supporting analysis. This finalized investigation report will be provided to the parties and their advisers, and the decision maker at least ten (10) days before the hearing.

j. Prior to the 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.

k. The decision maker and the lead investigator will conduct a hearing, in order to meet face-to-face or via video, separately, with the parties, and others whom the decision maker deems appropriate, prior to deciding how to resolve the disputed facts and whether the allegations are substantiated by the evidence.

l. 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.

m. All of the evidence that was made available previously for the parties’ inspection and review will be made available at the hearing to give each party equal opportunity to refer to such evidence during the hearing.

n. Before and during the hearing, the parties may suggest 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 questions during the hearing through the appropriate technology while maintaining their physical separation. The lead investigator will facilitate the questioning. The decision maker will have the discretion to exclude any question(s) that they determine inappropriate.

o. In addition, consistent with guidance issued by the Department of Education Office of Civil Rights, the following procedural steps in this paragraph (o) apply only at hearings adjudicating allegations of prohibited conduct 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.

p. 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 refuses to answer relevant questions (as determined by the decision maker) and/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. 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 or other questions. The decision maker may re-evaluate the relevance of any question a party or witness refuses to answer after the hearing has concluded.

q. At the hearing, questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant’s prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant’s prior sexual behavior with respect to the respondent and are offered to prove consent.

r. Caltech will create an audio or audio-visual recording, or transcript, 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.

s. The decision maker will resolve the disputed facts and decide whether the allegations are substantiated by the evidence. In making these decisions, the decision maker will consider the final investigation report, the parties’ responses to the final 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 administrator who will determine the sanctions and remedies in order to brief them on the process and factual findings and conclusions. That administrator will determine any sanctions and remedies, if appropriate. The administrator who will determine any sanctions and remedies 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, the appropriate dean for students, and the deputy director for human resources at JPL for JPL employees). 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 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, 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 and remedies; and
- procedures and permissible bases for the complainant and respondent to appeal.

t. The determinations regarding responsibility and sanctions and 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.

u. 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 sanction and 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.

v. Exceptions to or modification of these procedures can be made at any time by the Title IX coordinator, provost, dean 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.

7. Potential Sanctions and Remedies

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

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;”
- Rescheduling of exams and assignments (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.

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 the broader Caltech community. Caltech will take appropriate measures to prevent the reoccurrence of any prohibited conduct, and to correct any discriminatory or retaliatory effects, as appropriate.

8. 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.

9. 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 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 that could affect the outcome of the matter; the Title IX coordinator, investigator(s), decision maker(s), or administrator who determined and imposed any Sex- and Gender-Based Misconduct Procedures
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.

XIII. Further Complaints

If the corrective action does not end the prohibited conduct, the complainant should immediately notify the Title IX coordinator, or a deputy Title IX coordinator, the provost or a division chair, dean or associate dean, EOD director; or at JPL, the section manager, talent management. 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](#)
- [Nondiscrimination and Equal Employment Opportunity](#)
- [Unlawful Harassment](#)
- [Procedures for Complaints of Unlawful Discrimination, Harassment, and Retaliation](#)
- [Violence Prevention](#)