The University does not discriminate on the basis of sex and prohibits Sex Discrimination in its Education Programs or Activities as required by Title IX of the Education Amendments of 1972 and its implementing regulations, Title VII of the Civil Rights Act of 1974, and other applicable state and local laws. The University's prohibition on Sex Discrimination extends l1v (( )]T)13.9 1 (s)4 oa.pth Ac of x

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The Title IX Coordinator may assign one or more designees to carry out some of the University's responsibilities for compliance with Title IX and its implementing regulations, but the Title IX Coordinator retains ultimate oversight for those responsibilities.

In addition to the Title IX Coordinator, questions about Title IX and its implementing regulations may be referred to the U.S. Department of Education's Office for Civil Rights ("OCR"). Contact information for OCR is available at this link.

Capitalized terms have the meaning described in Appendix 1 "Definitions".

This Policy applies to Sex Discrimination that occurs within the University's Education Programs or Activities and that is committed by a member of the University Community.

This Policy does not apply to Sex Discrimination that occurs outside the scope of the University's Education Programs or Activities. Nevertheless, the University will address a sex-based hostile environment under its Education Programs or Activities even when some conduct alleged to be contributing to the hostile environment occurred outside the Education Programs or Activities or outside of the United States.

While this Policy is the exclusive policy governing Sex Discrimination that occurs within the University's Education Programs or Activities, Reports and Complaints of Sex Discrimination may implicate conduct that violates other University policies and standards. The University retains full discretion to enforce its other policies and standards with respect to applicable conduct, whether prior to, at the same time as, or after allegations of Sex Discrimination have been resolved pursuant to this Policy.

Any person may Report Sex Discrimination to the Title IX Coordinator. Reports may be made in person, by regular mail, telephone, electronic mail, or by any other means that

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Phone (24-Hour Hotline): (773) 821-

- Preserve all forms of electronic communication that occurred before, during, or after the assault.

- Contact a trusted person, such as a friend or family member for support.

- Talk with a professional licensed counselor, chaplain, or health care provider who can help explain options, give information, and provide emotional support.

- Make a report to the Title IX Coordinator.

- Explore potential avenues for investigation and determination under this Policy.

It is also important to take steps to preserve evidence in cases of Stalking, to the extent such evidence exists. Such evidence is more likely to be in the form of letters, emails, text messages, electronic images, and social media exchanges, rather than evidence of physical contact and violence. This type of non-physical evidence will also be useful in all types of Sex-Based Harassment investigations.

Once a report of Sexual Assault, Domestic Violence, Dating Violence, or Stalking is made, the victim has several options such as, but not limited to:

- Obtaining Supportive Measures.

- Contacting parents or a relative.

- Seeking legal advice.

- Seeking personal counseling.

- Pursuing criminal or civil legal action against the perpetrator.

- Submitting a Complaint to the Title IX Coordinator.

- Requesting that no further action be taken.

The University's Police Department can also assist individuals in obtaining a personal protection order ("PPO") through civil courts.

After receiving a Report of potential Sex Discrimination the Title IX Coordinator will conduct a preliminary assessment to determine:

- Whether the conduct, as reported, falls or may fall within the scope of this Policy (see "Scope"); and

At any time after receiving a report of Sex Discrimination, the Title IX Coordinator may remove a Student Respondent from one or more of the University's Education Programs or Activities on a temporary basis if an individualized safety and risk analysis determines that an immediate threat to the health or safety of any Student or other individual arising from the allegations of Sex Discrimination justifies removal. In the event the Title IX Coordinator imposes an interim removal, the interim removal is subject to appeal pursuant to the appeal procedure specified in "Right to Challenge Supportive Measure Decisions."

In the case of a Respondent who is a non-

of the alleged Sex Discrimination, including information suggesting a pattern, ongoing Sex Discrimination, or Sex Discrimination alleged to have impacted multiple individuals; (8) the availability of evidence; and (9) whether the University could end the alleged Sex Discrimination and prevent its recurrence without initiating the investigation and adjudication procedures.

If the Title IX Coordinator makes a Complaint, the Title IX Coordinator will notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing Supportive Measures.

If the Complainant or the Title IX Coordinator makes a Complaint, the University will commence an investigation as specified in "Investigation" and proceed to adjudicate the matter as specified in "Adjudication," below. In all cases where a Complaint is made, the Complainant will be treated as a party, irrespective of the party's level of participation.

In a case where the Title IX Coordinator makes a Complaint, the Title IX Coordinator will not act as a Complainant or otherwise as a party for purposes of the investigation and adjudication processes.

If the Title IX Coordinator elects not to make a Complaint, and no other person makes a Complaint, the Title IX Coordinator will still evaluate the need for and, if appropriate, implement other prompt and effective steps to ensure that Sex Discrimination does not continue or recur in the University's Education Programs or Activities and to remedy its effects, if any.

The University may consolidate Complaints as to allegations of Sex Discrimination 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 of Sex Discrimination arise out of the same facts or circumstances. Where the investigation and adjudication processes involve more than one Complainant or more than one Respondent, references in this Policy to the singular "party," "Complainant," or "Respondent" include the plural, as applicable. A Complaint of Retaliation may be consolidated with a Complaint of Sex Discrimination.

Any time after a Complaint is made, the Title IX Coordinator may dismiss it for any of the following reasons:

- The University is unable to identify the Respondent after taking reasonable steps to do so.
- The Respondent is not participating in the University's Education Programs or Activities and is not employed by the University.

- The Complainant voluntarily withdraws any or all of the allegations in the

- Notification to the Complainant and Respondent of the University's prohibitions on Retaliation and false statements specified in "Bad Faith Complaints and False Information" and "Retaliation."

- If the case is one involving Sex-Based Harassment and a Student Complainant or Student Respondent, a statement that the party may be accompanied by an advisor of their choice, who may be an attorney, and who is permitted to fulfill the role described in "Advisor of Choice."

If there are legitimate concerns for the safety of any person because of providing the written notice of Complaint, providing such written notice may be reasonably delayed to address the safety concern appropriately. Safety concerns that would justify delay of providing the written notice must be based on an individualized safety and risk analysis and not mere speculation or stereotypes. In any event, the written notice of Complaint will be provided to a party sufficiently in advance of their initial investigative interview such that the party has sufficient time to prepare.

Should the University elect, at any point, to investigate allegations that are materially beyond the scope of the initial written notice, the University will provide a supplemental written notice describing the additional allegations to be investigated.

After the written notice of a Complaint is transmitted to the parties, the Title IX Coordinator, or an investigator selected by the Title IX Coordinator, will undertake an investigation to gather evidence relevant to the alleged Sex Discrimination, including inculpatory and exculpatory evidence. The burden of gathering evidence sufficient to reach a determination in the adjudication lies with the University and not with the parties. Although the length of each investigation may vary depending on the totality of the circumstances, the University strives to complete each investigation within thirty (30) to forty-five (45) days of the transmittal of the written notice of the Complaint.

During the investigation, the investigator will provide advance written notice to a party of the date, time, location, participants, and purpose of all meetings and investigative interviews pertaining to that party, with sufficient time for the party to prepare to participate. The investigator will provide an equal opportunity for the parties to be interviewed, to identify witnesses (including fact witnesses), and to present other inculpatory and exculpatory evidence.

Notwithstanding the foregoing, the investigator retains discretion to limit the number of witness interviews the investigator conducts if the investigator finds that testimony would be unreasonably cumulative, if the witnesses are offered solely as character references and do not have information relevant to the allegations at issue, or if the witnesses are offered to render testimony that is categorically inadmissible under "Inadmissible

Evidence and Impermissible Questioning." The investigator will not restrict the ability of the parties to gather and present relevant evidence on their own.

The investigation is a party's opportunity to present testimonial and other evidence that the party believes is Relevant to the allegations in the Complaint. A party who is aware of and has a reasonable opportunity to present particular evidence and/or identify particular witnesses during the investigation, and elects not to, will be prohibited from introducing any such evidence during the adjudication absent a showing of mistake, inadvertence, surprise, or excusable neglect.

The investigator will take reasonable steps to ensure the investigation is documented. Interviews of the parties and witnesses may be documented by the investigator's notes, audio recorded, video recorded, or transcribed. The particular method utilized to record the interviews of parties and witnesses will be determined by the investigator in the investigator's sole discretion, although whatever method is chosen shall be used consistently throughout a particular investigation, to the extent possible.

This general adjudication process applies to all Complaints of Sex Discrimination except those involving Sex

The adjudicator will promptly send written notice to the parties notifying the parties of the adjudicator's appointment; setting a deadline for the parties to submit a written response to the investigation report and its appended evidence which shall not be sooner than seven (7) days from the date the investigator transmitted the investigation report; and setting a date and time for each party to meet with the adjudicator separately. The adjudicator's meetings with the parties will not be held any earlier than ten (10) days from the date the investigator transmitted the investigation report to the parties.

After meeting with each party and any witnesses whose credibility is in dispute, the adjudicator will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence and ensure that any credibility determinations made are not based on a person's status as a Complainant, Respondent, or witness. The adjudicator will take care to exclude from consideration any evidence that the adjudicator determines is inadmissible on the grounds explained in "Inadmissible Evidence and Impermissible Questioning." The adjudicator will resolve disputed facts using a preponderance of the evidence (that is, "more likely than not") standard and reach a determination regarding whether the facts that are supported by a preponderance of the evidence constitute one or more violations of the Policy as alleged in the Complaint.

In the event the adjudicator determines that the Respondent is responsible for violating this Policy, the adjudicator will, prior to issuing a written decision, consult with an appropriate University official with disciplinary authority over the Respondent and such official will determine any discipline to be imposed. The adjudicator will also, prior to issuing a written decision, consult with the Title IX Coordinator who will determine whether and to what extent ongoing support measures or other remedies will be provided to the Complainant and other persons, as appropriate. The adjudicator may seek legal advice from the University's in-house or outside counsel.

After reaching a determination and consulting with the appropriate University official and Title IX Coordinator, as necessary, the adjudicator will prepare a written decision that will include:

- A description of the alleged Sex Discrimination.
- Information about the policies and procedures the University used to evaluate the allegations.
- The adjudicator's evaluation of all relevant evidence and determination of whether Sex Discrimination occurred.
- When the adjudicator finds that Sex Discrimination occurred, discipline determined by the appropriate University official.
- Whether the Complainant, Respondent, or, to the extent appropriate, other persons, will receive any ongoing Supportive Measures or other remedies as determined by the Title IX Coordinator.
- A description of the University's process and grounds for appeal, as specified in "Appeal."

The adjudicator will transmit the written decision to the Title IX Coordinator and the parties. Content in the written decision regarding ongoing Supportive Measures and other

remedies for the Complainant, if applicable, may be redacted from the version of the written report shared with the Respondent, to the extent necessary to comply with this Policy and FERPA. Transmittal of the written decision to the parties concludes the adjudication process, subject to any right of appeal as specified in "Appeal." Any discipline imposed will be stayed pending the completion of any appeal.

Although the length of time needed to issue the written decision will vary depending on the totality of the circumstances, the University strives to issue the adjudicator's written decision within thirty (30) days of the adjudicator's appointment.

This special adjudication process applies to any case involving Sex-Based Harassment with a Student Complainant or Student Respondent.

After the evidence gathering phase of the investigation is completed, the investigator will prepare a written investigation report that summarizes the investigation and appends to it all the potentially admissible evidence that is relevant to the allegations in the Complaint, including both inculpatory and exculpatory evidence. The investigator will then notify the Title IX Coordinator that the investigation is complete and transmit the investigation report and its appended evidence to the Title IX Coordinator and to the parties and their advisors.

The Title IX Coordinator will then appoint an adjudicator whose responsibility it will be to adjudicate the Complaint at a live hearing. Within three (3) days of being notified about the adjudicator's identity, either party may raise concerns, if any, about bias or conflict of interest to the Title IX Coordinator or, if the concerns relate to the Title IX Coordinator as adjudicator, to the General Counsel, Chief Compliance Officer & Vice President of Legal Affairs. The adjudicator may be the investigator or the Title IX Coordinator themself. The investigation report and its appended evidence will be transmitted to the adjudicator.

The adjudicator will promptly send written notice to the parties notifying the parties of the adjudicator's appointment, including a copy of the Hearing Procedures, setting a date for a pre-hearing conference which shall not be sooner than seven (7) days from the date the investigator transmitted the investigation report; directing the parties to submit a pre-hearing submission at least three (3) days before the date of the pre-hearing conference;

After the pre-hearing conference, the adjudicator will transmit notices of attendance to any University employee (including administrator, faculty, or staff) or student whose attendance is requested at the hearing as a witness. The notice will advise the subject of the specified date and time of the hearing and advise the subject to contact the adjudicator immediately if there is a material and unavoidable conflict.

The subject of an attendance notice should notify any manager, faculty member, coach, or other supervisor, as necessary, if attendance at the hearing will conflict with job duties, classes, or other obligations. All such managers, faculty members, coaches, and other supervisors are required to excuse the subject of the obligation, or provide some other accommodation, so that the subject may attend the hearing as specified in the notice.

The University will not issue a notice of attendance to any witness who is not an employee or a student.

After the pre-hearing conference, the adjudicator will convene and conduct a hearing pursuant to the University's Hearing Procedures. The hearing will be video and audio recorded. The audio recording or a transcript of the recording will be made available to the parties for inspection and review on reasonable notice, including for use in preparing any subsequent appeal.

The hearing will be conducted live, with simultaneous and contemporaneous participation by the parties and their advisors. By default, the hearing will be conducted virtually, by use of video and audio technology, where all participants participate simultaneously and contemporaneously by use of such technology. In the adjudicator's discretion, the hearing may be conducted with the adjudicator, the parties, the advisors, witnesses, and other necessary University personnel together in the same physical location. However, upon request of either party, the parties will be separated into different rooms with technology enabling the parties to participate simultaneously and contemporaneously by video and audio.

While the Hearing Procedures and rulings from the adjudicator will govern the particulars of the hearing, each hearing will include, at a minimum:

- Opportunity for each party to address the adjudicator directly and to respond to questions posed by the adjudicator.

- Opportunity for each party to propose relevant questions and follow up

- Opportunity for each party to submit evidence that the party did not present during the investigation due to mistake, inadvertence, surprise, or excusable neglect.

- Opportunity for each party to make a brief closing argument.

Except as otherwise permitted by the adjudicator, the hearing will be closed to all persons except the parties, their advisors, the investigator, the adjudicator, the Title IX Coordinator, and other necessary University personnel. With the exception of the

inference about whether Sex-Based Harassment occurred based solely on a party's or witness' refusal to respond to questions.

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- Describes the allegations if such notice has not already been provided in writing.

- Describes the parameters and requirements of the informal resolution process to be utilized.

- Identifies the individual responsible for facilitating the informal resolution (who may be the Title IX Coordinator, another University official, or a suitable third-party, provided such person is not the investigator or adjudicator).

- Explains the effect of participating in informal resolution and/or reaching a final resolution will have on a party's ability to resume the investigation and adjudication of the allegations at issue in the Complaint.

- Explains that either party has the right to withdraw from informal resolution and initiate or resume the investigation and adjudication process.

- Explains any other consequence resulting from participation in the informal resolution process, including a description of records that will be generated, maintained, and/or shared.

- Explains potential terms that may be requested or offered in the informal resolution, including restrictions on contact and restrictions on the Respondent's participation in one or more of the University's Education Programs or Activities.

- Explains that an informal resolution agreement is binding only on the parties.

- Describes which records will be maintained and shared.

- Explains if the University resumes its investigation and adjudication process, the University will not access, consider, disclose, or otherwise use information, including records, obtained solely through the informal resolution process as part of the investigation or determination of the Complaint.

- Explains that, if the University resumes its investigation and adjudication process, the person facilitating informal resolution could serve as a witness for purposes other than providing information obtained solely through the informal resolution process.

After receiving the written notice specified in this paragraph, each party must voluntarily provide written consent to the Title IX Coordinator, before the informal resolution may commence.

During the pendency of the informal resolution process, the investigation and adjudication processes that would otherwise occur are stayed and all related deadlines are suspended.

If the parties reach a resolution through the informal resolution process, and the Title IX Coordinator agrees that the resolution is not clearly unreasonable, the Title IX Coordinator will reduce the terms of the agreed resolution to writing and present the resolution to the parties for their written signature. Once both parties and the Title IX Coordinator sign the resolution, the resolution is final, and the allegations addressed by the resolution are considered resolved and will not be subject to further investigation, adjudication, remediation, or discipline by the University, except as otherwise provided in the resolution itself, absent a showing that a party induced the resolution by fraud, misrepresentation, or other misconduct or where required to avoid a manifest injustice to either party or to the University.

A party may withdraw their consent to participate in informal resolution at any time before a resolution has been finalized.

Absent extension by the Title IX Coordinator, any informal resolution process must be completed within twenty-one (21) days. If an informal resolution process does not result in a resolution within twenty-one (21) days, and absent an extension, abeyance, or other contrary ruling by the Title IX Coordinator, the informal resolution process will be deemed terminated, and the Complaint will be resolved pursuant to the investigation and adjudication procedures. The Title IX Coordinator may adjust any time periods or deadlines in the investigation and/or adjudication process that were suspended due to the informal resolution.

Nothing in this section diminishes the Title IX Coordinator's obligation to take prompt and effective steps when necessary to ensure that Sex Discrimination does not continue or recur within the University's Education Programs or Activities.

From the time a Report or Complaint is made, a Respondent is presumed not responsible for the alleged Sex Discrimination until an adjudication of responsibility is made final.

Any individual affected by or accused of Sex Discrimination will have equal access to support and counseling services offered through the University. The University encourages any individual who has questions or concerns to seek support of University identified resources.

Campus police can be contacted at via email at csupolice@csu.edu and by phone at the following numbers:

24-7 Emergency: (773) 995-2111
Anonymous: (773) 821-2882

The University will keep confidential the identity of any individual who has made a Report or Complaint of Sex Discrimination or Retaliation including any Complainant, the identity of any individual who has been reported to be a perpetrator of Sex Discrimination or Retaliation including any Respondent, and the identity of any witness or other participant in the University's investigation and adjudication processes except:

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circumstances and be subject to discipline pursuant to the processes specified in this Policy.

Certain types of Sex Discrimination are considered crimes for which the University must disclose crime statistics in its Annual Security Report that is provided to the campus community and available to the public. These disclosures will be made without including personally identifying information.

Alleged violations of this Policy, other than violations of the prohibitions on Sex Discrimination and Retaliation, will be subject to review and resolution under the Student Code of Conduct for Students, and other University policies and standards, as applicable, for other persons.

The University recognizes that Students who have consumed or possessed alcohol when they are not 21 years of age or who have used or possessed illegal drugs may be hesitant to report Sex-Based Harassment against them or others. Therefore, the University will not take disciplinary action under its alcohol or drug policies against a student who discloses illegal alcohol or illegal drug use or possession in the context of reporting Sex-Based Harassment directed against them or another person. However, the University reserves the right to require counseling, education, or other preventative measures to help prevent alcohol or drug use or possession violations in the future. The University's commitment to amnesty in these situations does not prevent action by police or other legal authorities against an individual. Amnesty does not extend to violations of alcohol or drug policies that the University determines are egregious, including without limitation an action that places the health or safety of any other person at risk.

For purposes of this Policy, either a physical signature or digital signature will be sufficient to satisfy any obligation that a document be signed. Where this Policy provides that written consent must be provided, consent in either physical or electronic form, containing a physical or digital signature, as the case may be, will suffice.

Where this Policy specifies a period of days by which some act must be performed, the following method of calculation applies:

- Exclude the day of the event that triggers the period.
- Count every day, including intermediate Saturdays, Sundays, and legal holidays recognized by the federal government.

- Include the last day of the period until 5:00 p.m. central time, but if the last day is a Saturday, Sunday, or legal holiday recognized by the federal government, the period continues to run until 5:00 p.m. central time on the next day that is not a Saturday, Sunday, or legal holiday recognized by the federal government.

discretion of the University, considering all the facts and circumstances, including, but not limited to, the nature of the meeting, interview, or hearing; the nature and complexity of the allegations at issue; the schedules of relevant University officials; approaching holidays or closures; and the number and length of extensions already granted.

This policy applies only to Sex Discrimination. Complaints of other forms of protected-status discrimination, such as discrimination based on race, national origin, ethnicity, age, and disability, are governed by the

obligation, right, or process set forth in this Policy, the Title IX Coordinator will determine the individual's status for purposes of this Policy. Such determination shall be made after a fact-specific inquiry that includes consideration of relevant circumstances, including whether the individual's primary relationship to the University is to receive an education or to work, and in what capacity the person was acting (or failing to act) with regard to the events in question.

The rights afforded to Complainants and Respondents throughout this Policy are personal to Complainants and Respondents and may not be exercised by a third-party unless the third-party has the legal right to act on the party's behalf. As a general rule, parents do not have the right to act on behalf of adult students and are not entitled to participate in the investigation and adjudication processes in this Policy unless they are acting in the role of an advisor as described in "Advisor of Choice and Other Accompanying Persons." If a Complaint alleges Policy and Practice Discrimination against the University itself, such that no individual person is a Respondent, the relevant department or unit whose policy or practice is at issue may appoint an individual

“ ” means freely given words or actions that a reasonable person in the position of the Respondent would understand as agreement to engage in the sexual conduct at issue. A person’s lack of verbal or physical resistance or submission resulting from the use of threat of force does not constitute consent. A person’s manner of dress does not constitute consent. A person’s consent to past sexual activity does not constitute consent to future sexual activity. A person’s consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with a different person. A person who is Incapacitated is not capable of giving Consent, and a person who is under the age of consent cannot consent. Consent cannot be procured through Coercion. A person can withdraw consent at any time.

“ ” is violence committed by a person –

- Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- Where the existence of such a relationship will be determined based on a consideration of the following factors:

  The length of the relationship;

  The type of relationship; and

  The frequency of interaction between the persons involved in the relationship.

“ ” is felony or misdemeanor crimes of violence committed by a person who:

- Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the State of Illinois, or a person similarly situated to a spouse of the victim;
- Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- Shares a child in common with the victim; or
- Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the State of Illinois.

establish incapacitation. Incapacitation is beyond mere drunkenness or intoxication. The impact of alcohol or drugs varies from person to person, and evaluating incapacitation requires an assessment of how consumption of alcohol and/or drugs impacts an individual's:

- Decision-making ability
- Awareness of consequences
- Ability to make informed judgments
- Capacity to appreciate the nature and circumstances of the act.

No single factor is determinative of incapacitation. Some common signs that someone may be incapacitated include slurred speech, confusion, shaky balance, stumbling or falling down, vomiting, and unconsciousness.

refers to the University's Sex Discrimination and Sex-Based Harassment Policy.

" " means a University policy, practice, or condition that has the effect of excluding or limiting a person from participating in the University's Education Programs or Activities on a Sex-Based category or that results in inequitable access to the University's Education Programs or Activities on a Sex-Based category except where such action is permitted by law.

" " means:

- Pregnancy, childbirth, termination of pregnancy, or lactation;
- Medical conditions related to pregnancy, childbirth, termination of pregnancy or lactation;
- Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or their related medical conditions.

" " is an Employee, agent, or other person authorized to provide an aid, benefit, or service of the University explicitly or implicitly conditioning the provision of an aid, benefit, or service of the University on a person's participation in unwelcome sexual conduct.

" " means related to the allegations of Sex Discrimination that are subject to investigation and adjudication as set forth in this Policy. Questions are relevant when they seek evidence that may aid in showing whether the alleged Sex Discrimination occurred, and evidence is Relevant when it may aid an adjudicator in determining whether the alleged Sex Discrimination occurred.

" " means an oral or written notification of alleged Sex Discrimination.

“ ” means a person who is alleged, via this Policy, to have engaged in conduct that could be prohibited by this Policy.

“ ” is intimidation, threats, Coercion, or discrimination against any person by a Student, Employee, person authorized by the University to provide aid, benefit or service under the University’s Education Programs or Activities, or the University itself, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations, or because the person has reported information, made a Complaint, testified, assisted, or participated or refused to participate in any manner in any investigation,

- Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is unable to give consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.