



CDA Technical Institute
91 Trout River Drive
Jacksonville, FL 32208

Policy Title: Sexual Misconduct and Title IX Sexual Harassment

Objective: CDA Technical Institute is committed to providing all students, faculty, staff, applicants for admission and employment, visitors and others an environment where they can work, study and interact with each other in a safe and dignified learning environment free from any form of sexual misconduct. This policy provides guidance regarding behavior that constitutes sexual misconduct, reporting responsibilities regarding such conduct, victim's rights and services, and information regarding complaint procedures to address alleged violations of this policy.

Statement of regulation and affirmation: For purposes of this policy, "Sexual misconduct" means any sexual contact toward another without the person's consent as more fully defined below. Sexual misconduct violates CDA's policy, Title IX, federal civil rights and other laws and may subject offenders to criminal prosecution and disciplinary action. All students, faculty, staff, applicants for admission and employment, visitors, and others who interact within our campus must comply with this policy.

CDA strives to provide information to all who interact within our campus regarding sexual misconduct, reporting sexual misconduct and the services available in the community to assist individuals who are subjected to sexual misconduct. CDA is also committed to promptly addressing allegations of sexual misconduct through the procedures discussed in this policy.

The Director of Compliance has been designated by CDA Technical Institute as its Title IX Coordinator and is charged with working with victims, campus entities and others to ensure compliance with this policy.

Questions regarding Title IX may be referred to the Title IX Coordinator (see below for contact information) or to the Assistant Secretary for Civil Rights of the U.S. Department of Education's Office for Civil Rights.

Title IX Coordinator

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A. Definitions

1. "Sexual misconduct" is a broad term encompassing "sexual exploitation," "non-consensual sexual contact", "non-consensual sexual intercourse", "dating violence", "domestic violence", "stalking" and "sexual harassment" as defined in this policy. Sexual Misconduct may constitute crimes (i.e. – sexual battery, rape and related sex crimes) and/or civil complaints (i.e. – sexual harassment) and can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual misconduct can be committed by men or by women, and it can occur between people of the same or different sex.
2. "Consent" means knowing, voluntary informed affirmative act or statement by each person involved to engage in sexual activity. The following apply to this definition:
 - It is the responsibility of each person involved in any sexual activity to ensure that they have the consent of the other or others to engage in sexual activity. Lack of protest, lack of resistance or silence does not mean consent.
 - Consent cannot be obtained by force, threat, coercion, manipulation, reasonable fear of injury, intimidation, use of position of influence, or through one's mental or physical helplessness or incapacity.
 - Consent must be ongoing throughout a sexual activity and can be revoked at any time as long as the withdrawal is effectively communicated by the person withdrawing consent through words or actions.
 - If a party to sexual activity falls asleep during the sexual activity they lack the capacity to provide consent to further sexual activity.
 - Consent to one act by itself does not constitute consent to another act.
 - Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.
3. "Dating Violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.
4. "Domestic Violence" means violence committed by the victim's current or former spouse, by a person who is or was a cohabitant with the victim as a spouse or intimate partner, by a person with whom the victim shares a child in common, by a family member, or by any other similarly situated person under domestic or family violence law.
5. "Incapacity" means the physical and/or mental inability to make an informed or rational judgment. States of incapacity include, without limitation, disability, age, sleep, blackouts, and flashbacks. Where alcohol (or other drugs) have been consumed, one does not have to be intoxicated to lack the capacity to provide consent to engage in sexual activity. Rather, incapacity is determined by how the alcohol or drug consumed impacts a person's decision-making capacity, awareness of consequences, and ability to make informed judgments. Because incapacity may be difficult to discern, individuals are strongly encouraged to err on the side of caution and should ensure the other person or persons provide consent before proceeding with sexual activity. Being intoxicated or under the influence of alcohol or drugs is not a defense to a complaint of sexual misconduct under this policy as all

parties involved in a sexual act must provide ongoing consent to engage in sexual activity.

6. "Non-consensual sexual contact" means sexual contact that occurs without consent.
7. "Non-consensual sexual intercourse" means vaginal, anal or oral sexual intercourse that occurs without consent.
8. "Responsible Employee" means an individual who is required as part of their job duties to promptly report allegations of sexual misconduct as defined in this policy by or against any student, faculty, staff, applicants for admission and employment, visitors, and others to the Title IX Coordinator. If an individual alleges they have been subjected to sexual misconduct of a criminal nature, if the individual consents, a Responsible Employee should also contact local law enforcement. The term Responsible Employee for purposes of this policy includes all CDA faculty and staff, both full and part time.
9. "Sexual contact" means the deliberate intentional touching, either directly or through the clothing, of a person's intimate parts including their genitalia, anus, groin, breast, inner thigh or buttocks, using force or to cause a person to touch their own intimate parts or the intimate parts of others with an intent to abuse, humiliate, harass, degrade, arouse or gratify the sexual desire of any person.
10. "Sexual exploitation" means taking sexual advantage of another person without their consent, and includes, without limitation, causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over such other person; causing the prostitution of another person; recording, photographing or transmitting, identifiable images of private sexual activity and/or the intimate parts (including genitalia, groin, breasts or buttocks) of another person; allowing third parties to observe private sexual acts; engaging in voyeurism; and/or knowingly or recklessly exposing another person to a significant risk of sexually transmitted infection, including HIV.
11. "Sexual Intercourse" means penetration (anal, oral or vaginal) by a penis, tongue, finger, or by any other object.
12. "Sexual Harassment" means unwelcome sexual advances, requests for sexual favors, or other verbal (including written and electronic communications when such communications are not protected as freedom of speech) or physical conduct of a sexual nature from any person when:
 - Submission to such conduct or request is made either explicitly or implicitly a term or condition of a student's status in a course, program, or activity; or of academic achievement; or
 - Submission to such conduct or request is made either explicitly or implicitly a term or condition of an individual's employment, salary increase, position advancement, or other employment related benefits; or
 - Submission to or rejection of such conduct or request by an individual is used as the basis for an academic decision or employment decision affecting such individuals; or

- Such conduct is sufficiently serious (i.e., severe, persistent or pervasive) to deny or limit a student's ability to participate in or benefit from the school's educational programs or activities or such conduct is sufficiently severe or pervasive so as to alter the conditions of, or have the purpose and effect of substantially interfering with, a faculty or staff member's employment by creating an intimidating, hostile or offensive working environment.
13. "Stalking" means a person who engages in a course of conduct where they willfully, maliciously, and repeatedly follow, harass, or cyberstalk another person. A "course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, which evidences a continuity of purpose; "harass" means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose. Similarly, "cyberstalk" means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.
 14. "Unwelcome Conduct" means behavior of sexual nature that a person does not ask for and considers undesirable or offensive.
 15. "Complainant" means an individual(s) who is alleged to be the victim of conduct that could constitute sexual harassment or sex discrimination.
 16. "Respondent" means any individual(s) who have been reported to be the perpetrator of conduct that could constitute sexual harassment.

B. Additional examples of Criminal Acts, when based on sex, which may constitute sexual misconduct:

1. "Hazing" means acts likely to cause physical or psychological harm or social ostracism when related to the admission, initiation, pledging and/or joining of a schools group, club or organization when such behaviors are not protected as freedom of speech.
2. "Bullying/Cyberbullying" means repeated and/or severe aggressive behaviors with the intent to intimidate or harm another person, physically or emotionally, when such behaviors are not protected as freedom of speech. Examples of such conduct include stalking, harassment, and invasion of privacy.

C. Examples of Sexual Harassment

The following are common examples of unwelcome conduct that, when sex-based, may rise to the level of sexual harassment as defined in this policy. Actions that are sufficiently serious, severe, persistent, or pervasive may be found to constitute Sexual Harassment.

- Inappropriate touching or brushing against the body of another including but not limited to patting, fondling, massaging, caressing, pinching, attempted or actual kissing.
- Requested sex or sexual acts in exchange for an occupational or educational benefit.

- Repetitive propositions, invitations or pressure for sexual activity by a party when the other party finds the propositions and invitations to be unwelcome.
- Suggestive or inappropriate sexual based communications, notes, letters, email, text messages, contact through social media (i.e. facebook, Instagram, twitter, etc.) or other written materials.
- Displaying, transmitting, or sending sexually based suggestive or inappropriate photographs, videos, computer images, slides, calendars, cartoons or drawings through any medium.
- Sexual innuendo, comments, or remarks about a person's clothing, body, or activities which places an individual in fear of imminent physical or psychological harm or injury.
- Actual or implied sexual threats or intimidation which places an individual in fear of imminent physical or psychological harm or injury.

Addressing Sexual Misconduct, Reporting Sexual Misconduct, Grievance Process, and Investigative Procedures

A. Addressing Actions of Sexual Misconduct

If an individual experiences acts that constitute sexual misconduct, there are steps that can be taken to address their concerns or experiences. For example, an individual who deems another's actions as sexual misconduct is encouraged to advise the offending party that the conduct is unwelcome and to inform the offender(s) to cease the unwelcome behavior. An individual who feels uncomfortable and is fearful they may be subjected to sexual misconduct should also try to remove themselves from the offending situation and if necessary seek help from friends, colleagues or others, including those designated as responsible employees, as quickly as possible to assist them in addressing their concerns. However, individuals who wish to report sexual misconduct should never hesitate to do so.

Not taking affirmative steps to stop sexual misconduct does not prevent the individual from seeking relief through filing a claim under this policy. While CDA encourages prompt reporting by an individual who feels that they have been a victim of sexual misconduct, it is the victims' option to, or not to, report and seek assistance from law enforcement and individuals designated in this policy.

B. Reporting Sexual Misconduct

Any individual covered by this policy who is subjected to sexual misconduct or what they believe to be sexual misconduct should get to a safe place and report the offending conduct to a Responsible Employee, or the Title IX Coordinator as designated in this policy. All complaints will ultimately be reviewed by the Title IX Coordinator to ensure compliance with the schools requirement to take prompt remedial action to address the allegations of sexual misconduct.

C. Initial Contact with Complainant

Upon receiving a report of sexual misconduct, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures (see below), consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, explain the process for filing a formal complaint of sexual misconduct, and describe the grievance process for sexual misconduct (as appropriate). The complainant will be provided with a copy of the Title IX policy.

If the complainant (student or employee) is reporting a sex offense, the Title IX Coordinator will also provide a written notification of the available supportive measures, a written notification of existing resources for victims at the institution and in the community (counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, and other services available for victims), a list of rights and options for victims of sexual misconduct, information about options for involving local law enforcement, and options for obtaining a protective order (if relevant). The Title IX Coordinator will offer assistance contacting law enforcement if the complainant desires but will also explain that contacting law enforcement is not required.

D. Supportive Measures

Upon receipt of a report of alleged sexual misconduct, the Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures with the appropriate department(s) at the institution. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the institution's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the institution's educational environment, or deter sexual misconduct.

Supportive measures are determined on a case-by-case basis and may include schedule accommodations, academic accommodations, mutual restrictions on contact between the parties, escorts, increased security and monitoring of certain areas of the campus, and other similar measures. When implementing supportive measures, the institution will make every effort to avoid depriving any student of his or her education.

The institution will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair its ability to provide the supportive measures. If a complainant reporting a sex offense requests a supportive measure and it is reasonably available, the institution will provide such measure, regardless of whether the complainant chooses to report the incident to local law enforcement.

E. Emergency Removal

In some circumstances, the institution may suspend a student-respondent from its education programs or activities on an emergency basis based on a report of sexual misconduct. Before suspending the respondent, the institution will conduct an individualized safety and risk analysis to determine if there is an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual misconduct which justifies the removal of the respondent. If the institution makes the decision to temporarily remove the respondent, the Title IX Coordinator will provide the respondent with notice and an opportunity to challenge the decision immediately following the removal. The CEO and Vice President will make all decisions regarding emergency removal of students. The institution has the discretion to place employee-respondents on an administrative leave of absence during the pendency of the grievance procedure.

F. Grievance Process for Reports of Sexual Discrimination

When the Title IX Coordinator receives a complaint alleging that the institution or its employees have discriminated on the basis of sex in its education programs and activities, including admissions, and employment, the Title IX Coordinator will contact the complainant and investigate the complaint and report the findings of the investigation to the CEO and Vice President for action. The complainant will be notified of the outcome of the complaint and any remedies provided by the institution to resolve any incidents of sex discrimination.

G. Grievance Process for Formal Complaints of Sexual Misconduct

CDA Technical Institute is committed to providing a prompt, fair, and impartial grievance process to facilitate a prompt and equitable resolution for formal complaints of sexual misconduct. The grievance process includes a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process and the institution will not impose any disciplinary sanctions against a respondent until a determination of responsibility is made. All decision-makers involved in the grievance process are required to make an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and credibility determinations may not be based on a person's status as a complainant, respondent, or witness. Formal complaints of sexual misconduct will be resolved through either the informal or formal resolution processes described below.

The Title IX Coordinator, Investigator, and any decision-makers will receive required training on this process and handling allegations of sexual misconduct. In addition, all officials involved in the process receive, at a minimum, annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking, and how to conduct an investigation and formal or informal meetings that protects the safety of victims and promotes accountability.

The institution will respond promptly in a manner that is not deliberately indifferent (i.e., clearly unreasonable in light of the known circumstances) to all formal complaints of sexual misconduct. Any time frames listed below are subject to change for good cause. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. Written notice of any delay or extension and the corresponding reasons will be provided simultaneously to the complainant and the respondent.

H. Formal Complaints of Sexual Harassment

A formal complaint of sexual misconduct must be filed by either the complainant or the Title IX Coordinator before the institution will initiate its grievance process for sexual misconduct. If after meeting with the Title IX Coordinator, the complainant decides to proceed with a formal complaint of sexual harassment, the complainant should submit a written statement to the Title IX Coordinators in person, by mail, or by electronic mail. The formal complaint must include 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, the complainant must be participating in or attempting to participate in the institution's education program or activity.

In cases where the complainant does not choose to file a formal complaint but where the Title IX Coordinator after considering all of the circumstances determines that the institution must initiate the grievance process to avoid being deliberately indifferent (such as when an individual or other members of the community may be at risk), the Title IX Coordinator may sign the formal complaint. CDA Technical Institute will not act with deliberate indifference in response to any formal complaint.

The institution may consolidate formal complaints as to allegations of sexual misconduct 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 sexual misconduct arise out of the same facts or circumstances.

I. Dismissal of a Formal Complaint

The institution must dismiss a formal complaint, if at any time during the investigation or hearing, the institution determines that:

- The alleged misconduct does not meet the definition of sexual misconduct (defined above)
- The alleged misconduct did not occur within the institution's "educational program or activity" (defined below); or
- The alleged misconduct occurred against a complainant located outside of the United States.

An “education program or activity” for purposes of a formal complaint of sexual misconduct includes locations, events, or circumstances over which the institution exercised substantial control over both the respondent and the context in which the sexual misconduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the institution.

The institution may also dismiss a formal complaint, if at any time during the investigation or hearing:

1. The complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
2. The respondent is no longer enrolled at or employed by the institution; or
3. Specific circumstances prevent the institution from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

The Title IX Coordinator will promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties (complainant and respondent) and will also notify the complainant of the right to appeal a dismissal. See below for more information on appeals. If a formal complaint is dismissed under the Title IX policy, the complainant may still be able to file a complaint under the Student Code of Conduct and Student Grievance Procedure.

J. Notice of Allegations

After receiving a formal complaint of sexual misconduct, the Title IX Coordinator will provide a written notice of allegations to the complainant and respondent in advance of an initial interview with the Investigator to give the parties sufficient time to prepare.

The notice of allegations will include:

- Notification of grievance process as well as the availability of an informal resolution;
- A list of the allegations of misconduct, including sufficient details known at the time such as the identities of the parties involved in the incident, the conduct allegedly constituting sexual misconduct, and the date and location of the alleged incident;
- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- Notification that the parties may have an advisor of their choice, who may be, but is not required to be an attorney;
- Notification that the parties may inspect and review evidence; and
- The provision in the institution’s code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, the institution decides to investigate allegations about the complainant or respondent that are not included in the original notice of allegations, the Title IX Coordinator must provide notice of the additional allegations to the parties.

K. Informal Resolution Process

An informal resolution process may be applied to resolve a formal complaint, except when the complainant is a student and the alleged respondent is an employee. To initiate the informal resolution process, the Title IX Coordinator will review the process with the complainant and the respondent in a timely manner and elicit their interest in engaging this process. Each party must receive written notice disclosing:

- The allegations;
 - The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations;
 - That at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and
 - Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
- Both parties must give voluntary, informed written consent to participate in the informal resolution process.

To reach an informal resolution, the Title IX Coordinator will initiate whatever steps he or she deems appropriate to affect an informal resolution of the complaint acceptable to both parties.

If a satisfactory resolution is reached through this informal process, the resolution will be documented and signed by both parties. If both parties sign the resolution, they may not then pursue the formal resolution process (i.e., the investigation, hearing, and appeal processes described below). If these efforts are unsuccessful or if the complainant or respondent do not accept the informal resolution, the formal resolution process may commence. The complainant or respondent may request to end the informal process at any time to begin the formal resolution process. The complainant may request to end the informal or formal process at any time prior to a determination. The institution seeks to conclude the informal resolution process within 30 days of the parties deciding to utilize this process, however, the process may be extended for good cause.

L. Formal Resolution Process

The formal resolution process is used to resolve formal complaints of sexual misconduct made by students or employees and includes an investigation, live hearing, determination of responsibility, and appeal.

At all times during the formal resolution process, the complainant and respondent will be provided the same opportunities to have advisors present during the investigation,

including the opportunity to be accompanied to any related meeting or hearing by the advisor of their choice. The advisor can be, but is not required to be, an attorney. If a party does not have an advisor for the live hearing, the institution will appoint an advisor of its choice without fee or charge to represent the party during the hearing and this advisor may be, but is not required to be, an attorney. However, the institution may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.

In all cases, the Title IX Coordinator and Investigator will maintain regular, simultaneous communications in writing with both the complainant and respondent and provide both parties with equal opportunity to provide information, witness statements, evidence, and other information that may be necessary for the Investigator to fully investigate the alleged offense.

M. Investigation

The Title IX Coordinator will contract with an outside investigator who will investigate all formal complaints of sexual misconduct in a thorough, impartial, and prompt fashion. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the institution and not on the parties.

The Investigator will oversee the collecting of facts related to any reported sexual harassment and will notify and interview complainants, respondents, and witnesses. Both parties will have the opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence to the Investigator. During the investigation, the complainant and respondent will be provided with copies of or allowed to inspect all evidence collected. Either party may submit responses to the evidence to the Investigator or may submit any additional evidence contradicting or corroborating the evidence collected by the Investigator. However, the Investigator cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional which are made and maintained in connection with the provision of treatment to the party, unless the Investigator obtains that party's voluntary, written consent to do so for the grievance process.

At the conclusion of the investigation, the Investigator will prepare a written Preliminary Investigative Report fairly summarizing the relevant exculpatory and inculpatory evidence. The Investigator will provide the complainant and respondent and their advisors with a copy of the preliminary investigative report allowing a 10-day response period for both parties to review and respond to the report.

Once this 10-day response period is concluded, the Investigator will review any responses received and finalize the report. The complainant, the respondent and their advisors will simultaneously receive a copy of the Final Investigative Report at least 10 days in advance of the scheduled hearing.

The Investigator will investigate the complaint independent of any external law enforcement investigations that may be ongoing. Investigators may need to postpone the investigation until law enforcement has concluded the evidence gathering portion of their investigation but will resume the investigation as quickly as possible.

N. Hearing

A hearing will be held for each formal complaint resolved through the formal process. The Title IX Coordinator will provide written notification of the date, time, location, participants, allegations, and purpose of the hearing, to all parties and witnesses whose participation is invited or expected within 10 days of the hearing to provide sufficient time to prepare to participate.

After the investigation is concluded, the formal complaint and Final Investigative Report will be forwarded to the Hearing Official. The institution reserves the right to appoint a decision-maker or hire an outside decision-maker to serve as the Hearing Official. The role of the Hearing Official will be to oversee the resolution of the complaint by interviewing all appropriate parties, including witnesses, determining the relevance of all questions posed under cross-examination, evaluating the relevance of all evidence submitted and rendering a decision of responsibility.

The live hearing will be conducted in a manner so that all parties can see and hear testimony at all times. During the hearing, the parties may be in the same room or in separate rooms (at the request of either party), or the hearing may be conducted virtually (in-part or in-whole) as long as there is appropriate technology to allow for the parties, their advisors, and the Hearing Official to see and hear each other at all times. The hearing will be recorded or transcribed, and a copy of the recording/transcription will be provided to both the complainant and respondent for review.

The parties to the formal complaint will be invited to appear before the Hearing Official, present any witnesses and evidence, and confront any adverse witnesses. The Hearing Official may conduct its own inquiry, call witnesses, and gather whatever information it deems necessary to assist it in reaching a determination of responsibility. The Hearing Official will enforce the following rules for questioning parties and witnesses:

- Only the advisors for the parties or the Hearing Official may question a testifying witness (including a party), but the advisors must be allowed to question each testifying witness (including a party) directly, orally, and in real time. A party may not question the other party or the witnesses.
- All questioning must be conducted in a professional and polite manner.
- Questioners may only ask relevant questions. Before the party or witness answers a question, the Hearing Official must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

- Questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence 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.
 - The Hearing Official may not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. If a party or witness does not submit to cross-examination at the live hearing, the Hearing Official must not rely on any statement of that party or witness in reaching a determination regarding responsibility (including a statement made to the investigator during the investigation). The Hearing Official cannot draw an inference about the determination regarding responsibility based solely on a party’s or witness’s absence from the live hearing or refusal to answer cross-examination or other questions.

O. Determination of Responsibility

The Hearing Official will make findings of fact and conclusions as to whether the facts support a finding of responsibility for violation of the institution’s policies using the preponderance of evidence standard. Thus, the panel must determine whether it is “more likely than not” or more than 50% likely that the conduct occurred.

After the hearing, the Hearing Official will issue a written determination regarding responsibility applying the preponderance of evidence standard, which will be provided simultaneously to the complainant and respondent. The written determination will include:

- A list of the allegations potentially constituting sexual harassment;
- 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 institution’s policies or code of conduct to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
- Any disciplinary sanctions imposed on the respondent;
- Any remedies designed to restore or preserve equal access to the institution’s education program or activity that will be provided to the complainant; and

- The procedures and permissible bases for the complainant and respondent to appeal.

If the Hearing Official determines that it is more likely than not that the respondent is responsible for the alleged sexual harassment, he/she should impose sanctions against the respondent and any additional remedies for the complainant. The Title IX Coordinator should forward the determination immediately to the appropriate administrators to implement the remedies and sanctions.

The Hearing Official can recommend the following sanctions if he/she finds that a student has violated this policy: Probation, Required Compliance, Restitution, Restriction of Privileges, Suspension, Expulsion, and Withholding of Diploma or Degree. The Hearing Official can recommend the following sanctions if it finds that an employee has violated this policy: Suspension, Leave of Absence, Dismissal.

The Hearing Official can recommend the following remedies for the complainant: classroom adjustments or changes, academic support (tutoring, mentoring, flexible assignment due dates, allowing the student to make up coursework), allowing the student to retake a course and/or withdraw without penalty, counseling services, protective/no contact orders, or other remedies that may be appropriate given the circumstances. The purpose of remedies is to restore or preserve equal access to the institution's education programs or activities and remedies, unlike supportive measures; they need not be non-disciplinary or non-punitive and need not avoid burdening the respondent. The Title IX Coordinator will be responsible for overseeing the implementation of any remedies in conjunction with the appropriate administrator.

The determination regarding responsibility becomes final either on the date that the parties receive the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

P. Appeals

Both parties involved have the right to appeal the determination regarding responsibility or the dismissal of a formal complaint to the Appeals Officer. Notice of intent to appeal must be submitted within 15 days of the written notification of the determination or dismissal, and will be based on one or more of the following grounds:

- Procedural irregularity that affected the outcome of the matter.
- New evidence, which was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter.
- The Title IX Coordinator(s), Investigator(s), or Hearing Official(s) 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 written notice of the intent to appeal must provide a written statement challenging the outcome. Both parties will be provided with a copy of the notice of intent to file an appeal and the appeal procedures by the Title IX Coordinator. The non-appealing party may submit a written statement supporting the outcome and/or objecting to the grounds on which the appeal was filed within 15 days of receipt of the notice of appeal. The Appeals Officer will consider the related documents (such as the investigative report, hearing transcript, determination of responsibility, and prior disciplinary records) but will not consider information that is not relevant, including information about the prior sexual history of the complainant. The Appeals Officer will issue a written decision describing the result of the appeal, the rationale for the result and the grounds on which the appeal was granted or denied. The decision of the Appeals Officer is final and will be issued simultaneously to both the complainant and the respondent, typically within 15 days of the deadline by which the parties must submit their written statements, absent extenuating circumstances.

Q. Confidentiality

Except as necessary to investigate and resolve complaints of sexual misconduct, CDA Technical Institute will keep confidential the identity of any person who has made a report or complaint of sex misconduct, or filed a formal complaint of sexual misconduct, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness.

For a report of sexual misconduct where the complainant wishes to be anonymous and does not intend to file a formal complaint, the Title IX Coordinator will work with the complainant to provide supportive measures and will keep such supportive measures confidential to the extent possible (as described above in the section titled "Supportive Measures"). As discussed above in the section titled "Formal Complaints of Sexual Misconduct", there may be some circumstances where the Title IX Coordinator receives a report of sexual misconduct and determines that he/she must sign a formal complaint to avoid being deliberately indifferent, even if the complainant does not wish to pursue a formal complaint. This may occur where there have been other similar accusations against the same respondent such that the institution is concerned about the safety of its students.

Any reports of sexual misconduct must be included in the institution's crime log and the Annual Security Report. Sexual offenses can be reported without disclosing either party's name or any other information that would identify the parties.

To disclose the information outside of the institution, any affected students would have to give explicit permission for the information to be shared, except as described below.

Under FERPA the institution does not need student consent to:

- Disclose to the complainant information about the sanction imposed upon a student respondent who was found to have engaged in sexual harassment when the sanction directly relates to the complainant;

- Disclose to the complainant the final results of a disciplinary proceeding against the student respondent, regardless of whether the institution concluded that a violation was committed, when the conduct involves a sex offense or a crime of violence including arson, burglary, robbery, criminal homicide, assault, destruction/damage/vandalism of property and kidnapping/abduction; and
- Disclose to anyone—not just the complainant—the final results of a disciplinary proceeding (including the name of the student respondent, the violation, and the sanction) if it determines that the student respondent is an alleged perpetrator of sexual assault or a crime of violence (see bullet above for examples), and, with respect to the allegation made, the student has committed a violation of the institution's rules or policies.

Retaliation

CDA Technical Institute, the respondent, and other individuals may not intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or the implementing regulations, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sexual misconduct, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured Title IX, constitutes retaliation.

CDA Technical Institute prohibits retaliation by its officers, employees, students, or agents against a person who exercises his or her rights or responsibilities under any provision of federal or state law, including Title IX and the Clery Act, or this policy.

Any instances of retaliation should be reported to the Title IX Coordinator immediately and may result in disciplinary sanctions independent of other sanctions already implemented under this policy. Reports of retaliation by the institution will be investigated by the Title IX Coordinator (or an outside investigator if the report involves the Title IX Coordinator) through the grievance process for sexual misconduct.

False Reports

CDA Technical Institute will not tolerate intentional false reporting of incidents. It is a violation of the institution's Student Code of Conduct to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws.

Off Campus Contacts to Get Help

Any of the following off campus/community resources may be contacted for information or assistance regarding sexual misconduct:

Hubbard House

(904) 354-3114

Provides 24-hour services to domestic and dating violence victims and survivors. Services include emergency shelter, counseling, support groups, court advocacy, and information and referral. All services are free and confidential.

<https://www.hubbardhouse.org/>

Sexual Assault Forensic Exam (SAFE) Program**The Women's Center of Jacksonville's Rape Recovery Team**

(904) 721-7273

Provides crisis counseling for both the rape victim and victim's family. Forensic medical examinations are available to victims within 120 hours (5 days) of the assault regardless of whether the assault was reported to law enforcement. All services are free and confidential.

<https://womenscenterofjax.org/rape-recovery-and-prevention/>

Victim Services Center – City of Jacksonville

(904) 255-3388

Provides comprehensive services to victims of crimes and their families. Services are designed to reduce trauma and facilitate recovery. Services include emergency funds, community education, crisis response, information and referral, support through the criminal justice system, support groups and counseling.

<https://www.coj.net/departments/parks-and-recreation/social-services/victim-services>