## POLICY 602: Title IX RESOLUTION Process

Category: Student Affairs

Covered Individuals: All CEI Students and Employees

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**601.1 Policy**

CEI will act on any formal or informal allegation or notice of violation of “Policy 602: Title IX, Equal Opportunity, Hazing, Harassment, and Non-Discrimination,” that is received by a Title IX Coordinator or a member of the administration, faculty, or other employee. The process for this is called the Title IX Resolution Process.

The procedures described below apply to all allegations of harassment or discrimination on the basis of gender, perceived gender, or sexual orientation involving students, staff or faculty members. All other allegations of misconduct unrelated to incidents covered by Policy 602 will be addressed in Policy 603 or 604. Please see Policy 602 for all definitions relevant to this policy.

**602.2 Purpose**

This policy is to be used for allegations of a Title IX violation, sexual harassment, sexual misconduct, and other forms of discrimination based on gender.

**601.3 Procedures**

Upon notice to a Title IX Coordinator, this resolution process involves a prompt preliminary inquiry to determine if there is reasonable cause to believe Policy 602 has been violated. If so, the college will initiate a confidential investigation that is thorough, reliable, impartial, prompt and fair. The investigation and the subsequent resolution process determine whether Policy 602 has been violated. If so, the college will promptly implement effective remedies designed to resolve the violation, prevent its recurrence, and address its effects. The appropriate Title IX Coordinator has the discretion to determine whether or not a report warrants further investigation after the preliminary inquiry. Upon determination of further investigation, all Title IX findings, sanctions, and formal appeal outcomes shall be submitted to the President for final review and approval before being finalized or communicated to the parties, as required by Idaho Code § 33-3732.

**Title IX Resolution Process**

Allegations under Policy 602 are resolved using the procedures outlined in policy 601, 603, or 604 depending on the type of allegation. Members of the Title IX Committee are trained in all aspects of the resolution process and can serve in any of the following roles:

* Conduct intake pertaining to the allegation
* Provide advice to all parties regarding the process
* Investigate allegations
* Act as process advisors to those involved in the Title IX Resolution Process
* Serve as a decision maker
* Any other roles as deemed appropriate by the Title IX Coordinator

Title IX committee members are appointed by, and report to the college president in matters involving Title IX. The committee recommends proactive policies, and serves in an educative role for the campus community. Title IX Committee members receive annual training organized by the college, including a review of CEI policies and procedures as well as applicable federal and state laws and regulations. This ensures members are able to appropriately address allegations, provide accurate information to members of the campus community, and promote accountability. . Annual training will include, but is not limited to:

* how to appropriately remedy, investigate, render findings and determine appropriate sanctions in reference to all forms of harassment and discrimination allegations covered by Title IX
* Policy 601 and 602
* Confidentiality and privacy; and applicable laws, regulations and federal regulatory guidance

The Title IX Committee should include Title IX coordinators and/or other employees appropriately trained in relevant aspects of Title IX. No member of the committee may be a practicing attorney.

**Reporting Misconduct**

Any member of the campus community or visitor who believes that Policy 602: Title IX, Equal Opportunity, Hazing, Harassment and Non-Discrimination, has been violated should contact the appropriate college designee. If preferred, a reporting employee may notify a supervisor and a reporting student may notify a member of staff or faculty. Any member of the campus community, may contact Campus Safety to file a report. Campus Safety will, in turn, notify the Title IX Coordinator. The CEI website also includes a process to report a concern which may be used to initiate a resolution process.

Any employee who receives a report of a potential violation of Policy 602 is expected to promptly contact the Title IX Coordinator within one (1) business day of becoming aware of a report or incident and provide all relevant information. All initial contacts will be kept confidential. CEI reserves the right, when necessary, to protect the campus community by investigating and pursuing a resolution even when a reporting party chooses not to initiate or participate in the resolution process.

**Preliminary Inquiry**

Following receipt of notice or a report of misconduct, the appropriate Title IX Coordinator engages in a preliminary inquiry to determine if there is reasonable cause to believe policy 602 has been violated. The preliminary inquiry is typically 5 business days in duration. This inquiry may also serve to help the Title IX Coordinator determine if the allegations show evidence of violence, threat, pattern, predation and/or use of a weapon. In any case where violence, threat, pattern, predation, and/or use of a weapon is not evidenced, the Title IX Coordinator may respect a reporting party’s request for no action and will investigate only so far as necessary to determine appropriate remedies. As necessary, the college reserves the right to initiate resolution proceedings without a formal report or participation by the reporting party.

Upon completion of the preliminary inquiry, the parties may choose to resolve the matter through conflict resolution. If this process is agreed to by both parties and approved by the Title IX Coordinator, then no formal investigation will be required. For all other cases where the reporting party wishes to proceed, or CEI determines it must proceed, and the preliminary inquiry shows that reasonable cause exists, the Title IX Coordinator will direct a formal investigation to commence and the allegation will be resolved through one of the processes discussed briefly here and in greater detail below:

* Informal Resolution – mediation between parties, or
* Formal Resolution – a resolution of contested allegations with a hearing.

The process that will be followed considers the preference of the parties but is ultimately determined by the Title IX Coordinator. If, during the preliminary inquiry or at any point during the formal investigation, the Title IX Coordinator determines that there is no reasonable cause to believe that policy has been violated, the process will end. The process may continue if the Title IX Coordinator determines extenuating circumstances exist and may re-open the investigation. This decision is at the sole discretion of the Title IX Coordinator.

**Interim Remedies/Actions**

The Title IX Coordinator may provide interim remedies intended to address the short-term effects of harassment, hazing, discrimination, and/or retaliation. These remedies may include, but are not limited to:

* Referral to the Employee Assistance Program
* Referral to campus and community resources
* Education for the campus community
* Altering work arrangements for employees
* Providing campus security chaperone
* Implementing limitation of contact between the parties
* Offering adjustments to academic deadlines, course schedules, etc. with appropriate approval

In the interim, CEI may suspend a student, employee, contractor, student organization pending the completion of the investigation and procedures. This is particularly relevant, when the Title IX Coordinator discerns that the safety or well-being of any member(s) of the campus community may be jeopardized by the on-campus presence of the responding party or the ongoing activity of a student, employee, contractor, or student organization whose behavior is in question. In all cases in which a suspension is imposed, the party(s) will be given the option to meet with the Title IX Coordinator prior to the suspension being imposed, or as soon as possible, to allow the party to show cause as to why the suspension should not be implemented. In the event the suspension is imposed on a student or student organization, procedure 907 will be followed. In the event the suspension is imposed on an employee or contractor the Title IX Coordinator, in conjunction with Human Resources, has sole discretion to implement or stay an interim suspension and to determine its conditions and duration. Violation of an interim suspension under this policy will be grounds for expulsion or termination.

During suspension or administrative leave, a student or employee may be denied access to campus resources which may include, but are not limited to, facilities, email, online learning, events, etc. An employee may receive paid leave until and unless the allegations are substantiated. For students, this may include restriction to classes and/or all other CEI activities or privileges for which students are eligible. At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure the most minimal impact as possible on the involved party or parties.

The institution will maintain the confidentiality of any interim actions or protective measures, provided confidentiality does not impair the institution’s ability to provide such measures.

**Investigation**

Once a formal investigation is commenced, the Title IX Coordinator will provide written notification of the investigation to the parties, within a feasible timeline at the beginning of the formal investigation process. CEI aims to complete the entire resolution process within sixty (60) business days, which can be extended, as necessary, for appropriate cause by the Title IX Coordinator with notice to the parties as appropriate.

Once the decision is made to commence a formal investigation, the Title IX Coordinator will appoint a trained investigator to conduct the investigation, usually within two (2) business days of determining that an investigation should commence. Investigations are completed expeditiously, within twenty (20) business days, including the investigation and writing the investigative report for the decision maker. Some investigations can take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc. However, CEI will make all attempts to make the process as expediate as possible.

CEI may undertake a short delay in its investigation, several days to weeks, as needed, to allow evidence collection when criminal charges are being investigated. The college will promptly resume its investigation and resolution processes once notified by law enforcement that the initial evidence collection process is complete. College action will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

All investigations will be thorough, reliable, impartial, prompt, and fair. Investigations entail interviews with all relevant parties and witnesses, obtaining available evidence, and identifying sources of expert information, as necessary.

The investigator(s) will take the following steps, (not necessarily in order):

* In coordination with campus partners (e.g. the Title IX Coordinator), initiate or assist with any necessary interim remedies/actions.
* Determine the identity and contact information of the reporting party.
* Identify all policies allegedly violated.
* Meet with the reporting party to finalize their statement.
* On the basis of the preliminary inquiry, prepare the notice of allegation.
* Commence a thorough, reliable, and impartial investigation by developing a strategic investigation plan. The plan will include a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding party.
* Provide advance notice to the parties in the event that they would like to bring an advisor to any interview or meetings/hearings.
* Provide the parties with a written description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions.
* Prior to the conclusion of the investigative report, provide the parties with a list of witnesses whose information will be used to render a finding.
* Complete the investigation promptly, and without unreasonable deviation from the intended timeline.
* Recommend to the Title IX Coordinator a finding, based on a preponderance of the evidence (whether a policy violation is more likely than not)
* Compile all relevant information in a written investigative report and provide to the Title IX Coordinator

During the investigation, the Title IX Coordinator will:

* Provide regular updates to the reporting party throughout the investigation, and to the responding party, as appropriate
* Keep the college president apprised as needed

At any point during the investigation, if it is determined there is no reasonable cause to believe that CEI policy has been violated, the Title IX Coordinator has authority to terminate the investigation and end resolution proceedings.

Witnesses are expected to cooperate with, and participate in, the college’s investigation and the Title IX Resolution Process. Failure of a witness to cooperate with and/or participate in the investigation or Title IX Resolution Process constitutes a violation of policy (for employees Policy 204 and for students Procedure 907) and may subject the witness to disciplinary action. Witnesses may be interviewed remotely if they cannot be interviewed in person or if the investigators determine that timeliness or efficiency dictate a need for a remote interview. Witnesses do have the right to request accommodations prior to the scheduled interview through the Student Accessibility Office or Human Resources Office. Requests must follow current college procedure.

Parties who elect not to participate in the investigation or withhold information from the investigation will not have the opportunity to offer evidence during the hearing and/or appeal stages of the process that could have been offered during the investigation. Failure to offer evidence prior to an appeal does not constitute grounds for appeal on the basis of new evidence.

No unauthorized audio or video recording of any kind by any party is permitted during investigation meetings or other Title IX Resolution Process proceedings.

Any evidence that the investigatorbelieves is relevant and credible may be considered, including history and pattern evidence. The investigatormay exclude irrelevant or immaterial evidence and may choose to disregard evidence lacking in credibility or that is improperly prejudicial.

Unless the investigator determines it is appropriate, the investigation and the finding will not consider: (1) incidents not directly related to the possible violation, unless they show a pattern, (2) the sexual history of the reporting party (though there may be a limited exception made in regards to the sexual history between the parties), (3) or the character of the reporting party. While previous conduct violations by the responding party are not generally admissible as information about the present allegation, the investigators may consider information about previous good faith allegations and/or findings as evidence of pattern and/or predatory conduct.

The investigator(s) will not meet with character witnesses, but investigators will accept up to two (2) letters supporting the character of each of the parties.

At the conclusion of the investigation, the investigator(s) will submit an investigative report to the Title IX Coordinator. The Title IX Coordinator will determine if Policy 602 has been violated and if so, determine the next steps such as conflict resolution, informal or formal resolution. If it is determined that Policy 602 has not been violated, conflict resolution may be considered or the case may be dismissed.

**Advisors**

Each party is allowed to have an advisor of their choice present with them for all Title IX meetings and proceedings, from intake to final determination. The parties may select whomever they wish to serve as their advisor as long as the advisor is eligible, available, and not otherwise involved in the resolution process, such as serving as a witness. The advisor may be a friend, mentor, family member, attorney or any other supporter a party chooses. The Title IX Coordinator may also offer to assign a trained Title IX employee to work as an advisor for any party.

Advisors may help their advisees prepare for each meeting. They are expected to advise ethically, with integrity, and in good faith. The college cannot guarantee equal advisory rights. If one party selects an advisor who is an attorney, but the other party does not, or cannot afford an attorney, the college is not obligated to provide one.

Reporting parties may wish to contact organizations such as:

* The Victim Rights Law Center (<http://www.victimrights.org>)
* The National Center for Victims of Crime (<http://www.victimsofcrime.org>)

All advisors are subject to the same campus rules. Advisors may not address campus officials in a meeting or interview unless invited. The advisor may not make a presentation, represent the reporting party or the responding party during any meeting or proceeding, and may not speak on behalf of the advisee to the investigator(s) or Title IX Coordinator. The parties are expected to ask and respond to questions on their own behalf, without representation from their advisor. Advisors may confer quietly with their advisees or in writing, as necessary. For longer or more involved discussions, the parties and their advisors should ask for breaks to allow for private conversation. Advisors may be given an opportunity to meet in advance of any interview or meeting with the Title IX Coordinator conducting that interview or meeting. The involved party must be present at any meeting with Title IX Coordinator that includes an advisor. The purpose of this pre-meeting is to clarify any questions an advisor may have regarding their role and the procedures that will be followed.

The parties must complete a Release of Information form before the college is able to share records with an advisor, though parties may share the information directly with their advisor. Advisors are expected to maintain the privacy of information and records obtained. The information and records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by CEI.

Any advisor who fails to follow the procedures and conduct expectations outlined herein will be given a warning. If the advisor continues to fail to follow the procedures and conduct expectations, the advisor will be asked to leave the meeting. When an advisor is removed from a meeting, that meeting will continue without the advisor present. Subsequently, the Title IX Coordinator reserves the right to determine whether the advisor may be reinstated for further proceedings.

CEI will not change scheduled meetings to accommodate an advisor’s schedule. The college will make reasonable schedule accommodations to allow an advisor who cannot attend in person to attend a meeting virtually. The parties should advise the Title IX Coordinator of the identity of their advisor as soon as possible. A party may elect to change advisors during the process at any time. The parties must provide written timely notice to the Title IX Coordinator of the change.

**Resolution Processes**

All proceedings are confidential. All persons present at any time during the hearing are expected to maintain the privacy of the proceedings in accord with CEI procedure and policy. While the contents of the hearing are private, the parties have discretion to share their own experiences, and should discuss doing so with their advisor.

Conflict Resolution

Conflict Resolution may only occur if agreed upon by all parties. Conflict Resolution is often used for less serious behaviors and is encouraged as an alternative to the formal hearing process. Seriousness of the offense is determined by the Title IX Coordinator or determined by law. The Title IX Coordinator will determine if conflict resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue, and the susceptibility of the conduct to conflict resolution. It is CEIs procedure that all conflict resolution meetings occur virtually unless there are extenuating circumstances as determined by the Title IX Coordinator and agreed upon by both parties. In a conflict resolution meeting, a trained administrator will facilitate a dialogue with the parties to an effective resolution, if possible. Sanctions are not possible as the result of a conflict resolution process, though the parties may agree to appropriate remedies. The Title IX Coordinator will keep records of any resolution that is reached, and failure to abide by the accord can result in appropriate responsive actions.

Conflict Resolution will not be the primary resolution mechanism used to address reports of violent behavior of any kind or in other cases of serious violations of policy. It may be made available after the preliminary inquiry is completed should the parties and the Title IX Coordinator believe that it could be beneficial. Conflict Resolution will not be used in cases of sexual violence. It is not necessary to pursue conflict resolution first in order to pursue Informal or Formal Resolution. Either party participating in Conflict Resolution can stop that process at any time and request a shift to either Informal or Formal Resolution.

Informal Resolution: Resolution Without a Hearing Panel

Informal Resolution can be pursued for any behavior that falls within Policy 602. This option may be used when:

* A responding party admits responsibility for all or part of the alleged policy violations at any point in the process
* The investigation reaches a finding that the parties accept
* Both parties elect to resolve the allegation using the Informal Resolution process and the Title IX Coordinator agrees

In Informal Resolution, the Investigator has the authority to address all collateral misconduct, meaning that they hear all allegations of discrimination, harassment, hazing, and retaliation. They also may address any additional alleged policy violations that have occurred in concert with the discrimination, harassment, hazing, or retaliation, even though those collateral allegations may not specifically fall within Policy 602. Accordingly, investigations should be conducted with as wide a scope as necessary.

Typically, within ten (10) business days of the close of an investigative report, which has determined that a responding party is in violation of policy, the Title IX Coordinator will meet with the responding party to explain the finding(s) of the investigation. Once informed, the responding party may choose to admit responsibility for all or part of the alleged policy violations. If the responding party admits responsibility, in whole or in part, the Title IX Coordinator will render a determination that the individual is in violation of CEI policy for the admitted conduct. The Title IX Coordinator may proceed to convene a formal hearing on any remaining disputed violations.

If the responding party admits to the violation(s), the Title IX Coordinator, in consultation as appropriate, will determine an appropriate sanction or responsive action. If the sanction/responsive action is accepted by both the reporting party and responding party, the Title IX Coordinator will implement the finding and sanction. They will act promptly and effectively to stop the harassment, hazing, or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct. No appeal is permitted. If either party rejects the sanction/responsive action, a formal hearing will be held on the sanction/responsive action only, according to the Formal Resolution procedures below.

If alleged misconduct is resolved at the informal resolution stage, the Title IX Coordinator will inform the parties of the final determination within three (3) business days of the resolution unless extenuating circumstances occur. Notification will be made in writing and will be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official CEI records; or emailed to the parties’ CEI-issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered. The notification of outcome will specify the finding on each alleged policy violation; any sanctions that may result which CEI is permitted to share according to state or federal law; and the rationale supporting the essential findings to the extent CEI is permitted to share under state or federal law. The notice will also include information about when the results will be considered final, and any appeal options that are available.

At any point during the Informal Resolution process prior to resolution being accepted by both parties, either party may request that the matter be referred to the Formal Resolution process for presentation before a hearing panel,

In cases involving employees, all findings and responsive actions will be determined by the Vice President of Human Resources, based on the results of the investigation. Human Resources may consult with an additional Title IX Coordinator, if needed.

Formal Resolution: Resolution with a Hearing

For all contested allegations that are not resolved through either Conflict Resolution or Informal Resolution, the Title IX Coordinator will initiate a formal hearing within ten (10) business days of the conclusion of the investigation, barring unusual circumstances.

Formal Hearing

The Title IX Coordinator will refer the investigation findings to one of the decision makers depending on whether the responding party is an employee or a student. Those who serve as investigator(s) will be witnesses in the hearing of the allegation and therefore may not serve as decision makers. Those who are serving the parties as advisors are not eligible to serve as decision makers or witnesses.

Notice of Hearing

At least five (5) business days prior to the hearing, or as far in advance as is reasonably possible if an accelerated hearing is scheduled with the consent of the parties, the decision maker will send a letter to the parties with the following information.

* A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result as listed in this policy.
* The time and date of the hearing and a virtual link with a reminder that attendance is mandatory and supersedes all other campus activities. If any party does not appear at the scheduled hearing, the hearing will be held in their absence. For compelling reasons, the decision maker may reschedule the hearing.
* Notification that the parties may have the assistance of an advisor of their choosing at the hearing

Any delay beyond five business days must be documented and due to extenuating circumstances. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

Formal Hearing Procedures

Formal hearings will usually be convened within ten (10) business days of the completion of the investigation, and will be conducted in private. The decision maker has the authority to hear all collateral misconduct, meaning that they hear all allegations of discrimination, harassment, hazing, and retaliation. They may also hear any additional alleged policy violations that have occurred in concert with the discrimination, harassment, hazing, or retaliation, even though those collateral allegations may not specifically fall within the decision maker’s jurisdiction.

Participants will include the decision maker, the investigator(s) who conducted the investigation, the reporting party, responding party (or up to three (3) student organizational representatives where a student organization is charged), advisors to the parties and any called witnesses.

Pre-Hearing

The decision maker will provide the names of witnesses who will be participating in the hearing, all pertinent documentary evidence, and the investigation report between the parties at least two (2) business days prior to the hearing. Any witness scheduled to participate in the hearing must have been interviewed first by investigators (or have proffered a written statement), unless all parties consent to the participation of that witness in the hearing. In addition, the parties will be given a list of the names of each of the formal hearing participants at least two (2) business days in advance of the hearing. All objections to any participant must be raised in writing to the decision maker as soon as possible. Participants will only be unseated if the decision maker concludes that their bias precludes an impartial hearing of the allegation. Any decision maker, who upon receipt of the list of names, determines that he/she will not be able to make an objective determination, must recuse him/herself from participation in advance of the hearing.

The decision maker, in consultation with the parties and investigator(s), may decide in advance of the hearing that certain witnesses do not need to participate if their testimony can be adequately summarized by the investigator(s) in the investigation report or during the hearing. All parties will have an opportunity to present facts and arguments in full and question all present witnesses during the hearing, though formal cross-examination is not used between the parties. It is CEI’s process that formal hearings are held virtually unless there are extenuating circumstances as determined by the decision maker. Parties must request accommodations from the decision maker at least two (2) business days prior to the hearing. In the case of documented disabilities for which accommodations in the process are a necessity, CEI will make reasonable accommodations for the parties, when requested in advance.

Investigator Presents the Report

Once the procedures are explained and the participants are introduced, the investigator(s) will present the report of the investigation, and be available to answer questions for the parties and the decision maker. The investigator(s) will be present during the entire hearing process. The findings of the investigation are not binding on the decision maker, though any undisputed conclusions of the investigation report will not be revisited, except as necessary to determine sanctions/responsive actions. Once the investigator(s) presents their report and are questioned, the decision maker will permit all present witnesses to provide relevant information. The decision maker and the parties will each be allowed to ask questions of the witnesses. Questions will be asked directly to the parties and witnesses at the discretion of the decision maker. Each party will have the opportunity to question the opposing party under the direction of the decision maker. The decision maker will permit the parties to provide new information at their discretion.

Evidence Presented at the Hearing

Formal rules of evidence do not apply. Any evidence that the decision maker believes is relevant and credible may be considered, including history and pattern evidence. The decision maker will address any evidentiary concerns prior to and/or during the hearing, may exclude irrelevant or immaterial evidence, and may ask the participants to disregard evidence lacking in credibility or that is improperly prejudicial. The decision maker will determine all questions of procedure and evidence.Anyone appearing at the hearing to provide information will respond to questions on his/her own behalf.

Unless the decision maker determines it is appropriate, no one will present information or raise questions concerning: (1) incidents not directly related to the possible violation, unless they show a pattern, (2) the sexual history of the reporting party (though there may be a limited exception made in regards to the sexual history between the parties), (3) or the character of either party. While previous conduct violations by the responding party are not generally admissible as information about the present allegation, the investigator(s) will supply the decision maker with information about previous good faith allegations and/or findings to consider as evidence of pattern and/or predatory conduct.

There will be no observers in the hearing. In the event that CEI Title IX Coordinator(s) or members of CEI’s Presidential Advisory Council deem it necessary, CEI may allow its legal counsel to be present to provide legal guidance at any hearing. The decision maker may allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the decision maker or the parties involved, and then be excused. The decision maker will not hear from character witnesses, but will accept up to two (2) letters supporting the character of each of the parties.

In formal hearings involving more than one responding party or in which two (2) or more reporting parties have accused the same individual of substantially similar conduct, the standard procedure will be to hear the allegations jointly. However, the Title IX Coordinator has discretion to permit the hearing pertinent to each responding party to be conducted separately. In joint hearings, separate determinations of responsibility will be made for each responding party.

Formal Hearings are recorded by the Title IX Coordinator or designee for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted. Decision makers, the parties, and appropriate administrative officers of CEI will be allowed to listen to the recording in a location determined by the Title IX Coordinator. No person will be given, or be allowed to make a copy of, the recording without permission of the Title IX Coordinator or designee.

Alternative Testimony Options

For sexual misconduct reports, and other reports of a sensitive nature, the reporting party will be offered alternative testimony options, including but not limited to providing testimony without a camera (microphone only), or other accommodations as determined by the decision maker. While these options are intended to help make the reporting party more comfortable, they are not intended to work to the disadvantage of the responding party.

Deliberation and Decisions

The decision maker will determine whether the responding party is responsible or not responsible for the policy violation(s) in question. The decision maker will base its determination(s) on a preponderance of the evidence (i.e., whether it is more likely than not that the responding party committed each alleged violation). If a responding party or student organization is found responsible by the decision maker, the decision maker will recommend appropriate sanctions.

The decision maker will prepare a written report and deliver it to the Title IX Coordinator, detailing the findings, the information cited in support of said findings and any information excluded from consideration and reasons for doing so. The report will include any recommended sanctions. This report should not exceed two (2) pages in length and must be submitted to the Title IX Coordinator within three (3) business days of the hearing, unless the Title IX Coordinator grants an extension.

The Title IX Coordinator will submit the findings and recommendations to the President for review and final approval. Upon approval from the President, the Title IX Coordinator and will inform the parties of the final determination—both the finding(s) and applicable sanction(s)—within two (2) business days of the President’s approval, without significant time delay between notifications. Notification will be made in writing and may be delivered by one or more of the following methods: in person; USPS mail to the local or permanent address of the parties as indicated in official CEI records; or emailed to the parties’ CEI-issued email account. Once mailed, emailed or received in-person, notice will be presumptively delivered. The notification of outcome will specify the finding on each alleged policy violation, any sanctions that may result which the college is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent CEI is permitted to share under state or federal law. The notice will also include information on when the results are considered by CEI to be final, any changes that occur prior to finalization, and any appeal options that are available.

**Sanctions**

The Title IX Coordinator or the decision maker assigned to the resolution will recommend sanctions or responsive actions. Factors considered when determining a sanction/responsive action may include:

* The nature, severity of, and circumstances surrounding the violation
* An individual’s disciplinary history
* Previous allegations or allegations involving similar conduct
* Any other information deemed relevant as a result of the formal hearing
* The need for sanctions/responsive actions to bring an end to the discrimination, harassment, hazing, and/or retaliation
* The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment and/or retaliation
* The need to remedy the effects of the discrimination, harassment, hazing, and/or retaliation on the reporting party and the community

Student Sanctions

Sanctions may be noted on the official transcript and in conjunction with CEI policy. The following are the usual sanctions that may be imposed upon students or student organizations singly or in combination:

* *Warning:* A formal statement verbally or in writing that the behavior was unacceptable and a warning that further infractions of any CEI policy, procedure, or directive will result in more severe sanctions/responsive actions.
* *Probation:* A written reprimand for violation of the Code of Student Conduct, providing for more severe disciplinary sanctions in the event that the student or student organization is found in viola­tion of any CEI policy, procedure or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified privileges, exclusion from co-­curricular activities, exclusion from classes and/or course work, and/or other measures deemed appropriate.
* *Non-contact order:* College order that prohibits a person from contacting or coming near another person on college property or at college sanctioned events. Non-contact orders are intended to protect all parties from harm, harassment, intimidation, retaliation.
* *Suspension:* Termination of student status for a definite period of time not to exceed two years, and/or until specific criteria are met. Students who return from suspension may be placed on warning for the remainder of their tenure at CEI. This sanction may be noted as a Conduct Suspension on the student’s official transcript, at the discretion of the Title IX Coordinator.
* *Expulsion:* Permanent termination of student status (trespassed), revocation of rights to be on campus for any reason, or attend CEI-sponsored events. This sanction will be noted as a Conduct Expulsion on the student’s official transcript.
* *Withholding Diploma*: The College may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending, or as a sanction if the student is found responsible for an alleged violation.
* *Revocation of Degree:* The College reserves the right to revoke a degree awarded for serious violations of CEI policies, procedures or directives in obtaining the degree. Revocation may also occur for other serious violations committed by a student prior to graduation.
* *Student Organizational Sanctions*: The College reserves the right to impose any of the following actions for a specified period of time: Deactivation, de-recognition, loss of funding, repayment of past funding.
* *Other Actions:* In addition to, or in place of, the above sanctions, the College may assign any other sanctions as deemed appropriate.

Employee Sanctions

Responsive actions for an employee who has engaged in harassment, discrimination and/or retaliation include:

* *Warning – Verbal or Written*
* *Performance Improvement/Management Process*
* *Required Counseling*
* *Required Training or Education*
* *Probation*
* *Loss of Annual Pay Increase*
* *Loss of Oversight or Supervisory Responsibility*
* *Demotion*
* *Suspension with pay*
* *Suspension without pay*
* *Termination*
* *Other Actions:* In addition to or in place of the above sanctions, the college may assign any other sanctions as deemed appropriate.

**Withdrawal or Resignation While Charges Pending**

Students:Should a student decide to leave and/or not participate in the Title IX Resolution Process, the process will nonetheless proceed in the student’s absence to a reasonable resolution and that student will not be permitted to return to CEI unless all sanctions have been satisfied. The student will not have access to an academic transcript until the allegations have been resolved.

Employees: Should an employee resign with unresolved allegations pending, the Title IX Resolution Process will proceed to a reasonable resolution regardless of whether the employee chooses to participate or not. The records of the appropriate Title IX Coordinator will reflect the status of the Title IX Resolution Process resolution. Any CEI responses to future inquiries regarding employment references for that individual will indicate the former employee is ineligible for rehire.

**Appeals**

All requests for appeal consideration must be submitted in writing to the Title IX Coordinator within five business (5) days of the delivery of the decision maker’s written finding. A different decision maker not previously involved in the process will be determined by the Title IX Coordinator. Any party may appeal, but appeals are limited to the following grounds:

* A procedural error or omission occurred that significantly impacted the outcome of the formal hearing (e.g. substantiated bias, material deviation from established procedures, etc.)
* To consider new evidence, unknown or unavailable during the original formal hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included
* The sanctions-imposed fall outside the range of sanctions the College has designated for this offense and the cumulative record of the responding party

The new decision maker will review the appeal request(s). The original finding and sanction/responsive actions will stand if the appeal is not timely or is not based on the grounds listed above, and such a decision is final. The party requesting an appeal must show that the grounds for an appeal request have been met. The other party or parties may show the grounds have not been met, or that additional grounds are met. When any party requests an appeal, the Title IX Coordinator will share the appeal request with the other party(ies), who may file a response within five (5) business days and/or bring their own appeal on separate grounds within the original timeframe. If new grounds are raised, the original appealing party will be permitted to submit a written response to these new grounds within five (5) business days. Any response or appeal request will be shared with each party.

Where the new decision maker finds that at least one of the grounds is met by at least one party, additional principles governing the hearing of appeals will include the following:

* Decisions by the new decision maker are to be deferential to the original decision, making changes to the finding only where there is clear error. Sanction/responsive action changes occur only if there is a compelling justification to do so
* Appeals are not intended to be full re-hearings (de novo) of the allegation. In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal. An appeal is not an opportunity for the new decision maker to substitute their judgment for that of the original decision maker merely because they disagree with its finding and/or sanctions
* Appeals granted based on new evidence will be remanded to the original decision maker or investigator(s) for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator
* Sanctions imposed as the result of the Formal or Informal Resolution processes are implemented immediately unless the Title IX Coordinator or designee stays their implementation in extraordinary circumstances, pending the outcome of the appeal
* For students: Graduation, internships/ externships, clinical, etc. do NOT in and of themselves constitute extraordinary circumstances. Students may not be able to participate in those activities during their appeal
* The Title IX Coordinator will confer with the decision maker, incorporate the results of any remanded grounds, and render a written decision on the appeal to all parties within five (5) business days from hearing of the appeal or remand
* All parties will be informed of whether the grounds for an appeal are accepted and the results of the appeal decision or remand
* Once an appeal is decided, the outcome is final; further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
* In cases where a procedural [or substantive] error cannot be alleviated by the original decision maker (as in cases of bias), the new decision maker may recommend a new hearing with a third decision maker. The results of a remand to a third decision maker cannot be appealed. The results of a new hearing can be appealed, once, on any of the three applicable grounds for appeals.
* In cases where the appeal results in reinstatement or resumption of privileges, all reasonable attempts will be made to restore the responding party to their prior status, recognizing that some opportunities lost may be irreparable.

**Long-Term Remedies/Actions**

Following the conclusion of the Title IX Resolution Process, and in addition to any sanctions implemented, the Title IX Coordinator may utilize long-term remedies or actions to stop the harassment, hazing, or discrimination, remedy its effects, and prevent their reoccurrence. These remedies/actions may include, but are not limited to:

* Referral to counseling and community resources
* Referral to the Employee Assistance Program
* Education for the campus community
* Permanently altering work arrangements for employees
* Providing campus security chaperones
* Policy modification
* Implementing long-term contact limitations between the parties
* Offering adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, long-term remedies may also be provided even when the responding party is found not responsible. CEI will maintain as confidential any long-term remedies/actions or protective measures, provided confidentiality does not impair CEI’s ability to provide the actions or protective measures.

**Failure to Complete Sanctions/Comply with Interim and Long-term Remedies/Responsive Actions**

All responding parties are expected to comply with conduct sanctions, responsive actions and corrective actions within the timeframe specified by the Title IX Coordinator. Failure to abide by these conduct sanctions, responsive actions, and corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions, responsive or corrective actions, and/or suspension, expulsion, and/or termination from the college and may be noted on a student’s official transcript or an employee’s personnel record. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

**Records and Reporting**

In implementing this policy, records of all allegations, investigations, resolutions, and hearings will be kept by the Title IX Coordinator indefinitely in the relevant confidential database.

In accordance with Idaho Code § 33-3732, the President shall submit an annual report to the State Board of Education and the Idaho Legislature detailing the number of Title IX complaints received, the resolution outcomes, policy updates, and any corrective actions taken during the reporting year.

**Statement of the Rights of the Parties**

Statement of the Reporting Party’s Rights:

* The right to prompt investigation and appropriate resolution of all allegations of sexual misconduct or discrimination made in good faith to CEI officials;
* The right to be informed in advance of any public release of information regarding the incident;
* The right to preservation of privacy and not to have any personally identifiable information released to the public, without consent;
* The right to be treated with respect by CEI officials;
* The right not to be discouraged by CEI officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities;
* The right to be notified of available counseling, mental health, victim advocacy, health, legal assistance, student financial aid, visa and immigration assistance, or other student services, both on campus and in the community;
* The right to a campus non-contact order (or a trespass order against a non-affiliated third party) when someone has engaged in or threatens to engage in stalking, threatening, harassing, hazing, or other improper behavior that presents a danger to the welfare of the reporting party or others;
* The right to notification of options for, and available assistance in, changing academic situations after an alleged sexual misconduct incident, if so requested by the reporting party and if such changes are reasonably available (no formal report, or investigation, campus or criminal, need occur before this option is available). Accommodations may include:
	+ Exam (paper, assignment) rescheduling
	+ Taking an incomplete in a class
	+ Transferring class sections
	+ Temporary withdrawal
	+ Alternative course completion options
* The right to have CEI maintain such accommodations for as long as determined by the appropriate college designee, and for protective measures to remain confidential, provided confidentiality does not impair the institution’s ability to provide the accommodations or protective measures;
* The right to regular updates on the status of the investigation and/or resolution.
* The right to petition that any CEI representative in the process be recused on the basis of demonstrated bias and/or conflict of interest;

Statement of the Responding Party’s Rights:

The rights of the responding party include:

* The right to prompt investigation and appropriate resolution of all reports of sexual misconduct and/or discrimination made in good faith to CEI administrators;
* The right to be informed in advance, when possible, of any public release of information regarding the report;
* The right to be treated with respect by CEI officials;
* The right to have CEI policies and procedures followed without material deviation;
* The right to be notified of available counseling, mental health, victim advocacy, health, legal assistance, student financial aid, visa and immigration assistance, or other student services, both on campus and in the community; The right to timely written notice of all alleged violations, including the nature of the violation(s), the applicable policies and procedures and possible sanctions;
* The right to a hearing on the report, including timely notice of the hearing date, and adequate time for preparation (does not apply to at-will employees)
* The right to petition that any CEI representative be recused from the resolution process on the basis of demonstrated bias and/or conflict of interest;
* The right to a fundamentally fair resolution, as defined in these procedures;
* The right to a decision based solely on evidence presented during the resolution process. Such evidence shall be credible, relevant, based in fact, and without prejudice;

**Accessibility Accommodation in the** Title IX **Resolution Process**

CEI is committed to providing qualified students, employees or others with disabilities with reasonable accommodations and the support needed to ensure equal access to the Title IX Resolution Process. Students or visitors who need accommodations or support should contact Student Accessibility Services. Employees who need accommodations or support should contact Human Resources. The request will be reviewed by an appropriate staff member and a Title IX Coordinator, to determine which accommodations are appropriate and necessary for full participation.

**Revision**

These procedures will be reviewed and updated regularly. CEI reserves the right to make changes to the procedures of this document as necessary and once those changes are posted online, they are in effect. The Title IX Coordinator may make minor modifications to procedure that do not jeopardize the fairness owed to any party, such as to accommodate summer schedules, etc. The Title IX Coordinator may also vary procedures with notice (on the institutional web site, with appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure. Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred. If government regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such codes generally.