

# Title IX Policy- Sex Discrimination and Harassment Prohibition



Regulatory Policy – no exceptions may be made

Department: Compliance  
Policy Number: 04-018  
Effective: 08/14/2020  
Replaces: 10/10/2018

## PURPOSE

The policy and protocols set forth in this document are to ensure Concorde’s compliance with the U.S. Department of Education’s Office of Civil rights regulation known as “Title IX”. The purpose of this policy is to provide clear guidance regarding the Concorde’s internal system of reporting, processing and making decisions on complaints of sex discrimination and harassment.

This policy and corresponding protocols apply to all students, employees and third parties, regardless of race, color, national origin, ancestry, sex, religion, age, physical or mental disability, marital status, veteran status, sexual orientation, gender identity, gender expression, political affiliation or any other factor unrelated to professional or educational qualifications.

## REFERENCE

20 U.S.C. § 1681 provides in part that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance. Sex discrimination includes sexual misconduct in the form of sexual harassment, hostile work environment, sexual violence (rape, sexual assault and sexual abuse), domestic violence, dating violence, stalking, intimidation (extortion, menacing behavior, bullying), and gender/sex-based harassment or discrimination.

## POLICY

Concorde does not discriminate on the basis of sex in the education programs and activities it operates, including but not limited to admissions, recruiting, financial aid, academic programs, student services, counseling and guidance, discipline, class assignments, grading, recreation, extracurricular activities and employment. Concorde is committed to offering an education and working environment that is free from discrimination and harassment on the basis of sex, sexual orientation, gender identity, and gender expression (“Sex Discrimination”), and free from Sexual Violence (including sexual assault) and Relationship Violence (including domestic violence, dating violence and stalking). Such discrimination is inconsistent with Concorde’s values and is prohibited by law, including by Title IX to the Education Amendments of 1972 (“Title IX”). Thus, Concorde prohibits Sex Discrimination, Sexual Violence and Relationship Violence (together, the “Prohibited Conduct”), as set forth herein, and is committed to taking action, to the extent possible (i) to stop behavior that violates this policy; (ii) to take remedial action to overcome the effects of Prohibited Conduct and ensure equal access to its educational programs and activities; (iii) to prevent the recurrence of Prohibited Conduct; and (iv) to prevent and respond to retaliation against anyone who, in good faith, reports or is involved in the investigation into or resolution of allegations of Prohibited Conduct. In so doing, the College will administer prompt, fair and impartial investigations and disciplinary proceedings to respond to reports of Prohibited Conduct via its Title IX Grievance Procedures located within this policy and provide equal and timely access to information that will be used in any informal and formal proceedings and meetings related to said reports, and offer and implement interim measures to protect and support those directly involved and affected by the alleged behavior. In implementing this policy, Concorde acknowledges that every victim or

survivor of Prohibited Conduct has the right to be taken seriously and every respondent to allegations of Prohibited Conduct has the right to know that guilt is not presumed.

The prevention and elimination of sexual harassment is of special concern to Concorde. Sexual harassment includes conduct on the basis of sex that satisfies one or more of the following: (1) an employee conditioning the provision of an aid, service or benefit of Concorde on an individual's participation in unwelcome sexual conduct; (2) unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to Concorde's education program or activity; and/or (3) Sexual Assault, Dating Violence, Domestic Violence, or Stalking as defined herein.

- **Dating Violence.** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the survivor/victim based on the reporting party's statements, with consideration given to the length of the relationship, type of the relationship, and the frequency of interaction between persons in the relationship. Dating Violence includes but is not limited to sexual or physical abuse or threat of such abuse but does not include acts covered as Domestic Violence (defined below).
- **Domestic Violence.** A felony or misdemeanor crime of violence committed by a: (1) current or former spouse or intimate partner of the victim; (2) person with whom the victim shares a child in common; (3) person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; (4) person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or (5) any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- **Sexual Assault.** An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting program.
- **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress.

Concorde regards all such conduct and retaliation for the reporting of such conduct as creating a hostile and offensive work and learning environment in violation of this policy.

The following person has been designated to handle inquiries regarding Concorde's Title IX Policy:

Koula Foura, M.Ed  
Student Affairs Director  
Lead Title IX Coordinator  
Lead ADA Coordinator  
Concorde Career Colleges  
5800 Foxridge Drive, Suite 500  
Mission, KS 66202  
Office: 913.745.2219  
Fax: 913.831.6556  
Email: [TITLEIX@concorde.edu](mailto:TITLEIX@concorde.edu)

A person may also file a complaint with the Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by visiting [www2.ed.gov/about/offices/list/ocr/complaintintro.html](http://www2.ed.gov/about/offices/list/ocr/complaintintro.html) or calling 1-800- 421-3481. Employees may also file a charge with the Equal Employment Opportunity Commission regarding an alleged violation of Title VII by calling 1-800-669-4000 or visiting <https://www.eeoc.gov/employees/howtofile.cfm>.

**I. Introduction**

- A. **Purpose:** The purpose of these procedures is to implement Concorde's Sex Discrimination and Harassment Prohibition—Title IX Policy. Capitalized terms shall have the meaning ascribed to them in the Definitions Section set forth below.
- B. **Jurisdiction:** These procedures apply to Prohibited Conduct as defined by Concorde's Sex Discrimination and Harassment Prohibition—Title IX Policy 04-018 where Concorde has Actual Knowledge of such conduct occurring either on or off campus property where one of the following conditions is met:
1. The conduct occurred in connection with an officially recognized education program or activity;
  2. The conduct occurred at a location or event or under circumstances over which Concorde exercised substantial control over both the Respondent and the context in which the conduct occurred; or
  3. The conduct occurred on property owned or controlled by a student organization that is officially recognized by Concorde.
- C. **Scope:** These procedures apply to Prohibited Conduct between the following parties located in the United States at the time of the incident:
1. Student Complainant and student Respondent;
  2. Student Complainant and employee Respondent;
  3. Student Complainant and third-party Respondent;
  4. Employee Complainant and student Respondent;
  5. Employee Complainant and employee Respondent;
  6. Employee Complainant and third-party Respondent;
  7. Third party Complainant and student Respondent; and
  8. Third party Complainant and employee Respondent.
- D. **Administration:** Concorde's Lead Title IX Coordinator(s) shall be responsible for implementing these procedures consistent with applicable Concorde policy and relevant local, state and federal laws, and ensuring that all those involved in (1) the receipt of reports of Prohibited Conduct, (2) the referral or provision of services related to Prohibited Conduct, or (3) Concorde's investigation and conduct of Grievance Procedures for reports of Prohibited Conduct receive required training.

**Reporting Prohibited Conduct:** Anyone (student, employee, or third-party) may make a report of Prohibited Conduct, whether the Prohibited Conduct was directed at such person or not and may do so at any time. Concorde encourages everyone to report actual or suspected violations of Concorde's Sex Discrimination and Harassment Prohibition—Title IX Policy as soon as practicable to aid in Concorde's response to such conduct.

- A. **Methods of Reporting:** In order to ensure a prompt response, including the provision of Supportive Measures, the College requires anyone reporting Prohibited Conduct to do so by contacting the College's "Officials With Authority" immediately. The Officials With authority will report the incident to the Lead Title IX Coordinator through one of the following methods but preferably through emailing the [TITLEIX@concorde.edu](mailto:TITLEIX@concorde.edu) inbox immediately. If there is an emergency on campus, contact the authorities, call one of the designated employees on the Red Alert list and email the [RedAlert@concorde.edu](mailto:RedAlert@concorde.edu) with a summary of events in addition to emailing the [TitleIX@concorde.edu](mailto:TitleIX@concorde.edu) inbox.

- B. The following person has been designated to handle inquiries regarding Concorde’s Title IX Policy at any time to include non-business hours via direct mail, email or phone:

Koula Foura, M.Ed  
Student Affairs Director  
Lead Title IX Coordinator  
Lead ADA Coordinator  
Concorde Career Colleges  
5800 Foxridge Drive, Suite 500  
Mission, KS 66202  
Office: 913.745.2219  
Fax: 913.831.6556  
Email: [TITLEIX@concorde.edu](mailto:TITLEIX@concorde.edu)

- C. An anonymous report may be filed with Lighthouse, a third-party service, by calling, emailing or filing an online report as provided below.
- a. 1-855-400-6004
  - b. [reports@lighthouse-services.com](mailto:reports@lighthouse-services.com)
  - c. Website: [www.lighthouse-services.com/concorde](http://www.lighthouse-services.com/concorde)

- E. **Initial Response to Report:** Following receipt of a report of potential Prohibited Conduct, the Lead Title IX Coordinator shall:

1. Acknowledge receipt of the report to the reporter if possible (i.e., if not anonymous);
2. Document the acknowledgement of report by using “**Title IX Complaint**” Activity code.
3. Any subsequent conversations should be documented using the “**Title IX Correspondence**” activity code with a general summary of conversation, not to include specifics.
4. Promptly contact the Complainant to:
  - i. Discuss availability of supportive measures (which must be made available with or without filing a Formal Complaint);
  - ii. Explain the process for filing a Formal Complaint; and
  - iii. Discuss the Complainant’s wishes regarding how Concorde should respond to the allegations;
  - iv. Discuss options for notifying law enforcement including the right to decline to notify law enforcement and the right to be assisted in making a report to law enforcement if he/she chooses;
  - v. Provide written information about the importance of seeking medical treatment and preserving evidence as soon as practicable after an incident;
  - vi. Provide information on availability and contact information for resources (both on and off campus) available to an alleged victim of Prohibited Conduct; and
  - vii. Explain how Concorde will protect the privacy and confidentiality of the alleged Complainant, Respondent and witnesses to the extent practicable pursuant to Concorde’s Privacy Policy outlined in section I.K. below.
5. Consider the facts reported and, assuming their truth for purposes of determining whether interim measures are appropriate, consider whether:
  - i. an emergency removal of a student, employee or visitor from campus is appropriate;
  - ii. an administrative leave of an employee is appropriate; and
  - iii. whether other interim measures may be appropriate, including but not limited to the adjustment of class schedules.

- iv. To conduct further inquiry to discover additional facts including:
  - a. Identifying and interviewing witnesses;
  - b. Contacting and interviewing the Respondent; and
  - c. Contacting and cooperating with law enforcement.

- F. **Supportive Measures:** Supportive Measures may be requested by any party (Complainant(s) or Respondent(s)), whether or not a Formal Complaint is filed; a report is filed with law enforcement; or the Complainant decides to pursue any other process offered by the College. Requests for Supportive Measures should be submitted to the Lead Title IX Coordinator. Concorde shall offer Supportive Measures on an equitable basis to Complainant(s) and Respondent(s) alike.
- G. **Identifying and Locating Witnesses:** It is Concorde's responsibility to identify and locate witnesses to an alleged incident of Prohibited Conduct. The Complainant is encouraged to identify any known witnesses at the time they report Prohibited Conduct, including but not limited to when filing a Formal Complaint.
- H. **Contacting and Interviewing Respondent:** Concorde will make every effort not to contact the Respondent until such time as a Formal Complaint is filed. The Complainant will be notified of the College's intent to contact and interview the Respondent prior to said contact.
- I. **Contacting and Cooperating with Law Enforcement:** A Complainant has the right to notify law enforcement or to decline to notify law enforcement.
- J. **Importance of Preserving Evidence:** Survivors/Victims of sexual violence should take steps to preserve all physical evidence to assist in proving that a crime occurred or in obtaining an order of protection, restraining order or other such court order.
- K. **Privacy:** The College will protect the identity of parties and witnesses involved in the resolution of a report of Prohibited Conduct to the extent doing so does not unreasonably interfere with legally protected rights of others, the investigation into and resolution of the reported conduct, or the implementation of Supportive Measures, sanctions or remedies.

## II. Formal Complaint Process

- A. **General:** The filing of a Formal Complaint will trigger the formal investigation and hearing procedures (collectively referred to as "Grievance Procedures") set forth herein. Even in the absence of a Formal Complaint, a Respondent may be subject to discipline through other applicable College procedures and the College may still take other remedial action to address the alleged conduct if said conduct does not rise to the level of a Title IX violation or Prohibited Conduct. There is no deadline for the filing of a Formal Complaint, although Concorde encourages individuals to do so as early as possible following an incident.
- B. **Filing a Formal Complaint:** A Formal Complaint may not be anonymous. It must be submitted in writing and signed by either:
  - 1. The Complainant; or
  - 2. The Lead Title IX Coordinator.
- C. **Notice of Formal Complaint:** Within five (5) business days following the filing of a Formal Complaint, the Lead Title IX Coordinator shall send written notice simultaneously to all parties identified in the Formal Complaint containing the following information:
  - 1. A copy of these Procedures;
  - 2. Notice of the allegations and the type(s) of Prohibited Conduct implicated, including a reference to the Section of the Concorde policy such alleged conduct, if proven, would violate;
  - 3. The identity of the parties involved in the alleged incident, including the Complainant and witnesses, if any are known;
  - 4. The date, time and location of the alleged incident (if known);
  - 5. The parties' right to an advisor of their choice, who may, but need not, be an attorney;

6. A statement that the Respondent is presumed “not responsible” for the alleged conduct and that a determination will be made only at the conclusion of the Grievance Procedures;
  7. A statement regarding the parties’ right to inspect and review evidence;
  8. The provision of any College policy that prohibits knowingly making false statements or knowingly submitting false information to a College official during these or other College proceedings.
  9. A statement prohibiting retaliation;
  10. A statement regarding the availability of resources and Supportive Measures for the parties; and
  11. A statement regarding Concorde’s duty to update the Notice if there are any substantive changes to the information contained in the original Notice (e.g., the inclusion of additional allegations in the investigation or receipt of new evidence, including but not limited to the identity of additional witnesses).
- D. **Consolidation of Formal Complaints:** Concorde may consolidate Formal Complaints containing allegations of Prohibited Conduct against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations arise out of the same facts or circumstances.
- E. **Informal Resolution:** At any time following the filing of a Formal Complaint, Concorde may consider whether or not Informal Resolution, as described in Section VIII of these Procedures, may be appropriate.

### III. Grievance Procedures—General

- A. **Timeframes and Extensions:** The parties have the right to expect that the Grievance Procedures set forth herein will begin promptly following the filing of a Formal Complaint and proceed in a timely manner. Concorde shall consider requests for extensions or delays, only for good cause. If the process is delayed or a deadline is extended, the College will so notify the parties, in writing. The College will make a good faith effort to complete the grievance process within 60-90 days, though extensions may be allowed for good cause.
- B. **Fair and Equitable Treatment of all Parties:** The College will provide fair and equitable treatment to all parties involved in the Grievance Process, including the following:
1. Every Complainant has the right to be taken seriously and every Respondent has the right to know that guilt is not presumed.
  2. All parties will have an equal opportunity to inspect and review evidence, both inculpatory and exculpatory, obtained as part of investigation that is directly related to allegations raised in a Formal Complaint;
  3. All parties will have an equal opportunity to present fact and expert witnesses, and other inculpatory or exculpatory evidence;
  4. Concorde will conduct an objective evaluation of all relevant evidence;
  5. All parties may be accompanied by an advisor of their choice during any aspect of the Grievance Process where the party’s presence has been requested;
  6. Concorde will not place a limit on the choice of advisor for either party, though said advisor will be expected to abide by any applicable rules of decorum established by Concorde;
  7. Any written notice to a party whose participation is invited or expected will contain the date, time, location, identity of participants and purpose of the meeting/hearing and will be sent with sufficient time to allow the parties to prepare to participate;
  8. The parties will not be restricted from discussing the allegations under investigation, or from gathering evidence or witnesses bearing in mind that conduct constituting Retaliation or witness tampering or intimidation is a violation of Concorde’s retaliation statement within the college catalog.

9. Any written notice, report or determination made in accordance with the Grievance Process shall be sent simultaneously to all parties involved.
- C. **Prohibited Evidence:** The following evidence will not be sought, relied upon or otherwise used in the investigation of a Formal Complaint or in making a determination about responsibility:
  1. Information protected by a legally recognized privilege, UNLESS the person holding the privilege has provided Concorde with voluntary written consent to use such information or has otherwise waived the privilege;
  2. Information about the Complainant's past sexual behavior or predisposition EXCEPT in compliance with federal rape shield and other statutory protections.
- D. **Sanctions & Remedies:** A final determination of responsibility for Prohibited Conduct against a Respondent may result in the sanctions up to and including termination of enrollment in and/or employment with Concorde.
- E. **Qualifications of Investigators, Decision-Makers and Facilitators:** All those involved in the investigation or resolution of allegations of Prohibited Conduct shall:
  1. Serve impartially and be free from actual or reasonably perceived conflicts of interest or bias; and
  2. Be trained, as required by law, to include: definitions of and issues related to Prohibited Conduct; how to conduct an investigation and hearing; how to serve impartially and avoid prejudgment; how to make determinations on relevancy of evidence; how to create an investigative report; how to evaluate credibility; how to synthesize evidence; and how to avoid sex stereotypes or generalizations based on sex.

#### IV. Grievance Procedures—Investigation

- A. **Assignment of Investigator:** Within three (3) business days of the receipt of a Formal Complaint, the Lead Title IX Coordinator shall appoint an investigator. The identity of and contact information for the assigned investigator shall either be included in the Notice of Formal Complaint described in Section II. A. above or the Lead Title IX Coordinator shall send written notice to all parties containing that information along with an explanation of the process for challenging the assignment based on conflict of interest or bias. Any challenge must be resolved before the investigation process may begin.
- B. **Evidence Gathering:** The investigator shall be responsible for gathering evidence, both inculpatory and exculpatory, relevant to the allegations contained in the Formal Complaint. At minimum, the investigator shall take reasonable steps to interview all parties. After available evidence has been gathered, the investigator will send the parties and their advisors (if any) the evidence directly related to the allegations raised in the Formal Complaint in either electronic or hard copy format (at the discretion of the investigator). The parties shall have 10 days to submit a written response to the investigator, which response will be considered in completing the investigative report. All said evidence shall be available to the parties for inspection and review at any hearing.
- C. **Investigative Report:** Within ten (10) business days of receiving the parties' responses to the evidence and/or expiration of the deadline for submission of the responses, the investigator shall send to the parties, a written investigative report that summarizes relevant evidence. The parties shall have 10 business days to submit to the investigator a written response.
  1. **Consolidated Complaints:** Where a decision has been made to consolidate complaints, the investigator may create a single investigative report for all said complaints.
  2. **Parties' Response:** In the written response, parties may propose corrections, provide appropriate context, raise defenses, identify missing relevant evidence or raise any other issues in relation to the evidence they feel it is important for the Grievance Officer to consider. Failure to submit a response will NOT preclude the parties from raising those issues later in the Grievance Process, such as during any future hearing.

## V. Grievance Procedures--Pre-Hearing

- A. **Submission of Investigative Report & Response(s):** Within one (1) business day of receiving the parties' responses or expiration of the deadline to submit said responses, the investigator shall send a copy of the investigative report and the parties' responses, if any, to the Lead Title IX Coordinator.
- B. **Title IX Determination:** The Lead Title IX Coordinator shall review the investigative report and responses thereto and decide whether or not the alleged conduct, if proven, would constitute Sex Discrimination or Sexual Harassment as defined by Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et. seq.) and its implementing regulations (34 CFR §106 et. seq.). A written decision and reasons therefore shall be sent to the parties within ten (10) business days of the Lead Title IX Coordinator's receipt of the investigative report and responses:
1. **Title IX Compliant Hearing Referral:** If the Lead Title IX Coordinator determines that the alleged conduct, if proven, does constitute Sex Discrimination or Sexual Harassment as defined by Title IX, the Lead Title IX Coordinator shall appoint a Grievance Officer to conduct a hearing in accordance with Section VII below.
  2. **Dismissal of Formal Complaint:** If the Lead Title IX Coordinator determines that the alleged conduct, if proven, does not constitute Sex Discrimination or Sexual Harassment as defined by Title IX, the Formal Complaint shall be dismissed. The Lead Title IX Coordinator also has discretion to dismiss the Formal Complaint or any allegations therein if:
    - i. The Complainant notifies the Lead Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or allegations therein;
    - ii. The Respondent is no longer enrolled or employed by the College; or
    - iii. Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the Formal Complaint.
  3. **Referral to Other College Processes:** If, in the course of investigating the Formal Complaint, conduct is alleged or discovered that may violate any other College Policy (e.g., the Code of Student Conduct), the Lead Title IX Coordinator may refer the matter for consideration through any other applicable College process.
- C. **Appeal of Title IX Determination:** To the extent the Lead Title IX Coordinator determines that the alleged conduct does not constitute Sex Discrimination or Sexual Harassment as defined by Title IX, that decision may be appealed by any party, utilizing the process set forth in Section E below. Any other applicable process should not proceed until the appeal has been decided or the deadline for filing an appeal has expired.

## VI. Grievance Procedures—Hearing & Appeal

- A. **Assignment of the Grievance Officer:** Within three (3) business days of the Title IX Determination set forth in Section VI. C above (which deadline may be extended if an appeal of the determination has been filed), the Lead Title IX Coordinator will appoint a Grievance Officer to conduct a hearing to determine responsibility. A copy of the investigative report and party response(s), if any, shall be provided to the Grievance Officer. Within three (3) business days of the assignment, written notice of the identity of and contact information for the Grievance Officer and an explanation of the process for challenging the assignment based on conflict of interest or bias shall be sent to all parties. Any challenge must be resolved before the hearing process may begin.
- B. **Notice of Hearing:** Within three (3) business days following assignment of the Grievance Officer or any decision regarding a challenge to that assignment, the Grievance Officer shall notify the parties, in writing, of the date, time, and location of the hearing along with their Notice of Hearing Rights & Responsibilities. The Notice of Hearing must be sent at least ten (10) business days prior to the assigned hearing date.



1. **Consolidated Complaints:** In situations where complaints have been consolidated as described herein, the Grievance Officer may choose to conduct a single hearing, or divide the hearings, as appropriate. Parties have the right to object to consolidation if they believe such consolidation would prejudice their rights. Any objection shall be heard by the Grievance Officer before the start of the hearing.
  2. **Consolidated Hearings:** In situations that involve Prohibited Conduct and conduct that may violate other College Policies or standards of conduct, the College reserves the right to consolidate the hearings on all conduct violations utilizing these procedures. The Notice of Hearing will include any decision to consolidate hearings.
- C. **Advisor Identification:** Within ten (10) business days prior to the assigned hearing date, the parties must notify the Grievance Officer, in writing, of the name and contact information of the advisor they have chosen to attend the hearing and conduct questioning on their behalf. The Grievance Officer will assign an advisor to attend the hearing for any party who fails to provide this notification. The College will ensure that any assigned advisor understands the purpose and scope of her/his role, including how to conduct questioning.
- D. **Hearing**
1. **Live Hearing:** A live hearing will be conducted with all parties physically present in the same geographic location, or “virtually” present through the use of technology enabling the participants to simultaneously hear and see one another. An audio or audiovisual recording, or transcript of the hearing will be created and available for inspection and review by any party.
  2. **Closed Hearing:** The hearing shall be closed, meaning that only the parties and decision-maker(s) shall be present for the entirety of the hearing. Witnesses will be present (virtually or in person) only while providing their testimony.
  3. **Opening Remarks:** The Grievance Officer will open the hearing by summarizing the following:
    - i. The allegations contained in the Formal Complaint;
    - ii. The sections of the applicable Policy implicated by the allegations; and
    - iii. The guidelines and rules governing the hearing.
  4. **Presentation of Evidence:** All parties will have an equal opportunity to make statements and present relevant evidence of any sort (e.g., documents, recordings, witness testimony, etc.) regardless of whether or not that evidence was provided or considered in the investigation process.
    - i. **Questioning:** The Grievance Officer and the parties shall have an opportunity to pose relevant questions and follow-up questions of the parties and witnesses. All said questioning must be conducted directly, orally, and in real time. Only a party’s advisor, NOT the party her/himself, may conduct said questioning on behalf of the party. The Grievance Officer may ask questions at any time. The Grievance Officer does not have authority to compel the testimony of any person (party or witness). If a party or witness fails to submit to questioning at the hearing, the Grievance Officer may not rely on any statement of that party or witness in reaching a determination regarding responsibility.
    - ii. **Relevancy Determinations:** Before a party or witness answers a question from another party, the Grievance Officer must determine if the question is relevant and explain any decision to exclude the question as not relevant. A challenge to that determination can be made at the hearing. Prohibited Evidence as described herein is considered to be, per se NOT relevant.
  5. **Closing Remarks:** After all parties have finished their presentation of evidence, they will each be given an opportunity to give brief closing remarks, summarizing their position, including any request for action to be taken. The hearing will then be closed, and no further statement or

evidence will be accepted or considered by the Grievance Officer prior to making a determination regarding responsibility.

6. **Determination Regarding Responsibility:** The Grievance Officer will make a determination regarding responsibility within ten (10) business days following the close of the hearing and provide written notice of that determination to the parties and Lead Title IX Coordinator. In making that determination, the Grievance officer will objectively evaluate the investigative report and all relevant evidence (both inculpatory and exculpatory), weigh the credibility of the evidence and testimony, and apply the requisite standard of proof.
    - i. **Standard of Proof:** The standard of proof that will be utilized by the Grievance Officer in making a determination regarding responsibility will be preponderance of the evidence. This means that the Grievance Officer will determine if it is more likely than not that the Respondent is responsible for the alleged Prohibited Conduct.
    - ii. **Determinations Regarding Affirmative Consent:** It shall not be a valid excuse to alleged lack of consent that the Respondent believed there was valid consent due to the following circumstances:
      - a. Intoxication or recklessness of the Respondent;
      - b. Failure of Respondent to take reasonable steps to ascertain whether or not there was affirmative consent.
    - iii. **Consideration of Results of Other Investigations or Processes:** The results of other investigations or procedures (e.g., criminal or administrative) may be considered but will not be deferred to or relied upon in making a determination regarding responsibility.
    - iv. **Consideration of Prior Findings of Prohibited Conduct:** The Grievance Officer may only consider a Respondent's prior findings of responsibility for Prohibited Conduct or other relevant misconduct in determining appropriate sanctions and not in any finding of responsibility for the current matter.
    - v. **Determination Notice:** The notice of the determination regarding responsibility shall include, at minimum, the following:
      - a. Identification of the allegations constituting Prohibited Conduct;
      - b. A description of the procedural steps taken from receipt of the Formal Complaint through determination;
      - c. Findings of fact supporting the determination;
      - d. Conclusions regarding the application of the College's policies and procedures to the facts;
      - e. A statement of and rationale for the result as to each allegation including a determination regarding responsibility, any sanction that will be imposed on Respondent, and whether any remedies provided to Complainant were designed to restore or preserve equal access to the College's program or activity;
      - f. The process and bases to appeal the determination; and
      - g. A statement that the results will become final either on the date the College provides the parties with the written determination of the result of the appeal (if an appeal is filed), or the date on which the appeal would no longer be considered timely (the appeal deadline).
- E. **Appeal**
1. **Eligibility:** Any party is eligible to appeal a determination regarding responsibility or Title IX determination per section D above.
  2. **Bases for Appeal:** The following are the only bases upon which an appeal will be considered:

- i. **Procedural irregularity:** there was an irregularity in the processing of the Formal Complaint (e.g., investigation or hearing) that affected the outcome of the matter;
  - ii. **New Evidence:** there is evidence that was not reasonably available before or at the time the determination regarding responsibility was made that could reasonably affect the outcome of the matter; or
  - iii. **Conflict of Interest:** The Lead Title IX Coordinator, investigator and/or grievance officer had a conflict of interest or bias for or against survivors/victims or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.
3. **Written Appeal:** In order to initiate the appeal process, a party must submit the appeal, in writing, to the Lead Title IX Coordinator no later than fifteen (15) business days following receipt of the Determination Notice. The appeal must be based upon at least one of the allowable bases for appeal. Upon receipt of the Appeal the Lead Title IX Coordinator will send a Notice of Appeal to all parties providing them with the copy of the written appeal and allowing for both parties to submit to the Lead Title IX Coordinator a written statement in support of or challenging the relevant determination and any statements contained in the Appeal.
  4. **Assignment of Appellate Officer:** Within three (3) business days following receipt of the parties' statements or expiration of the deadline to submit statements, the Lead Title IX Coordinator will assign an Appellate Officer to consider the appeal and will provide written notice to the parties of the identity of and contact information for the Appellate Officer along with an explanation of the process for challenging the assignment based on conflict of interest or bias. Any challenge must be resolved before the Appeal review process may begin.
  5. **Review Process:** For purposes of considering and coming to a conclusion about the appeal, the Lead Title IX Coordinator will provide the Appellate Officer with access to the Appeal, written responses thereto, written determination subject to appeal, Hearing record (if applicable), Investigative Report and any other relevant records received, created or maintained as part of these procedures. The Appellate Officer has authority to conduct additional interviews or inquiries only as may be necessary to seek clarification on issues specifically raised in the Appeal.
  6. **Appeal Decision:** Within ten (10) business days following receipt of the Appeal and relevant materials, the Appellate Officer will make a determination and provide written notice to all parties, with a copy to the Lead Title IX Coordinator, of the result of the appeal and the rationale for that result.

VII. **Informal Resolution:**

- A. **Applicable Process:** To the extent the College offers an informal resolution process through other policies or procedures applicable to the parties, the parties may request that the Lead Title IX Coordinator refer the matter to the Informal Resolution process. This may be done at any time prior to a determination of responsibility set forth above.
- B. **Conditions:** The following conditions must be met for the Lead Title IX Coordinator to refer the matter for informal resolution:
  1. The Lead Title IX Coordinator determines that the matter is appropriate for informal resolution;
  2. The matter does not involve allegations that an employee sexually harassed a student;
  3. The Lead Title IX Coordinator provides written notice to the parties of
    - i. The allegations;
    - ii. The requirements of the informal resolution process, including any circumstances that might preclude the parties from resuming the process described herein;

- iii. The process to challenge the appointment of an informal resolution facilitator due to a conflict of interest or bias;
      - iv. the consequences of participation in informal resolution, including any records that could be created, maintained or shared;
      - v. the right to withdraw from the informal resolution process at any time prior to reaching agreement.
    - 4. The Lead Title IX Coordinator has obtained voluntary written consent to informal resolution from all parties.
  - C. **Effect:** If the conditions have been met and the parties' consent to participation in the informal resolution process, any proceedings initiated herein shall be suspended unless the Lead Title IX Coordinator determines that doing so would put others at risk. These Grievance Procedures may be resumed at the request of either party at any time during the informal process.
- VIII. **Emergency Removal:** Any time after the receipt of a report of Prohibited Conduct, the College may consider an emergency removal of Respondent from Campus, some part of Campus or from and the College's education programs or activities so long as the following conditions are met.
- A. **Required Assessment:** The College performs an individualized safety and risk assessment that determines whether or not there is an immediate threat to the physical health or safety of any individual (student, employee or third party) arising from the allegations that justifies removal.
  - B. **Notice:** If the College decides to implement an emergency removal, it will provide written notice to the Respondent of that decision explaining the implications of that removal, the length of time the removal will remain in effect, and the Respondent's right to challenge the decision.
  - C. **Effect of Removal:** Any investigation into or determination of responsibility regarding allegations of Prohibited Conduct will follow the procedures contained herein, regardless of the Respondent's removal, though additional precautions may be necessary to address any ongoing threat.
- IX. **Recordkeeping:** The Lead Title IX Coordinator shall keep for a period of 7 years from the date they were created, records of each investigation, determination regarding responsibility, hearing transcript or recording, sanctions imposed on a Respondent, remedies provided to a Complainant, appeal and result therefrom, informal resolution, training materials described herein, actions and supportive/protective measure taken or refused in response to reports of Prohibited Conduct.

## DEFINITIONS

**Definitions.** For purposes of this policy and these procedures, the following terms shall have the meanings set forth below:

- 1. **Actual Knowledge:** Notice of Prohibited Conduct or allegations of Prohibited Conduct made to the Lead Title IX Coordinator or Officials With Authority.
  - i. **Officials With Authority:** The following campus leaders are considered "Officials With Authority" who are deemed to have Notice of Prohibited Conduct or allegations of Prohibited Conduct – Campus President, Academic Dean and Director of Student Affairs/Title IX Coordinator. Any other campus employee is not an Official With Authority and should direct any Complainant to an Official With Authority or take the Complainant's statement and bring it to an Official With Authority.

2. **Affirmative Consent:** Affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in sexual activity to ensure that the other(s) involved affirmatively consent(s) to engage in sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them should never by itself be assumed to be an indicator of consent. Valid consent does not exist if Respondent knew or should have known that Complainant was unable to consent because Complainant was asleep or unconscious; was incapacitated due to drugs, alcohol or medication; or Complainant was unable to communicate due to a mental or physical condition.
3. **Amnesty:** Protection from disciplinary action against a reporting party, Complainant, or witness for participation in the reporting, investigation or adjudication of Prohibited Conduct for a violation of the College's conduct policies related to the incident unless the College determines that the violation was egregious, including but not limited to, an action that places the health or safety of any other person at risk.
4. **Complainant:** An individual at whom conduct that meets the definition of Prohibited Conduct is directed or alleged to have been directed. A Complainant must be participating or attempting to participate in the College's education program or activity at the time of filing a formal complaint. A person may be a complainant, or a respondent, even where no formal complaint has been filed and no grievance process is pending
5. **Days:** Any reference to "days" contained in these procedures shall mean business days, excluding all recognized federal and state holidays and breaks during which classes are not in session.
6. **Education Program or Activity:** all academic, educational, extracurricular, athletic, and other programs of Concorde occurring in the U.S., including locations or events, or circumstances over which the College exercised substantial control over both the Respondent and the context in which the sexual discrimination or harassment occurs, and also includes buildings owned or controlled by a student organization that is officially recognized by Concorde.
7. **Grievance Procedures:** Procedures adopted and published by Concorde as set forth as in this policy.
8. **"In Writing":** Use of the phrase "in writing" shall refer to submission of materials either electronically (e.g., via email or via hard copy format, sent via facsimile, U.S. mail or courier service, interoffice mail, or personal delivery) to the Lead Title IX coordinator.
9. **Supportive Measures:** Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without a fee or charge after Concorde obtains Actual Knowledge that Prohibited Conduct may have occurred, including but not limited to before or after the filing of a Formal Complaint. Supportive Measures must be available to Complainants and Respondents on an equitable basis and must be designed to:
  - i. restore or preserve equal access to Concorde's education programs or activities without unreasonably burdening the other party;
  - ii. protect the safety of all parties and the College's educational environment; and
  - iii. deter Prohibited Conduct.
10. **Prohibited Conduct:** Sex Discrimination and Sexual Harassment as defined in Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681, et. seq.) and its implementing regulations (34 CFR 106, et. seq.) and the Title IX policy 04-018.
11. **Remedies:** Actions taken to restore or preserve equal access to Concorde's education programs and activities.

12. **Respondent:** Person(s) reported to have engaged in Prohibited Conduct. A person may be a complainant, or a respondent, even where no formal complaint has been filed and no grievance process is pending.