
EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION POLICY

1. Glossary/Definitions

- *Advisor* means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
- *Complainant* means an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- *Complaint (formal)* means a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging harassment or discrimination based on a protected class or retaliation for engaging in a protected activity against a Respondent and requesting that the recipient investigate the allegation.
- *Confidential Resource* means an employee who is not a Mandated Reporter of notice of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status).
- *Day* means a business day when CBD College is in normal operation.
- *Directly Related Evidence* is evidence connected to the complaint, but is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and will not be relied upon by the investigation report.
- *Education program or activity* means locations, events, or circumstances where CBD College exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and also includes any building owned or controlled by a student organization that is officially recognized by the CBD College.
- *Final Determination*: A conclusion by the standard of proof (preponderance of the evidence) that the alleged conduct did or did not violate policy.
- *Finding*: A conclusion by the standard of proof (preponderance of the evidence) that the conduct did or did not occur as alleged (as in a “finding of fact”).
- *Formal Grievance Process* means a method of formal resolution articulated in CBD College’s Harassment and Nondiscrimination Resolution Procedures designated by the recipient to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX regulations (34 CFR §106.45).
- *Grievance Process Pool* includes any investigators, hearing officers, appeal officers, and Advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).

EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION POLICY

- *Hearing Decision-maker* refers to those who have decision-making and sanctioning authority within the Recipient's Formal Grievance process.
- *Investigator* means the person or persons charged by CBD College with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.
- *Mandated Reporter* means an employee of CBD College who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator.
- *Notice* means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
- *Official with Authority (OWA)* means an employee of CBD College explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of the Recipient.
- *Parties* include the Complainant(s) and Respondent(s), collectively.
- *Recipient (CBD College)* means a postsecondary education program that is a recipient of federal funding.
- *Relevant Evidence* is evidence that tends to prove or disprove an issue in the complaint.
- *Remedies* are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the Recipient's educational program.
- *Respondent* means an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- *Resolution* means the result of an informal or Formal Grievance Process.
- *Sanction* means a consequence imposed by the Recipient on a Respondent who is found to have violated this policy.
- *Sexual Harassment* is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence.
- *Title IX Coordinator* is the official designated by CBD College to ensure compliance with Title IX and the Recipient's Title IX program.
- *Title IX Team* refers to the Title IX Coordinator and any member of the Grievance Process Pool, who may be contracted third-parties (e.g., investigators, attorneys, etc.).

EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION POLICY

2. Rationale for Policy

CBD College is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from discrimination, harassment, and retaliation. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, CBD College has developed internal policies¹ and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of protected class status, and for allegations of retaliation. CBD College values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process.

3. Applicable Scope

The core purpose of this policy is the prohibition of all forms of discrimination. Sometimes, discrimination involves exclusion from or different treatment in activities, such as admission or employment. Other times, discrimination takes the form of harassment or, in the case of sex-based discrimination, can encompass sexual harassment, sexual assault, stalking, sexual exploitation, dating violence or domestic violence. When an alleged violation of this anti-discrimination policy is reported, the allegations are subject to resolution using CBD College's Resolution Process for Alleged Violations of the Policy on Equal Opportunity, Harassment and Nondiscrimination.

When the Respondent is a member of the CBD College community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the CBD College community. This community includes, but is not limited to, students², faculty, administrators, staff, and third parties such as guests, visitors or volunteers. The procedures below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

4. Title IX Coordinator

The Director of Compliance serves as the Title IX Coordinator and ADA/504 Coordinator and oversees implementation of CBD College's policy on equal opportunity, harassment, and nondiscrimination. The Title IX Coordinator has the primary responsibility for coordinating CBD College's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy.

All parties will be provided with a comprehensive electronic brochure detailing options and resources, which the Title IX Coordinator may also go over in person with the parties, as appropriate.

¹ CBD College's Equal Opportunity, Harassment and Nondiscrimination Policy and applicable resolution procedures are based on ATIXA 2020 One Policy, Two Procedures CA State Model. Use and adaptation of this model is permitted through a limited license to CBD College.

² For the purpose of this policy, CBD College defines "student" as any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with CBD College.

EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION POLICY

5. Independence and Conflict-of-Interest

The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact CBD College's President. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

Reports of misconduct or discrimination committed by the Title IX Coordinator should be reported to CBD College's President or designee. Reports of misconduct or discrimination committed by any other Title IX Team member should be reported to the Title IX Coordinator.

6. Administrative Contact Information

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made internally to:

Name: Gabriela Bray

Title IX Coordinator

Location/Address: 3699 Wilshire Blvd., Fourth Floor

Los Angeles, CA 90010

(213)427-2200

Email: TitleIX@cbd.edu

Web: www.cbd.edu

CBD College has determined that the following administrators are Officials with Authority to address and correct harassment, discrimination, and/or retaliation. In addition to the Title IX Coordinator listed above, these Officials with Authority listed below may also accept notice or complaints on behalf of CBD College: Chief Operating Officer, Chief Academic Officer, Dean of Students, Director of Student Affairs and Career Services, Director of Financial Aid and Director of Admissions.

EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION POLICY

CBD College has also classified many employees as Mandated Reporters of any knowledge they have that a member of the community is experiencing harassment, discrimination, and/or retaliation. The section below on Mandated Reporting details which employees have this responsibility and their duties, accordingly.

Inquiries may be made externally to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

The OCR office for California is located at:

San Francisco Office
Office for Civil Rights
U.S. Department of Education
50 United Nations Plaza
Mail Box 1200, Room 1545
San Francisco, CA 94102
Telephone: 415-486-5555
Email: ocr.sanfrancisco@ed.gov

For complaints involving employees:

[Equal Employment Opportunity Commission \(EEOC\)](#)

Roybal Federal Building
255 East Temple St., 4th Floor
Los Angeles, CA 90012
[1-800-669-4000](tel:1-800-669-4000)

EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION POLICY

California Department of Fair Employment and Housing (DFEH)

7. Notice/Complaints of Discrimination, Harassment, and/or Retaliation

Notice or complaints of discrimination, harassment, and/or retaliation may be made using any of the following options:

- 1) File a complaint with, or give verbal notice to, the Title IX Coordinator. Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator or any other official listed.
- 2) Report or give verbal notice to any Official with Authority or Mandated Reporter, who will in turn relay this information to the Title IX Coordinator.

A Formal Complaint means a document submitted or signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that CBD College investigate the allegation(s). A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information in the section immediately above, or as described in this section. As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that CBD College investigate the allegations.

If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

8. Obtaining Help and Support

When feasible, CBD College will enter into memoranda of understanding, agreements, or collaborative partnerships with community-based organizations to assist and/or provide services to Complainants and Respondents. This includes referrals and services related to counseling, health, mental health, advocacy, and legal resources. A list of referrals is available through the Student Affairs office.

9. Prevention and Outreach Programs

CBD College has implemented a prevention and outreach programs to address issues of sexual harassment, sexual violence, domestic violence, dating violence, and stalking. These programs include, but are not limited to, information about CBD College’s policies and procedures, rights and responsibilities, the practical implications of an affirmative consent standard, empowerment programming, awareness raising campaigns, primary prevention, bystander intervention, and risk reduction programs. Prevention and outreach programs are included as part of incoming student and new employee orientation and onboarding activities as well as provided on an ongoing basis through activities and

EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION POLICY

communication available through the Student Affairs office. In addition, all employees must complete ongoing prevention and intervention training and education.

10. Supportive Measures

CBD College will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged harassment, discrimination, and/or retaliation. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to CBD College's education program or activity, including measures designed to protect the safety of all parties or the College's educational environment, and/or deter harassment, discrimination, and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, CBD College will inform the Complainant, in writing, that they may file a formal complaint with the College either at that time or in the future, if they have not done so already³. The Title IX Coordinator works with the Complainant to ensure that their wishes are considered with respect to the supportive measures that are planned and implemented.

CBD College will maintain the privacy of the supportive measures, provided that privacy does not impair CBD College's ability to provide the supportive measures. CBD College will act to ensure as minimal an academic/occupational impact on the parties as possible. CBD College will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to community-based service providers
- Referral to visa and immigration assistance
- Student financial aid counseling
- Altering work arrangements for employees or student-employees
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Timely warnings in accordance with Clery Act requirements
- Class schedule modifications, withdrawals, or leaves of absence
- Any other actions deemed appropriate by the Title IX Coordinator

³ Throughout this policy, the pronouns "they," "them" and "their" are used intentionally to be inclusive of all genders and gender identities.

EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION POLICY

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

11. Emergency Removal

CBD College can act to remove a student Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with the Senior Management and/or the College's Operations Committee, tasked with safety and security matters, using its standard objective violence risk assessment procedures.

In all cases in which an emergency removal is imposed, the student will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested at all or in a timely manner, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include termination.

CBD College will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: removing a student from campus, restricting a student's access to or use of facilities or equipment, allowing a student to withdraw or take a leave of absence, and other appropriate measures.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

Where the Respondent is an employee, existing provisions for interim action are applicable.

EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION POLICY

12. Promptness

All allegations are acted upon promptly by CBD College once it has received notice or a formal complaint. Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the Recipient will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in the College's procedures will be delayed, CBD College will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

13. Privacy

Every effort is made by CBD College to preserve the privacy of reports.⁴ CBD College will not share the identity of any individual who has made a report or complaint of harassment, discrimination, or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

CBD College reserves the right to determine which Recipient officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Only a small group of officials who need to know will typically be told about the complaint. Information will be shared as necessary with Investigators, Hearing Panel members/Decision-makers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

⁴ For the purpose of this policy, privacy and confidentiality have distinct meanings. **Privacy** means that information related to a complaint will be shared with a limited number of Recipient employees who "need to know" in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the Recipient's response to notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act ("FERPA"), as outlined in the Recipient's Student Records Policy. The privacy of employee records will be protected in accordance with Human Resources policies. **Confidentiality** exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. The Recipient has designated individuals who have the ability to have privileged communications as Confidential Resources. For more information about Confidential Resources, see page 26. When information is shared by a Complainant with a Confidential Resource, the Confidential Resource cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: (i) the individual gives written consent for its disclosure; (ii) there is a concern that the individual will likely cause serious physical harm to self or others; or (iii) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or individuals with disabilities. Non-identifiable information may be shared by Confidential Resources for statistical tracking purposes as required by the federal Clergy Act. Other information may be shared as required by law.

EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION POLICY

CBD College may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk, but will usually consult with the student first before doing so.

Confidentiality and mandated reporting are addressed more specifically below.

14. Jurisdiction of CBD College

This policy applies to the education program and activities of CBD College, to conduct that takes place on the campus or on property owned or controlled by the CBD College, at Recipient-sponsored events, or in buildings owned or controlled by CBD College. The Respondent must be a member of the CBD College community in order for its policies to apply.

This policy can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to CBD College's educational program. The recipient may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial CBD College interest.

Regardless of where the conduct occurred, CBD College will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. A substantial CBD College interest includes:

- a. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- b. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;
- c. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
- d. Any situation that is detrimental to the educational interests or mission of CBD College.

If the Respondent is unknown or is not a member of the CBD College community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of CBD College's community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator.

EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION POLICY

In addition, CBD College may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from CBD College's property and/or events.

All vendors serving CBD College through third-party contracts are subject to the policies and procedures of their employers or to these policies and procedures to which their employer has agreed to be bound by their contracts.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences discrimination in an externship or other environment external to CBD College where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

15. Time Limits on Reporting

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the CBD College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When notice/complaint is affected by significant time delay, CBD College will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint⁵.

16. Online Harassment and Misconduct

The policies of CBD College are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on CBD College's education program and activities or use Recipient networks, technology, or equipment.

⁵ Current policy definitions may or may not be applied to past misconduct, but such an approach would have to be consented to by the parties and carefully vetted with legal counsel.

EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION POLICY

Although CBD College may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to CBD College, it will engage in a variety of means to address and mitigate the effects.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct (e.g., feeding anonymous gossip sites, sharing inappropriate content via social media, breaches of privacy, etc.) or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the CBD College community.

17. Policy on Nondiscrimination

CBD College adheres to all federal and state civil rights laws and regulations prohibiting discrimination in private institutions of higher education.

Recipient does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of: race, religion, sex, pregnancy (including childbirth, breastfeeding, and related medical conditions), political affiliation, religion, creed, ethnicity, national origin (including ancestry), citizenship status, physical or mental disability (including perceived disability), age, marital status, sexual orientation, gender identity, gender expression, veteran or military status (including disabled veteran, recently separated veteran, active duty wartime or campaign badge veteran, and Armed Forces Service Medal veteran), medical condition (including cancer), or any other protected category under applicable local, state, or federal law, including protections for those opposing discrimination or participating in any grievance process on campus, with the Equal Employment Opportunity Commission, or other human rights agencies.

This policy covers nondiscrimination in both employment and access to educational opportunities. Therefore, any member of the CBD College community whose acts deny, deprive, or limit the educational or employment access, benefits, and/or opportunities of any member of the CBD College community, guest, or visitor on the basis of that person's actual or perceived membership in the protected classes listed above is in violation of CBD College's policy on nondiscrimination.

When brought to the attention of CBD College, any such discrimination will be promptly and fairly addressed and remedied by CBD College according to the appropriate grievance process described below.

18. Policy on Disability Discrimination and Accommodation

CBD College is committed to full compliance with the Americans With Disabilities Act of 1990 (ADA), as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified persons with disabilities, as well as other federal and state laws and regulations pertaining to individuals with disabilities.

EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION POLICY

Under the ADA and its amendments, a person has a disability if they have a physical or mental impairment that substantially limits a major life activity.

The ADA also protects individuals who have a record of a substantially limiting impairment or who are regarded as disabled, regardless of whether they currently have a disability. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, or caring for oneself.

The Director of Compliance has been designated as CBD College's ADA/504 Coordinator responsible for overseeing efforts to comply with these disability laws, including responding to grievances and conducting investigations of any allegation of noncompliance or discrimination based on disability.

Grievances related to disability status and/or accommodations will be addressed using the procedures below.

a. Students with Disabilities

CBD College is committed to providing qualified students with disabilities with reasonable accommodations and support needed to ensure equal access to the academic programs, facilities, and activities of CBD College.

All accommodations are made on an individualized basis. A student requesting any accommodation should first contact the Dean of Students at ADA@cbd.edu, who coordinates services for students with disabilities. The Dean of Students reviews documentation provided by the student and, in consultation with the student, determines which accommodations are appropriate for the student's particular needs and academic program(s) in accordance with CBD College's applicable policies.

b. Employees with Disabilities

Pursuant to the ADA, CBD College will provide reasonable accommodation(s) to all qualified employees with known disabilities when their disability affects the performance of their essential job functions, except when doing so would be unduly disruptive or would result in undue hardship to CBD College.

An employee with a disability is responsible for submitting a request for an accommodation to the Chief Operating Officer and providing necessary documentation. The Chief Operating Officer will work with the employee's supervisor to identify which essential functions of the position are affected by the employee's disability and what reasonable accommodations could enable the employee to perform those duties in accordance with CBD College's applicable policies.

EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION POLICY

19. Policy on Discriminatory Harassment

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discriminatory harassment. Recipient's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters protected by the First Amendment and academic freedom.

The sections below describe the specific forms of legally prohibited harassment that are also prohibited under CBD College's policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of CBD College policy, though supportive measures will be offered to those impacted. All policies encompass actual and/or attempted offenses.

a. Discriminatory Harassment

Discriminatory harassment constitutes a form of discrimination that is prohibited by CBD College policy. Discriminatory harassment is defined as unwelcome conduct by any member or group of the community on the basis of actual or perceived membership in a class protected by policy or law.

CBD College does not tolerate discriminatory harassment of any employee, student, visitor, or guest. CBD College will act to remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a "hostile environment."

A hostile environment is inappropriate behavior that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities (or creates an abusive work atmosphere for one or more employees). This discriminatory effect results from harassing verbal, written, graphic, or physical conduct that is severe or pervasive *and* objectively offensive.

When discriminatory harassment rises to the level of creating a hostile environment, CBD College may also impose sanctions on the Respondent through application of the appropriate grievance process below.

CBD College reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature and not based on a protected status. Addressing such conduct will not result in the imposition of discipline under CBD College's policy, but may be addressed through respectful conversation, remedial actions, education and/or other informal resolution mechanisms.

EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION POLICY

b. Sexual Harassment

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of California regarding Sexual Harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice.

CBD College has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved. Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex/gender or that is sexual that satisfies one or more of the following:

- 1) Quid Pro Quo:
 - a. an employee of the recipient,
 - b. conditions⁶ the provision of an aid, benefit, or service of the recipient,
 - c. on an individual's participation in unwelcome sexual conduct.

- 2) Sexual Harassment:
 - a. unwelcome conduct,
 - b. determined by a reasonable person,
 - c. to be so severe, and
 - d. pervasive, and,
 - e. objectively offensive,
 - f. that it effectively denies a person equal access to CBD College's education program or activity⁷.

- 1) Sexual assault, defined as:
 - a) Sex Offenses, Forcible:
 - o Any sexual act⁸ directed against another person,

⁶ Implicitly or explicitly

⁷ Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION POLICY

- without the consent of the Complainant,
- including instances in which the Complainant is incapable of giving consent.
- a) Sex Offenses, Non-forcible:
 - Incest:
 - 1) Non-forcible sexual intercourse,
 - 2) between persons who are related to each other,
 - 3) within the degrees wherein marriage is prohibited by California law.
 - Statutory Rape:
 - 1) Non-forcible sexual intercourse,
 - 2) with a person who is under the statutory age of consent of [18 years of age in California].
- 1) Dating Violence, defined as:
 - a. violence,
 - b. on the basis of sex,
 - c. committed by a person,
 - d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.

⁸ A 'sexual act' is specifically defined by federal regulations to include one or more of the following:

Forcible Rape:

- Penetration,
- no matter how slight,
- of the vagina or anus with any body part or object, or
- oral penetration by a sex organ of another person,
- without the consent of the Complainant.

Forcible Sodomy:

- Oral or anal sexual intercourse with another person,
- forcibly,
- and/or against that person's will (non-consensually), or
- not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age⁸ or because of temporary or permanent mental or physical incapacity.

Sexual Assault with an Object:

- The use of an object or instrument to penetrate,
- however slightly,
- the genital or anal opening of the body of another person,
- forcibly,
- and/or against that person's will (non-consensually),
- or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Forcible Fondling:

- The touching of the private body parts of another person (buttocks, groin, breasts),
- for the purpose of sexual gratification,
- forcibly,
- and/or against that person's will (non-consensually),

or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION POLICY

- i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
- ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- iii. Dating violence does not include acts covered under the definition of domestic violence.

2) Domestic Violence⁹, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a current or former spouse or intimate partner of the Complainant,
- d. by a person with whom the Complainant shares a child in common, or
- e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse, domestic partner, or intimate partner, or
- f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of California, or
- g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of California.

*To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

1) Stalking¹⁰, defined as:

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at a specific person, that
 - i. would cause a reasonable person to fear for the person's safety, or
 - ii. the safety of others; or
 - iii. Suffer substantial emotional distress.

⁹ California defines "domestic violence" as abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship. In California, dating violence is included within the definition of domestic violence.

¹⁰ The state definition of stalking is "any person who willfully, maliciously, and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family is guilty of the crime of stalking," which is applicable to criminal prosecutions, but may differ from the definition used on campus to address policy violations

EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION POLICY

For the purposes of this definition—

- (i) Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- (ii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- (iii) Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

c. Force, Coercion, Consent, and Incapacitation¹¹

As used in the offenses above, the following definitions and understandings apply:

Force: Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent.

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Coercion: Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Consent¹² is:

- knowing, and
- voluntary, and
- clear permission

¹¹ The state definition of consent is "positive cooperation in act or attitude pursuant to the exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act and the transaction involved." A current or previous dating or marital relationship shall not be sufficient to constitute consent where consent is an issue. This definition of consent is applicable to criminal prosecutions for sex offenses in California but may differ from the definition used on campus to address policy violations. [Included for Clery/VAWA Sec. 304 compliance purposes.]

¹² California Education Code Section 67386 /SB 967 establishes an affirmative consent standard in the determination of whether consent was given by both parties to sexual activity.

EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION POLICY

- by word or action
- to engage in sexual activity.

Affirmative consent means affirmative, conscious, and voluntary agreement to engage in sexual activity. Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity. Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated.

Incapacitation: A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.

20. Retaliation

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. CBD College will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

CBD College and any member of its community are prohibited from taking or attempting to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

The exercise of rights protected under the First Amendment does not constitute retaliation.

21. Mandated Reporting

All CBD College employees (faculty, staff, administrators) are expected to report actual or suspected discrimination or harassment to appropriate officials immediately. In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. No confidential resources are available on the CBD College campus. If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant), who will act when

EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION POLICY

an incident is reported to them. All employees of CBD College (including student employees) are Mandated Reporters and must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment.

a. Confidential resources

However, confidential resources are available off campus (non employees). If the Complainant would like the details of the incident to be kept confidential, the Complainant may speak with off-campus licensed professional counselors and other medical providers, local rape crisis counselors, Clergy/Chaplains, attorneys, etc. All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

b. Anonymous Notice to Mandated Reporters

At the request of a Complainant, notice may be given by a Mandated Reporter to the Title IX Coordinator anonymously, without identification of the Complainant. The Mandated Reporter cannot remain anonymous themselves. Anonymous notice will be investigated by CBD College to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or remedies can be provided. However, anonymous notice typically limits CBD College's ability to investigate, respond, and provide remedies, depending on what information is shared. When a Complainant has made a request for anonymity, the Complainant's personally identifiable information may be withheld by a Mandated Reporter, but all other details must be shared with the Title IX Coordinator. [Mandated reporters may not be able to maintain requests for anonymity for Complainants who are minors, elderly, and/or disabled, depending on state reporting of abuse requirements.]

22. Notice to Law Enforcement

There may be circumstances where CBD College is obliged to report an incident of violent crime, hate crime, or sexual assault immediately, or as soon as practicably possible, to local law enforcement.

Requests for Confidentiality

Complainants have the right to decide if they want to make a report to the police and/or speak with the police. CBD College will honor requests for confidentiality. Local law enforcement agencies are prohibited from disclosing information about most sexual assaults if the Complainant requests anonymity. When information is shared with law enforcement, such reports will include (when the Complainant has consented to being identified):

- The name and characteristics of the alleged victim;
- The name and characteristics of the alleged perpetrator if known;
- Description of the incident, including location and date and time; and

EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION POLICY

- Any report number assigned to the police incident report documenting the investigation being conducted by the jurisdictional agency.

Mandatory Reporting Requirements for Health Practitioners in California

Any licensed health care provider in the State of California providing services in a health facility, clinic or physician's office is required to make a report if they provide medical treatment for a physical condition to a patient whom they know or reasonably suspect is the victim of assaultive or abusive conduct or a firearm injury. The health practitioner is required to make a report by telephone as soon as practically possible and send a written report to a local law enforcement agency within two working days. The report must be made to the enforcement agency that has jurisdiction over the location in which the injury was sustained.

23. When a Complainant Does Not Wish to Proceed

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law. The Title IX Coordinator has ultimate discretion over whether CBD College proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment.

The Title IX Coordinator's decision should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires CBD College to pursue formal action to protect the community.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and CBD College's ability to pursue a Formal Grievance Process fairly and effectively. (When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.)

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow CBD College to honor that request, CBD College will offer informal resolution options (see below), supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken

EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION POLICY

seriously by CBD College, and to have the incidents investigated and properly resolved through these procedures. Please consider that delays may cause limitations on access to evidence, or present issues with respect to the status of the parties.

24. Federal Timely Warning Obligations

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, CBD College must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community. CBD College will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

25. False Allegations and Evidence

Deliberately false and/or malicious accusations under this policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination. Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official investigating can be subject to discipline under CBD College policy.

26. Amnesty for Complainants and Witnesses (Students ONLY)

CBD College encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons. CBD College maintains a policy of offering parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident. Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution.

27. Federal Statistical Reporting Obligations

Certain campus officials – those deemed Campus Security Authorities – have a duty to report the following for federal statistical reporting purposes (Clery Act):

- a) All “primary crimes,” which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- b) Hate crimes, which include any bias-motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;

EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION POLICY

- c) VAWA-based crimes, which include sexual assault, domestic violence, dating violence, and stalking; and
- d) Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be shared regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

Campus Security Authorities include:

- Chief Operating Officer
- Chief Academic Officer
- Director of Career Services and Student Affairs
- Director of Admissions
- Director of Financial Aid
- Program Directors
- Program Coordinators/Clinical Coordinators
- Director of Compliance/Title IX Coordinator
- Front Desk Receptionist

28. Preservation of Evidence

The preservation of evidence in incidents of sexual assault is critical to potential criminal prosecution and to obtaining restraining orders, and particularly time-sensitive. CBD College will inform the Complainant in writing of the importance of preserving evidence. During the initial meeting between the Complainant and the Title IX Coordinator, the importance of taking these actions will be reiterated, if timely.