

## How to Report

**Faculty, staff and student employees** who have or receive complaints of sexual harassment or sexual violence are obligated to report complaints to their supervisor or department head and/or to the Title IX Employee Coordinator as follows:

- If the accused individual is a student, the complaint must be reported to:

Carolus Brown, Dean of Students  
Title IX Student Coordinator  
Room 108  
*Phone:* (408)498-5137  
*Email:* [cbrown@cogswell.edu](mailto:cbrown@cogswell.edu)

- If the accused individual is an employee or a visitor, the complaint must be reported to:

Leslie Anderson, Director of Human Resources  
Title IX Employee Coordinator  
*Phone:* (408)498-5122  
*Email:* [landerson@cogswell.edu](mailto:landerson@cogswell.edu)

**Students** filing a complaint of sexual harassment or sexual assault on their own behalf or for another student may report it to:

Carolus Brown, Dean of Students  
Title IX Student Coordinator  
Room 108  
*Phone:* (408)498-5137  
*Email:* [cbrown@cogswell.edu](mailto:cbrown@cogswell.edu)

### **IMPORTANT!**

Cogswell University of Silicon Valley has a duty to promptly respond to all complaints of sexual harassment and sexual violence; whether they were on or off campus incidents. The purpose is to prevent sexual discrimination on campus, promptly address reported incidents, limit effects of harassment on the educational environment, and prevent its recurrence. Without your assistance the University will be unable to assess and investigate these situations if you do not report them if and when they occur.

CONSENT

[VERB]

To make a mutual, voluntary, informed decision between clear-minded, of age participants before ANY and EVERY sexual act.

## Title IX & Statement on Non-Discrimination

Cogswell University of Silicon Valley is an equal opportunity institution of higher education and is firmly committed to nondiscrimination in its delivery of educational services. These practices include, but are not limited to, admission to, and participation in the benefits and services of, educational programs or related activities sponsored by the University. In compliance with all applicable federal and state laws, decisions will be made irrespective of the individual's sex, race, color, religion, religious creed, age (over 18 years), mental or physical disability, medical condition as defined by law, national origin, marital status, veteran status, sexual orientation, gender or any other basis prohibited by federal or state law or local ordinance. This policy is in accordance with Title VI of the Civil Rights Act of 1964, as amended; Executive Order 11246, as amended; Title IX of the Educational Amendments of 1972; Section 504 of the Rehabilitation Act of 1975; and any applicable state and local laws. When necessary, the University will reasonably accommodate individuals with disabilities if the individuals are otherwise qualified to meet the fundamental requirements of the University's educational program and/or able to safely perform all essential functions, without undue hardship to the University.

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## TITLE IX COORDINATORS:

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### **Carolus Brown, Dean of Students Title IX – Student Coordinator**

Room #108

Phone: (408)498-5137

Email: [cbrown@cogswell.edu](mailto:cbrown@cogswell.edu)

#### **Title IX Duties and Responsibilities:**

- Responsible for Title IX compliance with matters involving students.
- This includes training, education, communication, and oversight of the grievance process for all complaints against Cogswell students.
- The Title IX Student Coordinator meets with students and informs campus departments on the process for student referrals

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### **Leslie Anderson, Director of Human Resources Title IX – Employee Coordinator**

Phone: (408)498-5122

Email: [landerson@cogswell.edu](mailto:landerson@cogswell.edu)

#### **Title IX Duties and Responsibilities:**

- Responsible for Title IX compliance matters involving employees.
- Coordinates the flow of information to staff and faculty regarding Title IX procedures.
- The Title IX Employee Coordinator oversees the administration of complaint procedures for employees and other members of the university community.

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### **Dr. Reba Smith, Chief Compliance Officer Title IX – Confidential Reporting Agent**

Phone: (408)498-5125

Email: [rsmith@cogswell.edu](mailto:rsmith@cogswell.edu)

#### **Title IX Duties and Responsibilities:**

- Monitors the overall implementation of Title IX Compliance.
- This includes monitoring, oversight, and training of staff and faculty.

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## WHAT IS TITLE IX?

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Title IX of the Education Amendments of 1972 ("Title IX"), 20 U.S.C. §1681 et seq., is a Federal civil rights law that prohibits discrimination on the basis of sex in education programs and activities. All public and private elementary and secondary schools, school districts, colleges, and universities receiving any Federal funds must comply with Title IX. Under Title IX, discrimination on the basis of sex can include sexual harassment or sexual violence, such as rape, sexual assault, sexual battery, and sexual coercion.

Sex discrimination encompasses all forms of sexual harassment. This includes verbal sexual harassment and sexual violence by employees, students, or third parties against employees, students, or third parties.

Sexual harassment and sexual violence can threaten a student's physical and emotional well-being, and may impact how a student performs academically.

- **Sexual harassment** includes unwelcome sexual advances, sexual threats and demands, requests for sexual favors and other unwelcome verbal, physical, or visual behavior of a sexual nature.
- **Sexual violence** refers to physical sexual acts perpetrated without consent or where a person is incapable of giving consent. This includes rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. All acts of sexual violence are forms of sex discrimination and are prohibited by Title IX.
- **Retaliation** against ANY participants in the process is strictly prohibited. This includes the accused, victim, complainant, witnesses, and/or reporting individuals.
- **Consent** as defined by the state of California, is an expressed, verbal statement affirming that both individuals are accepting and wanting to engage at each stage and act of sexual interaction. Additionally, if an individual gives affirmative consent and then revokes consent, the sexual act must stop immediately upon consent being revoked.

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## CONFIDENTIALITY AND REPORTING

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Title IX compliance involves having a clear and functional reporting channel to a Title IX Coordinator, in addition to training the campus community about how to recognize sex discrimination and how to report it.

In order to make informed choices when consulting campus resources, you should be aware of confidentiality and mandatory reporting.

Some resources may maintain your complete confidentiality, offering you options and advice without any obligation to tell anyone, unless you want them to.

Other resources are expressly there for you to report crimes and policy violations, and they are obligated to take action when you report your victimization.

If you are unsure of someone's duties and/or their requirement to maintain your privacy, ask them before you talk to them.

#### **Confidential Reporting Options:**

- If you would like to speak with a campus professional who is obligated by law to keep your information confidential, you can go to the Dean of Students for referral.
- There are also off-campus professionals who will maintain confidentiality, such as the Rape Crisis Center. They can be reached at their 24-hour hotline at (408) 287-3000 or (650) 493-7273.

#### **Non-Confidential Reporting Options**

- You are encouraged to speak to University officials, such as one of the Title IX Coordinators to make formal reports of your victimization.
- You can expect to have your complaint be taken seriously by the University, when reported.
- You can also expect to have the incident investigated and properly resolved through administrative and conduct procedures and/or through the legal system if you so choose.

**Materials used to train Title IX Coordinators, Investigators, and Decision-makers**

- [Conducting and Adjudicating Title IX Hearings: An OCR Training Webinar \(September 2020\)](#)
- [The First Amendment and Title IX: An OCR Short Webinar \(September 2020\)](#)
- [OCR Webinar on Due Process Protections under the New Title IX Regulations \(September 2020\)](#)
- [OCR Webinar on New Title IX Protections Against Sexual Assault \(September 2020\)](#)
- [OCR Webinar: Title IX Regulations Addressing Sexual Harassment \(September 2020\)](#)

## PROCEDURES FOR INVESTIGATING COMPLAINTS AND CONDUCTING ADMINISTRATIVE REVIEWS

### I. PURPOSE

These procedures are guidelines to assist Cogswell University of Silicon Valley in conducting investigations of issues arising under the University's Nondiscrimination and Anti-harassment Policy. The University may amend these procedures from time to time within its discretion.

### II. JURISDICTION

The University investigates issues of discrimination, including harassment and retaliation, on the basis of race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation, gender identity, or genetic information, consistent with the Nondiscrimination and Anti-harassment Policy.

### III. DEFINITIONS

- A. **Administrative Review.** An investigation by the University made at the request of a University administrator. Two types of administrative reviews are described below under separate headings.
- B. **Complaint.** A written charge filed in accordance with these procedures that alleges a violation of the Nondiscrimination and Anti-harassment Policy.
- C. **Complainant.** A person who files a complaint alleging that they have been the subject of discrimination, including discriminatory harassment or retaliation.
- D. **Discrimination.** Discrimination occurs when an individual, or group of individuals, is treated adversely because they belong to a protected classification of individuals as described in the Nondiscrimination and Anti-harassment Policy. The failure to provide reasonable accommodations required for disability or religious practice may constitute discrimination.
- E. **Harassment.** Harassment is a specific form of discrimination involving unwelcome behavior based on a protected classification, as described in the Nondiscrimination and Anti-harassment Policy.
- F. **Finding.** A determination made by an investigator of the University regarding whether sufficient evidence exists to conclude that a violation of the Nondiscrimination and Anti-harassment Policy has occurred.
- G. **Respondent.** A person against whom a complaint is filed or who is the subject of an Administrative Review.
- H. **Retaliation.** Retaliation is adverse action taken against an individual for engaging in protected activity related to discrimination issues or concerns, as described in the Nondiscrimination and Anti-harassment Policy.

### IV. COMPLAINTS BY STUDENTS AGAINST OTHER STUDENTS

When a student makes a complaint alleging discrimination by another student, the complaint shall be referred to the Dean of Students Office for investigation under the Nondiscrimination and Anti-harassment Policy as well as the University's Student Code of Conduct. The investigation of a student's complaint of discrimination by another student shall commence promptly and is expected to be completed within a reasonable time frame. Upon completion of an investigation, the Dean of Students Office investigator will evaluate the evidence in accordance with applicable standards, make a finding regarding the allegations, and issue letters of determination to the Complainant and Respondent, including a finding of whether or not a policy or code violation occurred and reasons or the conclusion reached. In cases involving complaints where discriminatory harassment is found, the investigator shall make recommendations of steps reasonably calculated to end any harassment and to prevent recurrence.

V. UNIVERSITY DISCRIMINATION COMPLAINTS

- A. **Who May File a Complaint.** Current or former employees, applicants for employment, applicants for admission to University programs, participants in University-sponsored activities, and other persons affiliated with the University (including students except when the procedure in IV above applies) may file complaints when the conduct alleged is such that if established to be true it would constitute a violation of the Nondiscrimination and Anti-harassment Policy.
- B. **Time for Filing a Complaint.** A complaint must be submitted to the University as soon as possible, but no later than 90 days of the date of the most recent allegedly discriminatory act. The Provost and Chief Academic Officer may extend the deadline based on extenuating circumstances.
- C. **Requirements of a Complaint.** Although not required to be accepted for filing, the complaint should be on a form provided by the University.
1. *Elements.* Each complaint shall include the following:
    - a. The full name and address of Complainant, who must be the individual claiming to be harmed by the discrimination;
    - b. The name of Respondent(s);
    - c. A clear and concise written statement of the facts that constitute the alleged discriminatory act(s), including pertinent dates and sufficient information to identify any other individuals who may provide information during the course of an investigation conducted under these procedures and to bring the matter within the jurisdiction of the University to investigate (an investigator may assist in clarifying and narrowing the Complainant's proposed written statement if it includes allegations that are not within the University's jurisdiction to investigate);
    - d. A statement by Complainant verifying that the information supporting the allegations of discrimination is true and accurate to the best of Complainant's knowledge;
    - e. Complainant's signature; and
    - f. Information that establishes that both Complainant and Respondent(s) have a sufficient relationship to the University to require application of the University's Nondiscrimination and Anti-harassment Policy.
  2. *Intake Interview.* The University will typically conduct an interview with Complainant in connection with acceptance of a complaint.
  3. *Signature by University Representative and Filing of Complaint.* If the complaint appears to fulfill filing requirements, a designated staff member in the University shall sign the complaint and provide a copy to the Complainant. A complaint is considered "filed" only after it is signed and accepted by the University.
- D. **Complaint Processing.**
1. *Identification of Individuals Involved in an Investigation.* Neither Complainant nor any individual providing information to the University shall be considered a party to the complaint.
  2. *Notice to Respondent.* The University will give Respondent reasonable notice of a filed complaint as and when appropriate, including opportunity to provide information in response to the complaint allegations.
  3. *Notice to Others Regarding Complaint.* With the exception of Respondents, who may be notified of

a filed complaint, including any amendment(s) thereto, and, in the discretion of the University, given a copy of any relevant part of the complaint, only those persons with a legitimate need to know will be apprised of the filing and final disposition of a complaint. Those persons may include, but are not necessarily limited to, appropriate organizational unit administrators (Academic or Administrative Department Directors, Managers, or Supervisors; or anyone on the Executive Committee) who may have an obligation to monitor the environment to ensure that retaliatory action does not occur during or after the investigative process concludes, and who may be required to implement recommendations of the University when it completes its investigation.

4. *Access to Information Regarding the Investigation.* Complainants and Respondents, upon inquiry and during the course of an investigation, may be advised of the status of the investigation.
5. *Amending a Complaint.* If, during the course of investigation, the University determines that more information is required to enable a meaningful investigation, Complainants may be requested to clarify or amplify allegations in the complaint. Complainants may also be allowed to add new Respondents or new discrimination charges related to the original complaint so long as such additions fall within the time limits otherwise applicable to the complaint and are accepted by the University. Respondents will be notified of any amendment(s) to the complaint.
6. *Dismissal Based Upon Insufficiency of Complaint.* If a complaint alleges conduct that, if true, would not constitute a violation of the Nondiscrimination and Anti-harassment Policy, the matter is subject to dismissal without further investigation by the University.

E. Investigation of Allegations in Complaint.

1. Following receipt of a complaint, the University acts as a neutral fact-finder.
2. The University may gather statements, documents, and other relevant evidence from Complainant, Respondent, witnesses, and other identified individuals who have or may have information concerning the allegations set forth in the complaint.

F. Findings and Recommendations.

1. Upon completion of an investigation, the University will evaluate the evidence in accordance with the Nondiscrimination and Anti-harassment Policy and related standards and make a policy finding based on a preponderance (the greater weight) of the evidence. The University will issue letters of determination to the Complainant and the Respondent including findings as to whether or not a policy violation occurred. Individuals set forth in paragraph V.D.3 above may receive a copy of the letter of determination and any other information deemed appropriate.
2. If the University finds a policy violation, it will also issue recommendations regarding any sanctions up to and including termination and/or other corrective action deemed appropriate, such as education and training. In cases involving complaints where discriminatory harassment is found, the University shall make recommendations of steps reasonably calculated to end any harassment and to prevent recurrence. The University may also issue recommendations in instances in which investigation revealed conduct within the realm of that for which relief can be sought under the policy, even if not sufficiently severe or pervasive to establish discriminatory harassment under the policy.

- G. Disciplinary Action Taken Following Determination of a Policy Violation. A Respondent whose conduct results in a finding of a policy violation and against whom disciplinary action is initiated as a result of that finding shall be afforded all applicable process under the *University Handbook for Appointed Personnel, Classified Staff Human Resources Policy Manual, Student Code of Conduct, Arizona Board of Regents' Policy Manual*, or any other applicable processes.



- H. Withdrawal of Complaints. In circumstances deemed appropriate at the discretion and judgment of the University, a Complainant may be permitted to withdraw a pending complaint, but a request to withdraw may also be denied.

## VI. UNIVERSITY ADMINISTRATIVE REVIEWS

### A. Definitions.

1. *Type I Administrative Review.* A Type I Administrative Review is an investigation conducted at the request of an administrator who has concerns that discriminatory actions may be occurring but is not aware of the identity of the specific individual(s) who may be responsible for such conduct.
2. *Type II Administrative Review.* A Type II Administrative Review is an investigation conducted at the request of an administrator who has concerns that specific individual(s) may be engaged in discriminatory actions. If, during a Type I Administrative Review, it appears to the University that specific individual(s) may be responsible for alleged discriminatory actions, the investigation may be considered a Type II Administrative Review.

### B. Requesting an Administrative Review.

1. Typically, only Academic or Administrative Department Directors, Managers, or Supervisors; or anyone on the Executive Committee may request an Administrative Review.
2. Each request for an Administrative Review shall include the name of the administrator initiating the request and the name of Respondent(s), if applicable. The University may seek clarification or amplification of the allegations from the administrator requesting the Administrative Review.

### C. Administrative Review Process.

1. *Identification of Respondent(s).* Where a particular individual is identified as engaging in conduct claimed to be discriminatory, the University shall, as feasible, give the individual notice of the administrative review and the opportunity to respond and provide information about the complaint allegations, particularly when disciplinary action is a potential outcome for the individual in the event the University finds a policy violation.
2. *Notice to Others Regarding Administrative Review.* With the exception of identified Respondents, only persons with a legitimate need to know will be apprised of a request for an Administrative Review or final disposition of such an investigation and review process. Those persons may include, but are not limited to, appropriate organizational unit administrators (Academic or Administrative Department Directors, Managers, or Supervisors; or anyone on the Executive Committee) who may have an obligation to monitor the environment to ensure that retaliatory action does not occur during the investigation or after the investigative process concludes, and who may be required to implement recommendations of the University.
3. *Role of University.*
  - a. Following receipt of a request for an Administrative Review, the University acts as a neutral fact-finder.
  - b. The University may gather statements, documents, and other relevant evidence from Complainant, Respondent, witnesses, and other identified individuals who have or may have information concerning the allegations set forth in the complaint.
4. *Findings and Recommendations.*
  - a. Upon completing investigation of an Administrative Review, the University will evaluate the evidence in accordance with the Nondiscrimination and Anti-harassment Policy and related

standards and make a policy finding based on a preponderance of the evidence, also issuing a letter of determination to the requesting administrator which includes a finding of whether a policy violation occurred, and any information deemed appropriate.

- b. In a Type II Administrative Review, the University issues a letter of determination to the requesting administrator and also to any Respondent who was notified in the matter, including a finding of whether a policy violation occurred, and any other information deemed appropriate.
- c. Where a policy violation is found in an Administrative Review, the University also makes recommendations regarding any sanctions up to and including termination and/or other corrective action deemed appropriate, such as education and training. If discriminatory harassment is found, these recommendations include steps reasonably calculated to end any harassment and to prevent recurrence. The University may also issue recommendations in instances in which investigation revealed conduct within the realm of that for which relief can be sought under the policy, even if not sufficiently severe or pervasive to establish discriminatory harassment under the policy.

D. Closure.

- 1. An investigation shall conclude and the Administrative Review shall be closed when the University issues a letter of determination to the administrator and to any Respondent who was notified of the matter.
- 2. A matter also may be closed administratively when the University decides that further investigation is either impossible or unnecessary.

- E. Withdrawal of Requests for Administrative Review. In appropriate circumstances, at the discretion and judgment of the University, an administrator may be permitted to withdraw a request for review, but a request to withdraw may also be denied.

VII. INFORMATION RELATED TO COMPLAINTS AND INVESTIGATIONS

- A. Confidentiality. The University seeks to maintain and respect the confidentiality of information obtained during the course of an investigation to the extent feasible. Disclosure may occur in some circumstances, including for investigation and evidence-gathering purposes and in order to notify individuals of the outcome of an investigation. Other situations where disclosure may occur include, but are not limited to, required compliance with an obligation imposed on the University by law or facilitation of other legitimate University processes.
- B. Complaints Filed with Outside Agencies. The University acknowledges that individuals have rights to file complaints with external agencies at any time within that agency's deadlines, and that those complaints may be filed concurrently with complaints that are filed with the University. The fact that a complaint is filed with an external agency typically will not deter investigation of a complaint filed with the University concerning the same or similar events so long as that complaint is filed in a timely manner and accepted for investigation within University procedures.