

## **Title IX Policy**

Concordia University Chicago is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, free from sexual 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, Concordia University Chicago has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of sexual harassment or retaliation. Concordia University Chicago 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 during what is often a difficult time for all those involved.

## **Jurisdiction**

This policy applies to the education program and activities of Concordia University Chicago, as well as to conduct that takes place on the campus or on property owned or controlled by CUC, at CUC-sponsored events, or in buildings owned or controlled by CUC's recognized student organizations. The Respondent must be a member of CUC's community in order for its policies to apply.

Regardless of where the conduct occurred, the University 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. If the conduct does not meet the Title IX jurisdiction threshold, then there is a possibility that it could be adjudicated through the Code of Conduct process.

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

## **Prohibited Conduct**

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Illinois regard Sexual Harassment as an unlawful discriminatory practice.

Concordia University Chicago has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community.

For purposes of this Policy, conduct that is deemed by a preponderance of the evidence to be sex or gender-based and meets the definitions of any type of Prohibited Conduct identified below constitutes a violation of this Policy.

Sexual Harassment, as an umbrella category, includes the actual or attempted offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

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

- 1) Quid Pro Quo:
  - a. an employee of the University,
  - b. conditions the provision of an aid, benefit, or service of the University,
  - 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 CUC's education program or activity.
- 3) Sexual assault, defined as:
  - a) Sex Offenses, Forcible:
    - o Any sexual act directed against another person,
    - o without the consent of the Complainant,

- including instances in which the Complainant is incapable of giving consent.
- b) 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 Illinois law.
  - Statutory Rape:
    - 1) Non-forcible sexual intercourse,
    - 2) with a person who is under the statutory age of consent of 17 years.
- c) Dating Violence, defined as:
  - violence,
  - on the basis of sex,
  - committed by a person,
  - who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
    - 1) 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—
    - 2) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
    - 3) Dating violence does not include acts covered under the definition of domestic violence.
- d) Domestic Violence, defined as:
  - violence,
  - on the basis of sex,
  - committed by a current or former spouse or intimate partner of the Complainant,
  - by a person with whom the Complainant shares a child in common, or
  - by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
  - by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Illinois or
  - 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 Illinois

### **Online Sexual Harassment and/or Retaliation**

The policies of CUC 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 CUC's education program and activities or use CUC networks, technology, or equipment. Although CUC may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to CUC, 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, such as feeding anonymous gossip sites, sharing inappropriate content via social media, unwelcome sexual or sex-based messaging, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the CUC community.

### **Consent**

Sexual misconduct is any form of actual or attempted sexual activity perpetrated upon a person without the consent of that person and against that person's will. Consent is "a freely given agreement to the act of sexual penetration or sexual conduct in question, and a person who initially consents to sexual penetration or sexual conduct is not deemed to have consented to any sexual penetration or sexual conduct that occurs after he or she withdraws consent" (720 ILCS 5/11-1.70(c)).

Consent cannot be given if the individual is:

- Under the influence of drugs or alcohol,
- A minor (age of consent in Illinois is 17 years),
- Mentally impaired (any age),
- Bullied, coerced or threatened, and/or
- Asleep or unconscious.

These actions do not constitute present consent:

- Lack of verbal or physical resistance,
- Lack of submission due to the use, threat or perceived threat of force,
- Lack of the word “no”,
- Manner of dress,
- Prior consent to previous sexual activity, or
- Prior consent to engage in sexual activity with another person(s).

Any time sexual activity takes place between individuals, those individuals must be capable of controlling their physical actions and be capable of making rational, reasonable decisions about their sexual behavior. Administering alcohol or drugs to another person for the purpose of inducing incapacity is a violation of this policy. If you have sexual activity with someone you know to be or should know to be mentally or physically incapacitated, you are in violation of this policy and may be in violation of the law. Consent can be withdrawn at any time. Use of alcohol or other drugs will never function to excuse behavior that violates this policy.

### **Amnesty**

To encourage reporting and participation in the process, CUC maintains a policy of offering parties and witnesses amnesty from minor policy violations – such as inter-visitation violations, underage consumption of alcohol or the use of drugs – related to the incident.

### **Retaliation**

Concordia University Chicago has a strict policy against retaliation, and all individuals who participated in the University’s investigation and resolution of an alleged sexual misconduct case are protected from retaliation. Retaliation exists when action is taken against a complainant or participant in the grievance process that (i) adversely affects the individual’s opportunity to benefit from the University’s programs or activities; and (ii) is motivated in whole or in part by the individual’s participation in the complaint process. Retaliation against any individual for reporting discrimination or harassment will not be tolerated.

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

### **Title IX Coordinator**

The Title IX Coordinator oversees implementation of this policy. The Title IX Coordinator has the primary responsibility for coordinating Concordia University Chicago’s efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent sexual harassment, and retaliation prohibited under this policy.

The Title IX Coordinator manages the Title IX Team and 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 neither biased for or against any party in a specific case, nor for or against Complainants and/or Respondents generally.

### **Title IX Team Contact Information**

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

To Be Announced  
Title IX Coordinator  
WA #107  
(708) 488-4112  
Email: TitleIX@cuchicago.edu

Lisa Clemente  
Director of Human Resources/Deputy Title IX Coordinator  
AD #128  
(708) 209-3336  
Email: Lisa.Clemente@cuchicago.edu

Janet Wolbert  
Assistant Athletic Director/ Deputy Title IX Coordinator  
GN #120  
(708) 209-3559  
Email: Janet.Wolbert@cuchicago.edu

CUC has determined that the following administrators are Officials with Authority to address and correct sexual harassment and/or retaliation. In addition to the Title IX Team members listed above, these Officials with Authority listed below may also accept notice or complaints on behalf of the University:

President  
Executive Council (University Provost, Chief Financial Officer, Executive Vice President for Advancement)  
Dean of Students  
Athletic Director

### **Mandated Reporting**

All CUC employees (faculty, staff and administrators) are expected to report actual or suspected sexual harassment or retaliation to appropriate officials immediately, though there are some limited exceptions.

In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources.

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 who will take action when an incident is reported to them.

*Failure of a Mandated Reporter, as described above in this section, to report an incident of sexual harassment or retaliation of which they become aware is a violation of CUC policy and can be subject to disciplinary action for failure to comply.*

### **Confidential Resources**

Confidential advisors are employees/resources who are not required to report the incident to the University or the police, unless the victim is a minor or mentally impaired, or there is a risk of danger to self or others. CUC licensed professional counselors, clergy (while acting in their role as clergy) and community sexual violence victim advocates (e.g. Pillars) are confidential resources. Complainants can discuss options and how to proceed with a confidential resource to make a decision that feels best for each individual. Information disclosed to confidential resources will only be shared with the Title IX Coordinator with written consent. Supportive measures may be offered as the result of such disclosures without formal CUC action.

### **University**

CUC Mental Health Counseling Center (708) 209-3229

University Ministry Staff (708) 209-3470

**Community**

Pillars Center (708) 745-5277

24/7 Sexual Assault hotline (708) 482-9600

24/7 Domestic Violence hotline (708) 485-5254

Greenlight Family Services (773) 728-7800

**Notice/Complaints of Sexual Harassment and/or Retaliation**

Notice or complaints of sexual 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 or deputies/Officials with Authority. Such a report may be made at any time (including during non-business hours) by using the phone number: (708) 488-4112 or email: TitleIX@cuchicago.edu.

[2] Report online, using the reporting form posted at CUChicago.edu/sexualmisconductreport. Anonymous reports are accepted but can give rise to a need to investigate. CUC tries to provide supportive measures to all Complainants, which is impossible with an anonymous report. Because reporting carries no obligation to initiate a formal response, and as CUC respects the Complainant's requests to dismiss complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of privacy by making a report that allows the University to discuss and/or provide supportive measures.

A Formal Complaint means a document was submitted or signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requests Concordia University Chicago investigate the allegation(s). If the 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.

**Promptness**

All allegations are acted upon promptly by Concordia University Chicago 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 CUC will avoid all undue delays within its control.

**Supportive Measures**

Concordia University Chicago will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged sexual harassment 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 CUC's education programs or activities, including measures designed to protect the safety of all parties or CUC's educational environment, and/or deter sexual harassment 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, CUC will inform the Complainant, in writing, that they may file a formal complaint with CUC either at that time or in the future, if they have not done so already.

The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

CUC will maintain the privacy of the supportive measures, provided that privacy does not impair the University's ability to provide the supportive measures. CUC will act to ensure as minimal an academic and occupational impact on the parties as possible.

The University 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
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

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

### **Emergency Removal**

The University 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 Care Team, 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 just cause why the action/removal should not be implemented or should be modified.

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 expulsion.

CUC 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 a residence hall, temporarily reassigning an employee, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

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.

### **Privacy**

Every effort is made by CUC to preserve the privacy of reports. CUC will not share the identity of any individual who has made a report or complaint of harassment or retaliation, any Complainant, any individual who has been reported to be the perpetrator of sexual harassment or retaliation, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA). CUC reserves the right to determine which University 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).

Information will be shared as necessary with Investigators, Hearing Panel members, 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.

CUC 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.

### **Advisor**

The parties may each have an Advisor of their choice present with them for all meetings, interviews, and hearings within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.

### **Informal Resolution**

Informal Resolution can include three different approaches:

- When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation.
- When the parties agree to resolve the matter through an alternate resolution mechanism as described below, including mediation, usually before a formal investigation takes place; see discussion in b., below.
- When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process (similar to above, but usually occurs post-investigation); see discussion in c., below.

To initiate Informal Resolution, a Complainant needs to submit a formal complaint, as defined above. A Respondent who wishes to initiate Informal Resolution should contact the Title IX Coordinator.

### **Investigators**

Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints a team of two investigators to conduct the investigation, usually within two (2) business days of determining that an investigation should proceed.

### **Hearing**

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing. The Title IX Coordinator will select appropriate Decision-makers from the Pool depending on whether the Respondent is an employee or a student.

At the hearing, the Decision-makers have the authority to hear and make determinations on all allegations of sexual harassment and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the sexual harassment and/or retaliation, even though those collateral allegations may not specifically fall within the Policy.

The Decision-maker(s) will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. If a panel is used, a simple majority vote is required to determine the finding. The preponderance of the evidence standard of proof is used.

Using the deliberation statement, the Title IX Coordinator will work with the Chair to prepare a Notice of Outcome. The Notice of Outcome will then be shared with the parties simultaneously.

### **Appeals**

Any party may file a request for appeal ("Request for Appeal"), but it must be submitted in writing to the Title IX Coordinator within 5 days of the delivery of the Notice of Outcome.

Appeals are limited to the following grounds:

- (A) Procedural irregularity that affected the outcome of the matter;

- (B) New evidence was not reasonably available at the time the determination regarding responsibility or dismissal was made and could affect the outcome of the matter; and
- (C) The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

The Appeal Chair will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses. A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision.

### **Sanctions**

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

#### **a. Student Sanctions**

The following are the usual sanctions that may be imposed upon students or organizations singly or in combination:

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any CUC policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Required Counseling*: A mandate to meet with and engage in either University-sponsored or external counseling to better comprehend the misconduct and its effects.
- *Probation*: A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Suspension*: Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at CUC.
- *Expulsion*: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend University-sponsored events. This sanction will be noted permanently as a Conduct Expulsion on the student's official transcript, [subject to any applicable expungement policies.]
- *Withholding Diploma*: The University may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending or as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree*: The University reserves the right to revoke a degree previously awarded from the University for fraud, misrepresentation, and/or other violation of University policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Organizational Sanctions*: Deactivation, loss of recognition, loss of some or all privileges (including University registration) for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

#### **b. Employee Sanctions/Responsive Actions**

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

- *Warning – Verbal or Written*
- *Performance Improvement Plan/Management Process*
- *Enhanced supervision, observation, or review*
- *Required Counseling*
- *Required Training or Education*
- *Probation*



- *Denial of Pay Increase/Pay Grade*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Reassignment*
- *Delay of tenure track progress*
- *Assignment to new supervisor*
- *Restriction of stipends, research, and/or professional development resources*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions:* In addition to or in place of the above sanctions/responsive actions, Concordia University Chicago may assign any other responsive actions as deemed appropriate.

Inquiries may be made externally to:

Office for Civil Rights (OCR)

U.S. Department of Education

500 W. Madison St., Suite 1475

Chicago, IL 60661

Phone: (312) 730-1560

Email: [OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov)

Web: <http://www.ed.gov/ocr>