



# ARIZONA CHRISTIAN

EST. **UNIVERSITY** 1960

## TITLE IX HANDBOOK 2020-21

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## Title IX

Title IX of the Educational Amendments of 1972 to the 1964 Civil Rights Act is a federal regulation under the authority of the Office of Civil Rights. According to the Title IX amendments, no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any education program or activity receiving federal financial assistance.

As an institution that participates in federal financial assistance, Arizona Christian University complies with Title IX and prohibits discrimination based on sex or gender in all its programs or activities. Sex discrimination includes sexual harassment, sexual assault, relationship violence and stalking. Responsibility for Title IX Compliance and oversight is under the authority of the University-assigned Title IX Coordinator.

ACU's Title IX Coordinator is:

Dr. Jared Black  
Dean of Students  
1 West Firestorm Way  
Student Success Center #118  
Glendale, AZ 85306  
[Jared.black@arizonachristian.edu](mailto:Jared.black@arizonachristian.edu)  
(602) 489-5300 x.3501

To report an incident related to Title IX, please contact the University Title IX Coordinator, Campus Safety or Student Development. For more information on Title IX or the Title IX/Sexual Misconduct Process, contact the University's Title IX Coordinator or visit ACU's Title IX webpage: <https://www.arizonachristian.edu/campusafety/titleix/>.

## Title IX/Sexual Misconduct Process<sup>1</sup>

### Overview

In accordance with the U.S. Department of Education's Title IX Final Rule, effective August 14, 2020, the following policy outlines Arizona Christian University's Title IX/Sexual Misconduct Process.

Arizona Christian University believes in providing all students and staff with an environment free of discrimination, harassment, violence, and sexual violence. Discrimination, harassment, violence, and sexual violence interferes with a students' right to receive a safe education.

Campus community personnel are aware that the victim of violence or sexual violence may be physically and/or emotionally traumatized. Each occurrence requires prompt and immediate attention. Sexual violence is a crime and will not be tolerated. Each incident will be investigated, and the appropriate disciplinary, criminal, civil, and/or legal actions will be taken. A report of a sexual violence incident can be received from a student, staff member, parent, or other third party.

When a report of alleged Title IX/Sexual Misconduct is filed with the University, ACU will process the report through the Title IX Office. ACU will work with local authorities, and take the necessary steps to

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<sup>1</sup> Elements of this policy have been reprinted and adapted with permission from Colorado Christian University granted on March 7, 2017. Elements of this policy related to the Title IX Final Rule derived from U.S. Department of Education's *Summary of Major Provisions of the Department of Education's Title IX Final Rule*: <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-summary.pdf>

protect the student or staff member from further retaliation from the perpetrator and his or her associates.

All criminal investigations and prosecution will be handled through the law enforcement and prosecutor's office where the incident occurred. Victim's services from each law enforcement or prosecuting authority will assist the victim through their victim's advocate representatives. The Title IX Committee conducts the administrative investigation for the University, and work with law enforcement authorities through the investigation. The incident will be reviewed by the Title IX Committee and the appropriate follow up with the students involved will be handled by the Title IX Coordinator or designee.

In implementing this commitment, Arizona Christian University maintains a strict policy prohibiting unlawful harassment, including sexual harassment. It is important to note that jokes, stories, cartoons, nicknames, and comments about appearance may be offensive to others. All students and employees are required to report any incident of harassment they witness or they are subjected to. Sexual harassment is also prohibited by Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972.

Sexual Misconduct is an umbrella term used to encompass unwanted or unwelcome conduct of a sexual nature that is committed without valid consent, including sexual assault and sexual harassment. Sexual misconduct may occur between people of the same sex or between people of different sexes. Sexual misconduct can include both intentional conduct and conduct that results in negative effects, even if those negative effects were unintended. Sexual misconduct can also include retaliation in connection with an accuser's or reporter's allegations under this policy. Definitions of types of sexual misconduct are included later in this policy.

This Title IX/Sexual Misconduct policy addresses incidents related to non-consensual sexual behavior and should not be confused with ACU's Marriage and Human Sexuality policy. Violations of ACU's Marriage and Human Sexuality policy are considered under ACU's Student Code of Conduct.

#### **Amnesty from Other Violations Clause**

The health, safety, and welfare of the members of the ACU community is of the utmost importance to the University. The University realizes that in some circumstances, violations of the Title IX/Sexual Misconduct policy might occur simultaneously with other Student Code of Conduct violations, such as the University's Alcohol and Substance Abuse and/or Marriage and Human Sexuality policies, and may discourage individuals from reporting an incident. In response, the University encourages all individuals involved in or with knowledge of a violation of the University's Title IX/Sexual Misconduct Policy to report the incident to University officials without fear of being held responsible for other Student Code of Conduct violations. A victim who was under the influence of alcohol or drugs should not be discouraged from filing a report, as s/he will not be disciplined for consuming alcohol or drugs if an assault occurred. Students who come forward to a staff member to make a report of sexual misconduct will be processed through the Non-Discipline policy if there were other violations of policy by the accuser (i.e. alcohol or drug use).

#### **Jurisdiction**

The University reserves the right to pursue disciplinary action in incidents related to Title IX/Sexual Misconduct when the Complainant and Respondent involved are both members of the ACU community, including faculty, staff, students, or others working on behalf of ACU. Title IX applies to all of the University's education programs or activities, whether such programs or activities occur on-campus or off-campus. The Title IX statute applies to persons in the United States with respect to education programs or activities that receive Federal financial assistance. Under the Final Rule, the University must respond when sexual harassment occurs in the school's education program or

activity, against a person in the United States. Education programs or activities include locations, events, or circumstances over which the school exercised substantial control over both the Respondent and the context in which the sexual harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution, if applicable (such as a fraternity or sorority house).

All students are responsible for their conduct and subject to this Title IX/Sexual Misconduct Policy beginning at the time of enrollment. All questions regarding the Title IX/Sexual Misconduct Policy should be directed to the University assigned Title IX Coordinator.

In situations where either the Complainant or Respondent are not members of the University community, the University is more limited in its authority. The University may continue under the Title IX/Sexual Misconduct process, refer the Respondent to a more appropriate university process for a response, close the matter, or take other action within the administrative discretion of the University. The University may address sexual harassment affecting its students or employees that falls outside Title IX's jurisdiction in other manners, including providing supportive measures or pursuing discipline.

### **Authority**

Arizona Christian University reserves the right to initiate the Title IX/Sexual Misconduct Process for any reported sexual misconduct involving members of the ACU community, including faculty, staff and/or students. The Title IX/Sexual Misconduct Process is under the authority of the University's assigned Title IX Coordinator, as delegated by the President and the Provost and Executive Vice President of Arizona Christian University. The Title IX Coordinator (and his/her designees) may initiate the Title IX/Sexual Misconduct Process, investigate incidents, conduct hearings, determine responsibility, issue sanctions or remedies, or take other appropriate administrative action. The Title IX Coordinator (and his/her designees) may determine the most appropriate action for handling Title IX/Sexual Misconduct violations, including initiating the formal Title IX/Sexual Misconduct Process or other administrative action. The Title IX Coordinator reserves the right to place a hold on student accounts of students who fail to comply with the Title IX/Sexual Misconduct Process or fail to carry out the assigned sanctions. Student Services holds prevent students from registering for classes, graduating, receiving a diploma, or obtaining transcripts. Additionally, the Title IX Coordinator, in conjunction with the Human Resources Director and the Provost and Executive Vice President of the University, reserves the right to recommend employee disciplinary action, including dismissal.

### **Confidentiality**

If a violation of sexual misconduct is reported to any non-privileged ACU faculty or staff member, that faculty or staff member is required to report the incident to the University's assigned Title IX Coordinator. While most faculty and staff are required to formally report the incident, this formal reporting ensures that only people who need to know will be told, and information will be shared only as necessary with investigators, witnesses, and other involved individuals. Actions will be taken to ensure the student's privacy and confidentiality are protected within the required regulations. Some staff members, due to the nature of their position(s), have privileges that do not require them to disclose incidents of sexual misconduct. Please refer to the "Reporting Sexual Misconduct" section of this policy for additional information.

### **Definition of Sexual Harassment for Title IX Purposes**

The Final Rule defines sexual harassment broadly to include any of three types of misconduct on the basis of sex, all of which jeopardize the equal access to education that Title IX is designed to protect:

1. Any instance of *quid pro quo* harassment by a school's employee;

2. Any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access;
3. Any instance of sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).

For the purposes of Title IX, ACU uses the definitions of Sexual Assault, Dating Violence, Domestic Violence, and Stalking provided under the Clery Act and Violence Against Women Act (VAWA). The following Clery Act and VAWA definitions were derived from *The Handbook for Campus Safety and Security Reporting, 2016 Edition*, published by the U.S. Department of Education.

#### Sexual Assault (Sex Offenses)<sup>2</sup>

Any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent. The four types of sexual assault are rape, fondling, incest, and statutory rape.

- **Rape** is the 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 victim. This offense includes the rape of both males and females.
- **Fondling** is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- **Incest** is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape** is sexual intercourse with a person who is under the statutory age of consent.

#### Dating Violence

Dating Violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party'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:

- Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- Dating violence does not include acts covered under the definition of domestic violence.

#### Domestic Violence

Domestic violence is defined as a felony or misdemeanor crime of violence committed:

- By a current or former spouse or intimate partner of the victim;
- By a person with whom the victim shares a child in common;
- By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred;

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<sup>2</sup> Clery Act and VAWA definitions for Sexual Assault, Dating Violence, Domestic Violence, and Stalking retrieved from the *The Handbook for Campus Safety and Security Reporting, 2016 Edition*, U.S. Department of Education, Office of Postsecondary Education, Washington, D.C.: <https://www2.ed.gov/admins/lead/safety/handbook.pdf>

- By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

To categorize an incident as Domestic Violence, the relationship between the perpetrator and the victim 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.

### Stalking

Stalking is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for the person's safety or the safety of others; or
- Suffer substantial emotional distress.

For the purposes of this definition:

- Course of conduct means two or more acts, including, but not limited to, acts in which the stalker 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.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.

The Final Rule prohibits sex-based misconduct in a manner consistent with the First Amendment. *Quid pro quo* harassment and Clery Act VAWA offenses are not evaluated for severity, pervasiveness, offensiveness, or denial of equal educational access, because such misconduct is sufficiently serious to deprive a person of equal access.

The Final Rule uses the Supreme Court's *Davis* definition (*severe and pervasive and objectively offensive conduct, effectively denying a person equal educational access*) as one of the three categories of sexual harassment, so that where unwelcome sex-based conduct consists of speech or expressive conduct, schools balance Title IX enforcement with respect for free speech and academic freedom.

The Final Rule uses the Supreme Court's Title IX-specific definition rather than the Supreme Court's Title VII workplace standard (*severe or pervasive conduct creating a hostile work environment*). First Amendment concerns differ in educational environments and workplace environments, and the Title IX definition provides First Amendment protections appropriate for educational institutions where students are learning, and employees are teaching. Students, teachers, faculty, and others should enjoy free speech and academic freedom protections, even when speech or expression is offensive.

### **Definition of Terms**

When responding to sexual harassment (e.g., by offering supportive measures to a Complainant and refraining from disciplining a Respondent without following a Title IX grievance process, which includes investigating formal complaints of sexual harassment), the Final Rule provides clear definitions of Complainant, Respondent, formal complaint, and supportive measures so that recipients, students, and employees clearly understand how a school must respond to sexual harassment incidents in a way that supports the alleged victim and treats both parties fairly.



### Complainant

An individual who is alleged to be the victim of conduct that could constitute sexual harassment.

- This clarifies that any third party as well as the Complainant may report sexual harassment.
- While parents and guardians do not become Complainants (or Respondents), the Final Rule expressly recognizes the legal rights of parents and guardians to act on behalf of parties (including by filing formal complaints) in Title IX matters.

### Respondent

An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

### Formal Complaint

A document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the school investigate the allegation of sexual harassment and states:

- At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the school with which the formal complaint is filed.
- A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator under the Final Rule, and by any additional method designated by the school.
- The phrase “document filed by a Complainant” means a document or electronic submission (such as by e-mail or through an online portal provided for this purpose by the school) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the formal complaint.
- Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a Complainant or a party during a grievance process, and must comply with requirements for Title IX personnel to be free from conflicts and bias.

### Supportive Measures

Individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment.

- The Final Rule evaluates a school’s selection of supportive measures and remedies based on what is not clearly unreasonable in light of the known circumstances, and does not second guess a school’s disciplinary decisions, but requires the school to offer supportive measures, and provide remedies to a Complainant whenever a Respondent is found responsible.

Examples of supportive measures and remedies might include, but are not limited to:

- Counseling
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus escort services
- Mutual restrictions on contact between the parties
- Changes in work or housing locations
- Leaves of absence
- Increased security and monitoring of certain areas of the campus

### Title IX Coordinator

A designated University staff member charged with oversight of all efforts related to the University's compliance with Title IX. The Title IX Coordinator serves as Chair of the Title IX Committee. The Title IX Coordinator issues appropriate sanctions for individuals found responsible by a Title IX Panel for Title IX violations. The Title IX Coordinator may not serve as a Title IX Investigator or member of a Title IX Panel or Appellate Title IX Panel during their term as the designated Title IX Coordinator.

ACU's Title IX Coordinator is:

Dr. Jared Black  
Dean of Students  
1 West Firestorm Way  
Student Success Center #118  
Glendale, AZ 85306  
[Jared.black@arizonachristian.edu](mailto:Jared.black@arizonachristian.edu)  
(602) 489-5300 x.3501

### Title IX Committee

The Title IX Committee consists of faculty and/or staff members appointed by the Title IX Coordinator. Members of the Title IX Committee are selected to assist with the University's compliance with Title IX and execution of Title IX investigations, hearings, and decisions.

### Title IX Investigator

An unbiased member of the Title IX Committee appointed by the Title IX Coordinator and formally trained to conduct investigations of alleged Title IX violations and/or sexual misconduct. Title IX Investigators may not serve as a member of a Title IX Panel for a case in which he/she is the assigned investigator. Each case will have at least two Title IX Investigators.

### Title IX Panel

A sub-group of three (3) faculty and/or staff members from the Title IX Committee appointed by the Title IX Coordinator to conduct the Title IX Hearings, make determinations of responsibility, and recommend appropriate sanctions (if applicable) for a particular case.

### Appellate Title IX Panel

A separate sub-group of three (3) faculty and/or staff members from the Title IX Committee, appointed by the Title IX Coordinator, to review and decide on qualifying appeals of Title IX Panel decisions.

### Support Advisor

Any individual selected by the Complainant or Respondent to assist and accompany them through the Title IX process (including investigative interviews, Live Hearings, etc.). Under the Final Rule, parties have the same opportunity to select an advisor of the party's choice who may be, but need not be, an attorney. If a party does not have an advisor present at the live hearing, the school must provide, without fee or charge to that party, an advisor of the school's choice who may be, but is not required to be, an attorney to conduct cross-examination on behalf of that party.

### Incapacitated

Lacking the physical and/or mental ability to make informed, rational judgments. This may have a variety of causes, including, but not limited to, being asleep or unconscious, having consumed alcohol or taken drugs, or experiencing blackouts or flashbacks.

## Consent

Consent is clear, knowing, and voluntary, words or actions that give permission to engage in a particular activity. Consent can be withdrawn by either party at any point. Consent must be voluntarily given and may not be valid if a person is being subjected to actions or behaviors that elicit emotional or psychological pressure, intimidation, or fear. Consent to engage in one sexual activity, or past agreement to engage in a particular sexual activity, cannot be presumed to constitute consent to engage in a different sexual activity or to engage again in a sexual activity. Consent cannot be validly given by a person who is incapacitated. For purposes of this policy, the issue is whether the Accused knew, or should have known, that the activity in question was not consensual.

## **Assistance for Victims of Sexual Assault**

Arizona Christian University and its personnel are committed to assisting victims of crimes committed under any local, state, or federal law. The victim's written consent is required for the release of any public information. University officials are able to assist in contacting support services for the victim of a sexual assault at the victim's request.

## **If you are a victim of a sexual assault, please do the following:**

Listed below are action plans recommended for individuals who have been a victim of sexual assault. Students may also refer to the "Reporting Sexual Misconduct" section of this policy for additional options.

- Get to a safe place as soon as you are able
- Call 9-1-1
- Seek medical assistance
  - Campus Safety Officers can assist when requested by summoning medical help
- Contact someone you trust
- Contact the Department of Campus Safety (602) 489-5301, Title IX Coordinator, Dean of Students, Assistant Dean of Students, Director of Residence Life, Residence Director, or any other University official as soon as possible.
- Contact the law enforcement agency having jurisdiction if the assault took place off campus.
  - Campus Safety can assist the victim in notifying the appropriate agency
- Preserve all of the physical evidence
  - It is very important that the victim receives medical attention
  - As difficult as this may be to the victim, please do not wash, use the toilet, or change clothing if it can be avoided until meeting with the law enforcement authorities (This decision is ultimately up to the victim)
  - Place all of the clothing worn at the time of the attack in a paper bag
    - Do not place the clothing in a plastic bag
  - Campus Safety Officers can assist, when requested, the preserving of evidence until law enforcement officers arrive.
- Speak with a counselor.
  - University officials can assist the victim in contacting a trained professional, whether or not prosecution is desired
  - Victims have the right to have an advocate during the investigative process

## **Reporting Sexual Misconduct**

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by e-mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

Such a report may be made at any time, including during non-business hours, by using the telephone number or e-mail address, or by mail to the office address, listed for the Title IX Coordinator.

ACU's Title IX Coordinator is:

Dr. Jared Black  
Dean of Students  
1 West Firestorm Way  
Student Success Center #118  
Glendale, AZ 85306  
[Jared.black@arizonachristian.edu](mailto:Jared.black@arizonachristian.edu)  
(602) 489-5300 x.3501

A person who believes she/he has been a victim of sexual misconduct, as well as individuals with knowledge of a sexual misconduct violation, are strongly encouraged to make a report as soon as possible. Students and individuals with knowledge of a sexual misconduct violation have several options to consider when reporting the incident, including confidential and non-confidential reporting options.

*Please note:* All faculty, staff, and student employees who have supervisory authority, who receive complaints of sex discrimination, sexual harassment, sexual violence, domestic violence, dating violence, or stalking, are obligated to report complaints to their supervisor or department head and/or the Title IX Coordinator.

#### Reporting Confidentially

If the details of this incident need to be kept confidential, a Complainant should speak with on-campus mental health counselors, campus health service providers, and/or the campus pastor. Individuals can also contact off-campus rape crisis resources who can maintain confidentiality. Unless there is a statutory duty to do so, professionals who are not required to report include:

- ACU Counseling Services: [counselingcenter@arizonachristian.edu](mailto:counselingcenter@arizonachristian.edu)
- Campus Pastor: Dr. Jason Hubbard; [jason.hubbard@arizonachristian.edu](mailto:jason.hubbard@arizonachristian.edu)
- Health Services

These professionals have a privilege to withhold information, to the extent consistent with the law, only where they are acting in the scope of their license or certification for these functions and/or working in their professional capacity. Students can seek advice from certain resources who are not required to tell anyone else their private, personally identifiable information unless there is cause for fear for the student's safety, or the safety of others.

Complainants can report all information related to the incident to start the formal reporting process. If unsure of someone's duties and ability to maintain a student's privacy, the student should ask them before talking to them. The employee will be able to tell a student his/her responsibilities, and help the student make decisions about who can best help.

Students may also contact the following outside agency for support:

- Crisis Response Network (24-Hours): 602-222-9444 or 800-631-1314

#### Reporting to Law Enforcement

The University encourages victims to report all incidents of sexual misconduct or sexual assault to the police, however, that decision is ultimately up to the Complainant. Complainants must be aware

that an investigation conducted by the University is separate from a criminal investigation and flows from the University's obligation under Title IX and related laws to ensure that it is providing a safe environment for all community members. Therefore, if a Complainant wishes to pursue criminal actions, s/he needs to file a report with local law enforcement. Timely reporting of sexual assaults is an important part of preventing the commission of similar crimes by the same individual in the future.

In the event the victim is a minor, Arizona State law (A.R.S. 13-3620) mandates that certain professionals report suspected child abuse to the proper authorities. Among these professionals are nurses, psychologists, social workers, counselors, school personnel or any other person having responsibility for the care or treatment of children. This includes, at least, all teachers and administrators.

- Glendale Police Department: (623) 930-3000 or 911
- Or the local law enforcement agency in which the incident occurred.

Individuals may also report the incident to agencies off-campus, including:

- Maricopa County Victim Assistance: (602) 506-8522
- National Rape, Abuse and Incest National Network: (800) 656-4673

#### Reporting to University Officials

Any individual may report an incident of Title IX/Sexual Misconduct to any employee of the University. Please keep in mind, however, that all employees (with the exception of those with confidentiality privileges) are required to report all incidents and details of Title IX/Sexual Misconduct involving faculty, staff, and/or students to the University-assigned Title IX Coordinator.

Upon receipt of the report, the Title IX Coordinator will begin reviewing the incident and may pursue administrative action via the Title IX/Sexual Misconduct Process. Individuals wishing to report an incident in full confidentiality or anonymity should refer to the "Reporting Confidentially" and "Reporting Anonymously" sections of this Handbook.

Any individual, both inside and outside the ACU community, may report an alleged violation of Title IX/Sexual Misconduct by contacting the following:

- ACU Title IX Coordinator: [acutitleix@arizonachristian.edu](mailto:acutitleix@arizonachristian.edu)
- ACU's Title IX Coordinator is:
  - Dr. Jared Black
  - Dean of Students
  - 1 West Firestorm Way
  - Student Success Center #118
  - Glendale, AZ 85306
  - [Jared.black@arizonachristian.edu](mailto:Jared.black@arizonachristian.edu)
  - (602) 489-5300 x.3501
- Department of Campus Safety: (602) 489-5301
- Residence Life: [reslife@arizonachristian.edu](mailto:reslife@arizonachristian.edu)
- Student Development: [studentdevelopment@arizonachristian.edu](mailto:studentdevelopment@arizonachristian.edu)
- On-Site Counseling Center: [counselingcenter@arizoanchristian.edu](mailto:counselingcenter@arizoanchristian.edu)
- Or any other University Official as soon as possible for assistance

Individuals should also report the incident in writing at [acutitleix@arizonachristian.edu](mailto:acutitleix@arizonachristian.edu). Employees of the University with knowledge of a Title IX/Sexual Misconduct incident should follow this same

procedure. In the report, individuals should provide as much information as possible, including but not limited to:

- Description of the alleged violation(s).
- Date, time and place of the alleged violation(s).
- Name of the individual(s) involved in the alleged violation(s) and their connection to the University
- Name of the student organization(s) involved in the alleged violation(s) (if applicable).
- Name of witness(es) to the alleged violation(s).
- Name, phone number, and email address of the individual filing the report
- A Request for Privacy (if desired).
  - Please see “Request for Privacy” section of this policy for important details.
- Any other supporting documentation or information related to the incident

Upon receiving a report, all information will be referred to the University’s assigned Title IX Coordinator. This individual is an ACU staff member trained to oversee the University’s compliance with Title IX. This individual will assign the case to a Title IX Investigator to begin the investigation process.

#### *Request for Privacy*

The Final Rule affirms that a Complainant’s wishes with respect to whether the school investigates should be respected unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation over the wishes of the complainant is not clearly unreasonable in light of the known circumstances.

A Complainant has the right to not file a formal report and may therefore file a “Request for Privacy” form or submit request in writing to the Title IX Coordinator to prevent administrative action. Requests for Privacy must be submitted to the Title IX Coordinator. If granted by the Title IX Coordinator, a Request for Privacy ends the University’s involvement in the incident at that time. A Complainant should be aware that a Request for Privacy hinders the University’s ability to take remedial action against the Respondent.

The Title IX Coordinator may elect to sign a formal complaint and initiate an investigation over the wishes of the Complainant if the University has enough information to reasonably determine the following:

- 1) there is an increased risk of the Respondent committing additional acts of sexual misconduct or other violence;
- 2) there is an increased risk of future acts of sexual misconduct under similar circumstances;
- 3) a weapon was allegedly used; and
- 4) the University has means to obtain other evidence.

If it is determined that the University will proceed with an investigation, information will be kept as confidential as possible. Only individuals who are believed to have relevant information will be interviewed and information will only be shared with individuals who are responsible for responding to the situation. If the University determines it does not have enough information to investigate because of the Complainant’s Request for Privacy, it will still take all reasonable steps to respond to the report consistent with the privacy request, including seeking appropriate supportive measures.

#### *Federal Timely Warning Reporting Obligations*

Victims of sexual misconduct should also be aware that university administrators must issue immediate timely warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. The university will make every effort to ensure that a victim’s name and other identifying information is not disclosed, while

still providing enough information for community members to make safety decision in light of the danger.

### Reporting Anonymously

Individuals may submit a report anonymously by contacting any of the following departments via an anonymous email account.

- ACU Title IX Coordinator: [acutitleix@arizonachristian.edu](mailto:acutitleix@arizonachristian.edu)
- Student Development: [studentdevelopment@arizonachristian.edu](mailto:studentdevelopment@arizonachristian.edu)
- Human Resources: [human.resources@arizonachristian.edu](mailto:human.resources@arizonachristian.edu)

This process allows victims or others to submit information related to Title IX/Sexual Misconduct in complete anonymity without providing their name or other identifiable information. Please note that submitting an anonymous report can significantly hinder the University's ability to address the incident. In most cases, the University will be unable to resolve the incident without specific information provided. The information provided will be used by the Title IX Coordinator to document patterns of individuals or possible areas that could pose a danger to the ACU community.

### **Retaliation**

Arizona Christian University prohibits retaliatory behavior against any accuser or any participant in the report process. Additionally, the Final Rule expressly prohibits retaliation.

- Charging an individual with code of conduct violations that do not involve sexual harassment, but arise out of the same facts or circumstances as a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX constitutes retaliation.
- The school must keep confidential the identity of Complainants, Respondents, and witnesses, except as may be permitted by FERPA, as required by law, or as necessary to carry out a Title IX proceeding.
- Complaints alleging retaliation may be filed according to a school's prompt and equitable grievance procedures.
- The exercise of rights protected under the First Amendment does not constitute retaliation.
- Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a Title IX grievance proceeding does not constitute retaliation; however, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a bad faith materially false statement.

The initiation of a report of sexual harassment will not reflect negatively on the individual who initiates the report nor will it affect the individual's academic standing, job assignment, status, rights, privileges or benefits.

Any individual who retaliates against any individual who has either made a report of Title IX/Sexual Misconduct or has participated in an investigation of a report of Title IX/Sexual Misconduct will be subject to disciplinary action according to the corresponding area's policies.

To be considered retaliation there must be a causal connection between a materially adverse action and the act of reporting a violation or participating in a conduct proceeding. A materially adverse action is one that would dissuade a reasonable person from reporting a violation, and includes, but is not limited to intimidation, threats, coercion or discrimination. A determination of whether an action is materially adverse is made on a case-by case basis.

## University Response

Arizona Christian University must respond promptly to Title IX sexual harassment in a manner that is not deliberately indifferent, which means a response that is not clearly unreasonable in light of the known circumstances. ACU has the following mandatory response obligations:

- ACU must offer supportive measures to the person alleged to be the victim (referred to as the “Complainant”).
- The Title IX Coordinator must promptly contact the Complainant confidentially to discuss the availability of supportive measures, consider the Complainant’s wishes with respect to supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the Complainant the process for filing a formal complaint.
- ACU must follow a grievance process that complies with the Final Rule before the imposition of any disciplinary sanctions or other actions that are not supportive measures, against a Respondent.
- ACU must not restrict rights protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment, when complying with Title IX.
- The Final Rule requires ACU to investigate sexual harassment allegations in any formal complaint, which can be filed by a Complainant, or signed by a Title IX Coordinator.
- The Final Rule affirms that a Complainant’s wishes with respect to whether the school investigates should be respected unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation over the wishes of the Complainant is not clearly unreasonable in light of the known circumstances.
- If the allegations in a formal complaint do not meet the definition of sexual harassment in the Final Rule, or did not occur in the school’s education program or activity against a person in the United States, the Final Rule clarifies that the school must dismiss such allegations *for purposes of Title IX* but may still address the allegations in any manner the school deems appropriate under the school’s own code of conduct.

## Review

Upon receiving a report, the Title IX Coordinator will review the incident and make a determination of next steps. In cases where a Request for Privacy is not granted, the Title IX Coordinator may determine that the incident falls within the University’s Title IX/Sexual Misconduct Policy and pursue administrative action via the Title IX/Sexual Misconduct Process. Alternatively, the Title IX Coordinator may determine that the incident falls outside of the Title IX/Sexual Misconduct Policy and refer the incident to be reviewed under the Student Conduct Process, close the incident, or pursue other administrative action, such as Informal Resolution.

## Informal Resolution

The Final Rule allows a school, in its discretion, to choose to offer and facilitate informal resolution options, such as mediation or restorative justice, so long as both parties give voluntary, informed, written consent to attempt informal resolution. Any person who facilitates an informal resolution must be well trained. The Final Rule adds:

- A school may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to a formal investigation and adjudication of formal complaints of sexual harassment. Similarly, a school may not require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a formal complaint is filed.
- At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.



- Schools must not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

### **Title IX/Sexual Misconduct Grievance Process**

The Final Rule prescribes a consistent, transparent grievance process for resolving formal complaints of sexual harassment.

#### Overview

The Final Rule states that a school's grievance process must:

- Treat Complainants equitably by providing remedies any time a Respondent is found responsible, and treat Respondents equitably by not imposing disciplinary sanctions without following the grievance process prescribed in the Final Rule.
- Remedies, which are required to be provided to a Complainant when a Respondent is found responsible, must be designed to maintain the Complainant's equal access to education and may include the same individualized services described in the Final Rule as supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.
- Require objective evaluation of all relevant evidence, inculpatory and exculpatory, and avoid credibility determinations based on a person's status as a Complainant, Respondent, or witness.
- Require Title IX personnel (Title IX Coordinators, investigators, decision-makers, people who facilitate any informal resolution process) to be free from conflicts of interest or bias for or against Complainants or Respondents.
- Training of Title IX personnel must include training on the definition of sexual harassment in the Final Rule, the scope of the school's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.
- A school must ensure that decision-makers receive training on any technology to be used at a live hearing.
- A school's decision-makers and investigators must receive training on issues of relevance, including how to apply the rape shield protections provided only for Complainants.
- Include a presumption that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
- Recipients must post materials used to train Title IX personnel on their websites, if any, or make materials available for members of the public to inspect.
- Include reasonably prompt time frames for conclusion of the grievance process, including appeals and informal resolutions, with allowance for short-term, good cause delays or extensions of the time frames.
- Describe the range, or list, the possible remedies a school may provide a Complainant and disciplinary sanctions a school might impose on a Respondent, following determinations of responsibility.
- State whether the school has chosen to use the preponderance of the evidence standard, or the clear and convincing evidence standard, for all formal complaints of sexual harassment (including where employees and faculty are Respondents).
- Describe the school's appeal procedures, and the range of supportive measures available to Complainants and Respondents.
- A school's grievance process must not use, rely on, or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

- Any provisions, rules, or practices other than those required by the Final Rule that a school adopts as part of its grievance process for handling formal complaints of sexual harassment, must apply equally to both parties.

### Investigation

The Final Rule states that the school must investigate the allegations in any formal complaint and send written notice to both parties (Complainants and Respondents) of the allegations upon receipt of a formal complaint.

During the grievance process and when investigating:

- The burden of gathering evidence and burden of proof must remain on schools, not on the parties.
- Schools must provide equal opportunity for the parties to present fact and expert witnesses and other inculpatory and exculpatory evidence.
- Schools must not restrict the ability of the parties to discuss the allegations or gather evidence (e.g., no “gag orders”).
- Parties must have the same opportunity to select an advisor of the party’s choice who may be, but need not be, an attorney.
- Schools must send written notice of any investigative interviews, meetings, or hearings.
- Schools must send the parties, and their advisors, evidence directly related to the allegations, in electronic format or hard copy, with at least 10 days for the parties to inspect, review, and respond to the evidence.
- Schools must send the parties, and their advisors, an investigative report that fairly summarizes relevant evidence, in electronic format or hard copy, with at least 10 days for the parties to respond.
- Schools must dismiss allegations of conduct that do not meet the Final Rule’s definition of sexual harassment or did not occur in a school’s education program or activity against a person in the U.S. Such dismissal is only for Title IX purposes and does not preclude the school from addressing the conduct in any manner the school deems appropriate.
- Schools may, in their discretion, dismiss a formal complaint or allegations therein if the Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the formal complaint or allegations therein, if the Respondent is no longer enrolled or employed by the school, or if specific circumstances prevent the school from gathering sufficient evidence to reach a determination.
- Schools must give the parties written notice of a dismissal (mandatory or discretionary) and the reasons for the dismissal.
- Schools may, in their discretion, consolidate formal complaints where the allegations arise out of the same facts.
- The Final Rule protects the privacy of a party’s medical, psychological, and similar treatment records by stating that schools cannot access or use such records unless the school obtains the party’s voluntary, written consent to do so.

If the Title IX Coordinator determines that the incident falls within the University Title IX/Sexual Misconduct Policy, s/he will assign the incident to a two-person team of Title IX Investigators. The Title IX Investigators are unbiased ACU staff member trained to investigate and oversee Title IX related incidents and the University’s Title IX/Sexual Misconduct Process. These individuals will serve as the primary points of contact through the entire Title IX/Sexual Misconduct process, from the time an incident is reported through completion.

The Title IX Investigators will first contact and request an initial interview with the Complainant. If the Complainant does not respond, the University will consider a lack of response as a Request for

Privacy and place the investigation on hold. The University will not pursue administrative action unless the Complainant requests to reopen the investigation or the University has reason to continue an investigation. After the Complainant has been interviewed, the Respondent will be notified of the allegations and requested to interview.

After both the Complainant and Respondent have been interviewed, all other witnesses or other relevant individuals involved will be interviewed. The Title IX Investigators will determine if information collected during an investigation is relevant to the case. The Title IX Investigators have the right to interview individuals as many times as s/he desires in order to collect all information possible.

The Complainant and the Respondent may not meet at the same time.

#### Review of Documents

Once the investigation is complete, the Title IX Investigators will compile all of the evidence and relevant information related to the allegations and send to the parties, and their advisors, in electronic format or hard copy, with at least 10 days for the parties to inspect, review, and respond to the evidence. Additionally, the parties, and their advisors, will receive an investigative report that fairly summarizes relevant evidence, in electronic format or hard copy, with at least 10 days for the parties to respond. After 10 days have passed, any additional notes or comments provided by the parties will be added as an attachment to the summary.

After documents have been reviewed by the Respondent, Complainant, and their advisors, the process will then move to a Live Hearing with the Title IX Panel. The Title IX Investigators will present the information to a Title IX Panel for review. A Title IX Panel consists of three (3) members from the Title IX Committee appointed by the Title IX Coordinator. The Title IX Panel will schedule a Live Hearing with the Title IX Investigators, the Complainant, Respondent, witnesses, and respective support advisors.

#### Live Hearing with Cross-Examination

For postsecondary institutions, the school's grievance process must provide for a live hearing with cross-examination:

- At the live hearing, the Title IX Panel (who serve as the decision-makers) must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.
- Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.
- At the request of either party, the recipient must provide for the entire live hearing (including cross-examination) to occur with the parties located in separate rooms with technology enabling the parties to see and hear each other.
- Only relevant cross-examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the decision-maker must first determine whether the question is relevant and explain to the party's advisor asking cross-examination questions any decision to exclude a question as not relevant.
- If a party does not have an advisor present at the live hearing, the school must provide, without fee or charge to that party, an advisor of the school's choice who may be, but is not required to be, an attorney to conduct cross-examination on behalf of that party.
- If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an

inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

- Live hearings may be conducted with all parties physically present in the same geographic location or, at the school's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually.
- Schools must create an audio or audiovisual recording, or transcript, of any live hearing.

### *Rape Shield Protections*

The Final Rule provides rape shield protections for Complainants (as to all recipients whether postsecondary institutions, K-12 schools, or others), deeming irrelevant questions and evidence about a Complainant's prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged misconduct or offered to prove consent.

After the Live Hearing, the Title IX Panel will adjourn and begin deliberation. The Title IX Panel will determine an outcome of "responsible" or "not responsible" based on a preponderance of evidence standard and recommend appropriate sanctions, if applicable, and notify the Title IX Coordinator of the decisions.

### Standard of Evidence

The Final Rule requires the school's grievance process to state its standard of evidence to determine responsibility. Arizona Christian University's Title IX/Sexual Misconduct Process utilizes a Preponderance of Evidence standard (i.e. 51%; more likely than not) when determining responsibility. The same standard of evidence is used for all formal complaints of sexual harassment whether the respondent is a student or an employee (including faculty member).

### Written Determination

The Title IX Panel, which serves as the decision-makers (who cannot be the same person as the Title IX Coordinator or the investigator) must issue a written determination regarding responsibility with findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, any disciplinary sanctions imposed on the Respondent, and whether remedies will be provided to the Complainant.

The written determination must be sent simultaneously to the parties along with information about how to file an appeal. If notification is sent via email, it will be considered received at the time the email was sent.

### Completion

Absent an appeal, the process is considered complete when the Title IX Coordinator submits the outcome and sanctions email to the Complainant and Respondent and their advisors. The Title IX Coordinator will submit an additional documentation to the Student Development Division for formal documentation and filing.

### Appeals

Both parties (Respondents and Complainants) are able to appeal a determination regarding responsibility as well as a school's dismissal of a formal complaint or allegations therein. Appeals must be submitted in writing to the Title IX Coordinator no more than ten (10) business days after the initial outcome and sanction decision is communicated. Appeal requests may only be considered if the following criteria are met:

- Procedural irregularity that affected the outcome of the matter.

- Newly discovered evidence that could affect the outcome of the matter, and/or
- Title IX personnel had a conflict of interest or bias, that affected the outcome of the matter.

Written requests must include the grounds for which the appeal is being requested and any supporting documentation, including new information.

The Title IX Coordinator will appoint a separate three person Title IX Panel that will review the request and respond to the appeal. If criteria for an appeal are not met, the Appellate Title IX Panel will notify the Appellant that the request is denied and the original outcome and sanction is final. Additional requests are not permitted. If criteria for an appeal are met, the Appellate Title IX Panel will render a decision that will either:

- Uphold the original outcome and sanction(s)
- Uphold the original outcome and lessen the sanction(s)
- Reverse the original outcome
- The Appellate Title IX Panel cannot increase sanctions

The Appellate Title IX Panel decision is final and no other appeals may be submitted. Each party is only permitted one (1) appeal.

### **Sanctions and Consequences**

Through the Title IX/Sexual Misconduct Process, individuals found responsible may be issued specific consequences or sanctions. The purpose behind these consequences or sanctions is to put a stop to the behavior and prevent the actions from recurring.

In cases of non-consensual sexual contact, non-consensual sexual intercourse, or sexual exploitation, Respondents found responsible will be separated from the University via suspension or expulsion, as well as other appropriate sanctions. In other cases, sanctions the University may assign include but are not limited to:

- Verbal Reprimand
- Written Reprimand
- Removal of University Housing
- Restitution and/or Fines
- Reflection Essays
- Letters of Apology
- Required attendance in educational seminars, programs, etc.
- Drug Testing
- Loss of privileges
- Permanent No-Contact Orders
- Permanent No-Trespass Order
- Disciplinary Probation. Disciplinary Probation is defined as a designated period of time in which any further disciplinary issues could put the student at risk for escalated sanctions by the University, including suspension or expulsion. At a minimum, the disciplinary probation period involves the rest of the current semester. The University reserves the right to determine the appropriate length of a disciplinary probation.
- Suspension. Suspension involves removal from the University community for a designated period of time with the possibility of readmission. Suspended students are prohibited from entering any University owned or operated property or attend any University function without written consent from the Dean of Students. At a minimum, the length of suspension generally includes the rest of the current semester plus one (1) full semester. Depending on the circumstance, the University reserves the right to determine the effective date and

appropriate length of a suspension, including an indefinite suspension. If the suspension occurs after the Drop/Add period, suspended students will be involuntarily withdrawn and receive a grade of W for each course. Additionally, suspended students lose all tuition, housing/dining and University fees, coursework, or other privileges granted to enrolled students.

- **Expulsion.** Expulsion involves permanent removal from the University community without the possibility of readmission. Expelled students are prohibited from entering any University owned or operated property or attend any University function without written consent from the Dean of Students. If the expulsion occurs after the Drop/Add period, expelled students will be involuntarily withdrawn and receive a grade of W for each course. Additionally, expelled students lose all tuition, housing/dining and University fees, coursework, or other privileges granted to enrolled students.

Employees found responsible may be issued reprimands, paid or unpaid leaves of absences, dismissal, or other appropriate sanctions determined by Human Resources.

#### Failure to Complete Sanctions

Students found responsible for conduct violations are expected to meet all requirements, obligations, and/or deadlines of the assigned sanction. Additionally, in cases where students are assigned educational sanctions (including, but not limited to, reflection essays, letters of apology, participating in a seminar, etc.), students are expected to put forth an honest, respectful, and thoughtful effort. Failure to complete sanctions under these standards may result in further disciplinary action under the University's Failure to Comply policy, with sanctions including disciplinary probation, suspension or expulsion.

#### **Multiple Violations of the Title IX/Sexual Misconduct Policy**

Students found responsible for violating the University's Title IX/Sexual Misconduct Policy on multiple occasions will be seriously considered for escalated sanctions, including suspension or expulsion. Students alleged to have committed a second Title IX/Sexual Misconduct violation will be subject to the standard Title IX/Sexual Misconduct Process outlined above. Previous violations will not be considered when determining responsibility, however, if found responsible, the number of prior violations will be considered when determining an appropriate sanction. If the student is found responsible for the second violation, the Title IX Panel will likely recommend suspension or expulsion.