

SEXUAL MISCONDUCT GRIEVANCE POLICY & PROCEDURES

Version 2022 - 2023.1

Policies and procedures are subject to change with proper notice.

INTRODUCTION

Final regulations for the Violence Against Women Act (VAWA) amendments to the Clery Act expand rights afforded to campus survivors of sexual assault, domestic violence, dating violence, and stalking. The interplay of VAWA and Title IX implicates a range of requirements addressing policies, procedures and programs for handling asserted sexual offenses, and training carefully personnel responsible in this area. The **Gnomon Title IX Policy and Grievance Procedures** reflect the requirements for reporting, investigation, and resolution of complaints.

Gnomon is committed to fostering an educational and working climate free from sexual harassment, sexual assault, and sexual violence. To define conduct expectations and provide recourse for individuals whose rights have been violated, Gnomon implements a strategic coordination of policies, education, and clear and equitable procedures for reporting and resolution of complaints of sexual misconduct.

With the acute sensitivities of students and others involved in mind, it is of extreme priority to know how to identify sexual assault and violence; how to file a complaint; whom to report an incident; and the rights, responsibilities, and legal obligations of the individual and the school.

I. TITLE IX POLICY

Title IX of the Higher Education Amendments of 1972, 20 US Code § 1681(a), is a federal law which prohibits discrimination on the basis of sex in education programs or activities, and includes addressing sexual harassment, sexual violence and other gender-based harassment occurring in an institution of education.

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

Title IX regulations define sexual harassment to include any of three types of misconduct on the basis of sex, all of which jeopardize the equal access to education:

- Any instance of quid pro quo harassment by a school’s employee;
- Any unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school’s education program or activity;
- 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).

Under existing California law, as amended by SB 493, CA Education Code Section 212.5 sexual harassment is defined as: Unwelcome sexual advances, or requests for sexual favors, or other verbal, visual, or physical conduct of a sexual nature, made by someone from in the work or educational setting, under any of the following conditions: submission to the conduct is explicitly or implicitly made a term or condition of an

individual's employment, academic status, or progress, or submission to, or reject of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual, or the conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment, or submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.

In compliance with Title IX 2020 regulations, Gnomon will address reports of sexual harassment and misconduct that occur in its educational programs or activities. Education program or activity must include locations (e.g. school property or school sponsored events), or circumstances over which Gnomon has substantial control over both the respondent (i.e. an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment) and the context in which the sexual harassment occurs.

In instances where sexual misconduct occurs that meets the definition of Sexual Harassment under the Title IX 2020 Regulations, the incident may be adjudicated through Gnomon's Title IX conduct process as described in this policy.

In instances where sexual misconduct occurs that does not meet the definition of Sexual Harassment under the Title IX 2020 Regulations, the incident may be adjudicated under Gnomon's Student Code of Conduct.

When sexual harassment or sexual assault has occurred and is brought to the attention of the Title IX Coordinator, Gnomon will take steps to end the harassment or violence, prevent its reoccurrence, and address its effects. Complainants have the right and can expect to have reports taken seriously by Gnomon when formally reported, and for a prompt, equitable, reliable, and impartial investigation of complaints.

The school's Title IX Coordinator has primary responsibility to respond appropriately to, and investigate suspected discrimination or harassment, and identify and remedy systemic problems. With the guidance of the Title IX Coordinator, Gnomon will enact an initial assessment of the conduct, to the extent possible within the complainant's expressed preferences, if any, as to course of action, and the necessity for any interim remedies or accommodations to protect the safety of the complainant and the community at large.

II. TO WHOM THE POLICY APPLIES TO

This policy applies to all Gnomon community members, including students, faculty, administrators, staff, applicants for admission to or employment with Gnomon, and third parties conducting business or having any official capacity with the school or on school property.

III. WHERE THIS POLICY APPLIES

In compliance with Title IX regulations, Gnomon will address complaints of sexual harassment and misconduct that occur in its educational programs or activities. The Education program or activity must include locations (e.g. school property or school sponsored events), or circumstances over which Gnomon has substantial control over both the respondent (i.e. an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment) and the context in which the sexual

harassment occurs. At the time of filing a formal complaint, a complainant (i.e. an individual who is alleged to be the victim of conduct that could constitute sexual harassment) must be participating in or attempting to participate in a Gnomon education program or activity.

IV. RELATED POLICIES

NON-DISCRIMINATION POLICY

Gnomon does not discriminate in admission, treatment, or access to its programs or activities on the basis of race, color, national origin, ancestry, sex, gender, gender identification, sexual orientation, disability, age, religion, physical and/or mental disability, medical condition, veteran status, marital status or any other characteristic protected by institutional policy or state, local, or federal law. These practices include, but are not limited to, hiring, employment promotion and transfer, admissions policies, and administration of loan programs and participation in the benefits and services of education programs or related activities sponsored by Gnomon.

The institution complies with the Civil Rights Act of 1964, as amended; Title IX of the Education Amendment Act of 1972; Section 504 of the Rehabilitation Act of 1973; Age Discrimination Act of 1975; California SB-195 Equity in Higher Education Act, and any other applicable federal, state and local law. Gnomon is committed to a multicultural workplace and education programs involving cultural and ethnic diversity among the school's community.

Title IX's sex discrimination classification extends to claims based on gender identity or nonconformity with stereotypical notions of masculinity or femininity. The U.S. Department of Education's Office for Civil Rights (OCR) is the primary authority for investigating alleged violations of Title IX in educational institutions.

HARASSMENT & SEXUAL MISCONDUCT POLICY

Gnomon is committed to providing a safe learning and working environment for students and employees that is free from all forms of discrimination, harassment, exploitation, or intimidation. Sexual misconduct is a form of discrimination.

Title IX regulations define sexual harassment to include any of three types of misconduct on the basis of sex, all of which jeopardize the equal access to education: Any instance of quid pro quo harassment by a school's employee; Any unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; 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).

Gnomon strongly opposes harassment and sexual misconduct and such behavior is prohibited by school policy, federal and state law. This policy applies to all Gnomon community members, including students, faculty, administrators, staff, and third parties conducting business or having any official capacity with the school or on school property.

Gnomon is prepared to take prompt action to prevent and correct such behavior of individuals who engage in sexual harassment, as well as any other unlawful harassment based on factors such as race, color, national origin, ancestry, sex, gender, gender identification, sexual orientation, disability, age, religion,

physical and/or mental disability, medical condition, veteran status, marital status or any other characteristic protected by institutional policy or state, local, or federal law.

Violations of this policy are not permitted and may result in disciplinary action up to and including expulsion or termination.

Gnomon encourages any student or employee to immediately report these incidents.

Gnomon is committed to protecting the privacy of all individuals involved in a report of sexual harassment, sexual misconduct, and sexual violence. Throughout the process of investigation of a report every effort will be made to protect the privacy interests of all individuals, and respect and safeguard private information, to the extent possible consistent with the legal obligations of Gnomon to investigate and respond effectively. Adverse action will not be taken against a student or employee who, in good faith, reports or participates in the investigation of a violation of this policy. Retaliation against a person who properly reports, complains about, or participates in the investigation of such harassment is strictly prohibited.

Gnomon's Non-Discrimination Policy and Harassment and Sexual Misconduct Policy and procedures are available in full on Gnomon's website at gnomon.edu/about/consumer-disclosures/title9

Inquiries and complaints regarding the application of Title IX and other laws, regulations and policies prohibiting discrimination may be directed to:

Title IX Coordinator

Carmen Munoz
1015 N. Cahuenga Blvd., Suite 5430i
Los Angeles, CA 90038
323.466.6663 / Fax: 323.466.6710
carmen.munoz@gnomon.edu

Inquiries concerning the application of Title IX and the implementation of regulations may also be referred to and filed directly with the Department of Education Office for Civil Rights:

Office for Civil Rights

San Francisco Office
50 Beale Street, Suite 7200
San Francisco, CA 94105-1813
415.486.5555 / Fax: 415.486.5570
TDD: 800.877.8339
ocr.sanfrancisco@ed.gov

STUDENT CONDUCT POLICY

Students are responsible for reading and reviewing the Student Conduct Code, and for understanding the responsibilities assumed by enrolling at Gnomon. Gnomon reserves the right to respond to misconduct issues, whether law enforcement agencies are involved, and/or criminal charges are pending. Students are subject to disciplinary action for several types of misconduct, including but not limited to:

- Dishonesty, such as cheating, multiple submission, plagiarism or knowingly furnishing false information to the school.
- Forgery, alteration, or misuse of school documents, keys, or identification.
- Filming lectures, either with a camera or their cell phones, under any circumstances
- Theft of, damage to, or destruction of any property of the school or property of others while on school premises.
- Unauthorized entry to or use of school properties, equipment, or resources.
- Disruption of teaching, research, administration, or other school activities, and/or combative classroom behavior
- Physical abuse, threats of violence, all forms of sexual assault, or conduct that threatens the health or safety of any person on school property or in connection with official school functions.
- Sexual harassment (verbal or physical).
- Bullying (verbal or physical).
- Disorderly conduct, disturbing the peace, or failure to comply with the direction of a school employee acting in his/her official capacity.
- The use of "fighting words"
- The unlawful manufacture, distribution, dispensing, possession of, and/or use of drugs, drug paraphernalia, alcohol, or other controlled substances at this institution is strictly prohibited (see Gnomon's Drug and Alcohol Abuse Policy Statement)
- On-campus possession and use of medical marijuana is not allowed.

Behavior that is subject to disciplinary action under the Student Conduct Code also includes:

- Alleged violations of federal, state or local law that threaten the safety or well-being of the campus community.
- Any act that constitutes violent behavior as defined in NCSU REG04.05.02 – Campus/Workplace Violence Prevention and Management, and any other behavior that adversely affects the school or its educational programs or mission. Any attempt to commit acts prohibited by the Code may also be addressed through the conduct process.

V. TITLE IX: PROCESSES & PROCEDURES FOR INVESTIGATION OF DISCRIMINATION, HARASSMENT AND SEXUAL MISCONDUCT

When sexual harassment or sexual violence has occurred and is brought to the attention of the Title IX Coordinator, Gnomon will take steps to end the harassment or violence, prevent its reoccurrence, and address its effects. A Title IX civil investigation is a fact-finding proceeding and decision-making process the school uses to determine:

- Do the facts set forth by the potential complainant, if substantiated, constitute a violation of the Gnomon's Harassment & Sexual Misconduct Policy?
- If the complainant and respondent is participating in or attempting to participate in a Gnomon education program or activity?
- Did the conduct occur on Gnomon's premises; and/or in the context of a Gnomon education program or activities. Education program or activity must include locations (e.g. school property or school sponsored events), or circumstances over which Gnomon has substantial control over both the respondent (i.e. an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment) and the context in which the sexual harassment occurs.

If the answer to either question is no, the Title IX Office does not have the authority to resolve the complaint and the potential complainant will be referred to the appropriate resources and may be adjudicated under Gnomon's Student Code of Conduct.

If the answer to all questions is affirmative, the Title IX Office has the authority to investigate and resolve the Complaint.

VI. REPORTING INCIDENTS

Anyone impacted by sexual misconduct and/or sex or gender discrimination/harassment is encouraged to contact the Title IX Coordinator to make a report and/or obtain assistance.

Reports may be made at any time (including during non-business hours). All reports are treated with the high level of seriousness and sensitivity they deserve.

Complainants and third-party witnesses are encouraged to report sexual harassment, sexual violence and intimate partner violence as soon as possible in order to maximize the school's ability to respond promptly and effectively. Gnomon does not impose limitations on the time frame for reporting.

Reporting an incident informs Gnomon of the incident, which allows the school to provide Supportive Measures to the Parties and does not necessarily result in the initiation of a grievance process (as outlined in the grievance process below). All Parties who report incidents under this Policy will be offered individualized Supportive Measures. A decision to remain anonymous may greatly limit the school's ability to stop the alleged conduct, collect evidence, or take action against parties accused of violating this Policy.

HOW TO REPORT

Contact: Title IX Coordinator, Carmen Munoz

Address: 1015 N. Cahuenga Blvd., Suite 5430i, Los Angeles, CA 90038

Email: carmen.munoz@gnomon.edu

Call: 323.466.6663

Make a complaint by completing a [Harassment/Sexual Misconduct, Discrimination and Retaliation Complaint Form](#) and emailing it to the Title IX Coordinator, Carmen Munoz at carmen.munoz@gnomon.edu.

You may also choose to report the incident to local law enforcement or contact **911**.

Anonymous Reporting

Any individual may make an anonymous report concerning an act of discrimination, sexual harassment, sexual violence, and stalking or intimate partner violence. An individual may report the incident without disclosing his/her name, identifying the respondent or requesting any action. Depending on the extent of information available about the incident or the individuals involved, may limit the school's ability to respond to an anonymous report. The anonymous reporting form can be found at: gnomon.edu/policies-and-disclosures/title-ix

The Title IX Coordinator will receive the anonymous report and determine any appropriate steps compliant with all Clery Act obligations, including individual or community remedies as appropriate.

False Information and False Complaints Reports

The school will not condone intentional false reporting of incidents. The school takes the accuracy of information very seriously as a charge of sexual harassment, sexual violence, stalking or intimate partner violence may have severe consequences. A good-faith complaint that results in a finding of not responsible is not considered a false or fabricated accusation of sexual misconduct. However, when a Complainant or third-party witness is found to have fabricated allegations or given false information with malicious intent or in bad faith, the Complainant may be subject to disciplinary action. It is a violation of the school's policy of Student Conduct to make an intentionally false report of any policy violation and may also violate state criminal statutes and civil defamation laws.

VII. JURISDICTION

Title IX Policy is implemented through **Gnomon's Harassment & Sexual Misconduct Policy**. This policy applies to all Gnomon community members, students, faculty, administrators, staff, and third parties conducting business or having any official capacity with the school or on school property. In compliance with Title IX regulations, Gnomon will address complaints of sexual harassment and misconduct that occur in its educational programs or activities. Education program or activity must include locations (e.g. school property or school sponsored events), or circumstances over which Gnomon has substantial control over both the respondent (i.e. an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment) and the context in which the sexual harassment occurs.

At the time of filing a formal complaint, a complainant (i.e. an individual who is alleged to be the victim of conduct that could constitute sexual harassment) must be participating in or attempting to participate in a Gnomon education program or activity.

G N O M O N

Gnomon is prepared to take prompt action to prevent and correct behavior of individuals who engage in sexual harassment, as well as any other unlawful harassment based on factors such as race, ethnicity, religion, national origin, sexual orientation, gender, gender identity, disability, or age. If it is determined that sex-based discrimination or misconduct has occurred, appropriate discipline will be imposed and steps taken to address and stop the misconduct, as well as remedy its effects. Gnomon will cooperate with any criminal investigation, separate from the school's (civil) investigation.

Gnomon's Title IX Coordinator is responsible for coordinating the school's efforts to comply with and carry out its Title IX responsibilities, oversees the school's response to all reports of Title IX violations, and assess campus climate to identify and address any pattern or systemic problems.

The Title IX Coordinator oversees all reports and complaints raising Title IX issues, even if the complaint was initially filed with another individual or office, or the investigation will be conducted by another individual or office. The Title IX Coordinator consults with the school's senior administration to determine the recipient's (Gnomon) responses to all complaints involving possible sex discrimination.

VIII. TERMINOLOGY

Advisor: A single individual whom a Complainant, Respondent, or Witness may elect to accompany them to a live hearing/meeting regarding an alleged violation of Gnomon's Harassment & Sexual Misconduct Policy. An Advisor will be permitted to ask the other party and any witnesses all relevant questions and follow-up questions during a live hearing.

An Advisor may not be a person with information relevant to the allegations who may be interviewed by the Investigator during the investigation.

If a party does not have an advisor present at the live hearing, the Gnomon will provide (without fee or charge) to that party, an advisor of Gnomon's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.

The advisor may be any person - parent, friend mental health professional, certified victim's advocate, attorney - or an individual provided by Gnomon.

Actual Knowledge: Actual knowledge means notice of sexual harassment or allegations of sexual harassment to a recipient's Title IX Coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient.

Preponderance of Evidence: The preponderance of evidence standard (which requires proving that it is more likely than not that reported sexual misconduct occurred) will be used under the Gnomon's Title IX Complaint Process and for making findings regarding all complaints of sexual misconduct and relationship violence, including sexual assault, dating and domestic violence, and stalking.

Complainant: Within the school's processes the Complainant is defined as an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

Parties: The term "parties" refers to the "Complainant" and the "Respondent" under this Policy.

Proceeding: Proceeding means all activities related to a non-criminal resolution of an institutional disciplinary complaint, including, but not limited to, fact-finding investigations, and formal or informal meetings.

Respondent: Within the school's processes the Respondent is defined an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Result: Result means any initial, interim, and final decision by any official or entity authorized to resolve disciplinary matters within the institution. The result must include any sanctions imposed by the institution. Notwithstanding 20 US Code §1232g (FERPA), the result must also include the rational for the result and the sanctions.

Supportive measures: Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment. §106.30(a)

Third party: A person not directly involved in a Title IX related incident, but who may be aware of the incident.

§ 106.30 PROHIBITED CONDUCT AND DEFINITIONS

Attempts or threats to commit prohibited conduct are equally covered by this policy.

Affirmative Consent: Gnomon policy defines affirmative consent as affirmative, conscious, and an active and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent. In compliance with Senate Bill 967 (SB 967) enacted by the California Legislature as Chapter 748, adding Section 67386 to the Education Code, an affirmative consent is the standard for determination of whether consent was given by both parties to sexual activities.

Coercion: Coercion is the improper use of pressure to compel another individual to initiate or continue sexual activity against his/her will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats and blackmail. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Examples of coercion include threatening to "out" someone based on sexual orientation, gender identity or gender expression, and threatening to harm oneself if the other party does not engage in the sexual activity.

Fondling: Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

Hostile environment: The more frequent type of sexual harassment, hostile environment harassment, occurs when intimidating, threatening, or offensive verbal or physical conduct of sexual nature, including incidents of sexual assault, or violence, which is unwelcome and is sufficiently severe or pervasive to interfere with an employee's work environment or a student's education.

Sexual harassment is not limited to conduct motivated by sexual attraction. It may occur between members of the opposite sex or members of the same sex, regardless of their sexual orientation. It also includes offensive non-sexual conduct directed at an individual because of their gender.

Examples:

- **Verbal harassment** - Sexual requests, jokes, innuendoes, comments, or sexual remarks about clothing, body or sexual activities.
- **Physical harassment** - Attempted or actual kissing, fondling, or other inappropriate touching or feeling.
- **Visual harassment** - Drawings, written/email messages, or comments of suggestive nature.
- **Sexual Violence***: Sexual violence is an extreme form of hostile environment/sexual harassment. The scope of these offences includes those that are forced and/or against a person's will, rape, sexual assault, sexual battery and sexual coercion.

Incapacitation: Incapacitation is a state where an individual cannot make an informed and rational decision to engage in sexual activity because he/she lacks conscious knowledge of the nature of the act, and/or is physically helpless. An individual is incapacitated, and therefore unable to give consent, if he/she is asleep, unconscious, or otherwise unaware that sexual activity is occurring. Evaluating incapacitation also requires an assessment of whether a Respondent knew or should have known that the Complainant was incapacitated.

Incest: Incest is non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Intimate Partner Violence (IPV)*: Intimate partner violence, often referenced as Domestic Violence and/or Dating Violence, describes physical violence, sexual violence, stalking and psychological aggression (including coercive acts) by a current or former intimate partner. An intimate partner is a person with whom one has a close personal relationship that can be characterized by the following: emotional connectedness; regular contact; ongoing physical contact and sexual behavior; identity as a couple and/or; familiarity and knowledge about each other's lives. The relationship need not involve all of these dimensions. Examples of intimate partners include current or former spouses, boyfriends or girlfriends, dating partners, or sexual partners. IPV can occur between heterosexual or same-sex couples and does not require sexual intimacy. IPV can vary in frequency and severity. It occurs on a continuum, ranging from one episode that might or might not have lasting impact to chronic and severe episodes over a period of years.

The school recognizes that sexual harassment, sexual assault, stalking, and retaliation all may be forms of IPV when committed by a person who is or has been involved in a sexual, dating or other social relationship of a romantic or intimate nature with the Complainant.

Intimate Partner Violence: Definitions (Centers for Disease Control and Prevention):

[cdc.gov/violenceprevention/intimatepartnerviolence/definitions.html](https://www.cdc.gov/violenceprevention/intimatepartnerviolence/definitions.html)

Rape (Except Statutory Rape): Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant, regardless of the age of the victim, if the victim did not consent or if the victim was incapable of giving consent. Attempts or assaults to commit rape are also included.

If the victim consented, the offender did not force or threaten the victim, and the victim was under the statutory age of consent, it is defined as statutory rape.

Retaliation: Retaliation is acts or attempts to retaliate or seek retribution. Retaliation can take many forms, including threats, intimidation, pressuring, continued abuse, violence, reprisal and/or an adverse action related to employment or education. Retaliation may be committed by or against an individual or a group. A Complainant, Respondent or third party may commit or be the subject of retaliation. Retaliation against a person who properly reports or participates in the investigation of violations is strictly prohibited. Retaliation may result in additional sanctions or legal action, or both.

Sexual Assault*: Sexual assault is defined as any sexual act directed against another person, forcibly and/or against that person's will or consent; or not forcibly or against the person's will where the Complainant is incapable of giving consent because of his/her temporary or permanent mental incapacity; because of his/her youth; or physical incapacity. Sexual assault includes, but is not limited to rape, forcible sodomy, penetration with a foreign object, sexual battery or the threat of sexual assault.

Sexual Harassment: Title IX regulations define sexual harassment to include any of three types of misconduct on the basis of sex, all of which jeopardize the equal access to education:

- a) Any instance of quid pro quo harassment by a school's employee.

Quid pro quo harassment occurs when unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal, or physical conduct of a sexual nature when submission to such conduct is made either explicitly or implicitly, a term or condition of an individual's employment or educational benefits or services, or submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting the individual.

- b) **Any unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity.**

The determination of whether an environment is "severe, pervasive, and offensive" is based on a totality of circumstances, including, but not limited to:

- The degree to which the conduct interfered with the affected individual's educational or work performance;
- The type, frequency, and duration of the conduct;
- Whether the alleged harasser knew the complained-of conduct was unwelcome;
- whether the conduct was physically threatening;
- The effect of the conduct on the individual's mental or emotional state; and
- Whether the speech or conduct deserves the protections of academic freedom or the **First Amendment**;

*Oral and written communication may rise to the level of sexual harassment but must be measured against an individual's free speech rights. The freedoms of speech, expression, and assembly are fundamental rights of all persons. A person may be disciplined for speech that constitutes sexual harassment but may not be disciplined for engaging in protected speech.

- c) **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).**

Sex Offenses* are any sexual acts directed against another person, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent.

Statutory Rape: Statutory Rape is non-forcible sexual intercourse with a person who is under the statutory age of consent.

Stalking*: Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their 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 school will record and report all crimes in categories identified in the Clery Act and the Campus SaVE Act.

IX. MANDATORY REPORTING

CAMPUS SECURITY AUTHORITIES (CLERY ACT)

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) requires schools to keep and disclose information about crime on and near their respective campuses. A Campus Security Authority (CSA) is an individual or organization specified in the institution's security policy to which students and employees may report criminal offenses. The law defines four (4) categories of a CSA: Campus Police; non-police security staff responsible for monitoring school property; people/Offices designated to whom crimes should be reported; and "Officials with significant responsibility for student and campus activities". CSA's are defined by job function, not by title. Examples of CSA's are Education Directors, Activities Coordinators, Representatives, Student Council Officers, Student Advisors, or Staff/Faculty Advisors to student organizations. The focus is on student activities; not faculty and staff. Examples of job capacities that do NOT conform to CSA requirements are: Administrative staff not responsible for student activities (e.g., payroll, facilities management); clerical staff; individual faculty who do NOT serve as advisors to registered student organizations; or Counselors who only provide care to individual students.

CSA's are obligated to report to the appropriate school authorities Clery Act qualifying crimes* that are reported to them which occurred on Clery reportable locations. CSA's are able to receive reports of sexual misconduct and maintain the Complainant's rights of privacy. CSA's are not able to maintain the Complainant's complete confidentiality.

Responsible Employees (Title IX)

A "Responsible Employee" is a school employee who "a student could reasonably believe has the authority or responsibility to take action"; has the authority to take action to redress the harassment; or has the duty to report sexual harassment or any other misconduct by students or employees to appropriate school officials. Gnomon deems all employees "Responsible Employees" - faculty, advisors, and staff - and thereby enabled to talk to a victim in confidence.

A Responsible Employee must report to the Title IX Coordinator all relevant details about the alleged sexual misconduct. This includes information such as the names of the Complainant and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident. Because of this, it is suggested that reporting parties carefully consider what personally identifiable information is shared. A Responsible Employee may not share information with law enforcement without the Complainant's consent or unless the Complainant has also reported the incident to law enforcement. Generally, climate surveys, classroom writing assignments, or events (such as "Take Back the Night") do not provide notice that must be reported by employees.

A Complainant has the right and can expect to have reports taken seriously by Gnomon when formally reported, and for the prompt, equitable, reliable, and impartial investigation of complaints. Under Title IX, an institution is required to take immediate and corrective action if a Responsible Employee knew about sexual or gender-based harassment that creates a hostile environment. With the guidance of the Title IX Coordinator, the school will enact an initial assessment of the conduct, to the extent possible within the Complainant's expressed preferences, if any, as to course of action, and the necessity for any interim remedies or accommodations to protect the safety of the Complainant or the community. Remedial actions may result without formal action. Gnomon cannot take appropriate action unless an incident is reported to the school. Failure of a Responsible Employee, as described in this section, to report an incident or incidents

of sex or gender harassment or discrimination of which they become aware, is a violation of school policy and can be subject to disciplinary action.

X. CONFIDENTIALITY VS. PRIVACY AND RESOURCES

Title IX Coordinators are not a confidential source of support. While they will address your complaint with sensitivity and will not share any information related to your experience except on a need-to-know basis, absolute confidentiality cannot be guaranteed.

Our Grievance Policy and Procedures require all employees of the school who learn of possible policy violations (sexual misconduct/sexual harassment) to report that information to the Title IX Coordinator. A list of confidential support providers is available in our [Support Resources](#) guide.

A Complainant's request for confidentiality will be respected to the extent possible consistent with the school's legal obligation to investigate and respond. The school's ability to respond may be limited in the event of such a request (including pursuing discipline against the Respondent). In cases indicating pattern, predation, threat, weapons and/or violence, Gnomon will unlikely be able to honor a request for complete confidentiality. In cases where the Complainant requests confidentiality and the circumstances allow the school to honor that request, Gnomon will offer interim supports and remedies to the Complainant and the community but will not otherwise pursue formal action.

Formal reporting still affords privacy to the reporter. Privacy generally means that information related to a report of misconduct will only be shared as it becomes necessary, with a limited circle of individuals who "need to know" in order to assist in the active review, investigation or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.

A report of harassment or sexual misconduct may be made in person to the appropriate Gnomon official.

† In addition to and/or in lieu of a verbal report, a complaint form is provided online. A form does not need to be completed to make a report. Complaints may be made in any format - submitted via email, mail, or in person.

Carmen Munoz, Title IX Coordinator

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Los Angeles, CA 90038

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† See Responsible Employee and Mandatory Reporting, and CSA definitions. Off-Campus Confidential Reporting.

Confidential Reporting and Resources

An individual who seeks completely confidential assistance may do so by speaking with professionals who have a legally protected capability to maintain confidentiality.

Off-campus confidential reporting options are available through the **Gnomon Student Assistance Program (GSAP)**, local rape crisis counselors, victim advocacy centers, domestic violence resources, local or state agencies, and emergency care facilities listed in the **Support Resources** link below.

Information shared with these resources remain confidential and will not be shared with Gnomon or anyone else without express permission of the individual seeking services. Information about these and other resources may be obtained from the Title IX Coordinator, and online at:

- [Support Resources](#)
- [Clery Center resources for Students and Families](#)

Gnomon Resources:

- **Counseling with a Licensed Therapist**
Confidential counseling for Gnomon program students is available with Gnomon's resident counselor, Dr. Jason Waterman.
Appointments may be made by emailing: jason.waterman@gnomon.edu
- **Gnomon Student Assistance Program**
The Gnomon Student Services Program (GSAP) is a confidential, free resource to assist students in managing a wide variety of issues.
Appointment can be made by calling: **800.321.2843**
7:30 am – 6:30 pm (PST)

Reports Involving Minors or Suspected Child Abuse

Under California law, child abuse must be reported when one who is a legally mandated reporter has knowledge of or observes a child (a person under the age of 18) in his or her professional capacity, or within the scope of his or her employment whom he or she knows, or reasonably suspects has been the victim of child abuse or neglect (PC 11166(a)). "Reasonable suspicion" occurs when "it is objectively reasonable for a person to entertain such a suspicion based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect child abuse (PC 11166(a)(1)). The intent of this definition is: if you suspect, report.

All school employees, whether designated as a mandatory reporter under federal or California state law or not, are required to immediately report any suspected child abuse and neglect to the Title IX Coordinator, or Gnomon senior administration. The source of abuse does not need to be known in order to file a report.

In addition to notifying the Title IX Coordinator, any individual may make a direct report by calling 911 if a child is in immediate danger, or if there is no immediate danger, contact the Child Protection Hotline 24 hours a day, 7 days a week, at 800.540.4000.

The school will report all suspected child abuse and neglect, including sexual assault, to law enforcement and/or to Los Angeles County Department of Child and Family Services. The school must act quickly regarding all reasonable suspicions of sexual or physical abuse. It is not the responsibility of any employee, student, or volunteer to investigate suspected child abuse. This is the role of Child Protective Services and law enforcement authorities.

XI. COMPLIANT PROCESS STATEMENTS

The Title IX Coordinator has primary responsibility for investigating reports of discrimination, harassment and sexual misconduct. The Title IX Coordinator is situated to appropriately respond to, and investigate suspected discrimination or harassment, and identify and remedy systemic problems.

When the Title IX Coordinator is notified of a specific incident or course of conduct that may constitute a violation of Gnomon's Non-Discrimination, Harassment & Sexual Misconduct policy, through a direct complaint or otherwise, the Title IX Coordinator will immediately begin an investigation, or evaluate the complaint to determine if a formal investigation is necessary to protect the parties or the broader school community, and what policy violations should be alleged as part of the complaint. If deemed necessary, interim remedial measures ([Appendix A](#)) such as no contact orders, and other means necessary to avoid contact between the Complainant and the Respondent may be taken prior to completion of the investigation. The Title IX Coordinator will work with the appropriate school departments to implement interim measures as necessary. Officials involved in these proceedings are appropriately trained on the handling of complaints of sexual harassment, the school's Harassment & Sexual Misconduct Policy, Title IX and Grievance policy and procedures, and applicable confidentiality requirements.

Equitable Rights, Responsibilities and Opportunities

A Complainant and Respondent are provided equitable rights and opportunities throughout all proceedings – e.g., have an advisor present in meetings; receive timely notice of meetings at which one or the other or both may be present; simultaneous notifications of results. Proceedings are completed in a reasonable and prompt timeframe wherein both parties, and appropriate officials, have timely access to information that will be used during informal and formal disciplinary meetings.

Written notification of results, rationale, and available appeal procedures are delivered simultaneously.

Retaliation Statement § 106.8(c)

An individual reporting sexual harassment or misconduct is entitled to protection from any form of retaliation following a report that is made in good faith, even if the report is later not proven. It is a violation of school policy to retaliate in any way against an individual as a result of that person's filing a complaint, or for participating in the investigation of a complaint. Any person found to have retaliated against another for making a complaint under Title IX, being a witness in a Title IX investigation, or being otherwise involved in the complaint and/or investigative process, will be subject to discipline up to and including expulsion or termination, or legal action, or both. Acts of suspected retaliation should be reported immediately to the Title IX Coordinator.

Coordination with Law Enforcement

Gnomon encourages Complainants to pursue criminal action for incidents of sexual harassment, sexual violence and intimate partner violence that may also be crimes under California law. The school will assist a Complainant in making a criminal report and cooperate with law enforcement agencies if a Complainant decides to pursue the criminal process to the extent permitted by law.

The school's policy, definitions and burden of proof may differ from California criminal law. A Complainant may seek recourse under this policy and/or pursue criminal action. Neither law enforcement's determination whether or not to prosecute a Respondent, nor the outcome of any criminal prosecution, are determinative of whether a violation of this policy has occurred. Proceedings under this policy may be

carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. If a criminal complaint is filed with a local law enforcement agency, Gnomon will comply with law enforcement agency requests for cooperation and that such cooperation may require the school to temporarily suspend the fact-finding aspect of a Title IX investigation while the law enforcement agency gathers evidence. Gnomon will promptly resume its Title IX investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process.

Assembly Bill No. 1433 (AB 1433)

On September 29, 2014, AB 1433 was enacted by the California Legislature as Chapter 798, amending Section 67380 of, and to add Section 67383 to the Education Code relating to student safety. All reported or knowledge of Part 1 violent crimes, sexual assault, or hate crime, committed on or off campus is immediately, or as soon as practically possible, forwarded to the appropriate law enforcement agency, as provided. The report is forwarded without identifying the Complainant, unless the Complainant consents to being identified, after the Complainant has been informed of their right to have their personally identifying information withheld. AB 1433 provides that these requirements do not constitute a waiver of, or exemption to, any law providing for the confidentiality of information.

Amnesty for Alcohol or Other Drug Use

Gnomon encourages the reporting of prohibited conduct under this policy. Individuals who participate as a Complainant or witness in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to student conduct sanctions for a violation of the school's Drug and Alcohol Abuse Policy at or near the time of the incident, unless the school determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty (SB 967 EDC § 67386(b)(10)). Gnomon may, however, initiate an educational discussion or pursue other educational remedies.

Conflict of Interest or Allegation of Bias

The grievance process cannot be equitable unless it is impartial. Therefore, any real or perceived conflicts of interest between the factfinder or decision-maker and the parties should be disclosed. All Gnomon officials involved in the investigation, findings determination, and appeals should not have other job responsibilities that may create a conflict of interest. If the assigned investigator has a conflict of interest with either of the parties or the subject matter of the case, the investigator may recuse themselves, or the party alleging a conflict of interest may request that a different investigator be assigned to the case.

The Complainant or Respondent may petition for an alternative investigator based on a conflict of interest by providing notice in writing to the Title IX Coordinator as soon as practicable upon discovery of the potential conflict. The request should detail the nature of the conflict of interest and why the requesting party believes that the assigned investigator cannot conduct a fair and impartial investigation.

The decision of whether or not to assign an alternative investigator rests with the Title IX Coordinator or appropriate Gnomon official. A written response to the request will be provided within three (3) business days upon receipt of the request. Gnomon reserves the right to obtain an independent outside investigator if the situation presented or the parties involved would create an inherent conflict of interest.

Reluctant to Make a Formal Complaint

As a complainant of an incident of sexual misconduct, you may want to inform the school of the alleged violation and unwilling to participate further in any investigation and/or disciplinary action against the student(s) who has been accused. Gnomon has an obligation to investigate to the extent of the information that is available and known. If during the investigation the investigator finds corroborating information, it may be determined that is necessary to move forward with the student conduct process without the involvement to the complainant or to implement other appropriate remedies. If a complainant does not wish to participate in the student conduct process, there is an obligation to document the incident. When a report is being documented, there will be no personally identifying information about the complainant. The complainant will be notified of any actions by the Title IX Office, coupled with a letter stating the choice to participate in the investigation and/or student conduct process.

FERPA

Compliance with these provisions does not constitute a violation of section 444 of the General Education Provisions Act (20 US Code § 1232g), commonly known as the Family Educational Rights and Privacy Act of 1974 (FERPA). Gnomon may disclose the outcome of any student conduct proceedings to the person filing the complaint without prior written consent when the disclosure is to a Complainant of an alleged perpetrator of a crime of violence including physical sexual misconduct. Furthermore, FERPA permits the school to notify the student filing the complaint of any sanctions assigned to another student that may affect them.

XII. RESPONSIBILITIES AND PROCEDURES

In compliance with Title IX regulations, Gnomon must address complaints of sexual harassment and misconduct that occur in its educational programs or activities. Education program or activity must include locations (e.g. school property or school sponsored events), or circumstances over which Gnomon has substantial control over both the respondent and the context in which the sexual harassment occurs. At the time of filing a formal complaint, a complainant (i.e. an individual who is alleged to be the victim of conduct that could constitute sexual harassment) must be participating in or attempting to participate in a Gnomon education program or activity.

Procedural requirements applicable to complaints of sexual violence under other federal laws may also apply, including the requirements of the Clery Act. The rights established under Title IX are interpreted consistent with any federally guaranteed due process rights.

1. Complaint or Notice

- a) The school is presumed notified if a Responsible Employee/or School Official with authority has received a notice of harassment or sexual misconduct, the Title IX Coordinator will take immediate and appropriate steps to investigate the complaint.
- b) Actual or constructive notice or complaint may be made in-person, verbally or in written format by the Complainant, witness, or third-party.
- c) Anonymous reports may be submitted to the Title IX Coordinator using the Anonymous report form found on Gnomon's website.
- d) Any report of a violent crime, sexual assault, or hate crime, committed is forwarded immediately, or as soon as practically possible, to the appropriate law enforcement agency, as provided (AB 1433). The report is forwarded without identifying the Complainant, unless the

Complainant consents to being identified after the Complainant has been informed of their right to have their personally identifying information withheld.

Complainant consents to being identified after the Complainant has been informed of their right to have their personally identifying information withheld.

Once a complaint form or notice is received by the Title IX Office, the Title IX Coordinator will reach out to the appropriate parties to:

- a) Conduct an initial assessment to gain a basic understanding of the nature and circumstance of the report and determine jurisdiction.
- b) Discuss next best steps.
- c) The Complainant will be informed of available supportive measures and resources such as victim advocacy, academic support, counseling, disability services, and health and mental health support and services (with or without the filing of a formal complaint).
- d) The Title IX Coordinator will review the process for filing a formal complaint.

Emergency Removal of Respondent/s from Campus: In compliance with Title IX Regulations, Gnomon may choose to temporarily remove a respondent from campus on an emergency basis where there is an immediate threat to physical health or safety of any student or other individual arising from the allegations of sexual harassment. Before an emergency removal is initiated, Gnomon will conduct a safety and risk analysis to determine whether there is an immediate threat to the physical health or safety of any person arising from the allegations of sexual harassment. The respondent will be provided with a notice and an opportunity to challenge the emergency decision immediately following the removal while respecting all rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act, as applicable.

2. Formal Complaint:

Title IX regulations define formal complaint as a document filed by a complainant (i.e. an individual who is alleged to be the victim of conduct that could constitute sexual harassment) or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school investigate the allegation of sexual harassment. 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. Once a formal complaint is filed the Title IX Coordinator will send a Notice of Investigation to Parties/Notice of Formal Complaint.

3. Formal Complaint Dismissal:

Gnomon will dismiss a Formal Complaint, for any of the following circumstances:

- The conduct alleged does not constitute sexual harassment as defined in § 106.30.
- If the conduct did not occur in the school's education program or activity, or
- If the conduct did not occur against a person in the United States, or
- If at the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity of the recipient.
- If the Respondent is no longer enrolled or;
- If the Respondent is an employee and no longer employed by Gnomon at the time the Formal Complaint is filed or is no longer employed at any time during the grievance process including the investigation or hearing.

Gnomon may dismiss a Formal Complaint, at its discretion, for any of the following circumstances:

- If the Complainant requests in writing to dismiss a Formal Complaint;
- Any specific circumstances that prevents the school from gathering evidence to reach a determination as to the Formal Complaint;

If Gnomon dismisses a Formal Complaint, both parties will be provided with a written notice of the dismissal and the reason(s) for the dismissal.

GRIEVANCE INVESTIGATION PROCEDURE - 34 CFR §106.45(b)(5)

It is the responsibility of the Title IX Coordinator to oversee prohibited conduct reports and investigations to ensure timely resolution and compliance with Title IX and this policy. Both parties have the right to have an advisor present at every meeting described in this section.

A timely investigation process consists of, at least, the following components as applicable to the specific complaint to provide for a prompt, adequate, reliable, equitable, and impartial disciplinary proceeding*:

1. Preliminary Investigation (initial strategy)

- a) Perform an inquiry to determine if a comprehensive investigation is desired or necessary.
- b) Determine if there is reasonable cause and jurisdiction to charge the accused individual, and what policy violations should be alleged as part of the complaint.
- c) Investigate all complaints to determine: the extent of the harassment; the acuity of the threat it represents to students; and what might be necessary to put an end to it.
- d) Identify, provide and implement interim remedial measures (at no cost) to the Complainant and Respondent
- e) In a manner appropriate to the circumstances of the case, investigation typically include interviews with the Complainant, the Respondent and any witnesses. The interviews will be supplemented by the gathering of any physical, documentary or other evidence. As part of the investigation, the opportunity for the parties to present witnesses and other evidence is available.

f) Informal Resolution

Gnomon, in its discretion, may choose to offer and facilitate informal resolution options, such as mediation, so long as both parties give voluntary, informed, written consent to attempt informal resolution. The informal resolution process is available for certain incidents such as sexual harassment and misconduct. This process is not available for violent incidents such as interpersonal violence (including dating violence and domestic violence) and sexual assault or to resolve any allegations that an employee sexually harassed a student. The informal resolution process may be terminated at any time by either the Title IX coordinator or any of the parties involved, and the matter will be investigated via the formal complaint process. The goal of the informal resolution process is to facilitate an agreement between the Respondent and Complainant and provide an educational opportunity to learn from behavior through recommendations such as counseling, training programs, and mediation. No formal investigation occurs.

Responding to Anonymous Reports - Determine if a trend or pattern may be apparent, and if so, attempt some form of remedial response.

TIMELINE OVERVIEW

The Title IX Officer, or designee, shall use best efforts to seek and resolve sexual misconduct reports within 90 business days of an initial report, not including appeals.

In some cases, the Title IX Coordinator may determine that good cause exists to extend the 90 day period to conduct a fair and complete investigation, to accommodate an investigation by law enforcement, to accommodate the availability of witnesses or delays by the parties, to account for school breaks or vacations, or due to the complexity of the investigation.

The general timeline is as follows:

- Initial Review and investigation process will begin within **ten (10) business days** after the date of the initial report.
- Investigation is completed within **twenty (20) business days** after the investigation begins.
- **Both Parties will have ten (10) business days to inspect, review, and respond to evidence.**
- Hearing (if any) is held within **twenty (20) calendar days** after the conclusion of the investigation.
- Determination of the hearing is issued within **seven (7) calendar days** after the completion of the hearing.
- Notice of Sanction(s) issued within **seven (7) calendar days** after the completion of the hearing.
- Notice of appeals filed by either or both complainant and respondent to the Title IX Coordinator within **five (5) business days after the notice of determination and sanction(s).**
- All parties will receive notification of any appeal. If an appeal is submitted, the appropriate Gnomon official(s) will review relevant documentation, including the report, and Complainant's and Respondent's statements, if any.
- An Appeal determination will be sent within **twenty (20) calendar days** after complainant and/or respondent's notice of appeal was received.

TITLE IX POLICY AND GRIEVANCE PROCESS

1. This Policy applies in the instances where all of the following conditions are met:

- a) The alleged conduct occurred against a person in the United States; and
- b) where the Complainant was participating or attempting to participate in an education program or activity at Gnomon. This element is met if the conduct occurred in any of the following: on any school property; during any school activity; in a building owned or controlled by a student organization that is officially recognized by the school; or in instances where the school exercised substantial control over the Respondent and the context in which the alleged conduct occurred.
- c) The Respondent is a student or employee or other school affiliate at Gnomon at the time of the alleged conduct;
- d) The alleged conduct includes Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, or Stalking.

2. Written Notice of a Formal Complaint and Notification of Resources

Following the receipt and review of the formal complaint by Gnomon's Title IX Coordinator, and it being determined that the matter properly falls under this policy, the parties will be informed in writing of the initiation of the investigation.

The written notice of the Formal Complaint will include the following:

- A description of the Grievance Process steps, as outlined in this Grievance Policy;
- A statement of allegations that potentially constitute prohibited conduct under this Policy, including details about the alleged conduct, including the identity of the parties, if known, and the date(s), time(s), and location(s) of alleged conduct known by the school at the time of the Formal Complaint, and potential policy violations being investigated.
- A statement that the Respondent is presumed not responsible for the alleged conduct and that the determination regarding responsibility will be made at the conclusion of the Grievance Process;
- A statement of the range of possible disciplinary sanctions and remedies Gnomon may implement upon a determination of responsibility;
- A statement that credibility determinations will not be based on a person's status as a complainant, respondent, or witness;
- Both parties may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review all evidence;
- A statement that the parties may review evidence gathered as part of any investigation;
- A statement that knowingly making false statements or knowingly submitting false information during the Grievance Process is prohibited and subject to disciplinary action; and
- Any other information relevant to the written notice.

3. Investigation of the Formal Complaint—Gathering of Evidence

- Gnomon's Title IX Coordinator will provide written notice to a Party, whose participation is invited or expected, of the date, time, location, participants, and purpose of all meetings, investigative interviews, or other proceedings in the Grievance Process.
- After the school provides written notice of a Formal Complaint to the parties, the Respondent will be allowed a reasonable time to respond in writing and through an interview with the investigator.
- The Parties in the investigation may present any information and evidence that may be relevant to the Formal Complaint and may have an advisor of their choice attend any related interview, meeting, or proceeding in the Grievance Process.
- Advisors are not permitted to actively participate in meetings or proceedings in the Grievance Process.
- The burden of proof and gathering of evidence is on the recipient.
- Neither party may be restricted in their ability to discuss the allegations or gather and present relevant evidence. §106.45(b)(5)(iii)
- The Parties may present the names of any fact or expert witnesses who may provide relevant information, and how the witnesses may be relevant to the Complaint.
- The Parties may submit to the investigator any questions they would like asked of any known potential witnesses or parties.
- Investigators will interview relevant and available witnesses.
- The investigation of a Formal Complaint will generally be concluded **within 20 days** of the filing of a Formal Complaint. The Parties should be provided updates on the progress of the investigation, as needed.

- Prior to the completion of the investigation report, the investigators will provide access to all evidence obtained (whether relevant or not) as part of the investigation to both Parties (and the Party's advisor, if any, upon a Party's signed information release for their advisor of choice).
- Both Parties will have **ten (10) business days** to inspect, review, and respond to the evidence.
- All responses to the evidence must be submitted by the Party in writing to the Gnomon Investigator.
- The investigators will consider all timely responses submitted by the Parties.
- The completed investigation report will outline each of the allegations that potentially constitutes conduct that violates this Policy, provide the timeline (e.g. procedural steps) of the investigation, and objectively summarize relevant evidence, participant statements, and responses to questions. The investigator will provide a completed investigation report concurrently to both Parties and each Party's advisor, if any, upon a Party's signed information release for their advisor of choice at least 10 business days prior to the date of the scheduled hearing to review and provide a written response at the hearing.

4. Hearing Panel

The Hearing Panel is a committee comprised of individuals trained or experienced in Sexual Misconduct. Depending on the complexity of the issues, a hearing panel may have one to three (1-3) panelists. The individuals who serve as panelists will be selected by the Title IX Coordinator, or other designated official.

- The hearing officer will rule on all procedural matters and on objections regarding exhibits and testimony of participants at the hearing and may question participants who testify at the hearing.
- The decision-maker(s) in a hearing cannot be the same person(s) as the Title IX Coordinator or the investigator(s). §106.45(b)(7)(i)

A copy of the completed investigation report will be issued to the Title IX Coordinator, and to the hearing officer assigned for the hearing.

5. Live Hearing:

- Gnomon will provide a live hearing - §106.45(b)(6)(i) for all Formal Complaints subject to this Grievance Process, unless the formal complaint is dismissed, or all parties decide to pursue Restorative justice alternative or Informal Resolution.
- Gnomon will provide at least **10 business days** written notice to participants of the hearing (and the Party's advisor, if any, upon Party's signed information release for their advisor of choice), including the date, time, location, names of all participants of the hearing (including the hearing officer, and all Parties and participants in the investigation report), purpose of the hearing, a statement of the alleged conduct charges, and a summary statement of the evidence gathered.
- Either Party may challenge the fairness, impartiality or objectivity of a hearing officer. The challenge must be submitted in writing to the hearing officer through the office coordinating the hearing (Gnomon's Title IX Office) **within four (4) business days after notice of the identity of the hearing panel** and must state the reasons for the challenge.
- The Title IX Coordinator or its designee will be the sole judge of whether the hearing officer can serve with fairness, impartiality, and objectivity. In the event that the hearing officer recuses themselves, an alternative hearing officer will be assigned by Gnomon.
- Each Party will have access to all of the evidence from the investigation, including a copy of the completed investigation report.
- At the request of either Party, Gnomon will provide the hearing to occur with the Parties located in separate rooms with technology enabling the hearing officer and the Parties to simultaneously see and hear the participants answering questions.

- Participants may appear at the hearing virtually and are not required to be physically present in the same physical location of the hearing.
- Each party may make opening and closing statements.
- No person will be required to disclose information protected under a legally recognized privilege. The hearing officer must not allow into evidence or permit or rely upon any questions or evidence that may require or seek disclosure of such information, unless the person holding the privilege has waived the privilege. This includes information protected by the attorney-client privilege.
- Each Party must have an advisor. Each party may have an advisor of their choice at the hearing. If a Party does not have an advisor, Gnomon will provide one.
- Advisors are not permitted to actively participate in the hearing, except for asking questions of the other Party and any other witnesses.
- In addition, witnesses may have an advisor of their choice at the hearing.
- Questioning Participants. The hearing officer may, at the hearing officer's discretion, ask questions during the hearing of any Party or witness.
- Each Party's advisor will have an opportunity to ask relevant questions and follow-up questions of the other Party and of any witnesses that participate in the hearing, including questions that challenge credibility.
- Parties will rely on their advisors to ask their questions directly and in real time at the hearing.
- The Parties will not be permitted to personally ask questions of the other Party or any witnesses that participate in the hearing.

6. Advisor's Role

The role of the advisor is to provide support in understanding the investigation process. To protect the privacy of those involved, all advisors are required to sign a confidentiality agreement prior to attending an interview or hearing. The advisor may be any person - parent, friend, mental health professional, certified victim's advocate, attorney - or an individual provided by Gnomon.

Advisors will ask questions under the following procedure:

- The advisor will ask a question of the applicable participant.
- Before the participant answers a question, the hearing officer will rule as to whether the advisor's question is relevant to the alleged conduct charges.
- If the hearing officer rules the advisor's question as not relevant, then the hearing officer must explain any decision to exclude a question as not relevant. If the hearing officer allows the question as relevant, the participant will answer it.
- An advisor may not in any way disrupt or interfere with the hearing panel's process.
- Any violation of this policy shall result in the immediate removal of the advisor.
- Prior Sexual History:
A Complainant's sexual predisposition or prior sexual behavior are not relevant except where questions and evidence about a Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the alleged conduct charged by the Complainant or if the questions or evidence concern specific incidents of the Complainant's prior sexual behavior with the Respondent and are offered to prove the Complainant's consent of the alleged conduct. §106.45(b)(6)(i)
- Refusal to Submit to Cross-Examination:
If a party or witness refuses to submit to cross-examination questions during the hearing, the hearing officer will not rely on any statement of that party or witness, when reaching a responsibility determination. The hearing officer will not draw a conclusion regarding

responsibility based solely on a Party's or witness's absence from the hearing or refusal to answer questions.

7. **Recordings.** The hearing will be recorded in audio or audiovisual format, or transcribed. Gnomon maintains the discretion to determine which method of recording to employ. The recording or transcript, if applicable, will be available for the parties to inspect and review, upon request.

8. Hearing Panel Determination/Standard of Proof:

- The panel will find a student either "responsible" or "not responsible" based on a majority vote. If a panel determines a student is "responsible" for violating Gnomon's Harassment and Sexual Misconduct Policy, the matter will advance to the sanctioning stage.
- The Preponderance of Evidence standard (more likely than not to have happened) will be used under the Title IX Complaint Process and for making findings regarding all complaints of sexual misconduct and relationship violence, including sexual assault, dating and domestic violence, and stalking and regarding interim restrictions/actions. § 106.45(b)(1)(vii)

9. Hearing Officer Written Determination

The hearing officer will prepare an initial written determination, which must include the following:

- a. The allegations that potentially constitute a conduct violation of this Policy;
- b. A description of all of the procedural steps of the Grievance Process under this Policy (from receipt of a Formal Complaint to the Hearing Decision);
- c. The findings of fact supporting the hearing officer's determination;
- d. The conclusion(s) and a rationale as to whether the Respondent is responsible for each allegation;
- e. The remedies, if applicable, designed to restore the Complainant's access to the education program or activity;

If the hearing officer finds the Respondent responsible for any alleged violations, the initial draft determination will be referred to the appropriate decision makers for decision/s regarding disciplinary sanctions.

Decision makers will provide the discipline decisions to the hearing officer within (7) business days of the hearing officer's referral to the decision maker. Upon receipt of the discipline decisions from the respective decision makers, the hearing officer will incorporate the discipline sanctions to prepare the completed written report.

Completed Report: The completed written report will include all components required in the initial draft written report and the disciplinary sanctions imposed.

The completed written hearing determination will be sent concurrently to the Parties.

10. Appeal of Hearing Determination

Each party is allowed one appeal the investigation findings and/or sanctions as provided by Non-Academic Appeal guidelines. Failure to appeal within five (5) business days of the issuance of the original findings will make the original decision final and conclusive (see Sanctions and Remedies below). A submission for appeal does not predicate alterations to the findings and/or sanctions.

11. Recordkeeping

Gnomon will maintain records of every Title IX sexual harassment investigation and determinations of responsibility, supportive measures provided, investigations, hearings (including recordings), appeals, informal resolutions, and supportive measures, as well as training materials, for seven years. (§ 106.45(b)(10))

Materials used to train Title IX personnel will be posted on the school's website §106.45(b)(10)(i)(D) E).

*This list is intended to be thorough and comprehensive, not exhaustive.

RECOMMENDATIONS AND APPLICATION OF SANCTIONS AND REMEDIES

Upon finding(s) of sexual misconduct, recommendations for sanctions and remedies ensue. The intent for sanctions and remedies is not to “undo” an act of sexual misconduct, rather an attempt to include some restoration of harm caused. Conduct codes and related procedures apply to behaviors exhibited by students; while policies under Human Resources govern the behaviors of employees. Regardless of whether the behavior was exhibited by a student, employee, or community member, the school has an obligation under Title IX to protect a harassed/affected student’s access to an education. Sexual misconduct, hostile work environment, and sexual violence must be addressed, even if the individual(s) who caused it cannot be identified. Sanctions may be issued individually, or a combination of sanctions may be imposed. Sanctions are determined on a case-by-case basis; however reasonable steps will be taken to foster consistency for similar violations and circumstances.

Imposition of sanctions alone is not an adequate remedy to address sexual harassment and sexual violence on campus. In addition to implementation of sanctions, an evaluation and review of school policies and campus-wide climate are made.

Adjustments to response processes, increased monitoring, supervision or security at locations where sexual misconduct is reported to occur, and increased education and prevention efforts to targeted populations shall be considered. These considerations in addition to sanctions and remedies allow the school’s interim and long-term intent to stop the sexual misconduct and prevent its recurrence.

Sanctioning and Remedies:

Recommendations for disciplinary sanctions ([Appendix B](#)) are processed by the designated Gnomon official or School Director. Once the report is finalized, written notice, including information regarding employment action, if any, shall be delivered to the Respondent (and Complainant as appropriate pursuant to FERPA and relevant employment privacy laws). The written notification may be sent via email and will include information on appeals. The designated Gnomon official will meet with the Complainant and Respondent separately to review the recommended sanction(s).

Appeal:

Each party is allowed an (1) appeal to the findings and/or sanction through the Non-Academic Appeal process and guidelines. If an appeal is submitted, the appropriate Gnomon official(s) will review relevant documentation, including the report, and Complainant’s and Respondent’s statements, if any. An appeal must be submitted within five (5) business days of the issuance of the original finding(s). All parties will receive notification of any appeal.

A request for appeal must be based on one or more of the following:

1. The established procedures were not followed, in a significant way, and as a result, the findings, the sanctions, or both, were not correct.
2. The severity of the sanction imposed is not appropriate or is disproportionate based on the nature of the violation or the circumstances.
3. There is new information that would have been material to the outcome. Information is not considered new if the information was voluntarily withheld during the original investigation and resolution process. The new information must be included with the student’s request for appeal.
4. Also, the student must show that the new information could not have been presented withheld during the original investigation and resolution process.

5. 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 individual complainant or respondent that affected the outcome of the matter.

If an appeal does not meet the qualifying grounds for appeal, and/or not submitted within the time allotted, the findings and sanctions become final. If modified or alternative disciplinary actions are imposed, a letter including final findings and/or sanctions and thoroughly documented specific reasons for the adjustments shall be delivered to the Respondent (and Complainant as appropriate pursuant to FERPA and/or other relevant laws). In cases where employee disciplinary action is recommended, designated Gnomon official(s) will begin the due process procedure, pursuant to Gnomon's employment policy, and applicable federal and state laws.

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Finality of Process

This procedure is intended to apply to alleged discrimination or harassment in violation of Title IX. All other misconduct or grievances by students against students or employees against students will be addressed through Academic/Non-Academic Misconduct procedures.

The findings and associated employment or student disciplinary actions based on this process, including all associated appeals and statutory rights outlined in school policies and this document, are final and will not be further addressed through the student conduct process, departmental administration, or human resource processes. Information obtained in these proceedings may be shared with local law enforcement, external governing bodies (e.g., the U.S. Department of Education Office of Civil Rights) with a properly issued subpoena.

APPENDIX A

INTERIM REMEDIAL REMEDIES

Interim measures are those services, accommodations, or other assistance that the school puts in place for Complainants after receiving notice of alleged sexual misconduct but before any final outcomes – investigatory, disciplinary, or remedial – have been determined. Gnomon wants students to be safe, to receive appropriate medical attention, and to get the help they need to heal and to continue equal access their educational opportunities.

Some possible interim measures are listed below, and the school determines which measures are appropriate for a particular Complainant on a case-by-case basis. Not all of the measures listed below will be necessary in every case to keep Complainants safe and ensure their equal access to educational programs and activities. If the Complainant or advocate identifies an interim measure that is not already provided by Gnomon, the school will consider whether the request can be granted. In those instances where interim measures affect both a Complainant and the alleged perpetrator, Gnomon will minimize the burden on the Complainant wherever appropriate.

Available Interim Measures:

- Assistance in obtaining, and information about off campus Complainant advocacy, medical and mental health, and counseling and support services
- Campus No Contact Order
- Rescheduling of exams and assignments (in conjunction with appropriate faculty)
- Providing alternative course completion options (with the agreement of the appropriate faculty)
- Transferring to another section of a lecture or laboratory
- Change in class schedule, including the ability to take an “incomplete,” drop a course without penalty or transfer sections (with the agreement of the appropriate faculty)
- Limit an individual access to certain school facilities or activities pending resolution of the matter
- Voluntary leave of absence or withdrawal
- Providing an escort to ensure safe movement between classes and activities
- Providing academic support services, such as tutoring
- Interim suspension or school-imposed leave
- Any other remedy that can be tailored to the involved individuals to achieve the goals of this policy

APPENDIX B

SANCTIONS AND REMEDIES

Appropriate sanctions in response to a Respondent found responsible for a violation of this policy may include, but are not limited to, those set forth below.

The Complainant and Respondent will each have the opportunity to present a written statement about impact and/or requested sanctions. Statements will be reviewed only if the Respondent has been found responsible for one or more violation.

In general:

- Any Respondent who is determined to have committed sexual assault may receive a sanction ranging from suspension or probation, to expulsion or termination.
- Any Respondent who is determined to have committed non-consensual sexual contact or any other prohibited form of conduct may receive a sanction ranging from conduct warning to expulsion or termination.

Deviation from the recommended sanctions may be applicable, based upon a full consideration of the following factors:

1. the Respondent's prior discipline history;
2. how the school has sanctioned similar incidents in the past;
3. the nature and violence of the conduct at issue;
4. the impact of the conduct on the Complainant;
5. the impact of the conduct on the community
6. whether the Respondent has accepted responsibility for his/her actions;
7. whether the Respondent is reasonably likely to engage in the conduct in the future;
8. the need to deter similar conduct by others; and
9. any other mitigating or aggravating circumstances.

Restorative justice outcomes may also be considered when taking into account the safety of the community as a whole. These outcomes allow a Respondent to learn about the origins of his/her behavior, his/her responsibility for this behavior, and how he/she can change this behavior. Service, education or rehabilitation, or research projects may also be assigned.

In appropriate cases, it may be determined that the conduct was motivated by bias, insofar as a Complainant was selected on the basis of his or her race, color, ethnicity, national origin, religion, age, disability or other protected class. If the student misconduct is deemed motivated by bias, it may be elected to increase the sanction imposed as a result of this motivation.

Sanctions and corrective actions that may be imposed under this policy include:

- **Written Warning:** Notice, in writing, that continuation or repetition of prohibited conduct may be cause for additional disciplinary action. Restrictions or conditions may also be imposed.
- **Restitution:** Repayment to the school or to an affected party for damages resulting from a violation of this policy. To enforce this sanction, Gnomon reserves the right to withhold its transcripts and degrees or to deny a student participation in graduation ceremonies and privileged events.

- **Suspension:** Exclusion from school premises, attending classes or employment, and other privileges or activities for a specified period of time, as set forth in the suspension notice. Conditions for return to Gnomon may be specified in the suspension notice.
- **Dismissal:** Termination of student status and exclusion from all Gnomon premises, activities, privileges, and Alumni services. Conditions for consideration for readmittance may be specified in the dismissal notice. This action will be permanently recorded on the student's academic transcript.
- **Expulsion/Termination:** Permanent termination of student status or employment, and exclusion from all Gnomon premises, activities, privileges, and Alumni services. This action will be permanently recorded on the student's academic transcript. Other sanctions may be imposed instead of, or in addition to, those specified here. More than one of the sanctions listed above may be imposed for any single violation. These examples are not all inclusive. Furthermore, exceptions or deviations from the normal procedure may occur whenever Gnomon deems it appropriate. Expulsion/Termination decisions will be based on an assessment of all relevant factors.

PREVENTION AND TRAINING

Gnomon is committed to protecting the safety of all persons involved, including complainants and witnesses, and the due process rights of respondents, as well as promoting accountability.

Information regarding this policy and related policies will be posted on Gnomon's website and also be included in orientation materials for new students.

Appropriate compliance training sessions will also be conducted on an ongoing basis.

Materials used to train Title IX personnel are available at:

[atixa.org/2020-regulations-requirement-posting-of-training-materials/](https://www.ed.gov/2020-regulations-requirement-posting-of-training-materials/)

RELATED INFORMATION

The [Education's Office for Civil Rights \(OCR\)](https://www.ed.gov/2020-regulations-requirement-posting-of-training-materials/) issued new regulations mandating how colleges and universities must investigate and adjudicate sexual misconduct cases under Title IX. The new regulations (summarized [here](#) and [here](#)) took effect on **August 14, 2020**.

Key provisions of the Department of Education's Title IX regulations can also be found at:

[ed.gov/news/press-releases/secretary-devos-takes-historic-action-strengthen-title-ix-protections-all-students](https://www.ed.gov/news/press-releases/secretary-devos-takes-historic-action-strengthen-title-ix-protections-all-students)

Gnomon's existing Title IX policies comply with the statute and OCR guidance and are available at:

gnomon.edu/policies-and-disclosures/title-ix

Conduct that does not meet one or more of the above criteria may still be prohibited and adjudicated under the Code of Conduct for Gnomon students and employees.