

SAMPLE CCD NOTICE OF ALLEGATIONS FOR STUDENT COMPLAINANT FROM TITLE IX COORDINATOR

AALRR Title IX Training, August 12, 2020

[LETTERHEAD]

CONFIDENTIAL

Sent Via email at [email address] and US mail

[Date]

[Student Name]

[Parent/Guardian Name(s)]

[Address]

Re: Notice of Allegations (“NOA”)

Dear [Names]:

On [date], I met with you and received your formal complaint against [Name of Respondent] (“Respondent”). You alleged that Respondent sexually harassed you, [Name of Complainant], (“Complainant”) on [date] at [describe location]. The purpose of this NOA is to notify you of supportive measures, summarize your allegations against Respondent, describe the relevant policies, inform you of your rights and responsibilities, and describe the [Name of College] (“College”) grievance/complaint process.

Supportive Measures. As discussed in our meeting, the College agreed to provide you with the following supportive measures during the complaint process. [List and describe the supportive measures.] If at any time, these supportive measures need adjustment or you feel you need additional support, please contact my office as soon as possible.

Allegations. The Complainant alleges that Respondent engaged in the following conduct: [Provide a description of the incident with enough detail to a meaningful summary of all the allegations. Below is a sample for illustration purposes only.]

On or about August 21, 2020, Respondent tutored Complainant on campus in the library. Respondent put a hand on Complainant’s knee, made comments about sexual acts, and then touched Complainant’s groin area. When Complainant moved away, Respondent moved towards Complainant. Complainant immediately left the library.

Potential Policy Violations, Corrective Action and/or Sanctions. These allegations, if found to have occurred, may violate the policies listed below:

- Sexual harassment in the form of physical and verbal harassment of a sexual nature [Cite to College Title IX Policy]

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- An attempted or actual forcible sexual offense as defined under Title IX [Cite to College Title IX Policy]
- Sexual harassment as described in the student conduct code which may be a cause for suspension and/or expulsion [Cite to College Student Conduct Code]
- Sexual assault or attempted sexual assault as described in the student conduct code which may be a cause for suspension and/or expulsion [Cite to College Student Conduct Code and/or Education Code § 76033.]
- Sexual discrimination or harassment prohibited by state regulations [Cite to relevant BP/APs which govern Title 5 of the California Code of Regulations related to discrimination and harassment.]

If found responsible for the alleged misconduct, Respondent may be subject to corrective action and sanctions up to and including no contact orders, suspension from classes, suspension from campus, expulsion, involuntary transfer and/or other disciplinary or corrective measures. [List all potential corrective actions under College's policies and practices.] The District will also provide Complainant with remedies to restore the Complainant's equal access to District's educational programs and activities. [List potential remedies.]

Rights and Responsibilities. During this complaint process, the Respondent is presumed *not* to be responsible for the alleged misconduct unless and until a trained, impartial, non-biased decision-maker reaches a different determination. The decision-maker will not make a determination of responsibility until after an investigation where the Complainant and Respondent will be given an opportunity during the review and comment period to review all directly related and/or relevant evidence obtained during the investigation.

The Complainant and Respondent may each have an advisor of their choice, who may be, but is not required to be an attorney. The advisor may be present for any meeting, interview, or hearing during this complaint process, and the advisor may inspect and review any evidence obtained as part of the investigation. The advisor shall ask questions during the cross-examination process in a live hearing, as you are not allowed to do so.

The District prohibits the Complainant, Respondent and any witness from knowingly making false statements or knowingly submitting false information during the complaint process. [Cite to applicable College policy, if any.] The College also prohibits any party tampering with any evidence or witness.

Investigation Process. The College has assigned an Investigator, [Name of Investigator], to investigate the sexual harassment allegations reported by Complainant.

This investigation will be conducted in a timely, thorough and impartial manner. The Investigator intends to interview the Complainant, relevant witnesses, and Respondent in a discrete and confidential manner. Disclosure of facts and allegations by the Investigator to persons interviewed will be limited to what is reasonably necessary to complete a fair and thorough investigation. You may bring an advisor of

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your choice, such as a parent, support person, or attorney to your interview or related meetings. The Investigator will keep Complainant and Respondent informed of the progress of this investigation.

The Investigator will also review any documents and other information relevant to the allegations. If you have any materials that you believe may be relevant to this investigation that you have not already submitted to the College, please send those to me or give copies to the Investigator during your upcoming interview, (e.g., emails, texts, instant messages, photos, social media postings, videos, notes or other documents). However, if you have photos or videos involving nudity or sexual activity of minors, please do not forward those to us at this time. The College may need to take certain precautions before viewing such materials. The Investigator may, however, ask you to recount what you observed to be contained in the relevant photo or video material. During the investigation, Investigator will inspect the evidence and assess the relevance, weight and credibility of the information provided. Please note, you must not tamper with or alter any evidence, and you must not tamper with or attempt to alter any witness testimony.

Prior to completing the investigation report, the Investigator will send to the Complainant and Respondent (and their respective advisors, if any) the evidence that has been gathered, likely in the form of a confidential Draft Report of Evidence. You and your advisor may inspect and review the evidence and will have at least 10 days to submit a written response.

After reviewing any written responses, the Investigator will prepare a confidential Investigative Report that fairly summarizes the relevant evidence, and the Investigative Report will be forwarded to the Complainant and Respondent (and their respective advisors, if any.) Complainant and Respondent will both have at least 10 days to submit another written response regarding the Investigative Report.

Overview of Decision-Maker’s Determination of Responsibility and Hearing Process. At this point in the complaint process, the College will send each party a Notice of Hearing which will explain all of the procedures and rights afforded to the parties. The College has set-forth a brief overview of the hearing process below.

After the parties’ review and comment period regarding the evidence gathered during the investigation, the College will schedule a live hearing and assign a trained, unbiased Decision-Maker(s), who is not the Title IX Coordinator or the investigator. The Decision-Maker(s) will not reach a determination regarding responsibility until after the live hearing, where the parties’ advisors shall conduct cross-examination directly, orally, and in real time. As a party, you are not allowed to ask cross examination questions, but you can be present while your advisor does so. The Decision-Maker(s) may prohibit some cross examination questions if they are determined to be irrelevant or based on irrelevant prior sexual history of the Complainant.

After the hearing, the Decision-Maker(s) will issue a written determination regarding responsibility. The Decision-Maker(s) will make findings of fact, reach conclusions, explain the rationale, and determine whether policy has been violated based on a preponderance of the evidence standard (i.e. “it is more likely than not the allegation occurred or did not occur”). **[IF THE COLLEGE USES CLEAR AND**

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CONVINCING STANDARD, REVISE ACCORDINGLY.] The Decision-Maker(s) will prepare a written decision, and the College will send the Complainant and Respondent a copy of the written determination simultaneously. The written determination will explain the appeal process. After exhausting any appeal process, if the Respondent is found responsible for sexual harassment against the Complainant, the College will implement sanctions for Respondent and remedies for Complainant.

Timelines. The College endeavors to complete the investigation and complaint process within reasonably prompt time frames, typically within 60-90 calendar days of the time the formal complaint was filed. If the College has good cause to extend the time lines, the College will provide written notice to the Complainant and Respondent explaining the reasons for the delay and the needed extension.

Informal Resolution Process. You are not required to participate in an informal resolution process. However, at any time prior to reaching a determination regarding responsibility, you may request an informal resolution process that does not involve a full investigation and adjudication. Please contact me to discuss informal resolution options. An informal resolution process will be initiated only upon written consent from all parties.

If the matter is resolved through an informal resolution process, then the complaint will be dismissed. At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process.

Confidentiality. The College will keep the identity of the Complainant, Respondent and witness(es) confidential unless required by law or as necessary to carry out this complaint process. As such the College will, to the extent possible, maintain privacy and/or confidentiality during the complaint process. However, the Complainant and Respondent are not restricted from discussing the allegations under investigation or from gathering and presenting relevant evidence during the investigation process needed to support their case, unless each party has signed a written agreement restricting the release of confidential information.

No Retaliation. The College or other person may not intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in an investigation, proceeding, or hearing. If you believe you have been retaliated against, please contact this office immediately.

If you have any additional questions during the course of the investigation, please do not hesitate to contact me at **[list contact information]**.

Very Truly Yours,

[Name]

Title IX Coordinator