Caltech INSTITUTE POLICY

Sex- and Gender-Based Misconduct

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SECTION I: INTRODUCTION

1.0 Policy

All members of the Caltech community have the right to be treated, and the responsibility to treat others, with dignity and respect. These principles are fundamental to the educational and intellectual mission of Caltech. It is the policy of Caltech to provide a work and academic environment free of discrimination, harassment, sexual misconduct, and retaliation. Caltech will not tolerate such conduct and is committed to educating the community in ways to prevent its occurrence.

As defined in this policy, sex- and gender-based discrimination, sexual and gender-based harassment, and sexual misconduct, including sexual assault, sexual battery (i.e., nonconsensual sexual contact), dating and domestic violence, sexual exploitation, and stalking constitute prohibited conduct and violate this policy. Such conduct generally violates Title VII of the Civil Rights Act of 1964, as amended; Title IX of the Education Code; and/or California law.

All individuals are protected against prohibited conduct (defined below in Section III) regardless of gender. For the purposes of this policy, the term “gender” is broadly defined, encompassing sex, sexual orientation, gender identity, and gender expression. Prohibited conduct can be committed by individuals of any gender and can occur between or among individuals of the same gender or different genders, strangers, or acquaintances as well as people involved in intimate or sexual relationships.

Caltech also prohibits retaliation against an individual who reports, submits a complaint, or otherwise participates in good faith in any matter related to this policy.

Caltech will take prompt and equitable action upon receiving a report of prohibited conduct to determine what occurred and will take steps to stop and remedy the effects of any such conduct and prevent its recurrence. Caltech provides all parties with appropriate due process and will take appropriate action, including disciplinary measures, when warranted, up to and including termination of employment or changes to student enrollment status, including expulsion.

Any reference in this policy to a Caltech administrator is understood to include not only that administrator but also their designee.

2.0 Scope

This policy applies to all current students, faculty, supervisory and nonsupervisory staff, postdoctoral scholars, volunteers, interns, vendors, independent contractors, persons performing services under contract with the Institute, visitors, and any other individuals who are regularly or temporarily employed, studying, living, visiting, or otherwise participating in Caltech’s educational programs or activities (“covered persons”). The requirement not to discriminate in Caltech’s educational programs or activities also extends to admissions and employment. Inquiries about the application to Caltech of Title IX and its implementing regulations may be referred to the Title IX Coordinator.

This policy applies, when both parties are covered persons, to (a) prohibited conduct occurring on Institute-controlled property, at Institute-sponsored events, in Institute programs or activities, or Institute-owned or controlled residential facilities, regardless of location; (b) prohibited conduct occurring on property or at events controlled or sponsored by Institute-affiliated organizations including student organizations, regardless of location; (c) prohibited conduct

occurring off campus, in any location or context, when the occurrence of such alleged conduct could contribute to a hostile educational environment or otherwise interfere with a student's access to education; or (d) prohibited conduct occurring outside of Caltech's educational programs or activities, whether they occurred on or off campus, if, based on the allegations, there is any reason to believe that the incident could contribute to a hostile educational environment or otherwise interfere with a student's access to education.

Organizations affiliated with the Institute or that use Caltech property or resources in connection with their activities also are prohibited from engaging in prohibited conduct.

This policy also applies at the Jet Propulsion Laboratory (JPL).

Members of the Caltech community are encouraged to promptly report prohibited conduct to Caltech or consult with a confidential resource (see Appendix: Support Resources), regardless of where the incident occurred or who committed it. Supervisory employees and other Responsible Employees are required to promptly report prohibited conduct. An individual who has experienced sexual misconduct is encouraged to immediately seek assistance from a medical provider and report the incident to local law enforcement, which the confidential Campus Sexual Violence Advocate can coordinate and facilitate. Reports to Caltech and law enforcement may be pursued simultaneously.

Even if Caltech does not have jurisdiction under this policy over the person accused of prohibited conduct, or the allegations reported, Caltech will take prompt action, as warranted and appropriate, to provide for the safety and well-being of the individual reporting and the campus community, including taking reasonable steps to stop and remedy the effects of the prohibited conduct and to prevent recurrence of the behavior.

3.0 Retaliation

Retaliation against any member of the Caltech community at any point in time for making a good-faith report of prohibited conduct or participating or refusing to participate in any manner in an investigation, proceeding, or hearing conducted by Caltech, or a state or federal agency is strictly prohibited. Retaliation is defined as overt or covert acts of reprisal, interference, discrimination, intimidation, or harassment against an individual or group for exercising their rights under Title IX or other federal and state laws. Threats of retaliatory action also constitute retaliation. Retaliation violates this policy and is unlawful.

Retaliation does not include charging an individual with a code of conduct violation for making a materially false statement in bad faith during the course of an investigation, proceeding, or hearing related to this policy, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

The following are examples of conduct that may constitute retaliation:

- A faculty or staff supervisor suspects and assigns blame for an anonymous report to the Equity and Title IX Office and gives the suspected reporter undesirable work or lab assignments, or a lesser recommendation or salary increase than the suspected reporter merits based on their actual work.
- A faculty or staff supervisor refuses to continue to work with a student, subordinate, or colleague who has reported a concern about them to the Equity and Title IX Office.
- A student spreads false information around the House about a fellow student who has reported a concern about them or a friend to the Equity and Title IX Office.

- A student gets other students to engage in “blackballing” or socially ostracizing behavior against a student who was called as a witness in a Title IX investigation where the respondent was a friend of the student organizing the blackballing.
- A staff supervisor requires an employee who raised concerns with them about differential treatment between men and women on the team to track their weekly time on assignments, but no one else is required to track their time, and there is no prior employment history to support the necessity of tracking time.

Caltech will take steps to prevent retaliation and will take prompt and appropriate corrective action to stop and remedy its effects if retaliation occurs. Caltech will involve senior academic, administrative, and Student Affairs leadership, as required, to prevent and remedy retaliation. Individuals who violate Caltech’s policy prohibiting retaliation may be subject to disciplinary action up to and including termination of employment, student expulsion or being permanently excluded from Caltech controlled-premises.

4.0 Preservation of Evidence of Prohibited Conduct

Prohibited conduct, as defined in this policy, may also be a crime. Individuals who have experienced sexual violence are urged to seek medical treatment as soon as possible. Sexual assault forensic exams (or rape kit tests) are available free of charge at multiple local medical centers (see the Appendix: Support Resources chart at the end of this policy) and facilitate both evidence preservation and any necessary medical treatment. Evidence preservation is important in case an individual would like to file a report with law enforcement, pursue civil litigation, or obtain a protective order. If an individual chooses to receive a forensic exam, they should avoid showering, bathing, douching, eating, drinking, washing their hands, or brushing their teeth until after the medical examination. Exams should be performed within 72 hours of the incident. Individuals should save all clothing worn at the time of the assault. Each item of clothing should be placed in a separate paper bag, not a plastic bag. Individuals who have experienced sexual violence are strongly encouraged to preserve all physical and electronic evidence.

Examples of physical evidence may include clothing, bedding, contraceptives, letters, and notes. Any such items relating to an incident of prohibited conduct should be preserved.

Electronic evidence relating to any type of incident of prohibited conduct, such as texts, emails, photos, and social media posts, should be preserved.

Once an individual reports a concern or receives notification of their involvement in a report or complaint under this policy, whether as a respondent or witness, they are required to preserve any physical or electronic evidence they have. An intentional failure to preserve such evidence may be grounds for disciplinary action.

5.0 Emergency Notifications and Timely Warnings

In the event of a dangerous situation on campus that has involved an immediate threat to the health or safety of students or employees, Caltech will issue an emergency notification consistent with its emergency notification procedures. In the event that Caltech believes that there is a serious or continuing threat to the campus community, Caltech will issue a timely warning consistent with its timely warning procedures. Emergency notifications and timely warnings do not disclose the name of the victim.

SECTION II: REPORTING CONCERNS AND COMPLAINTS

6.0 Reporting to Caltech

Any person may report prohibited conduct, whether or not the person reporting is the person alleged to be the victim of the alleged prohibited conduct. They may make their report in person, by mail, by telephone, by electronic mail, or by any other means that results in the Title IX Coordinator receiving their verbal or written report. They may also use the Report Form on the Equity and Title IX Office website, which can be submitted anonymously by not filling in the contact information. The Report Form is also available from the Equity and Title IX Office and at equity.caltech.edu. A member of the Caltech community who wishes to report prohibited conduct should do so as soon as possible after the incident, although reports may be made at any time.

Anyone who witnesses, experiences, or is otherwise aware of conduct that the individual believes to be in violation of this policy, including retaliation, is urged to contact Caltech immediately. Individuals are encouraged to report to the Title IX Coordinator or a deputy coordinator. Any employee in a supervisory role, including faculty, must promptly report all alleged sexual harassment, sex and gender-based misconduct, and retaliation, regardless of its alleged severity or frequency, to the Title IX Coordinator at campus or Deputy Title IX Coordinator for JPL, who will provide guidance and advice. In addition, other employees qualifying as Responsible Employees under 6.2 below must promptly report any instance of prohibited conduct to the Title IX Coordinator or the Deputy Title IX Coordinator for JPL, as appropriate.

If a member of the Caltech community would like support and guidance in reporting prohibited conduct, they may contact the Title IX Coordinator or a deputy coordinator, one of the deans or associate deans, the director of employee and organizational development in Human Resources, or the JPL section manager of talent management or Human Resources Business Partners at JPL. They may also contact any of the EEO coordinators identified in the Nondiscrimination and Equal Employment Opportunity Policy.

Caltech is committed to protecting the privacy of all individuals involved in a report of prohibited conduct. All administrators involved in responding to a report of prohibited conduct understand the importance of properly safeguarding private information. Caltech will make every effort to protect individuals' privacy interests consistent with Caltech's obligation to address reports made to Caltech.

A student who participates as a complainant or witness in an investigation of sexual assault, dating violence, domestic violence, or stalking will not be subject to disciplinary sanctions for a violation of Caltech's student conduct policies at or near the time of the incident, including but not limited to the Substance Abuse policy, unless Caltech 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 conduct that violates Caltech's policies prohibiting discrimination or other serious misconduct like plagiarism, cheating, research misconduct, or other forms of academic dishonesty.

6.1 Title IX Coordinator

The Title IX Coordinator is responsible for coordinating Caltech's compliance with Title IX and for Caltech's overall response to prohibited conduct falling under Title IX. The Title IX

Coordinator oversees the implementation and application of this policy and the related procedures to ensure the prompt and equitable resolution of complaints and the consistent treatment of the parties involved. In doing so, the Title IX Coordinator oversees all Title IX-covered and other sex- and gender-based misconduct complaints, monitors outcomes, identifies and addresses any patterns of systemic problems that arise, and assesses effects on the campus climate.

The names and contact information for the Title IX Coordinator and Deputy Title IX Coordinators are provided in the Procedures for Complaints of Sexual Misconduct Under Title IX and the California Education Code.

6.2 Responsible Employees

If an individual discloses prohibited conduct to any Responsible Employee, or if a Responsible Employee through any person or means, whether directly or indirectly, becomes aware of prohibited conduct, as defined below in III: Prohibited Conduct, Sections 15.0 and 16.0, they must report to the Title IX Coordinator all relevant details about the alleged conduct.

A Responsible Employee is broadly defined to mean an employee who has the authority to take action to redress sexual harassment or provide supportive measures to students, or who has the duty to report sexual harassment to an appropriate school official who has that authority.

At Campus, the following are Responsible Employees:

- Title IX Coordinator, deputy coordinators for faculty, students, and staff, and associated staff in the Equity and Title IX Office
- All faculty members, teachers, instructors, and lecturers
- All deans and associate deans
- All Housing and Student Affairs directors and coordinators, including Residential Life Coordinators
- Resident Associates while performing the duties of employment
- Staff members with a supervisory or managerial role, whom Caltech has not designated as confidential resources
- Security officers
- All Athletics directors, coordinators, and coaches at all levels
- Employee Relations consultants
- Coaches of any student athletic or academic team or activity (e.g., employees who are club advisors, music coaches, etc.)
- Graduate student instructors, while performing the duties of employment
- Laboratory directors, coordinators, or principal investigators
- Internship or externship directors or coordinators
- Study-abroad program directors or coordinators

At Campus, the term Responsible Employee does not include the licensed therapists in the Staff and Faculty Consultation Center and the Student Wellness Counseling Services, the Campus Sexual Violence Advocate, and the staff in Caltech's Center for Diversity and Inclusion, who have been designated by Caltech as confidential resources. These individuals are not required to report prohibited conduct to the Title IX Coordinator unless required by law to do so. However, these individuals shall inform each person who provides the individual with information regarding sexual harassment of the person's ability to report to a Responsible Employee and direct the person to those specific reporting resources.

At JPL, the following are Responsible Employees:

- Deputy Title IX Coordinator for JPL and associated staff
- Supervisors and managers
- Employee Relations representatives
- Education Office staff
- Chief Scientist Office staff

At JPL, the term “Responsible Employee” does not include licensed therapists in JPL’s Employee Assistance Program provided through Empathia.

In addition, under the Unlawful Harassment and Abusive Conduct Policy, any employee in a supervisory role, including faculty, must promptly report all alleged harassment, discrimination, and retaliation, regardless of its alleged severity or frequency, to the Equity and Title IX Office at Campus or Human Resources at JPL, which will provide guidance and advice.

6.3 Anonymous Reporting

Caltech provides the following resources for anonymous reporting:

Campus Hotline (626) 395-8787 or (888) 395-8787
JPL Ethics Hotline (818) 354-9999
JPL Protective Services Division’s Workplace Violence Hotline (818) 393-2851
For either Campus or JPL, by submitting a compliance Hotline Contact Form

You may also use the Report Form on the Equity and Title IX Office website, which can be submitted anonymously by not filling in the contact information.

A report is considered anonymous if the reporting party does not share their name or contact information. If a reporting party chooses to provide their name or contact information they will receive information about support resources, reporting options, and notification of an investigation, if an investigation is pursued.

6.4 Notification of Law Enforcement as Required by California Law

Individuals who have experienced sexual assault, stalking, sexual exploitation, or domestic relationship, or dating violence are encouraged to notify local law enforcement. Caltech will provide assistance in notifying law enforcement if the individual so chooses. If the complainant chooses to notify law enforcement, they may seek the assistance of the Equity and Title IX Office. The Equity and Title IX Office is available to facilitate the contact with law enforcement and the scheduling of a meeting, if the complainant chooses to make a report. An individual who has experienced sexual violence also has the right to decline to notify law enforcement or Caltech.

Caltech makes the following mandated reports of sexual misconduct to law enforcement: (a) incidents of sexual assault or sexual battery of a minor, as defined by California law; and (b) summary reports of incidents of sexual assault or sexual battery, under California Education Code Section 67383); however, Caltech will not report identifying information about the complainant without the complainant’s consent after being notified of their right to have personally identifying information withheld. If the complainant does not consent to be identified, personally identifying information about the respondent also will not be provided.

Individuals may also engage with the confidential Campus Sexual Violence Advocate (see Appendix: On-Campus Mental Health and Emotional Support Resources), who can facilitate a report to law enforcement.

Pasadena Police Department
Call 911 for Emergency Response
Non-Emergency Response: (626) 744-4241
207 N. Garfield Ave., Pasadena, CA 91101

7.0 Reports Involving Minors

Every member of the Caltech community who knows of or reasonably suspects child abuse or neglect, including any prohibited conduct involving a minor, has a personal responsibility to report the suspected child abuse or neglect to Caltech Security or the JPL Protective Services Division immediately.

Caltech employees who are mandated reporters have additional, legally required reporting obligations, including reporting immediately to the LA County Office of Child Protection and/or the local police department. See Mandated Reporter Guidelines and the Violence Prevention Policy for more information.

8.0 False Reports/Statements

Caltech expects its members to act with honesty, sincerity, and good faith in reporting concerns under this policy. Caltech will not tolerate intentional false reporting of information, allegations, or evidence. A good faith complaint that is not substantiated by a preponderance of the evidence after an investigation is not considered a false report.

However, when a complainant or third party is found to have intentionally fabricated or knowingly misrepresented information, allegations, or evidence, or otherwise to have acted with an intent to deceive or mislead in any of their dealings relating to Caltech's administration of this policy, they may be subject to disciplinary action up to and including termination of employment, student expulsion, or being permanently excluded from Caltech-controlled premises.

9.0 Privacy

Caltech will maintain the privacy of all individuals involved in a report of prohibited conduct to the extent practicable. All Caltech employees who are involved in the Institute's receipt of the report and the response, including the Title IX Coordinator, deputy coordinators, and investigators, receive training about respecting and safeguarding private information. Throughout the process, every effort is made to protect the privacy interests of all individuals involved in a manner consistent with the need for a thorough review and administration of the matter.

Privacy generally means that information related to a report of prohibited conduct will only be shared with those individuals who have a "need to know." The determination of who has a "need to know" is within the discretion of the Title IX Coordinator. These individuals are required to treat the information and respect the privacy of all individuals involved appropriately.

No meetings or conversations that take place under this policy, the Procedures for Complaints of Sexual Misconduct, or the Procedures for Complaints of Unlawful Discrimination, Harassment, and Retaliation may be audio- or visually recorded by anyone. The only exception to this rule is that the Equity and Title IX Office, in compliance with Title IX, will record the hearing conducted under the Title IX Complaint Procedures in order to provide a verbatim record of the hearing. These recordings will be maintained by the Equity and Title IX Office.

10.0 Requests for Confidentiality or That Complaint Not Be Pursued

With respect to allegations of prohibited conduct under this policy, the Title IX Coordinator and deputy coordinators make every effort to respect the concerns and goals of complainants, as well as their capacity to make independent choices regarding resolution options for addressing their complaints under this policy and the Procedures for Complaints of Sexual Misconduct Under Title IX and California Education Code.

In instances where a complainant requests that their name not be used, that Caltech not pursue any action against the respondent, including an investigation, or that no disciplinary action be taken, Caltech will seriously consider the request but weigh the request against Caltech's responsibilities, including under applicable laws, to take action to provide a safe, nonthreatening, and nondiscriminatory environment for all community members, including the complainant. The Title IX Coordinator will discuss with the complainant the reasons for their requests and attempt to address the underlying concerns, such as taking steps to prevent retaliation.

Where the complainant remains committed to the requests mentioned above, and the prohibited conduct falls under Section 15.0 below, the Title IX Coordinator will weigh the request against factors that may lead the Title IX Coordinator to take action on behalf of Caltech, which may be contrary to the wishes of the complainant, including potentially disclosing the complainant's name and/or proceeding to an investigation, to protect the health and safety of the complainant and the Caltech community. The factors considered are within the discretion of the Title IX Coordinator and include, but are not limited to, the nature and seriousness of the alleged conduct, whether the allegations are contested, the involvement of multiple respondents, the existence of multiple or prior reports of misconduct against the respondent, whether there was a weapon, physical restraints, battery, or other violence involved, whether the use of alcohol or drugs to induce vulnerability to sexual activity without consent was allegedly involved, whether there is evidence of a pattern of conduct, the presence of other circumstances that suggest there is a significant risk that the respondent will commit further acts of prohibited conduct, the age of a complainant, whether the respondent is a faculty or staff member with oversight of students, whether there is a power imbalance between the complainant and respondent, whether the complainant believes that the complainant will be less safe if the complainant's name is disclosed or an investigation is conducted, and whether Caltech is able to conduct a thorough investigation and obtain relevant evidence in the absence of the complainant's cooperation. Where the complainant remains committed to the requests above, and the prohibited conduct does not fall under Section 15.0, but only under 16.0 and/or 17.0, the Title IX Coordinator may elect to pursue action on Caltech's behalf without considering these factors.

If Caltech determines that it can honor the student's request for confidentiality, it shall still take reasonable steps to respond to the complaint, consistent with the request, to limit the effects of the alleged prohibited conduct and prevent its recurrence without initiating formal action against the alleged respondent or revealing the identity of the complainant. These steps may include increased monitoring, supervision, or security at locations or activities where the alleged misconduct occurred; providing additional training and education materials for students and

employees; or conducting climate surveys regarding sexual violence. The Institute shall also take immediate steps to provide for the safety of the complainant while keeping the complainant's identity confidential as appropriate. These steps may include changing living arrangements or course schedules, assignments, or tests. The complainant shall be notified that the steps Caltech will take to respond to the complaint will be limited by the request for confidentiality.

If Caltech determines that it must disclose the complainant's identity to the respondent or proceed with an investigation, it shall inform the complainant prior to making this disclosure or initiating the investigation. The complainant is not required to participate in the ensuing process. Caltech shall also take immediate steps to provide for the safety of the complainant where appropriate. In the event the complainant requests that Caltech inform the respondent that the student asked Caltech not to investigate or seek discipline, Caltech shall honor this request.

If the complaint includes allegations that may constitute a possible crime, the Title IX Coordinator will notify the complainant of their right to file a criminal complaint or to choose not to notify law enforcement. As stated above in Section 6.4, Caltech does not report sex- and gender-based misconduct to law enforcement on a complainant's behalf, unless such a report is mandated by law (e.g., sexual assault of a person under 18). If the complainant chooses to notify law enforcement, they may seek the assistance of the Equity and Title IX Office to facilitate the contact with law enforcement and the scheduling of a meeting to make a report.

The Title IX Coordinator, depending on facts and circumstances, may also elect to file a formal complaint and initiate an investigation even if the complainant does have the standing to do so.

Formal complaints may be filed even if a complainant elects not to notify law enforcement and/or pursue a criminal complaint.

All final determinations and decisions taken under this provision 10.0, except the complainant's decision to file a criminal complaint or to choose not to notify law enforcement, rest solely with the Title IX Coordinator.

11.0 Contacting Government Agencies

Employees, students, and others participating in Caltech's educational programs or activities may direct questions regarding Title IX to or file complaints with the U.S. Department of Education Office for Civil Rights, (415) 486-5555, ocr.sanfrancisco@ed.gov, or (800) 421-3481, OCR@ed.gov. In addition, employees may file complaints with the California Civil Rights Department at dfeh.ca.gov/contact-us or the United States Equal Employment Opportunity Commission (EEOC) at eeoc.gov. Complaints can also be directed to the Bureau for Private Postsecondary Education at bppe.ca.gov.

NASA-funded program participants may file a complaint at AssistedProgramComplaint@nasa.gov or find more information at missionstem.nasa.gov/filing-a-complaint.html. NSF-funded program participants may file a complaint with the Office of Diversity and Inclusion at programcomplaints@nsf.gov, (703) 292-8020, or find more information at nsf.gov/od/odi/harassment.jsp. Participants in programs funded by other federal agencies providing federal financial assistance to Caltech may file directly with those agencies.

Filing a complaint with a federal agency under Title IX must be done within 180 days of an alleged discriminatory or harassing event, and there is no requirement to exhaust remedies through (i.e., utilize or go through) Caltech's internal procedures before filing directly with a federal agency.

12.0 Clery Reporting

The federal Clery Act requires Caltech to issue an Annual Security and Fire Safety Report, which includes crime statistics for sexual assault (rape, fondling, incest, and statutory rape), domestic violence, dating violence, and stalking. Campus Security gathers these crime statistics from the Equity and Title IX Office, security reports, Pasadena Police Department information, JPL, and reports by Campus Security authorities. Crime statistics do not disclose any identifying information about the complainant, respondent, witnesses, or others and do not disclose any details of the incident. For more information and statistics for the past three years, see the current Annual Security and Fire Safety Report.

SECTION III: PROHIBITED CONDUCT

13.0 Scope

This section sets out what conduct is prohibited under this policy. For clarity, transparency, and administrative ease, this section delineates sexual harassment prohibited under the federal Title IX regulations (Section 15.0) and under the California Education Code (Section 16.0). All such misconduct is prohibited by Caltech. Additional misconduct prohibited by Caltech and other applicable law, including attempts and threats of prohibited conduct, is described in Section 17.0. Examples of specific types of Prohibited Conduct are provided in Section 18.0.

Reported behavior that does not constitute prohibited conduct under this policy but is nevertheless determined to be inappropriate pursuant to another applicable Caltech policy may subject the offending individual to disciplinary action.

The term "complainant" refers to the individual who allegedly is the subject of the prohibited conduct, and "respondent" refers to the individual who is alleged to have engaged in the prohibited conduct. The complainant and respondent may sometimes be referred to collectively as the "parties" in this document and the related Procedures for Complaints of Sexual Misconduct Under Title IX and the California Education Code.

The Title IX Coordinator will determine whether reported prohibited conduct is covered under the sexual harassment provisions of Title IX or constitutes other prohibited conduct as described under this policy and will apply the appropriate procedures. The Title IX Coordinator's determination will be communicated in writing to the parties. Allegations of Title IX-covered (Section 15.0) and California Education Code-covered (Section 16.0) prohibited conduct will be addressed under the Procedures for Complaints of Sexual Misconduct ("Procedures"). Where multiple allegations of prohibited conduct are at issue, and the Title IX Coordinator determines that only a portion falls within the scope of Sections 15.0 and 16.0, all of the allegations will be adjudicated under the Procedures for Complaints of Sexual Misconduct. Allegations of prohibited conduct falling exclusively under Section 17.0 will be addressed under Caltech's Procedures for Complaints of Unlawful Discrimination, Harassment, and Retaliation.

14.0 Affirmative Consent

Consent is a key component of various definitions of prohibited conduct. Affirmative consent is the standard of consent in Caltech's policy. Affirmative consent is the affirmative, conscious, and voluntary agreement to engage in sexual activity.[1]

- It is the responsibility of each person involved in the sexual activity to ensure that they have the affirmative consent of the other person(s) 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 each time sexual activity is engaged in, and it can be revoked at any time. Consent to one form of sexual activity is not, by itself, consent to other forms of sexual activity.
- The existence of a dating relationship between the persons involved, or the fact of any past sexual activity between them, should never by itself be assumed to be an indicator of consent.

It is not a valid excuse, including in the evaluation of complaints in any resolution process, in response to an alleged lack of affirmative consent that the respondent believed that the complainant consented to the sexual activity under either of the following circumstances:

- The respondent's belief in affirmative consent arose from the intoxication or recklessness of the respondent.
- The respondent did not take reasonable steps, in the circumstances known to the respondent at the time, to ascertain whether the complainant affirmatively consented.

It is not a valid excuse that the respondent believed that the complainant affirmatively consented to the sexual activity if the respondent knew or reasonably should have known that the complainant was unable to consent to the sexual activity under any of the following circumstances:

- The complainant was asleep or unconscious.
- The complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the complainant could not understand the fact, nature, or extent of the sexual activity.
- The complainant was unable to communicate due to a mental or physical condition.

A person who is incapacitated is not capable of giving effective consent to sexual activity. An incapacitated person lacks the physical and mental capacity to make informed, reasonable judgments about whether or not to engage in sexual activity. A person who is incapacitated may not be able to understand where they are, whom they are with, how they got there, or what is happening.

A person may be incapacitated by a temporary or permanent mental or physical condition, sleep, or unconsciousness. A person may also be incapacitated as a result of voluntary or involuntary (e.g., induced, forced) consumption of alcohol or drugs. Incapacitation is a state beyond mere intoxication or drunkenness. Just because someone is under the influence of alcohol or drugs does not necessarily mean that a person is incapacitated. Impairment must be significant enough to render a person unable to understand the fact, nature, or extent of the sexual activity. In evaluating affirmative consent in cases involving an allegation of

[1] A minor under the age of eighteen (18) is deemed to be incapable of providing affirmative consent under this policy.

incapacitation, Caltech considers the state and degree of intoxication of the reporting party and the knowledge of the respondent.

One's own intoxication, even to the point of incapacitation, does not relieve an individual from responsibility for a policy violation when they engage in sexual conduct without the affirmative consent of the other party or parties. However, a respondent who was incapacitated during sexual conduct has the right to file a formal complaint alleging they were incapacitated and unable to consent to the reported sexual activity.

15.0 Sexual Misconduct Covered under Title IX

Sexual harassment is covered under Title IX if it meets the definitions and scope requirements set out in this section.

NOTE: While Title IX prohibits discrimination on the basis of sex, sexual harassment is subject to specific procedures that do not apply to complaints of sex- and gender-based discrimination. Accordingly, sex- and gender-based discrimination is addressed separately below in Section 17.0 to ensure that the appropriate procedures are applied.

15.1 Definition of Sexual Harassment under Title IX

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following: (1) an employee of Caltech conditioning the provision of an aid, benefit, or service of Caltech on an individual's participation in unwelcome sexual conduct; (2) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Caltech's education program or activity; or (3) sexual assault, dating violence, domestic violence, or stalking as defined below.

15.1.1 Sexual assault means an offense classified as a sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, as follows:

Sex Offenses: Any sexual act directed against another person without the consent of the victim, including instances where the victim is incapable of giving consent.

Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This definition excludes statutory rape.

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

For purposes of this policy, the term private body parts includes breast, genitals, groin, anus, or buttocks.

Caltech interprets fondling to include potentially, depending on the facts and circumstances, (a) the disrobing or exposure of another without their consent, and (b) the touching of another person's private body parts for the purpose of sexual gratification without consent through clothing, as well as directly.

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

Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent, which in California is 18.

15.1.2 Dating, and Domestic Violence

Dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with a complainant. The existence of such a

relationship shall be determined based on the complainant's statement as well as consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating Violence does not include acts covered under the definition of Domestic Violence

Domestic violence means conduct, on the basis of sex, that constitutes a felony or misdemeanor crime of violence committed upon a victim who is (a) the offender's spouse or former spouse, (b) the offender's cohabitant or former cohabitant; or (c) the offender's fiancé or fiancée, or someone with whom the offender has, or previously had, an engagement or dating relationship; (d) the parent of the offender's child; or (e) any other victim who is protected under the domestic or family violence laws of the state where the domestic violence occurred.

15.1.3 Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress.

"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 the person's property.

"Reasonable person" means a reasonable person under similar circumstances and with similar legally protected or other characteristics to the victim.

Stalking is also covered by the Violence Prevention policy and should be reported to the Equity and Title IX Office and Security at campus or the Protective Services Office at JPL.

Making an audio or video recording of an individual without their consent is prohibited and may constitute stalking under this policy or the Violence Prevention Policy.

15.2 Scope of Requirements for Title IX Sexual Harassment

Title IX addresses sexual harassment in an education program or activity of Caltech against a person in the United States.

At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in an education program or activity of Caltech. The term

"attempting to participate" includes when a complainant has: (a) applied for admission; (b) graduated but intends to apply for a new program; (c) graduated but intends to participate in alumni programs and activities; (d) gone on leave but is still enrolled; (e) gone on leave but intends to re-apply after the leave; (f) withdrawn due to alleged sexual harassment and expresses a desire to re-enroll if Caltech responds appropriately to the allegations.

The term "education program or activity" includes buildings or other locations that are part of the school's operations, including remote learning platforms; (a) locations, events, or circumstances, even if off-campus, over which Caltech exercised substantial control over both the respondent and the context in which the alleged sexual harassment occurred; and (b) any building, even if off-campus, owned or controlled by a student organization that is officially recognized by Caltech.

15.3 Limitation on Claiming Consent as a Defense to Sexual Harassment

When a consensual personal relationship arises and a power differential exists, Caltech does not consider consent as a defense to a claim of sexual harassment. The individual in the relationship with greater power will be held responsible.

16.0 Sexual Misconduct Covered under the California Education Code

Prohibited conduct under this policy is covered under the California Education Code (CEC) if it meets any of the definitions of sexual assault, dating violence, domestic violence, and stalking under Section 15.0, and sexual harassment set out below in this section.

16.1 Definition of Sexual Harassment under the CEC

Sexual harassment means unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:

(1) Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress.

(2) Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.

(3) 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.

Verbal sexual harassment includes but is not limited to unwelcome epithets, comments, or slurs of a sexual nature.

Visual sexual harassment includes but is not limited to derogatory posters, cartoons, drawings, obscene gestures, or computer-generated images of a sexual nature.

Physical sexual harassment includes but is not limited to assault, impeding or blocking movement, or any other physical interference with work or academic activities or movement when directed against an individual on the basis of sex.

When an individual sexually harasses a student, the harassing conduct creates a hostile environment on campus for the purposes of this section if the conduct is sufficiently serious that it interferes with or limits a student's ability to participate in or

benefit from the institution's programs or activities. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment on campus, particularly if the harassment is physical. A single or isolated incident of sexual harassment, including sexual violence, may create a hostile environment on campus if the incident is sufficiently severe.

(4) 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.

(5) Sexual violence, which means physical sexual acts perpetrated against a person without the person's affirmative consent, including rape and sexual battery.

(6) Rape, which is defined as penetration, no matter how slight, of the vagina or anus with any part or object, or oral copulation of a sex organ by another person, without the consent of the victim.

(7) Sexual battery, which means the (a) intentional touching, directly or through clothing, of another person's intimate parts without consent, (b) intentionally causing a person to touch the intimate parts of another, directly or through clothing, without consent, or (c) using a person's own intimate part to intentionally touch another person's body, directly or through clothing, without consent.

Intimate body parts are the breast, genitals, groin, anus, or buttocks.

(8) Sexual exploitation, which means a person taking sexual advantage of another person for the benefit of anyone other than that person without that person's consent, including, but not limited to, any of the following acts:

(a) The prostituting of another person.
(b) The trafficking of another person, defined as the inducement of a person to perform a commercial sex act, or labor or services, through force, fraud, or coercion.
(c) The recording of images, including video or photograph, or audio of another person's sexual activity or intimate parts, without that person's consent.
(d) The distribution of images, including video or photograph, or audio of another person's sexual activity or intimate parts, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to the disclosure.
(e) The viewing of another person's sexual activity or intimate parts, in a place where that other person would have a reasonable expectation of privacy, without that person's consent, for the purpose of arousing or gratifying sexual desire.

16.2 Limitation on Claiming Consent as a Defense to Sexual Harassment

When a consensual personal relationship arises and a power differential exists, Caltech does not consider consent as a defense to a claim of sexual harassment. The individual in the relationship with greater power will be held responsible.

17.0 Additional Conduct Prohibited by Caltech

This section lists and describes additional misconduct prohibited by Caltech, and under applicable law, but that is not subject to the Procedures for Complaints of Sexual Misconduct. Complaints of such prohibited conduct will be addressed under the Procedures for Complaints of Unlawful Discrimination, Harassment, and Retaliation.

17.1 Prohibition on Sex- or Gender-Based Discrimination

Sex- and Gender-Based Discrimination constitutes prohibited conduct under this policy.

Sex discrimination under Title IX occurs when a person in the United States, on the basis of actual or perceived sex, is excluded from participation in, or is denied the benefits of, or is subjected to discrimination, under any Caltech education program or activity. The term “education program or activity” encompasses all of the operations of Caltech.

Sex- or gender-based discrimination also includes unfavorable treatment on the basis of sex, gender, gender identity, gender expression, and sexual orientation.

Gender expression means a person’s gender-related appearance and behavior, whether or not stereotypically associated with the person’s assigned sex at birth.

17.2 Prohibition on Sex- and Gender-Based Harassment

Sex-based and gender-based harassment is harassment based on an individual’s actual or perceived sex, gender, gender identity, or gender expression, including harassing or bullying conduct based on the individual’s gender expression, gender identity, transgender status, gender transition, or nonconformity with sex stereotypes.

17.3 Prohibition on Relationships between Employees and Undergraduates

This policy prohibits sexual or romantic relationships between an undergraduate student and a faculty member, postdoctoral scholar, or staff member. Any Responsible Employee who becomes aware of such a relationship is expected to report it immediately to the Title IX Coordinator. The non-undergraduate party in the relationship will be held responsible for prohibited conduct violating this policy, regardless of whether a complaint is filed.

17.4 Prohibition on Evaluative Responsibilities in Certain Circumstances

Even when relationships are consensual, care must be taken to eliminate the potential for harassment or other conflicts. Caltech practice, as well as more general ethical principles, prohibits individuals, including Teaching Assistants, from participating in evaluating the work or academic performance of those with whom they have romantic and/or sexual relationships, or from making hiring, salary, or similar decisions regarding those individuals. Upon learning about a consensual relationship involving such a power differential, the supervisor, dean, or division chair should immediately notify the Title IX Coordinator and, in consultation with the Title IX Coordinator, should review and remedy any direct administrative or academic relationship between the involved individuals. The individual with greater power may be subject to disciplinary action for a violation of this prohibition.

17.5 Prohibition on Inequitable Treatment Stemming from Consensual Relationships

Even when relationships are consensual, care must be taken to eliminate the potential for harassment or other conflicts. If a consensual relationship exists, it is not acceptable to treat the individual in the relationship more favorably than other similarly situated individuals in the context of employment or academic performance.

17.6 Prohibition on Uncompleted Attempts or Threats of Prohibited Conduct

To the extent that uncompleted attempts or threats of prohibited conduct are not covered in Sections 15.0 and 16.0 of this policy, they are covered in Section 17.0. Threats of prohibited conduct may also constitute retaliation under this policy.

17.7 General Caution about Maintaining Appropriate Professional Boundaries

All members of the Caltech community should maintain respectful and professional boundaries with one another. This is particularly important when Caltech employees, whether faculty, postdoctoral scholars, or staff, interact with their subordinates, or with graduate and undergraduate students, due to the power differential that exists between them.

While certain conduct may not constitute prohibited conduct, it can create situations where students or others feel uncomfortable but reluctant to voice that sentiment. Depending on the circumstances, such situations may include hosting students at private homes, sharing lodging on academic-related trips (e.g., conferences, field trips), wearing swimsuits (e.g., marine research outing), and any interaction where alcohol is consumed (e.g., dinners at conferences, field trips, holiday parties).

Caltech encourages employees and other community members to think carefully about maintaining appropriate professional boundaries at all times, to state their boundaries as appropriate, and to consider seeking guidance from the Title IX Coordinator.

18.0 Examples of Prohibited Conduct

The following illustrative examples are provided to help prevent inappropriate behavior and are not evidence that similar allegations would automatically constitute that particular type of prohibited conduct. The examples below may constitute prohibited conduct, depending on the specific facts and circumstances.

18.1 Sex- or Gender-Based Discrimination

- Denying an employee a promotion because they are openly gay and some of the team who would be reporting to them strike you as somewhat conservative and you worry that the employee might not feel comfortable supervising them
- Rejecting a student from House membership because some students feel uncomfortable with the student's openness about their recent gender transition
- Rejecting a faculty candidate after a hiring team member opined that the candidate's voice and mannerisms are too high-pitched and animated to be perceived as sufficiently professional and authoritative to run a lab effectively
- Telling a masculine-presenting nonbinary individual that they cannot wear makeup or wear feminine clothing in the workplace

18.2 Sexual and Sex- or Gender-Based Harassment

- Sending unwanted sexually-oriented jokes to a student or work group email list or other group communication mediums (e.g., Slack, Teams)
- Displaying explicit sexual pictures in common areas of Institute housing or on a work computer station where others can view it

- Making or using derogatory comments, epithets, slurs, or jokes of a gender-based or sexual nature
- Ostracizing individuals from group activities because of their sex, gender or gender identity, gender expression, or sexual orientation, or because they objected to harassing behavior
- Threatening to “out” someone’s deadname or sexual orientation
- Making unwelcome graphic comments about an individual's body, using sexually degrading words to describe an individual
- Engaging in unwanted suggestive or obscene communications
- Engaging in unwelcome touching, fondling, or groping of a sexual nature
- Making unwanted sexual advances
- Promising a benefit to someone in exchange for engaging in sexual activity
- Exposing one’s genitals to another without consent

18.3 Stalking

- Repeated unwanted communication, including face-to-face contact, telephone calls, voice messages, emails, text messages, postings on social networking sites, written letters, or gifts
- Posting picture(s) or information of a sexual nature on social networking sites or other websites
- Gathering information about the person through the use of public records, online searches, going through the garbage, or contacting the person’s family, friends, or co-workers
- Posting private pictures or videos on school bulletin boards or internet sites, including on social media sites
- Installing spyware on another person’s personal devices, including phones or computers
- Surveillance or other types of observation, including staring or peeping
- Pursuing, following, or showing up uninvited at or near places like classrooms, residence, workplace, or other places frequented by the person
- Directly or indirectly making threats to the person
- Inducing friends, family members, or other persons to engage in any of the above conduct
- Inducing friends, family members, or other persons to track and report on the person’s whereabouts and activities

19.0 Informational Resources

Information on prohibited conduct, as well as copies of Caltech’s Sex- and Gender-Based Misconduct; Nondiscrimination and Equal Employment Opportunity; Unlawful Harassment; and Violence Prevention policies are available from the following resources:

At Campus: Caltech’s Title IX Coordinator and deputy Title IX Coordinators, Caltech’s EO Coordinators, Human Resources, Student Affairs, the Deans’ Offices, the Caltech Center for Inclusion and Diversity, Resident Associates, the Staff and Faculty Consultation Center, and Employee and Organizational Development.

At JPL: JPL’s deputy Title IX Coordinator, EO Coordinator, and Human Resources Business Partners.

The policies are published in the Caltech Catalog and on the following Caltech and JPL websites: JPL Human Resources, Equity and Title IX Office, and Student Affairs.

Related Policies and Procedures:

- Procedures for Complaints of Sexual Misconduct Under Title IX and the California Education Code
- Nondiscrimination and Equal Employment Opportunity Policy
- Unlawful Harassment and Abusive Conduct Policy
- Procedures for Complaints of Unlawful Discrimination, Harassment and Retaliation
- Violence Prevention Policy

Thomas F. Rosenbaum
President

APPENDIX: SUPPORT RESOURCES

Your safety is important. If you have an immediate safety, medical, or mental health concern, please contact the following resources.

Resource	Contact Information	Type of Resource	Confidential
Safety Resources			
Campus Security	(626) 395-5000 24/7	Safety situations, contact mental health and/or law enforcement resources, and provide transportation vouchers to off-campus resources. Security can contact the caller's choice of a confidential or other resource.	No
Pasadena Police Department	911 (626) 744-4241 24/7	Local law enforcement.	No
JPL Protective Services Division	(818) 393-3333 (818) 354-3333 24/7	Safety situations, contact mental health and/or law enforcement resources and arrange for transportation to off-campus resources. Security can contact the caller's choice of a confidential or other resource.	No
On-Campus Mental Health and Emotional Support Resources			
Campus Sexual Violence Advocate: Pilar Montenegro	(626) 395-4770 M-F 9-6	Sexual violence support resource for crisis response, case management, and advocacy.	Yes
Student Wellness, Counseling Services	After-hours crisis support available 24/7: (626) 395-8331, and press "2" when prompted, please stay on the line M-F 8-5, after hours	Individual psychotherapy and counseling, consultation, referrals, psychiatric evaluation and medication, and crisis intervention for students.	Yes
Staff and Faculty Consultation Center	(626) 395-8360 M-F 8-5	Professional counseling services for staff, faculty, and postdocs.	Yes
Caltech Center for Inclusion and Diversity	(626) 395-8108 M-F 9-6	Support resource for students; not required to report complaints to Equity and Title IX Office.	No
Empathia/Life Matters for JPL employees	(800) 367-7474 24/7	Mental health resource and can contact mylifematters.com (password: JPL).	Yes

Resource	Contact Information	Type of Resource	Confidential
Off-Campus Mental Health and Emotional Support Resources			
Peace Over Violence	892 N. Fair Oaks Avenue, Suite D Pasadena, CA 91103 (626) 584-6191 M-F 9-5:30,after hours (626) 793-3385 (24-hour line)	24-hour emergency services offer victims of sexual assault, domestic violence, and stalking emotional support, information, and compassion, as well as accompaniment, referral, and advocacy services.	Yes
Medical Resources		Note that medical providers (but generally not psychological counselors) must notify the police regarding assaultive or abusive conduct, including sexual assault.	
Caltech Student Wellness Services	After-hours crisis support available 24/7: (626) 395-8331, and press “2” when prompted, please stay on the line M-F 8-5, after hours	Medical consultation, lab and radiology services, pharmacy, women’s health and sexual health services.	Yes
Huntington Health (formerly Huntington Memorial Hospital)	100 W. California Blvd., Pasadena, CA 91105 (626) 397-5112 24/7	Emergency and trauma services. Social workers available to provide counseling as needed.	Yes
The Rape Treatment Center at Santa Monica -UCLA Medical Center	(424) 259-7208 www.uclahealth.org/rtc 24/7	24-hour emergency medical treatment for victims of sexual assault, including forensic services (“rape kit”). **We strongly and preferentially recommend this resource over any other Sexual Assault Response Team (SART).** **If you contact Security Dispatch in the Holliston Parking Lot, at (626) 395-5000, 24/7, they will provide you with travel vouchers to cover the trip by Uber.**	Yes
San Gabriel Valley Medical Center Sexual Assault Response Team (SART)	438 W. Las Tunas Dr. San Gabriel, CA 91776 (626) 289-5454 (SART) Hotline: (877) 209-3049 24/7	24-hour medical care, emotional support, and comprehensive exams including forensic evidence collection (the “rape kit”). Immediate connection to on-call nurse for sexual assault services.	Yes

Resource	Contact Information	Type of Resource	Confidential
Planned Parenthood Pasadena and San Gabriel Valley	1045 N. Lake Ave Pasadena, CA 91104 (626) 798-0706 M: 8:30-4:30, T: 7:00-3:30, W/TH: 11-7, F: 8:30-4:30, S: 8-4	Health clinic for emergency contraception, pregnancy resources, health and wellness, birth control, and family planning.	Yes
National Hotlines			
National Suicide Prevention Lifeline	988 or (800) 273-8255 24/7	Provides free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week, across the United States. The Lifeline is comprised of a national network of over 170 local crisis centers, combining custom local care and resources with national standards and best practices.	Yes
National Sexual Assault Hotline- RAINN (Rape Abuse and Incest National Network)	(800) 656-4673 24/7	RAINN created and operates the National Sexual Assault Hotline, accessible 24/7. The organization works closely with more than 1,000 local sexual assault service providers to offer confidential support services to survivors, regardless of where they are in their recovery.	Yes
National Domestic Violence Hotline	(800) 799-7233 24/7	Operates 24/7, confidential and free of cost, and provides lifesaving tools and immediate support to enable victims to find safety and live lives free of abuse. Callers can expect highly trained, experienced advocates to offer compassionate support, crisis intervention information, educational services, and referral services in more than 200 languages.	Yes