

APPENDIX G: RECORD MAINTENANCE AND ACCESS POLICY

Policy Scope

This Policy covers records maintained in any medium that are created pursuant to Cedar Crest College's Sexual Misconduct Policy and/or the regular business of Cedar Crest College's Dean of Students Office. All such student records are considered private or confidential by the Dean of Students Office, in accordance with FERPA and the directive from the Department of Education to maintain the confidentiality of records related to discrimination, harassment, and retaliation. All employee records are considered private or confidential and will be maintained in the Office of Human Resources. These records may be shared internally with those who have a legitimate educational interest and will be shared with the Parties to a Complaint under applicable federal and/or state law. The Dean of Students Office controls the dissemination and sharing of any records under its control.

Types of Records Covered Under this Policy

Records pertaining to the Sexual Misconduct Policy include, but are not limited to:

- The Complaint
- NOIAs
- Documentation of notice to the institution, including incident reports
- Anonymous reports later linked to a specific incident involving known Parties
- Any documentation supporting the initial evaluation
- Investigation-related evidence (e.g., physical and documentary evidence collected and interview transcripts)
- Dismissal-related documentation and appeals
- Documentation related to Emergency Removals, leaves, and interim actions and challenges
- Documentation related to the Resolution Process
- The Final Investigation Report and file
- Remedy-related documentation
- Supportive measures-related documentation
- Appeal-related documentation
- Informal Resolution records
- Outcome Notices
- Any other records typically maintained by Cedar Crest College as part of the Complaint file

Drafts and Working Files: Preliminary drafts and "working files" are not considered records that Cedar Crest College must maintain, and these are typically destroyed during the course of an investigation or at the conclusion of the Resolution Process. They are preliminary versions of records and other documents that do not state a final position on the subject matter reviewed or are not considered to be in final form by their author and/or the Title IX

Coordinator. An example of a “working file” would be the Investigator’s notes made during an interview on topics that they want to revisit in subsequent interviews. Sole possession records maintained as such in accordance with FERPA are also included in this category. All drafts of investigation reports shared with the Parties are maintained.

Attorney Work-Product: Communications from the Dean of Students Office or its designees with Cedar Crest College’s legal counsel may be work product protected by attorney-client privilege. These privileged communications are not considered records to be maintained by the Dean of Students Office or accessible under this Policy unless the Title IX Coordinator, in consultation with legal counsel as necessary, determines that these communications should be included as accessible records.

Record Storage

Records may be created and maintained in different media formats; this Policy applies to all records, irrespective of format. All records created pursuant to the Policy, as defined above, must be stored in digital format and maintained by the Dean of Students Office. The complete file must be transferred to the Dean of Students Office typically within fourteen (14) business days of the complaint resolution (including any appeal), if the file is not already maintained within the Dean of Students Office. Security protocols must be in place to preserve the integrity and privacy of any parts of any record that are maintained in the Dean of Students Office during the pendency of an investigation.

The Dean of Students Office will store all records created pursuant to the Policy, regardless of the identities of the Parties. Any extra (non-essential) copies of the records (both digital and paper) must be destroyed.

A copy of records showing compliance with any applicable Clery Act/Violence Against Women Act (VAWA) requirements will be maintained along with the Complaint file by the Dean of Students Office.

Title IX Training Materials

Cedar Crest College will also maintain copies of the slides or other materials from all Title IX training for the Resolution Process Pool members, the Title IX Team, and employees. Trainings occurring prior to August 1, 2024, are available upon request to the Title IX Coordinator and trainings occurring after August 1, 2024, are available for review upon request to the Title IX Coordinator.

Record Retention

All records created and maintained pursuant to the Policy will be retained by the Dean of Students Office for a minimum of seven (7) years in database, digital, and/or paper form. Except for records pertaining to Title IX and the Clery Act/VAWA, the Title IX Coordinator may

authorize destruction or expungement acting under their own discretion, or in accordance with a duly executed and binding claim settlement and/or by court or government order.

Record Access

Access to records created pursuant to the Policy or housed in the Dean of Students Office is strictly limited to the Title IX Coordinator and any person they authorize in writing, at their discretion, or via permission levels within the database. Those who are granted broad access to the Dean of Students Office records are expected to access only those pertinent to their scope, work, or specific assignment. Anyone who accesses such records without proper authorization may be subject to an investigation and possible discipline/sanction. The discipline/sanction for unauthorized access of records covered by this Policy will be at the discretion of the appropriate disciplinary authority, consistent with other relevant Cedar Crest College policies and procedures.

Student Parties may request access to their complaint file. Cedar Crest College will provide access or a copy within 45 days of the request. Appropriate redactions of personally identifiable information may be made before inspection, or any copy is shared.

During the investigation, materials may be shared with the Parties using a secure folder in Microsoft One Drive. The Dean of Students Office will upload all requirement documents into the folder and provide view only privileges for all parties. At the conclusion of the case, the folder will be removed and deleted.

Cedar Crest College will maintain an access log of each case file, showing when and by whom it was accessed and for what purpose.

Record Keeping

Cedar Crest College will maintain any all records in accordance with state and federal laws and will maintain, for a period of at least seven years, records of:

- Each sexual misconduct investigation, including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation
- Any disciplinary sanctions imposed on the Responding Party
- Any remedies provided to the Reporting Party designed to restore or preserve equal access to Cedar Crest College's education program or activity
- Any appeal and its outcome
- Any Informal Resolution and its outcome
- All materials used to train Title IX Coordinators, Investigators, Decision Makers, and any person who facilitates an Informal Resolution process. Cedar Crest College will make these materials available upon request
- Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including
- The basis for all conclusions that the response was not deliberately indifferent

- Any measures designed to restore or preserve equal access to Cedar Crest College's education program or activity
- If no supportive measures were provided to the Reporting Party, the reasons why such a response was not clearly unreasonable in light of the known circumstances

Record Security

The Title IX Coordinator is expected to maintain appropriate security practices for all records, including password protection, lock and key, and other barriers to access as appropriate.

Record security should include protection from floods, fire, and other potential emergencies.

Clothing, forensic, and other physical evidence should be securely stored in Campus Police or another appropriate secure location. All physical evidence will be maintained in a facility that is reasonably protected from flood and fire. A catalog of all physical evidence will be retained with the Complaint file. Once the resolution process is complete and any appeals have been heard, all physical evidence will be photographed with the images being uploaded to the case file. At that time all physical evidence will be destroyed.