

# **Campus Hollywood/Theatre of Arts Sexual Misconduct Response Policy**

## **I. Introduction and Scope of Policy**

Theatre of Arts (the “College”) complies with Title IX of the Education Amendments of 1972 (“Title IX”), which prohibits Sex Discrimination in education programs and activities receiving federal financial assistance. The purpose of this Sexual Misconduct Response Policy (“Policy”) is to define certain conduct prohibited by Title IX, as well as other types of sexual misconduct prohibited by the College, describe the process for reporting violations of the Policy and for filing Formal Complaints, outline the process used to investigate and decide alleged violations of this Policy, and identify the resources available to Complainants and Respondents.

The College prohibits Sex Discrimination, and other types of sexual misconduct defined in this Policy. The College also prohibits Sexual Harassment that occurs within any education program or activity of the College, against a person in the United States. The College’s “education program or activity” includes locations, events, or circumstances over which the College exercises substantial control over both the Respondent and the context in which the Sexual Harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the College. Anyone may experience Sex Discrimination, Sexual Harassment or other sexual misconduct, irrespective of gender identity or sexual orientation. The College also prohibits Retaliation against any person for exercising any right or privilege under this Policy, or because the individual has made a report or complaint, testified, assisted or participated in an investigation, proceeding or hearing under this Policy.

As described further below, the College has designated a Title IX Coordinator to coordinate compliance with this Policy, and respond to inquiries, reports and Formal Complaints under this Policy.

Allegations of Sexual Harassment that do not meet the definition of Sexual Harassment under this Policy shall be addressed under other applicable College policies, such as student conduct policies or policies applicable to employees or faculty, as appropriate and within the Colleges’ discretion.

## **II. Definitions**

### **A. Prohibited Conduct**

Prohibited Conduct under this Policy is necessarily Prohibited Conduct under other applicable College policies, such as student conduct policies or policies applicable to employees or faculty. The following conduct is prohibited:

**“Assault With Intent to Commit Rape”** means a willful act that by its nature would directly and probably result in the application of force to a person, with the intent to commit rape.

**“Child Abuse”** means sexual abuse, neglect or exploitation of a person who is under the lawful age of consent in the state in which the conduct occurs. The age of consent in California is 18. If other age requirements apply, individuals are expected to be aware of and comply with the laws applicable to them.

**“Dating Violence”** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, the frequency of interaction between the persons involved in the relationship.

**“Domestic Violence”** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the applicable jurisdiction, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the applicable jurisdiction.

**“Retaliation”** means intimidation, threats, coercion, or discrimination, including charges against an individual for policy or code of conduct violations that do not involve Sex Discrimination or Sexual Harassment, but arise out of the same facts or circumstances as a report or complaint of Prohibited Conduct, or a Formal Complaint, for the purpose of interfering with any right or privilege under this Policy. Retaliation may be directed against a Party, or against anyone who participates or who refuses to participate in any process under this Policy. However, charging an individual with a policy or code of conduct violation for making a materially false statement in bad faith in a report, complaint or Formal Complaint, or in the course of a Grievance Process, does not constitute Retaliation under this Policy. A determination regarding responsibility, alone, will not be sufficient to conclude that any Party made a materially false statement in bad faith.

Notwithstanding this definition of Retaliation, the exercise of rights protected under the First Amendment of the U.S. Constitution does not constitute Retaliation under this Policy. A person engaged in retaliatory conduct is subject to disciplinary sanctions under this Policy. For students, this may include but is not limited to denial of certain privileges, disciplinary probation, suspension, or expulsion. For employees, this may include but is not limited to warnings, suspensions, or termination. The College will consider interim measures in response to Retaliation-related concerns in order to stop Prohibited Conduct and its recurrence. In some instances, this may lead to the removal of the person accused of Retaliation from campus pending resolution of the matter, in accordance with Section III.F.

**“Sex Discrimination”** means discrimination (other than Sexual Harassment) based on sex, which includes gender identity and sexual orientation.

**“Sexual Assault”** means any sexual act directed against a Complainant without the Affirmative Consent of the Complainant, including instances in which the Complainant is incapable of giving Affirmative Consent, including because of incapacitation. The sexual acts covered by this definition include:

- **Rape**—(Except Statutory Rape) Penetration, no matter how slight, of the vagina or anus with another body part or object, or oral penetration by a sex organ of another person, without the Affirmative Consent of the Complainant.
- **Sodomy**—Oral or anal sexual intercourse with another person: forcibly or against that person’s will, meaning without the Affirmative Consent of the Complainant; or not forcibly or against the person’s will in instances where the Complainant is incapable of giving Affirmative Consent because of the person’s age or temporary or permanent mental or physical Incapacity.
- **Sexual Assault With An Object**—To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person: forcibly or against that person’s will, meaning without the Affirmative Consent of the Complainant; or not forcibly or against the person’s will in instances there the Complainant incapable of giving Affirmative Consent because of the person’s age or temporary or permanent mental or physical Incapacity.
- **Fondling**—The touching of the private body parts (buttocks, groin, breasts) of another person for the purpose of sexual gratification: forcibly or against that person’s will, meaning without the Affirmative Consent of the Complainant; or not forcibly or against the person’s will in instances where the Complainant is incapable of giving Affirmative Consent because of the person’s age or temporary or permanent mental or physical Incapacity.
- **Incest**—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape**—Nonforcible sexual intercourse with a person who is under the statutory age of consent in the jurisdiction where the conduct occurs. The age of consent in California is 18. If other age requirements apply, individuals are expected to comply with the laws applicable to them.

**“Sexual Battery”** means touching an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, sexual gratification, or sexual abuse.

**“Sexual Exploitation”** means taking nonconsensual or abusive sexual advantage of another for one’s own advantage or benefit, or to benefit a person other than the one being exploited. Some examples of sexual exploitation may include:

- Prostituting oneself or another person;
- Non-consensual photographing or video or audio recording of nude or sexually-explicit images or sexual activity or non-consensual transmitting, sending, disclosing or publicizing such images, videos, audio recordings, photographs or likeness, in whole or in part, by any means or medium, including but not limited to texting, email, live-streaming or social media;
- Exceeding the boundaries of explicit consent, such as allowing friends to hide in a closet to witness one's consensual sexual activity; or
- Engaging in non-consensual voyeurism.

**“Sexual Harassment”** means conduct on the basis of sex, including gender, that also satisfies one or more of the following:

- (1) employee conditioning the provision of an aid, benefit or service of the College 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 the College's education program or activity; or
- (3) Sexual Assault, Dating Violence, Domestic Violence, or Stalking (as defined in this Policy).

**“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.

In addition to the offenses described above, any sexual misconduct that violates the law of the jurisdiction where it took place shall also be considered Prohibited Conduct under this Policy.

## **B. Other Definitions**

**“Actual Knowledge”** means notice of Prohibited Conduct or allegations of Prohibited Conduct under this Policy by the Title IX Coordinator or any Official With Authority as defined herein. However, the College is not deemed to have Actual Knowledge when the only Official With Authority with Actual Knowledge is the Respondent.

**“Affirmative Consent”** means mutually understandable words or actions that clearly indicate a willingness to engage in a specific sexual activity. Affirmative Consent to engage in sexual activity must exist from beginning to end of each instance of sexual activity and may be withdrawn at any time. Silence or lack of protest, without actions evidencing permission, does not constitute Affirmative Consent. While Affirmative Consent may be expressed by words or by actions, it is highly recommended that Affirmative Consent be expressed and obtained verbally. Non-verbal Affirmative Consent expressed through actions may lead to confusion and potential for misunderstandings, which may lead to a violation of this Policy. Affirmative Consent

must be given by both parties. Each party is responsible for obtaining Affirmative Consent to engage in the sexual activity. An individual's use of alcohol or drugs does not diminish that individual's responsibility to obtain Affirmative Consent if that individual is the one who initiates sexual activity. Affirmative Consent must be conscious, knowing and voluntary. To give Affirmative Consent, a person must be of age in the state where the activity takes place. The age of consent in California is 18. Assent does not constitute Affirmative Consent if obtained through "coercion" or from an individual whom the Respondent knows or reasonably should know is "incapacitated".

Affirmative Consent to engage in sexual activity may be withdrawn by any person at any time. Once withdrawal of Affirmative Consent has been expressed, the sexual activity must cease immediately. Affirmative Consent is automatically withdrawn by a person who is no longer capable of giving Affirmative Consent due to incapacitation. A current or previous marital or consensual dating or sexual relationship between the Parties should never by itself be assumed an indicator of Affirmative Consent.

It is not a valid excuse that the accused believed there was Affirmative Consent if the accused knew, or reasonably should have known, that the Complainant was unable to give Affirmative Consent to sexual activity because he or she was: (1) asleep or unconscious; (2) incapacitated due to the influence of drugs, alcohol or medication so that he or she could not understand the fact, nature or extent of sexual activity; or (3) unable to communicate due to a mental or physical condition.

**"Coercion"** means the use of express or implied threats, intimidation, or physical force which places an individual in reasonable fear of immediate harm or physical injury.

**"Complainant"** means an individual who is alleged to be the victim of conduct that could constitute Prohibited Conduct.

**"Formal Complaint"** means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that the College 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 College. Participating or attempting to participate includes someone who has taken a leave of absence from their education or employment, but who intends to return. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by email, by using the contact information contained in Section III.B. of this Policy. As used in this definition, the phrase "document filed by a Complainant" means a document or electronic submission that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint.

**"Grievance Process"** means the process used by the College to investigate and decide Formal Complaints. The Grievance Process shall provide a prompt, fair and impartial investigation and resolution, and shall be conducted by persons who receive annual training on issues related to Domestic Violence, Dating Violence, Sexual Assault and Stalking, and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

**“Incapacity”** means, by reason of mental or physical condition, an individual lacks the ability to make a knowing and deliberate choice (that is, to give Affirmative Consent) to engage in sexual activity. Someone who is drunk, legally intoxicated or under the influence of a narcotic, anesthetic or other substance may be incapacitated, but is not necessarily incapacitated. Individuals who are asleep, unresponsive, or unconscious are incapacitated. Factors the College will use to assess whether someone is incapacitated for purposes of this Policy include, but are not limited to: inability to communicate coherently, inability to dress or undress without assistance, inability to walk without assistance, slurred speech, loss of coordination, vomiting, or inability to perform other physical or cognitive tasks without assistance. The existence of any one of these factors may support a finding of incapacitation for purposes of this Policy.

**“Official With Authority”** means the Title IX Coordinator and the following individuals who have the authority to College corrective measures under this Policy: President, Director of Education, Chief Executive Officer, the HR Manager,, College Security Officers and contracted security personnel. An Official With Authority who has Actual Knowledge must immediately report incidents or allegations of Prohibited Conduct to the Title IX Coordinator.

**“Party”** or **“Parties”** means any Complainant or Respondent, individually or collectively.

**“Prohibited Conduct”** means any of the defined terms under this Section II.A. Misconduct that is not defined as Prohibited Conduct under this Section may be prohibited by other College policies such as student conduct policies or the policies applicable to employees and faculty.

**“Remedies”** means any measure designed to restore or preserve equal access to the College’s education program or activity. Remedies may include disciplinary sanctions or Supportive Measures, and may be punitive in nature. The College will not impose Remedies that are not Supportive Measures against a Respondent unless and until a determination of responsibility for Sexual Harassment has been made against the Respondent pursuant to the Grievance Procedure. The Title IX Coordinator is responsible for coordinating the effective implementation of Remedies.

**“Respondent”** means an individual who has been reported to be the perpetrator of conduct that could constitute Prohibited Conduct.

**“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, regardless of whether the Complainant chooses to report the incident to campus security or local law enforcement. These measures are designed to restore or preserve equal access to the College’s education program or activity without unreasonably burdening the other Party, including measures designed to protect the safety of all Parties or the College’s educational environment, or deter Prohibited Conduct. Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class

schedules, campus escort services, transportation options, mutual restrictions on contact between the Parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The College will maintain as confidential any Supportive Measures provided to either Party, to the extent it can do so without impairing its ability to provide the Supportive Measures, and unless otherwise required by law. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.

### **III. Reporting and Complaint Procedures**

#### **A. General Principles**

The College strongly encourages individuals to report incidents involving conduct prohibited under this Policy and to obtain support services. Although the College does not limit the time frame for reporting allegations or for filing a Formal Complaint under this Policy, the College can most effectively respond to allegations of Prohibited Conduct if a report is made as promptly as possible after the incident occurs.

#### **B. Reporting Prohibited Conduct; Supportive Measures**

Any person may report Prohibited Conduct under this Policy (whether or not the person reporting is the person alleged to be the victim of the conduct), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator below, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. A report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed below for the Title IX Coordinator.

Contact Information:

Amanda Alvarez, Title IX Coordinator and Registrar

Theatre of Arts

6767 Sunset Blvd.

Hollywood, CA 90028

323-871-8313 or [amandaalvarez@toa.edu](mailto:amandaalvarez@toa.edu)

Alternatively, any person may report Prohibited Conduct (whether or not the person reporting is the person alleged to be the victim of such conduct), to an Official With Authority, as defined in this Policy. Officials With Authority who obtain Actual Knowledge of Prohibited Conduct must promptly advise the Title IX Coordinator of any report, allegations or observations of Prohibited Conduct, including the identities of the individuals involved. This is required even if the person reporting the Policy violation is unsure about pursuing a Formal Complaint. Failure of an Official With Authority to

comply with this reporting requirement may result in disciplinary action, up to and including termination.

Similarly, all College employees who receive a report, make observations or learn of allegation of Prohibited Conduct must promptly advise the Title IX Coordinator of any report, allegations or observations of Prohibited Conduct, including the identities of the individuals involved. This is required even if the person reporting the Policy violation is unsure about pursuing a Formal Complaint. Failure of an employee to comply with this reporting requirement may result in disciplinary action, up to and including termination.

Any person subject to this Policy is required to report suspected or known Child Abuse in accordance with applicable state law. In California, reports of suspected or known Child Abuse must be made to local law enforcement, the sheriff's department, the county welfare department or the LA County Department of Children and Family Services (Child Abuse Reporting Hotline). Any uncertainty about reporting Child Abuse should always be resolved in favor of making a report.

Upon receiving a report of Prohibited Conduct, the Title IX Coordinator shall:

- promptly contact the Complainant to discuss the availability of Supportive Measures and provide written information on Rights and Supportive Measures to Complainant and Respondent;
- consider the Complainant's wishes with respect to Supportive Measures;
- inform the Complainant of the availability of Supportive Measures with or without the filing of a Formal Complaint;
- explain to the Complainant the process for filing a Formal Complaint
- explain and provide written information on the following to persons alleging Domestic Violence, Dating Violence, Sexual Assault or Stalking regardless of whether the incident occurred on or off campus:
  1. the importance of preserving evidence as may be necessary to the proof of criminal Domestic Violence, Dating Violence, Sexual Assault or Stalking, or in obtaining an order of protection;
  2. options regarding law enforcement and campus authorities, including notification of the survivor's option to--
    - (a) notify on-campus security, local police or both;
    - (b) be assisted by the Title IX Coordinator in notifying law enforcement authorities if the survivor so chooses; or
    - (c) decline to notify such authorities;
  3. where applicable, the rights of survivors and the institution's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court.

All reports of Prohibited Conduct under this Policy will be promptly investigated by the College. The Grievance Procedure set forth in this Policy will typically apply only to Formal Complaints made in accordance with Section III.C. that are not otherwise dismissed pursuant to Section IV.A. As addressed in Section IV.E., in some

circumstances and within the discretion of the College, Formal Complaints may be consolidated (investigated and decided together under the Grievance Process) with reports of Prohibited Conduct, or alleged violations of other College policies. Within the discretion of the College, all other reports of Prohibited Conduct will typically be investigated in accordance with student conduct policies or the policies applicable to employees and faculty.

The College will keep the Complainant's identity confidential (including from the Respondent), unless disclosing the Complainant's identity is necessary to provide Supportive Measures for the Complainant (e.g., where a no-contact order is appropriate and the Respondent would need to know the identity of the Complainant in order to comply with the no-contact order, or campus security is informed about the no-contact order in order to help enforce its terms), and except as may be necessary in order to carry out the provisions of this Policy or a related College policy or to comply with applicable law.

Any person may choose to make a report anonymously. Where a person makes an anonymous report, the College will comply with this Section to the fullest extent possible, but may be limited in its ability to do so if the identity of any Complainant is unknown.

All individuals are encouraged to report sexual misconduct that may also violate criminal law to both the College and to local law enforcement. These processes are not mutually exclusive. The College encourages immediate involvement of the local rape crisis center or domestic violence victim service organization for allegations involving Dating Violence, Domestic Violence or Sexual Assault. A Complainant who chooses not to report to such organizations or to local law enforcement will still receive support and services from the College. The College will assist a Complainant who wishes to make a report to local or campus security, if desired.

### **C. Formal Complaints of Sexual Harassment; Supportive Measures**

A Complainant may file a Formal Complaint of Sexual Harassment against a Respondent by submitting it to the Title IX Coordinator in person, by mail, or by email, by using the contact information listed below. A Formal Complaint must be a document or electronic submission that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. A Formal Complaint must allege Sexual Harassment against a Respondent and request that the College investigate the allegations of Sexual Harassment. Complainants who seek to file a Formal Complaint may choose to use the Formal Complaint form attached to this Policy as Addendum A, but are not required to do so.

Contact Information:

Amanda Alvarez, Title IX Coordinator and Registrar

Theatre of Arts

6767 Sunset Blvd.

Hollywood, CA 90028

323-871-8313 or amandaalvarez@toa.edu

**Reporting Sexual Harassment, whether verbally or in writing, to an Official With Authority (other than the Title IX Coordinator), or anyone other than the Title IX Coordinator, does not constitute a Formal Complaint.**

Where a Complainant desires to initiate the Grievance Process, the Complainant cannot remain anonymous. The Complainant's identity will need to be disclosed to each Respondent. However, the Title IX Coordinator may file a Formal Complaint based on an anonymous report or complaint, which the College will investigate. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a Party under this Policy.

Upon receiving a Formal Complaint, the Title IX Coordinator shall:

- promptly contact the Complainant to discuss the availability of Supportive Measures and provide written information on Rights and Supportive Measures to Complainant and Respondent;
- consider the Complainant's wishes with respect to Supportive Measures
- explain and provide written information on the following to persons alleging Domestic Violence, Dating Violence, Sexual Assault or Stalking regardless of whether the incident occurred on or off campus:
  1. the importance of preserving evidence as may be necessary to the proof of criminal Domestic Violence, Dating Violence, Sexual Assault or Stalking, or in obtaining an order of protection;
  2. options regarding law enforcement and campus authorities, including notification of the survivor's option to--
    - (a) notify on-campus security, local police or both;
    - (b) be assisted by the Title IX Coordinator in notifying law enforcement authorities if the survivor so chooses; or
    - (c) decline to notify such authorities;
  3. where applicable, the rights of survivors and the institution's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court.

#### **D. Counseling Resources**

The College may offer the services of a Counselor at its Campus Hollywood campus on a part-time or full-time basis. The Counselor is also available to students at the Nashville campus via telephone or videoconference. While information shared with the College's Counselor (including information about whether an individual has received services) will be kept private and will not be disclosed to the Title IX Coordinator or

other College employee without the individual's express written permission, the Counselor may be required to disclose certain information in a court or administrative proceeding or under other circumstances, such as cases involving child abuse or threats of harm. For this reason, the College encourages individuals affected by Sexual Assault to seek the immediate involvement of a local rape crisis center or domestic violence victim service organization.

### **E. Amnesty**

A person who makes a report or files a Formal Complaint in good faith under this Policy will not be disciplined by the College for a violation of the College's drug and alcohol possession or consumption policies that may have occurred in connection with as reported incident.

### **F. Emergency Removal**

Prior to removing a Respondent from its education program or activity on an emergency basis, the Director of Education or his or her designee shall: (1) undertake an individualized safety and risk analysis; (2) determine that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Prohibited Conduct justifies removal; and (3) provide the Respondent and Complainant(s) with notice of the emergency removal and provide the Respondent with an opportunity to challenge the decision immediately following the removal.

A Respondent seeking to challenge a decision ordering emergency removal must submit a written request specifying the reason(s) the emergency removal should be overturned to the President or his or her designee within 5 days of receiving notice. A written notification of the President's or designee's decision as to whether the emergency removal is sustained or overturned will be provided to the Respondent and Complainant(s) within 3 days of receipt of Respondent's written request.

### **G. Administrative Leave**

The HR Manager or his or her designee may determine to place a non-student employee Respondent on administrative leave during the pendency of the Grievance Process. The College, in its sole discretion, shall determine whether such leave will be paid or unpaid.

## **IV. Disposition of Formal Complaints and Pre-Investigation Process**

### **A. Initial Review of Formal Complaint; Dismissal**

Promptly upon receipt of a Formal Complaint, the Title IX Coordinator shall assess whether the Formal Complaint is to be dismissed on a required or permissive basis.

The Title IX Coordinator must dismiss a Formal Complaint, if any time during the investigation or hearing, it does not meet the following jurisdictional requirements:

- (i) The conduct alleged in the Formal Complaint would not constitute Sexual Harassment as defined under this Policy, even if proven;
- (ii) The conduct alleged in the Formal Complaint did not occur in the College's education program or activity; or
- (iii) The conduct alleged in the Formal Complaint did not occur against a person in the United States.

A Formal Complaint that is dismissed for failure to meet the above jurisdictional requirements may nevertheless violate the College's student conduct policies or employee and faculty policies. Unless the dismissal of the Formal Complaint is overturned in accordance with Section IV.B., the matter shall be referred to the appropriate College personnel for investigation and potential adjudication under the College's student conduct policies or employee and faculty policies.

The Title IX Coordinator may dismiss a Formal Complaint, if at any time during the investigation or hearing:

- (i) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
- (ii) The Respondent is no longer enrolled at or employed by the College;
- (iii) Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

If the Title IX Coordinator decides to dismiss the Formal Complaint, the Title IX Coordinator shall provide a "Notice of Dismissal" to the Parties simultaneously indicating the reasons for the dismissal, and referring the matter to the appropriate personnel for processing under student conduct policies or policies applicable to employees and faculty. The Parties may appeal the dismissal as described below. Unless the Formal Complaint is dismissed, the Title IX Coordinator shall provide notice of the allegations to the Parties as prescribed by Section IV.F., within 7 days after receiving the Formal Complaint, and shall keep a written record of the reasons for the decision.

The Title IX Coordinator shall assess whether the allegations meet the definition of Sexual Harassment under this Policy before signing a Formal Complaint and shall not sign a Formal Complaint that would require dismissal.

### **B. Appeal of Dismissal of Formal Complaint**

Any Party may appeal a dismissal of a Formal Complaint by submitting a written notice of appeal of dismissal ("Appeal of Dismissal"), explaining the reasons for the appeal, to the Title IX Coordinator within 3 days of receiving the Notice of Dismissal. A Party may appeal dismissal on the following grounds:

- Procedural irregularity that affected the outcome of the determination;
- New allegations or evidence that was not reasonably available at the time the determination regarding dismissal was made, that could affect the outcome of the determination; or

- The Title IX Coordinator 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 determination.

Promptly upon receiving an Appeal of Dismissal, the Title IX Coordinator shall notify all other Parties in writing and provide them with 3 days to submit a written statement in support of, or challenging, the dismissal. The Title IX Coordinator will submit any Appeal of Dismissal to the Director of Education or his or her designee for consideration. The Director of Education or his or her designee shall consider any Appeal of Dismissal and simultaneously provide the Parties with a written decision, including the reason for the decision, within 10 days after receiving the Appeal of Dismissal or additional written statements in support of, or challenging, the dismissal, whichever is later. This decision is final and not subject to further review.

### **C. Continuing Review**

If at any time the Title IX Coordinator receives information or evidence that may indicate that the Formal Complaint is required to be dismissed or may be dismissed under this Section, he or she shall assess whether the Formal Complaint is to be dismissed on a required or permissive basis in light of the new information or evidence. If at any time the investigator or Hearing Officer receives information or evidence that may indicate that the Formal Complaint is required to be dismissed or may be dismissed under this Section, they shall immediately notify the Title IX Coordinator and provide the Title IX Coordinator with the new information or evidence, in writing; the Title IX Coordinator shall then assess whether the Formal Complaint is to be dismissed on a required or permissive basis in light of the new information or evidence. If the Title IX Coordinator determines to dismiss the Formal Complaint, the Title IX Coordinator shall follow the procedure relating to dismissals in Section IV.A. If the Title IX Coordinator determines not to dismiss the Formal Complaint, the Title IX Coordinator shall keep a written record of the reasons for the decision.

### **D. Surviving Allegations after Dismissal of Formal Complaint**

If the Title IX Coordinator determines to dismiss a Formal Complaint, but the Formal Complaint alleges sexual or other misconduct that may violate other College policies, the Title IX Coordinator shall communicate in the Notice of Dismissal that the allegations may violate other College policies and will be addressed in accordance with such policies. Generally speaking, the Respondent's identity will determine whether the allegations will be addressed pursuant to student conduct policies, or the policies applicable to faculty or employees, which the College shall determine at its discretion.

### **E. Consolidation; Related Allegations**

The Title IX Coordinator may consolidate Formal Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party (multiple complaints or counter-complaints), where the

allegations arise out of the same facts or circumstances. The decision of whether and how to consolidate Formal Complaints is within the Title IX Coordinator's discretion.

The Title IX Coordinator may also consolidate a Formal Complaint with a report or complaint of Prohibited Conduct that may violate this Policy, or a report or complaint of conduct that may violate another College policy, where the allegations arise out of the same facts or circumstances. The Title IX Coordinator may consolidate allegations of retaliation that arise during a Grievance Process with a pending case. The decision of whether and how to consolidate a Formal Complaint with a report or complaint of other Prohibited Conduct or conduct that may violate another College policy is within the Title IX Coordinator's discretion.

The Title IX Coordinator shall endeavor to make decisions regarding consolidation as early in the Grievance Process as possible. When the Title IX Coordinator determines to consolidate Formal Complaints or allegations under this Section, he or she shall advise the Parties of the consolidation in the Notice of Allegations under Section IV.F, or in a writing as soon thereafter as practicable.

#### **F. Notice of Allegations**

Within 7 days after a Formal Complaint is filed (or in the event a Party appeals a dismissal, within 3 days of the issuance of a decision reversing the dismissal), the Title IX Coordinator shall provide written notice of the allegations ("Notice of Allegations") to the Parties who are known, which shall include the following:

- (i) Notice of the allegations potentially constituting Sexual Harassment as defined in this Policy;
- (ii) Notice of the College's Grievance Process, including its informal resolution process, under this Policy;
- (iii) Sufficient details surrounding the allegations including the identities of the Parties involved in the incident, if known, the conduct allegedly constituting Sexual Harassment, and the date and location of the alleged incident, if known;
- (iv) A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the Grievance Process;
- (v) A statement informing the Parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, who may accompany them to any meeting or hearing during the Grievance Process. The statement shall explain that the College shall not limit the choice or presence of advisor for either the Complainant or Respondent in any meeting or hearing during the Grievance Process;
- (vi) A list of the names and titles of available advisors from which to choose, and a statement that the Parties must notify the Title IX Coordinator of their choice of advisor within 10 days of the Notice of Allegations;
- (vii) A statement informing the Parties that they may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including the evidence upon which the College

does not intend to rely in reaching a determination regarding responsibility, and including inculpatory or exculpatory evidence whether obtained from a Party or other source; and

- (viii) A statement informing the Parties that the College's student conduct policies and employee and faculty policies prohibit knowingly making false statements or knowingly submitting false information during the Grievance Process.

If the Title IX Coordinator consolidated two or more Formal Complaints, the Notice of Allegations must advise the Parties of the consolidation. Similarly, if the Title IX Coordinator consolidated a Formal Complaint with allegations of Prohibited Conduct under this Policy or other misconduct under another College Policies, the Notice of Allegations include a statement of all the charges, specify all provisions and policies alleged to have been violated, and advise the Parties of such consolidation.

### **G. Amended Notice of Allegations**

If, during the Grievance Process, the Title IX Coordinator receives additional Formal Complaints or learns of additional information or allegations of sexual or other misconduct that arise out of or relate to the same or related facts or circumstances, the Title IX Coordinator may consolidate those matters and provide an Amended Notice of Allegations to the Parties as soon as practicable. If necessary, the Title IX Coordinator may temporarily pause the proceedings to provide an Amended Notice of Allegations.

### **H. Admission to Charges**

If, during the Grievance Process, the Respondent accepts responsibility for the charges by submitting a written notice to the Title IX Coordinator, the investigator will continue and conclude the investigation. In such case, an abbreviated hearing will be held in order to consider sanctions only. In consolidated cases involving multiple Respondents where only one or some Respondents accept the charges, or in cases the Respondent only accepts some charges but not others, the Grievance Process shall proceed in the ordinary course with regard to the remaining Respondents or charges.

### **I. Choice of Advisor**

The Parties are entitled to an advisor of their choice, who may be, but is not required to be an attorney. The College maintains a list of advisors that are available to the Parties at no cost. Should a Party choose to engage an advisor that the College does not provide, the Party is responsible for any costs and fees for the advisor.

If a Party elects to use an advisor provided by the College, the Party shall notify the Title IX Coordinator within 5 days following receipt of the Notice of Allegations and shall indicate the name of the Party's preferred advisor. A party may list alternate advisors in the event the Party's first choice for advisor is unavailable or otherwise unable to serve as advisor for the Party. If more than one Party requests the same College-provided advisor, the Title IX coordinator shall use a neutral method (such as flipping a coin or placing names in a hat) to determine which Party will be assigned that advisor. If

necessary, the Title IX Coordinator will communicate with the Parties to identify alternative advisors.

A Party who chooses to use an outside advisor or attorney may seek to use a different outside advisor or attorney at any time, or may instead seek to request an College-provided advisor, upon written notice to the Title IX Coordinator. A Party who chooses to use an College-provided advisor may seek to instead use an outside advisor or attorney at any time, upon written notice to the Title IX Coordinator. A Party who chooses to use an College-provided advisor may request a different College-provided advisor at any time by submitting a written request to the Title IX Coordinator, including the reasons therefore.

## **V. Investigation**

### **A. Timeframe**

Upon providing the Notice of Allegations to the Parties, the Title IX Coordinator shall assign an investigator to gather information and prepare an investigative report. The assigned investigator shall promptly commence an investigation. In ordinary circumstances, the investigator shall complete the investigation within 30 days. The investigative report should be completed within 45 days after the referral. For good cause, these timeframes may be extended by the Title IX Coordinator with notice provided to all Parties.

### **B. Evidence and Witnesses**

The burden of gathering evidence that is directly related to the allegations rests on the investigator and not on the Parties. However, the investigator cannot access, consider, disclose, or otherwise use a Party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the Party, unless the investigator obtains that Party's voluntary, written consent.

The investigator shall provide at least 5 days written notice to a Party or witness whose participation is invited or expected, including the date, time, location, participants, and purpose of all investigative interviews or other meetings or proceedings.

The Parties shall have an equal opportunity to identify witnesses, including fact and expert witnesses, and to present other inculpatory and exculpatory evidence. The Parties shall not be restricted in their ability to discuss the allegations under investigation or to gather and present relevant evidence.

Questions and evidence about the Complainant's sexual predisposition are not relevant. Questions and evidence about the Complainant's prior sexual behavior are not relevant except: (i) when offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant; or (ii) when specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to

prove Affirmative Consent. Information protected by a legally-recognized privilege, such as the attorney-client privilege, the physician-patient privilege or any other legally-recognized privilege, is also not relevant.

No individual shall attempt to alter or prevent a witness's statement or participation.

### **C. Investigative Interviews**

The Parties shall have an equal opportunity to be accompanied by their advisor in any investigative interview or other meeting or proceeding, including the hearing, under this Policy; however, advisors may not speak or participate during an investigative interview. A Party may take brief breaks in order to consult with their advisor. No Party shall have the right to attend, or have their advisor attend, an investigative interview of another Party or witness.

### **D. Right to Inspect and Review Evidence**

The investigator shall provide the Parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including the evidence the investigator does not intend to include in the investigative report, and inculpatory or exculpatory evidence whether obtained from a Party or other source, so that each Party can meaningfully respond to the evidence prior to conclusion of the investigation. Before completing the investigative report, the investigator shall provide to each Party a copy of the evidence for inspection and review in an electronic format or a hard copy. Neither the Parties nor their advisors shall be permitted to disclose or disseminate the evidence to any person who is not a Party or witness or other participant in the Grievance Process. The investigator shall redact from such evidence any information that is not directly related to the allegations (or that is otherwise barred from use by any provision of this Policy, such as information protected by a legally-recognized privilege, or a Party's treatment records if the Party has not given written consent). The Parties shall have 10 days to submit a written response, which the investigator will consider prior to completing of the investigative report.

### **E. Investigative Report**

The investigator shall complete the investigation and prepare an investigative report that fairly and objectively summarizes relevant evidence. The report may include credibility assessments, but shall not make a determination regarding responsibility. The investigator shall redact from the investigative report any information that is not relevant, which is contained in documents or evidence that is relevant. At least 10 days prior to the hearing, the investigator shall send to the Title IX Coordinator and to each Party a copy of the investigative report, including all relevant evidence, in an electronic format or a hard copy. After receiving the investigative report, the Parties will have 5 days to submit an optional written response to the Title IX Coordinator.

### **F. No Bias or Conflict of Interest**

Neither the Title IX Coordinator nor any individuals designated to serve as an investigator, Hearing Officer, or informal resolution facilitator shall have a bias or conflict of interest for or against Complainants or Respondents generally or an individual Complainant or Respondent. A Party or person appointed to serve in a role in the Grievance Process may submit a written letter of concern relating to bias or conflict of interest at any time to the Title IX Coordinator; however, if the letter of concern relates to the alleged bias or conflict of interest by the Title IX Coordinator, the Party or individual shall submit the letter to the Director of Human Resources or his or her designee. The Title IX Coordinator or the Director of Human Resources or designee shall promptly speak with the individual alleged to have a bias or conflict of interest and conduct any other appropriate inquiry into the matter. The Title IX Coordinator or the Director of Human Resources or designee shall make a determination as to whether the individual alleged to have a bias or conflict of shall be removed from their role. If the individual alleged to have a bias or conflict is removed from their role, the Title IX Coordinator or the Director of Human Resources or designee shall appoint an alternate individual to serve in their place.

## **VI. Hearing**

### **A. Timing and Notice**

A live hearing will be scheduled to take place no less than 10 days and no more than 30 days after the investigator sends the investigative report to each Party. The Title IX Coordinator shall give all Parties and witnesses at least 5 days' notice of the hearing specifying the date, time, and place of the hearing, or if the hearing is virtual, the access instructions. Any Party or witness who is unable to attend the hearing must immediately notify the Title IX Coordinator of the reasons for the inability to attend.

The Title IX Coordinator shall send to the Hearing Officer the investigative report along with the relevant evidence and any timely received written responses to the investigative report at least 5 days prior to the hearing.

### **B. Questions About Process**

All pre-hearing questions regarding hearing procedures shall be directed to the Title IX Coordinator. The Title IX Coordinator will share the questions and response with all Parties. During the hearing, procedural questions may be directed to the Hearing Officer.

### **C. Hearing Before Hearing Officer**

The hearing will be conducted by a Hearing Officer. Neither the Title IX Coordinator, the investigator, nor a Party's advisor shall serve as a Hearing Officer.

### **D. Live Virtual and In- Person Hearings Permitted; Accommodations**

Live hearings may be conducted with all Parties physically present in the same geographic location. At the request of either Party, or as may be necessary or

appropriate, the College may at its discretion provide for the live hearing to occur virtually with any or all of the Parties, witnesses and other participants located in separate rooms or geographical locations with technology enabling the Hearing Officer and participants to simultaneously see and hear each other. Should any Party or advisor require any accommodations for the hearing, they should notify the Title IX Coordinator within 2 days of receiving the Notice of the Hearing.

#### **E. Record of the Hearing**

The College shall create an audio or audiovisual recording of all hearings and make it available to the Parties for inspection and review. It is the Hearing Officer's responsibility to ensure that the entire hearing is recorded, including cross-examination, opening and closing remarks, questions for the Hearing Officer, procedural discussions, objections and relevancy determinations and scheduling discussions. The Parties shall have an equal opportunity to inspect and review the recording of the hearing, however the College is not obligated to send the Parties a copy of the recording or transcript. Copies or transcripts of the recording may be made at the expense of the requesting Party.

#### **F. Advisors**

If a Party does not have an Advisor present at the live hearing, the College shall provide without fee or charge to that Party an advisor, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that Party. Advisors' participation in hearings is generally limited to cross-examination of the other Party and witnesses, including questions challenging credibility. At the conclusion of each Party's or witnesses' testimony, the Hearing Officer will ask each Party if their advisor has any additional questions for the Party witness. At that time, advisors may request that the Hearing Officer ask additional questions.

#### **G. Cross-Examination and Relevance**

Only relevant cross-examination and other questions may be asked of a Party or witness. The Hearing Officer must permit each Party's advisor to ask the other Party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination must be conducted directly, orally, and in real time by the Party's advisor of choice and never by a Party personally. The Hearing Officer will make real-time relevancy determinations related to each question asked prior to a witness or Party answering the question.

Where questioning or evidence is duplicative, the Hearing Officer may deem the questioning or evidence not relevant. Information protected by a legally-recognized privilege, such as the attorney-client privilege, the physician-patient privilege or any other legally-recognized privilege, is not relevant.

Questions and evidence about the Complainant's sexual predisposition are not relevant. Questions and evidence about the Complainant's prior sexual behavior are not relevant except: (i) when offered to prove that someone other than the Respondent committed

the conduct alleged by the Complainant; or (ii) when specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove Affirmative Consent.

The Hearing Officer retains the discretion to determine what additional measures, if any, are reasonably appropriate to allow the Parties to respond to and use the evidence at a hearing, while preventing the evidence from being used in an impermissible manner as long as such measures apply equally to both Parties and do not restrict the ability of a Party to discuss the allegations under investigation or to gather and present relevant evidence. For example, such measures may be used to address sensitive materials such as photographs with nudity.

#### **H. Party or Witness Not Subject to Cross-Examination**

If a Party or witness does not submit to cross-examination at the hearing, the Hearing Officer must not rely on any statement of that Party or witness in reaching a determination regarding responsibility; provided, however, that the Hearing Officer cannot draw an inference about the determination regarding responsibility based solely on a Party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions. This provision does not preclude the Hearing Officer from reviewing evidence that may involve the Party or witness who refused to submit to cross-examination for purposes other than relying on a statement of the Party or witness who did not submit to cross-examination in reaching a determination regarding responsibility.

#### **I. Rules of Decorum**

The Hearing Officer is charged with the authority and discretion, consistent with what is required by this Policy, to impose rules of decorum and ensure that the live hearing proceed in an orderly, non-disruptive manner. All questioning must be relevant, respectful and non-abusive. Yelling or raised voices are not permitted and questions must be asked in a non-abusive and non-intimidating manner. Badgering of a Party or witness is prohibited; repetition of the same question will be deemed irrelevant and, therefore, is not permitted.

If a Party's advisor of choice refuses to comply with a recipient's rules of decorum, the Hearing Officer may require the Party to use a different advisor. Similarly, if an advisor that the College provides refuses to comply with the rules of decorum, the Hearing Officer may provide that Party with a different advisor to conduct cross-examination on behalf of that Party.

#### **J. Rules of Procedure**

##### **J.1. Opening and Closing Statements**

The Parties shall have the option of offering opening and closing statements of 5 minutes each.

## **J.2. Cross-Examination**

The Hearing Officer has the right and responsibility to ask questions and elicit information from the Parties and witnesses on their own initiative to aid in obtaining relevant evidence, both inculpatory and exculpatory. After each advisor completes their questioning of a Party or witness, any Hearing Officer may ask any relevant questions of the Party or witness.

## **J.3. Relevancy Determinations – Questions and Evidence**

Before a Complainant, Respondent, or witness answers a cross-examination or other question posed by an advisor, the Hearing Officer shall determine whether the question is relevant and explain any decision to exclude a question as not relevant. In order to determine relevancy, the Hearing Officer may ask the advisor to explain the relevance or any other preliminary matters or questions. The Hearing Officer's decision is not subject to further challenge at that time and the hearing shall proceed in an orderly fashion.

## **J.4. Breaks**

The Hearing Officer shall afford short, reasonable breaks during the hearing.

## **K. Standard of Evidence; Written Determination**

The Hearing Officer must objectively evaluate all relevant evidence, both inculpatory and exculpatory, and must not give deference to the investigative report. The Hearing Officer must apply the preponderance of evidence standard to reach a determination regarding responsibility.

Within 10 days of the conclusion of the hearing, the Hearing Officer shall simultaneously send a written determination letter ("Written Determination") to the Parties, with a copy to the Title IX Coordinator, which shall include:

- (i) Identification of the allegations potentially constituting Sexual Harassment as defined in this Policy;
- (ii) A description of the procedural steps taken from the receipt of the Formal Complaint through the Hearing Officer's determination, including any notifications to the Parties, interviews with Parties and witnesses, site visits, methods used to gather other evidence, and hearing dates held;
- (iii) Findings of fact supporting the Hearing Officer's determination;
- (iv) Conclusions regarding the application of this Policy to the facts;
- (v) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the Hearing Officer determines to impose on the Respondent, and whether Supportive Measures will be provided;
- (vi) A statement of, and rationale for, only those Remedies that directly affect the Respondent;
- (vii) The procedures and permissible bases for any Party to appeal.

If the charges in the Notice of Allegations or Amended Notice of Allegations included other charges of Prohibited Conduct under this Policy or of other misconduct under another College Policy that were consolidated in the same proceeding, the Written Determination shall also provide a statement of and rationale for the result as to each additional allegation and what sanctions, if any, are being imposed.

If an appeal is not timely filed, the determination regarding responsibility automatically becomes final on the date on which the appeal would no longer be considered timely. If an appeal is timely filed, the determination regarding responsibility becomes final on the date that the Title IX Coordinator provides the Parties (simultaneously) with the Appeal Decision.

#### **L. Disciplinary Sanctions, Remedies and Supportive Measures**

Remedies must be designed to restore or preserve equal access to the College's education program or activity. Remedies may include disciplinary sanctions or Supportive Measures, and may be punitive in nature. The College will not impose Remedies that are not Supportive Measures against a Respondent unless and until a determination of responsibility for Sexual Harassment has been made against the Respondent pursuant to the Grievance Procedure set forth in this Section. Remedies that do not directly affect the Respondent must not be disclosed to the Respondent.

Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the Parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. Unless otherwise required by law, the College will maintain as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the College's ability to provide the Supportive Measures, and unless otherwise required by law.

The Hearing Officer may consult with the investigator and appropriate College offices on ranges or types of sanctions, but the ultimate decision with regard to sanctions must be made by the Hearing Officer. The Hearing Officer may, within his or her discretion, permit the Parties to submit sanction statements.

The range of disciplinary sanctions that may be imposed upon a student responsible for a violation of this Policy, either singly or in combination, are:

##### **1. Exclusion from College Campus, Facilities or Official Functions**

Exclusion of a student as part of a disciplinary action from specified areas of the campus or College- owned, -operated, or leased facilities, or other facilities located on College or affiliated property, including but not limited to residence halls and dining facilities, either permanently or for a specified term or terms. Upon Exclusion and

until reinstated, a student may not enter restricted locations without securing prior approval from the School Designee. Violation of the conditions of Exclusion or of College policy during the period of Exclusion may be cause for further disciplinary action. Conditions for readmission to excluded locations may include, but are not limited to, disciplinary probation for a specified length of time; and restricted visitation to specified campus locations.

## **2. Loss of Privileges and Exclusion from Activities**

Exclusion from participation in designated privileges and extracurricular activities for a specified term or terms. Upon Exclusion and until reinstated, a student may not utilize such privileges or attend or participate in such activities without securing prior approval from the School Designee. Violation of the conditions of Exclusion or of College policy during the period of Exclusion may be cause for further disciplinary action. Conditions for reinstatement to exercise privileges or access to excluded functions may include, but are not limited to, disciplinary probation for a specified length of time; and restricted attendance or participation in specified privileges or activities.

## **3. Restitution**

A requirement for restitution in the form of reimbursement may be imposed for expenses incurred by College or other parties resulting from a violation of the College policies. Such reimbursement may take the form of monetary payment or appropriate service to repair or otherwise compensate for damages. Restitution may be imposed on any student who alone, or through group or concerted activities, participates in causing the damages or costs. Failure to fulfill restitution obligations may be cause for further disciplinary action. College shall not be responsible for collecting restitution assessed to or incurred by any parties other than College.

## **4. Educational Sanctions**

Sanctions including but not limited to: required participation in or attendance at appropriate educational programs or counseling; community service; apologies, essays or other appropriate discretionary assignments or community service that fulfill the goals of education and reconciliation. The cost for attendance or participation

is at the expense of the student. Note: community service cannot be part of an event, sport, etc. the student is already involved in.

### **5. No Contact Order**

An order of 'no contact' is a restriction of contact between Parties, included direct and indirect contact, through a third-Party, or through technology or social media. It may be imposed for a specified period of time, or permanently.

### **6. Warning/Censure**

Written notice or reprimand to the student that a violation of College policy has occurred and that additional, continued or repeated violations of College policy will likely result in more serious disciplinary action. Warning may also involve conditions, such as those listed above, that are intended to be educational in nature.

### **7. Disciplinary Probation**

A status imposed for a specific period of time in which a student must demonstrate conduct that conforms to College standards of conduct and policies. Disciplinary Probation is a status which may involve restrictions, conditions or terms imposed for a definite period of time not to exceed the length of the probationary period. Restrictions, conditions, or terms of probation may include but are not limited to: periodic contact with a designated member of the campus community; restrictions on accessibility to College facilities, functions, activities or housing areas; and change of housing assignment. Failure to comply with the terms and conditions of the probation or additional behavior in violation of College policies that occurs during or outside of the probationary period will likely result in more serious disciplinary action.

### **8. Hold on College Records**

A Hold may be placed on the student's College records for either a stated period or until the student satisfies any conditions imposed as part of another sanction. The placement of a Hold on the student's College records may, for example, prevent the student from registering for classes or from obtaining transcripts, verifications, or a degree from College.

### **9. Suspension**

Suspension is the temporary termination of student status involving denial of all student privileges for a specified academic term or terms, to take effect at such time as the School Designee decides. Upon suspension and until reinstated, a student may not enter College premises or College-related premises without securing prior approval from the School Designee. Violation of the conditions of Suspension or of College policy during the period of Suspension may be cause for further disciplinary action.

After the period of Suspension, the student will be reinstated if:

- the student has complied with all conditions imposed as part of the Suspension;
- the student is academically eligible;
- the student meets all requirements for reinstatement including, but not limited to, removal of Holds on records, and payment of restitution where payment is a requirement of reinstatement; and
- the student meets the deadlines for filing all necessary applications, including those for readmission, registration, and enrollment

Conditions for readmission may include, but are not limited to, disciplinary probation for a specified length of time; non-residence on campus; and restricted visitation to specified campus facilities.

## **10. Dismissal**

Dismissal is the permanent termination of student status involving denial of all student privileges. Students separated from the College by Dismissal may not enter College premises or College-related premises without securing prior approval from the School Designee. Readmission to the College campus, facilities or properties after Dismissal may be granted only under exceptional circumstances and requires the specific prior approval of the School Designee.

## **11. Revocation of Awarding of Degree**

Should it be found that a degree, certificate or award was obtained by fraud, such degree, certificate or award is subject to revocation. Such revocation is subject to review on appeal by College.

When a student is suspended or dismissed, a temporary or permanent notation on the student's record (academic transcript) that the student was found responsible for a violation of College policy may be imposed.

The disciplinary sanctions that may be imposed upon an employee found to be responsible for a violation of this Policy, either singly or in combination, include but are not limited to written warning, disciplinary probation, reassignment or transfer, remedial measures such as trainings and educational programs, or termination.

## **VII. Appeals**

Any Party may appeal a Written Determination by submitting a written appeal of determination ("Appeal of Determination"), explaining the reasons for the appeal, to the Title IX Coordinator within 5 days of receiving the Written Determination. A Party may appeal on the following grounds:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility was made, that could affect the outcome of the matter;
- A conflict of interest or bias for or against Complainants or Respondents generally or an individual Party involving the Title IX Coordinator, investigator, or Hearing Officer that affected the outcome of the matter; or
- The sanctions assessed are substantially disproportionate to the findings.

The HR Manager may also appeal a sanction imposed against an employee on the grounds that the sanction is not proportionate to the conduct. The disciplinary sanction will remain in place during the appeal process.

Within 3 days of receiving any Appeal of Determination, the Title IX Coordinator will conduct an initial review to determine if it is timely. If the appeal is not timely, the original Written Determination will stand and the decision is final, and the Title IX Coordinator shall notify the Parties in writing.

If the Appeal of Determination is timely, the Title IX Coordinator shall notify all other Parties in writing and provide them with 5 days to submit a written statement in support of, or challenging, the Written Determination. The Title IX Coordinator shall promptly provide copies of all Appeal of Determinations and additional written statements to all other Parties. After the 5-day period, the Title IX Coordinator will submit the Appeal of Determination, and any additional, timely written statements to the Appellate Officer for consideration. The Appellate Officer shall be a person trained to serve as a Hearing Officer, who did not serve as a Hearing Officer in the same case.

An appeal is not a hearing. The Appellate Officer will not hear testimony. The Appellate Officer shall consider any Appeal of Determination, along with any additional written statements in support of, or challenging, the determination, and make a decision. The Appellate Officer will make a decision either upholding, overturning, or modifying the Written Determination, and simultaneously provide the Parties and the Title IX

Coordinator with a written decision (“Appeal Decision”), including the reason for the decision, within 10 days. The Appeal Decision is final and not subject to further review.

### **VIII. Informal Resolution**

Where the facts alleged in the Formal Complaint are not contested, or where the Respondent has admitted, or wishes to admit responsibility, or where the Parties want to resolve a case without a completed investigation or Grievance Process, informal resolution may be an appropriate solution. Informal resolution may include, but is not limited to, mediation and conciliation, and various forms of restorative justice, to be determined within the discretion of the Title IX coordinator.

An informal resolution process may be available at any time: (1) after a Formal Complaint has been filed and is not dismissed pursuant to Section IV.A. of this Policy; and (2) prior to the Hearing Officer reaching a determination regarding responsibility. The Title IX Coordinator may choose to offer the Parties an informal resolution process. Alternatively, any Party may submit a written request to the Title IX Coordinator for an informal resolution process. The decision as to whether to offer or grant a request to engage an informal resolution process resides within the sole discretion of the Title IX Coordinator. In consolidated cases or in cases involving multiple Parties, an informal resolution process may take place, if deemed appropriate by the Title IX Coordinator, where all Parties agree to participate; if only some Parties seek to participate, the Title IX Coordinator may sever matters that were previously consolidated or that involve multiple Parties. Notwithstanding, an informal resolution process is never available to resolve: (i) allegations that an employee engaged in Sexual Harassment against a student; (ii) allegations of Sexual Assault.

When the Parties have indicated to the Title IX Coordinator their assent to engage in an informal resolution process, the Title IX Coordinator shall provide the Parties with a written notice of informal resolution (“Notice of Informal Resolution”) which shall include:

- (i) a statement of the allegations;
- (ii) a statement that no Party is required to participate in an informal resolution process;
- (iii) a statement that any Party may withdraw from the informal resolution process and resume the Grievance Process with regard to a Formal Complaint arising from the same allegations at any time prior to signing a resolution agreement;
- (iv) a statement that the Parties are required to keep all information and communications relating to the informal resolution process confidential both during and after the informal resolution process;
- (v) a statement that any statements or admissions disclosed during the informal resolution process shall remain confidential and shall not be used in a subsequent investigation or proceeding arising out of the same or any other Formal Complaint;
- (vi) a statement that records relating to the informal resolution process will be maintained by the Title IX Coordinator and may only be shared or disclosed in accordance with this Policy, FERPA and other applicable federal or state laws;

- (vii) a statement that notwithstanding the confidentiality requirements of the informational resolution process, should the informal resolution process fail to satisfactorily resolve the matter, or if any Party withdraws from the informal resolution process, no Party shall be restricted in their ability to discuss the allegations under investigation or to gather and present relevant evidence after the matter is referred back to the Title IX Coordinator to resume the Grievance Process under this Policy;
- (viii) a statement that all Parties must provide their voluntary, written consent to engage in to the informal resolution process to the Title IX Coordinator;
- (ix) a statement that a record of the outcome, including a resolution agreement, if any, will be maintained by the Title IX Coordinator; and
- (x) a statement that should the informal resolution process fail to satisfactorily resolve the matter, or if any Party withdraws from the informal resolution process, the matter shall be promptly referred back to the Title IX Coordinator to resume the Grievance Process under this Policy.

Upon receipt of each Party's voluntary written consent to participate in an informal resolution process, the Title IX Coordinator shall refer the matter to an informal resolution facilitator. The informal resolution facilitator shall promptly contact the Parties in writing to commence the informal resolution process, which may occur in person or virtually.

The College is not required to provide the Parties with advisors prior to entering into an informal resolution process, nor must it ensure that the Parties confer with advisors prior to entering into an informal resolution process. Advisors are not permitted to participate in an informal resolution process.

In the event a Formal Complaint is not resolved by way of an informal resolution process, the informal resolution facilitator shall not serve as a witness in a related investigation or hearing.

Outcomes of an informal resolution process may include, but are not limited to, any of the following (or any combination thereof):

- Make the Respondent aware that the Respondent's behavior is being perceived as Sexual Harassment, and make clear that the behavior is prohibited by this Policy;
- Make the Respondent aware that the purpose of the discussion is to achieve a change in behavior;
- Make clear the College prohibits Retaliation against the Complainant, or against anyone who participates in any process under this Policy.
- Suggest possible resolutions of the problem, including but not limited to: a change in the offensive behavior, counseling, an apology to the

Complainant, a reevaluation of a grade, extension of deadlines or other course-related adjustments, modifications of work or class schedules, leaves of absence, campus escort services, increased security and monitoring of certain areas on campus, mutual restrictions on contact between the Parties or a change in the relationship between the Parties (i.e., changed advisor, class enrollment, athletic travel or hotel accommodations, or work or housing assignments);

- Provide or continue Supportive Measures;
- Disciplinary measures designed to educate or deter further inappropriate conduct by the Respondent.

A resolution reached by way of an informal resolution process shall become final and binding upon all Parties signing a resolution agreement. Any resolution agreement shall be reduced to a writing signed by the Parties and the informal resolution facilitator as witness, with a copy provided to the Title IX Coordinator, and shall continue the requirement that the Parties keep all information and communications relating to the informal resolution process confidential. Any resolution agreement may contain additional confidentiality requirements as agreed by the Parties.

The informal resolution process should be completed within 10 days of the time a Notice of Informal Resolution is sent to the Parties. Should the informal resolution process fail to satisfactorily resolve the matter, or if any Party withdraws from the informal resolution process, the matter shall be promptly referred back to the Title IX Coordinator to resume the Grievance Process under this Policy.

The informal resolution process may be utilized in connection with reports or complaints under other College Policies, such as student conduct policies or the policies applicable to employees and faculty.

## **IX. Law Enforcement and Community Resources**

### **A. National Resources**

#### **National Sexual Assault Hotline**

The National Sexual Assault Hotline is a free 24/7 telephone hotline operated by the Rape, Abuse & Incest National Network (RAINN). The hotline automatically redirects callers to local rape crisis centers based on the area code and first three digits of the caller's phone number. RAINN does not keep a record of the caller's phone number.

Hotline: 1-800-656-HOPE (1-800-656-4673)

<https://www.rainn.org/about-national-sexual-assault-telephone-hotline>

#### **National Domestic Violence Hotline**

For anyone affected by abuse and needing support, call 1-800-799-7233, or if you're unable to speak safely, you can log onto [thehotline.org](http://thehotline.org) or text LOVEIS to 1-866-331-9474. These resources are available 24 hours a day/7 days a week.

### **National Gender-Based Street Harassment Hotline**

The Online National Street Harassment Hotline is a free, confidential, secure service that provides live help through the Stop Street Harassment website.

Hotline: 855-897-5910 or use secure IM chat via <http://tinyurl.com/TheSHHotline>

### **National Suicide Prevention Lifeline**

If you are in immediate danger of seriously harming yourself or being harmed by someone else, call 911 or going to the nearest emergency room.

If you are struggling with thoughts of suicide, the National Suicide Prevention Lifeline can help at 1-800-273-TALK (8255) and for the Spanish line call 888.628.9454 or TTY: 800.799.4TTY (4889)

## **B. Law Enforcement and Community Resources for Campus Hollywood**

Campus security is available on campus, and emergency medical assistance and law enforcement assistance are available off campus. Individuals are encouraged (but not required) to contact law enforcement and seek medical treatment as soon as possible following an incident that poses a threat to safety or physical well-being or following a potential criminal offense. For more information about filing a criminal complaint with law enforcement, please contact:

### **LA Police Department – Hollywood Station**

1358 North Wilcox Ave.  
Los Angeles, CA 90028  
(213) 972-2971

### **CAMPUS PUBLIC SAFETY**

6752 Hollywood Blvd  
Los Angeles, CA 90028  
(323) 860-1127

### **LOCAL HOSPITALS:**

Southern California Hospital at Hollywood  
6245 De Longpre Ave.  
Los Angeles, CA 90028  
(323) 462-2271

Hollywood Urgent Care  
5717 Melrose Ave.  
Los Angeles, CA 90038  
(323) 957-2273

Kaiser Permanente  
4733 Sunset Blvd.  
Los Angeles, CA 90027  
(800) 954-8000

Cedars Sinai Medical Center  
8730 Alden Drive #2E  
Los Angeles, CA 90048  
(310) 423-3277

**EMERGENCY ROOMS:**

Kaiser Permanente LA Medical Center  
4867 Sunset Blvd.  
Los Angeles, CA 90027  
(323) 783-4011

Hollywood Presbyterian Medical Emergency Room  
1300 North Vermont Ave.  
Los Angeles, CA 90027  
(213) 413-3000

**MENTAL HEALTH SERVICES AND OTHER LOCAL SERVICES:**

**Hollywood Mental Health Center**  
1224 North Vine Street  
Los Angeles, CA 90038  
(323) 769-6100

**Los Angeles County Department of Mental Health  
Hollywood Mental Health Center**  
1224 N. Vine St.  
Los Angeles, CA 90038  
(323) 769-6100  
24/7 Access Line: (800) 854-7771

**Southern California Counseling Center**  
5615 West Pico Boulevard  
Los Angeles, CA 90019  
(323) 937-1344  
[www.sccc-la.org](http://www.sccc-la.org)

**LA Department of Mental Health (24/7)**  
Access Center  
(800) 854-7771

**211 LA County (dial 2-1-1)**

CONTACT: <https://www.211la.org/contact-us>

**DOMESTIC AND SEXUAL VIOLENCE VICTIMS/SURVIVORS AND ANY COUNTY OR CITY SEXUAL ASSAULT RESPONSE ORGANIZATIONS:**

**1736 Family Crisis Center**

2116 Arlington Ave. Suite 200  
Los Angeles, CA 90018  
Crisis Line: (213) 745-6434  
Main Office: (323) 737-3900

Center for the Pacific Asian Family

Los Angeles CA, 90036-1715  
Phone number:  
24-Hour Hotline: (800) 339-3940

East LA Women's Center

1431 S. Atlantic Blvd.  
Los Angeles CA, 90022-5011  
Phone number:  
(323) 526-5819

Los Angeles Center for Law and Justice

5301 Whittier Blvd, 4<sup>th</sup> FL.  
Los Angeles CA, 90023-2666  
Office: (323) 980-3500

**King County Sexual Assault Resource Center**

**24-Hour Sexual Assault Resource Line**

1.888.99.VOICE (1.888.998.6423)  
<https://www.kcsarc.org/>

**X. Additional Considerations**

**A. Confidentiality.**

The College must keep confidential the identity of Complainants, Respondents and witnesses, except as may be permitted by FERPA, as required by applicable law or as necessary to carry out the Grievance Process. To the extent disclosure of the identity of Complainants, Respondents, or witnesses is required by applicable law or is necessary to carry out the Grievance Process, the College will make such disclosure only to the extent necessary. Consistent with its legal obligations, the College may report or publish statistical information without disclosing the identities of the Parties.

Parties, advisors, and witnesses are prohibited from photographing, scanning or recording by audio, video or other means the evidence, or disseminating the evidence to third Parties or to the public. Should dissemination become necessary for litigation or other legal proceedings, the individual contemplating disclosure must advise all relevant Parties or other interested participants in writing of the pending disclosure and allow a reasonable time for such persons to contest the disclosure.

The Title IX Coordinator may, within his or her discretion, require the Parties, advisors, or witnesses to sign appropriate non-disclosure agreements.

Nothing in a non-disclosure agreement, or in this Section or any other Section of this Policy, shall restrict the ability of a Party to discuss or communicate about the allegations under investigation (e.g., with a parent, friend, or other source of emotional support), or to gather and present relevant evidence.

### **B. Access to Records.**

Parties may request access to records under this Policy by submitting such request in writing to the Title IX Coordinator. The Title IX Coordinator shall assess the request in light of FERPA and any other applicable federal or state laws. If the request is granted, the requesting Party will have the opportunity to review and inspect such records, which may be made available in redacted form. The Title IX Coordinator shall respond to requests for access to records within 25 days.

### **C. Interpretation and Construction.**

The headings and subheadings employed in this Policy are provided for ease of reference only, and shall not be construed to limit the rights and responsibilities set forth in this Policy. In all cases, this Policy shall be interpreted consistent with the spirit and purpose of Title IX.

### **D. Timeframes and Deadlines.**

The timeframes prescribed under this Policy may be subjected to limited extension for good cause upon written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a Party, a Party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities. Decisions relating to extensions and delays shall be made by the Title IX Coordinator.

When any deadline or prescribed time period under this Policy falls on a Saturday, Sunday or holiday recognized by the College, the deadline or prescribed time period shall be extended to the next business day.

**Addendum A**  
**Sexual Harassment Formal Complaint Form**

Complainants who seek to file a Formal Complaint of Sexual Harassment may choose to use this form, but are not required to do so. A Formal Complaint must be a document or electronic submission that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint, and requests that the College investigate the allegations. Formal Complaints may be submitted to the Title IX Coordinator in person, by mail, or by email, by using the contact information listed below.

Contact Information:

Amanda Alvarez, Title IX Coordinator and Registrar

Theatre of Arts

6767 Sunset Blvd.

Hollywood, CA 90028

323-871-8313 or amandaalvarez@toa.edu

**I. Complainant Information**

Name:

Email Address:

Cell Phone:

Current Title, Status or Relationship to the College (e.g., student, employee, etc.)

Title, Status or Relationship to the College at time of incident(s) described in Section II below (if different than current):

**II. Factual Information Regarding Complaint**

Date(s) of incident:

Location(s) of incident(s):

Description of incident(s) (please provide as much detail as possible and attach any relevant documents or information; include the name(s) of all parties involved, including any witnesses or other individuals who may have information relating to the incident(s):

**III. Request for Investigation and Signature**

I hereby request that the Title IX Coordinator commence an investigation into the allegations of Sexual Harassment made in this Formal Complaint. I hereby certify that by my signature below, I am the person filing this Formal Complaint.

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Complainant Signature