

Title IX – Policy of the University for the Prohibition and Addressing of Sexual Misconduct  
Administrative Policy and Procedures

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Title IX prohibits the Academy of Art University (“University”) from discriminating on the basis of sex in the administration of the University’s programs and activities. The Academy of Art University does not discriminate on the basis of sex in its educational programs or activities and prohibits unlawful harassment including sexual harassment and sexual violence. Sexual harassment and sexual violence are types of prohibited sex discrimination. Other acts can also be forms of sex-based discrimination and are also prohibited, whether sexually based or not, and include dating violence, domestic violence, and stalking. The Academy of Art University’s prohibition on sex discrimination includes discrimination based on one’s gender identity or expression, one’s transgender status, pregnancy or parental status.

The Academy of Art University reaffirms its commitment to compliance with the stipulations contained in the Violence Against Women Act (VAWA) and Campus SaVE Act to maintain a campus environment emphasizing the dignity and worth of all members of the University community. The following people have been designated to handle Title IX inquiries and complaints:

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The University's primary concern is the safety of members of the campus community. The use of alcohol or drugs never makes the complainant at fault for sexual violence. Students or employees should not be deterred from reporting incidents of sexual violence as they will not be disciplined for related violations of drug, alcohol, or other University policies except in extreme circumstances.

The process outlined below is designed to carry out the University's responsibilities under Title IX of the Education Amendments of 1972, the Violence Against Women Act and the Campus SaVE Act. This procedure is designed to respond to reports of sex discrimination, sexual harassment, sexual assault, domestic violence, dating violence, and stalking and also is designed to address all instances in which an Academy of Art University student or employee while enrolled or employed at the University, is alleged to have engaged in such prohibited conduct.

The University will treat students consistent with their gender identity. Students shall have the right to use the restroom that coincides with their gender identity. To the extent the University is not legally required to use a student's legal name on University records or documents, the University shall use the name and gender preferred by the student. A student does not need to change his or her *official records* as a condition of being addressed by the name or gender of the student's choice, but should notify the Registrar's office of their preferred name or gender. The University will change a student's *official record* to reflect a change in legal name or gender upon receipt of documentation that such change has been made pursuant to a court order, amendment of state or federally issued identification or other appropriate documentation.

## **B. Definitions**

There are numerous terms used by the Academy of Art University in our policy and procedures. These include the following:

**Sexual Harassment:** A form of sex discrimination, is unwelcome verbal, nonverbal or physical conduct of a sexual nature that includes, but is not limited to, sexual violence, sexual advances, requests for sexual favors, and indecent exposure, where:

- a. Submission to, or rejection of, the conduct is explicitly or implicitly used as the basis for any decision affecting a student's academic status or progress, or access to benefits and services, honors, programs, or activities available at or through the University; or
- b. Such conduct is sufficiently severe, persistent or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the student, and is in fact considered by the student, as limiting the student's ability to participate in or benefit from the services, activities or opportunities offered by the University; or
- c. Submission to, or rejection of, the conduct by a University employee is explicitly or implicitly used as the basis for any decision affecting a term or condition of employment, or an employment decision or action; or
- d. Such conduct is sufficiently severe, persistent or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the University employee or third party, and is in fact considered by the University employee or third party, as intimidating, hostile or offensive.

To make a determination of whether a report of prohibited sexual harassment is true for a student or students, the University will consider a variety of factors related to the severity, persistence or pervasiveness of the sex-based harassment, including (1) the type, frequency, and duration of the conduct; (2) the identity and relationships of persons involved; (3) the number of individuals involved; (4) the location of the conduct and the context in which it occurred; and, (5) the degree to which the conduct affected one or more student's education. The more severe the sex-based harassment, the less need there is to show a repetitive series of incidents to find a violation. A series of incidents may be sufficient to find a violation even if the sex-based harassment is not particularly severe.

Sexual Harassment also includes acts of verbal, non-verbal or physical aggression, intimidation or hostility based on gender or sex-stereotyping, even if those acts do not involve conduct of a sexual nature. Prohibited sexual harassment at times occurs in person, online through social media and via text or other electronic messaging.

**Appropriate Administrator:** For incidents involving student discipline, the appropriate administrator would be the Title IX Coordinator and/or Deputy Title IX Coordinator. For allegations or investigations where a faculty or staff is the respondent, the appropriate administrator would be the Human Resources Department in conjunction with the Department Director. The Title IX Coordinator is the Appropriate Administrator for respondents who are initially enrolled as students and have obtained employment with the University through their status as a student. Human Resources is the Appropriate Administrator for respondents who are initially employed with the University and are taking classes as a student, as a benefit of their employment with the University.

**Sexual Violence:** A form of sexual harassment and means physical sexual acts, such as unwelcome sexual touching, sexual assault, sexual battery, rape, domestic violence, dating violence, and stalking (when based on gender or sex) perpetrated against an individual against his or her will and without consent or against an individual who is incapable of giving consent due to that individual's use of drugs or alcohol, status as a minor, or disability. Sexual violence may include physical force, violence, threat or intimidation, ignoring the objections of the other person, causing the other person's intoxication or incapacitation through the use of drugs or alcohol, or taking advantage of the other person's incapacitation (including voluntary intoxication). Men as well as women can be victims of these forms of sexual violence. Unlawful sexual intercourse with a minor (statutory rape) occurs even if the intercourse is consensual when the victim is under 18 years old, because the victim is considered incapable of giving legal consent due to age.

**Sexual Misconduct:** Includes sex discrimination, sexual harassment, sexual exploitation, sexual assault, dating violence, domestic violence, and stalking, as well as retaliation related to a report of sexual misconduct.

**Sexual Assault:** A form of sexual violence and is an actual or attempted sexual contact with another person without that person's consent. Sexual assault includes, but is not limited to:  
(1) Intentional touching of another person's intimate parts without that person's consent; or  
(2) Other intentional sexual contact with another person without that person's consent; or

- (3) Coercing, forcing or attempting to coerce or force a person to touch another person's intimate parts without that person's consent; or
- (4) Sexual contact or behavior that occurs without consent.

**Sexual Battery:** A form of sexual violence and is any willful and unlawful use of force or violence upon the person of another because of that person's gender or sex.

**Rape:** A form of sexual violence and is non-consensual sexual intercourse that may also involve the use of threat of force, violence, or immediate and unlawful bodily injury or threats of future retaliation and duress. Any sexual penetration, however slight with any object, is sufficient to constitute rape. Sexual acts including intercourse are considered non-consensual when a person is incapable of giving consent because s/he is incapacitated from alcohol and/or drugs, is under 18 years old, or if a mental disorder or developmental or physical disability renders the person incapable of giving consent. The accused's relationship to the person (such as family member, spouse, friend, acquaintance or stranger) is irrelevant.

**Acquaintance Rape:** A form of sexual violence committed by an individual known to the victim. This includes a person the victim may have just met; i.e., at a party, introduced through a friend, or on a social networking website. (See above for definition of "rape".)

**Consent:** An informed, affirmative, conscious decision by each participant to engage in mutually agreed-upon sexual activity.

- Consent must be voluntary, clear and knowing, and given without coercion, force, threats, or intimidation. Consent requires positive cooperation, through words and actions, in a particular sexual act, or expression of intent to engage in that sexual act through the exercise of free will. Lack of protest or resistance does not mean consent, nor does silence mean consent.
- Consent must be ongoing throughout a sexual activity and can be revoked at any time. Consent can be withdrawn or revoked at any time. Consent to one form of sexual activity (or one sexual act) does not constitute consent to other forms of sexual activity (or other sexual acts). Consent to sexual activity given on one occasion does not constitute consent to sexual activity on another occasion. The fact that two people are or were in a dating or sexual relationship does not constitute consent to engage in sexual activity. There must always be mutual and affirmative consent to engage in sexual activity. Consent to a sexual act may be withdrawn or revoked at any time, including after penetration. The complainant's request for the respondent to use a condom or birth control does not, in and of itself, constitute consent. Once consent is withdrawn or revoked, the sexual activity must stop immediately.
- It shall not be a valid excuse that the respondent believed that the complainant affirmatively consented to the sexual activity if the respondent knew or reasonably should have known that the complainant was unable to consent to the sexual activity due to incapacitation. Consent cannot be given by a person who is incapacitated. For example, a person cannot give consent if s/he is asleep, unconscious or coming in and out of consciousness. A person is incapacitated if s/he lacks the physical and/or mental ability to make informed, rational judgments. Examples of incapacitation include unconsciousness, sleep and blackouts. Whether an intoxicated person (as a result of

- using alcohol, medication or other drugs) is incapacitated depends on the extent to which the alcohol or other drugs impact the person's decision-making capacity, awareness of consequences, and ability to make fully informed judgments. A person with a medical, physical or mental disability may also lack the capacity to give consent.
- Being intoxicated by drugs or alcohol does not diminish a person's responsibility to obtain consent from the other party before engaging in sexual activity. Factors to be considered include whether the person knew, or whether a reasonable person in the accused's position should have known, that the other party did not give, or revoked, consent; was incapacitated; or was otherwise incapable of giving consent.
  - It shall not be a valid excuse to alleged lack of consent that the respondent believed that the complainant consented to the sexual activity under either of the following circumstances:
    - (A) The respondent's belief in affirmative consent arose from the intoxication or recklessness of the accused; or
    - (B) The respondent did not take reasonable steps, in the circumstances known to the respondent at the time, to ascertain whether the complainant affirmatively consented.

**Sexual Exploitation:** Occurs when a person takes sexual advantage of another person for the benefit of anyone other than that person without that person's consent. Examples could include: Recording or live-streaming images or audio of another person's sexual activity or intimate body parts without that person's consent; distributing (including on social media) images or audio of another person's sexual activity or intimate body parts without that person's consent; Viewing another person's sexual activity or intimate body parts in a place where that person would have a reasonable expectation of privacy, without that person's consent.

**Domestic Violence:** A form of sexual violence and is abuse committed against someone who is a current or former spouse, current or former cohabitant with the complainant as a spouse or intimate partner, someone with whom the respondent has a child, someone with whom the respondent has or had an intimate dating or engagement relationship, or a person similarly situated under California domestic or family violence law.

Factors that may determine whether persons are cohabiting include, but are not limited to: (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property; (4) whether the parties hold themselves out as spouses or domestic partners, (5) the continuity of the relationship, and (6) the length of the relationship.

**Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on the complainant and respondent's statements and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For purposes of this definition dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

**Stalking:** A repeated course of conduct directed at a specific person (when based on gender or sex) that places that person in reasonable fear for his/her or others' safety, or to suffer substantial emotional distress. A reasonable person means a reasonable person under similar circumstances and with similar identities to the complainant. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily require, medical or other professional treatment or counseling.

**Proceeding:** Any activity that seeks to invoke the power of the Appeal Committee in order to enforce a university regulation or rule.

**Result:** The consequence, effect or outcome of a proceeding.

**Business Days:** Consist of Monday through Friday of each week (regular work week). This excludes holidays observed by the University during the course of the regular work week.

**Retaliation:** Includes but is not limited to threats, reprisals, intimidation and/or adverse educational actions against a person based on their report of sexual misconduct or participation in an investigation, report or disciplinary process.

**Responsible Employee:** Any employee of the University who has the authority to take action to redress sexual violence or who a student reasonably could believe has such authority. Examples of responsible employees at the Academy of Art University include, but are not limited to, student services advisors, Department Directors, resident assistants or faculty members. A responsible employee must report to the Title IX coordinator all relevant details about the alleged sexual violence shared by the complainant and that the University will need to determine what happened. (see Appendix A for a list of possible responsible employees.)

**Awareness Programs:** Programs, campaigns, or initiatives that increase audience knowledge of the issues of sex discrimination, sexual assault, domestic violence, dating violence and stalking and share information and resources to prevent interpersonal violence, promote safety, and reduce perpetration. These efforts can include campus community-wide mobilizations as well as targeted audience specific programming (including both students and employees). Awareness month campaigns, "Speak Outs," rallies or marches, informational poster campaigns or resource websites, and educational programming that focuses on sharing resources and information about these issues are examples of awareness programs.

**Risk Reduction:** Procedures or programs designed to decrease perpetration and bystander inaction; increase empowerment for victims in order to promote safety; and help individuals and communities address conditions that facilitate violence.

**Bystander intervention:** Safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene in situations of potential harm when there is a risk of sexual misconduct against a person other than the individual. Effective bystander intervention training prepares participants to recognize situations of potential harm, overcome barriers to intervening, identify safe and effective intervention options and take action.

**Primary prevention programs:** Programming, initiatives and strategies intended to stop sex discrimination, sexual assault, domestic violence, dating violence and stalking before it occurs and to prevent initial perpetration or victimization through the promotion of positive and healthy behaviors and beliefs. Efforts to change behavior and social norms, and promote healthy relationships, healthy sexuality and egalitarian gender roles, or efforts to understand risk factors and protective factors for bystander inaction and change social norms around bystander inaction are all examples of primary prevention.

**Ongoing Awareness and Prevention Campaigns:** Campaigns that are sustained over time focusing on increasing awareness or understanding of topics relevant to sex discrimination, sexual assault, domestic violence, dating violence and stalking prevention. These programs will occur at different levels throughout the institution (i.e. faculty, athletics, incoming students) and will utilize a range of strategies. Ongoing awareness and prevention campaigns may include information about what constitutes sex discrimination, sexual assault, domestic violence, dating violence and stalking, changing social norms, promoting recognition of perpetrator tactics, enhancing understanding of consent, and advancing pro-social behaviors of individuals and communities. Effective ongoing awareness and prevention campaigns will include developmentally appropriate content for the specific audience and their knowledge and awareness level and provide positive and concrete ways for individuals to get involved.

### **C. Education and Prevention Programs**

The University has purchased training online modules for students and employees and will disseminate the videos each semester. The online version has a tracking device to show that the student has taken the course. Below is a description of the modules provided to students:

**THE CAMPUS SAVE ACT**  
**MANDATES TWO KINDS OF EDUCATION PROGRAMS**  
**FOR STUDENTS, INCLUDING:**

**PRIMARY PREVENTION**  
and awareness programs for  
incoming students.

**ONGOING PREVENTION**  
and awareness campaigns for  
all students.

**Think About It**  
— A Platform For Change —  
Educate Students | Empower Faculty & Staff | Change Culture

*Think About It* is a comprehensive program that prepares students to confront and prevent serious campus problems, and provides administrators important insights into the culture of their campus. Sexual misconduct is fundamentally related to drugs and alcohol, so our program combines

sexual assault and substance abuse prevention in a three-part online training program. By providing students with three separate courses during their first year on campus, *Think About It* addresses the Campus SaVE Act's primary and ongoing program requirements for incoming students.

A PROGRAM CREATED  
WITH STUDENTS FOR STUDENTS

All new students will be provided with Campus Clarity’s course titled “Think About it: Campus SaVE.” The course provides students with information about abusive relationships, dating violence, options for bystander intervention, sexual assault, sexual violence, sexual harassment, reactions of survivors of sexual assault, consent, interim measures and Title IX conduct proceedings among other important topics.

Employees will be provided training through LawRoom. The course for employees, titled “Bridges: Building a Supportive Community” will include training on the topics of sexual misconduct, potential conduct violations, employee role to report instances of sexual misconduct, bystander intervention training and risk reduction.

The University will participate in ongoing prevention and awareness campaigns including programming, initiatives and strategies throughout each school year to promote awareness of sexual misconduct. This includes social media posts, email blasts, presentations to students, faculty and staff, posters, and booths at campus events among other programs that may be developed throughout the academic year.

#### **D. Procedures for Making a Title IX Report**

If a report of sexual misconduct is made to the University, the procedures outlined below will be followed. The University will not require the person making the report (also referred to as the “complainant”) to participate in any investigation or disciplinary proceeding if the complainant does not wish to participate.

The University generally will not notify parents or legal guardians of a sexual violence report unless the complainant is under 18 years old or the complainant provides the University with written permission and requests the University do so. If there is a health and safety issue (e.g., immediate threat to self or others), the University may notify parents or legal guardians, regardless of the complainant’s age, as allowed under the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g).

The procedures set forth below are intended to afford all complainants and the person whose conduct is at issue (referred to as “respondent”) a prompt, fair and impartial process for resolving the report of sexual misconduct, to maintain confidentiality and fairness consistent with applicable legal requirements, and to impose appropriate sanctions on violators of this policy.

#### **Reporting Options**

##### **Complaint to the Title IX Coordinator**

A Title IX report can be called a “complaint” and can be brought forward by a complainant who alleged to have experienced sexual misconduct by contacting the Title IX Coordinator, or in the event the Title IX Coordinator is absent or unavailable, by contacting the Deputy Title IX Coordinator:

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79 New Montgomery Street, Room 475  
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79 New Montgomery Street, Room 360  
San Francisco, CA 94105  
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Employees may contact:  
Chris Visslailli  
Human Resources Department  
CVisslailli@academyart.edu  
(415)618-6525

Pursuant to Title IX of the Education Amendments of 1972 and the U.S. Department of Education's implementing regulations at 34 C.F.R. Part 106, the University's Title IX Coordinator has primary responsibility for coordinating the University's efforts to comply with and carry out its responsibilities under Title IX, which prohibits sex discrimination in all University operations as well as retaliation for the purpose of interfering with any right or privilege secured by Title IX. The Title IX Coordinator oversees the University's response to reports and complaints that involve possible sex discrimination to monitor outcomes, identify and address any patterns and assess effects on the campus climate, so the University can address issues that affect the wider school community.

A student should contact the Title IX Coordinator or Deputy Title IX Coordinator in order to:

- File a complaint/make a report of sexual misconduct.
- Seek information about students' rights and courses of action available to resolve reports or complaints that involve potential sexual misconduct.
- Report any type of retaliation against a complainant or participant in an investigation or appeal hearing that relates to this Policy.
- Notify the University of an incident, policy or procedure that may raise potential concerns of matters that relate to this Policy.
- Get information about available resources (including confidential resources) and support services relating to sex discrimination, including sexual misconduct.
- Ask questions about the University's policies and procedures related to sexual misconduct.

The Title IX Coordinator is also responsible for facilitating ongoing training and consultation for all students, faculty and staff; overseeing adequate, reliable, and impartial investigations of reports and complaints of sexual misconduct; coordinating and implementing interim measures to avoid depriving students access to the University's programs and activities during the course of the investigation and to protect the complainant and other students, as necessary; monitoring the University's compliance with Title IX; assessing and analyzing the campus climate; and advising the University to develop and implement effective Title IX policies.

### Responsible University Employee

**While students should report any issues that relate to the matters addressed in this Policy to the Title IX Coordinator, Deputy Coordinator or Campus Safety**, if a responsible employee of the University becomes aware of an incident that could be a possible violation of this Policy, the responsible employee shall forward it to the Title IX Coordinator. A responsible employee should not share the information with law enforcement without the complainant's consent or unless the complainant has also reported the incident to law enforcement.

As soon as a responsible employee has reason to believe a complainant may reveal information regarding alleged sexual misconduct, the employee should ensure that the complainant understands the employee's reporting obligations. If the complainant wishes to maintain confidentiality, the employee should direct the complainant to confidential resources (see Section M – Informational Resources; Appendix B Resources).

If the complainant wishes to tell the responsible employee what happened but also maintain confidentiality, the employee should tell the complainant the University will strongly consider the request but cannot guarantee the University will be able to honor the request. When reporting the matter to the Title IX Coordinator the employee will also inform the Coordinator of the complainant's request for confidentiality.

### Report to Campus Safety or Local Law Enforcement

Any student who has experienced domestic violence, dating violence, sexual assault or stalking may make a report to Campus Safety and/or local law enforcement. Campus Safety will also notify the Title IX Coordinator of the complaint.

After an incident of sexual assault, dating violence and/or domestic violence, the complainant should consider seeking medical attention as soon as possible at a medical facility. Although the University strongly encourages all members of its community to report these types of matters to law enforcement, it is the student's choice whether to make such a report. Students have the right to decline involvement with the police. Reporting to local law enforcement directly may not provide the University with notice unless a complaint is also filed with the University's Title IX Coordinator.

Campus Safety will assist any complainant with notifying local police if they so desire. The San Francisco Police Department may also be reached directly by calling 415-553-0123. Additional information about the San Francisco Police Department may be found online at <http://sf-police.org>. Students have a right to file a complaint with governmental authorities, including the police and a Title IX complaint with the University simultaneously.

The Campus Safety Department will assist any complainant with obtaining and enforcing a no contact order or restraining order and will inform complainants of that right. Complainants may contact the San Francisco Police Department or Campus Safety for information about available options. Campus Safety can assist with no contact orders through the University and will assist with the enforcement of those orders at the University or affiliated University activities, but cannot issue orders of protection such as a restraining order.

Students can also contact the Department of Education, Office of Civil Rights to file a report. Reporting to the Department of Education directly however will not provide the University with notice unless a complaint is also filed with the University's Title IX Coordinator.

### **Timeline for Reports**

Reports of domestic violence, dating violence, sexual assault, sex discrimination or stalking should be made as soon as possible. As time passes, evidence may dissipate or become lost or unavailable, thereby making investigation, possible prosecution, disciplinary proceedings, or obtaining protection orders related to the incident more difficult.

### **Procedures for University Disciplinary Action**

Procedures are in place for University disciplinary action for sexual misconduct. Such proceedings shall provide a prompt, fair, and impartial investigation and resolution to complaints. Such proceedings shall be conducted by officials who receive annual training on issues related to these offenses as well as how to conduct an investigation and hearing process that protects the safety of students while promoting a fair and equitable process. The University's goal is to complete all investigations and decisions regarding appropriate remedies within 60 days of the University's receipt of a Title IX Complaint.

For students, sexual misconduct is a violation of the Student Conduct Code and may result in disciplinary action. Employees who violate this policy may also be subject to discipline, up to and including termination of employment. Sexual assault, domestic violence, dating violence, and stalking are criminal acts which also may subject the respondent to criminal and civil penalties under federal and state law. The University may expel a student or terminate an employee if that individual is convicted by a court of law of the offense of rape, acquaintance rape or any other forcible or non-forcible sex offenses.

### **E. Interim Measures**

Once the Title IX Coordinator receives a report of sexual misconduct, the Title IX Coordinator will evaluate the complaint and decide whether to initiate a formal investigation. The Title IX Coordinator and Campus Safety will determine whether interim interventions and protective measures should be implemented, and, if so, take steps to implement those protective measures as soon as possible.

The University will also:

- Inform complainants of their right to simultaneously report a crime to Campus Safety and/or local police and provide complainants with assistance if desired.
- Provide interim remedies as reasonably available, regardless of whether the complainant chooses to report sexual violence to Campus Safety or local police.
- Assist complainants and respondents in accessing available advocacy, University support, counseling, medical/health or mental health services, and off campus legal assistance;
- Provide security and support, which could include issuing a no-contact order, security escorts, helping arrange a change of campus-based living, working arrangements or course schedules and assist with adjustments for class assignments, tests, or work duties;

- Work with the San Francisco Police Department to enforce any restraining orders issued as a result of a report of sexual violence, domestic violence, sexual assault or stalking.

Violations of the Title IX Coordinator's and Campus Safety's directives and/or protective measures will constitute related violations that may lead to additional disciplinary action. Any retaliation against an individual for filing a Title IX complaint, responding to a complaint, or participating in a Title IX investigation is prohibited.

To the extent of the complainant's cooperation and consent, University offices, including Campus Safety and Housing will work cooperatively to ensure that the complainant's University-related health, physical safety, work and academic status are protected, pending the outcome of a formal University investigation of the complaint. For example, if reasonably available, complainants/respondents may be offered changes to academic, living, or working situations in addition to counseling, health services and assistance in notifying appropriate local law enforcement. Campus Safety and the Title IX Coordinator are responsible for assisting with these accommodations.

#### **F. Confidentiality**

If a complainant requests that his/her identity be kept confidential, his/her name will not become a matter of University public record. Campus Safety will report the incident to the Title IX Coordinator only. Personal identifiable information about the complainant and respondent will be treated as confidential and only shared with persons with a specified need to know or who are investigating/adjudicating the complaint or delivering resources or support services to the complainant and respondent. The University does not publish the name of complainants nor does it maintain identifiable information regarding complainants in the campus police department's Daily Crime Log or online.

The University is required by the federal Clery Act to report certain types of crimes (including certain sex offenses) in statistical reports. While the University will report the type of incident in the annual crime statistics report known as the Annual Security Report, the complainant's name or other personally identifying information will NOT be revealed.

The Title IX Coordinator shall make good faith efforts to ensure the confidentiality of the complainant, if requested, as long as doing so does not prevent the University from responding effectively to the harassment and preventing harassment of other students. The Title IX Coordinator will inform the complainant if confidentiality cannot be maintained based on the seriousness of the complaint. In some cases, the University may need to disclose some information about a complainant to a third party to provide necessary accommodations or protective measures. The Title IX Coordinator will make this determination and will explain what information will be shared, who the information will be shared with and the reason(s) for sharing that information. If the University determines that it can respect a complainant's request for confidentiality the University will also take immediate action as necessary to protect and assist the complainant.

When weighing a complainant's request for confidentiality the Title IX Coordinator will consider a range of factors including: The seriousness of the alleged conduct, whether there have been other

similar complaints or reports involving the alleged respondent, the rights of the accused individual to receive information about the accuser and the allegations in the event the University opens investigation that may lead to disciplinary action against the accused. Complainants desiring confidentiality in an investigation will be informed that the University's ability to fully address the complaint or remedy the situation may be limited, but where feasible, the University will take reasonable steps to prevent the reoccurrence of the alleged misconduct and limit its effect.

If a complainant requests that no investigation occur, the Title IX Coordinator will determine, on a case by case basis, whether the allegations are serious enough to nevertheless require the University to complete an investigation.

The University has procedures in place that serve to be sensitive to those involved in incidents of sexual assault, domestic violence, dating violence, and stalking. These procedures include informing individuals about their right to file criminal charges, the availability of medical, counseling and support services, as well as additional remedies to prevent contact between a complainant and a respondent, such as housing, academic, transportation and working accommodations, if reasonably available.

#### **G. Alternative Resolution Process**

After the Title IX investigator is informed of a report of any type of sex discrimination there will be a preliminary assessment of the facts. Depending on the circumstances of the complaint, the parties may be offered the opportunity to engage in an alternative resolution process which may, among other potential resolutions, include:

- Separation of the parties
- Referring the parties to counseling

The alternative resolution process is never an option for cases involving sexual assault. An alternative resolution process is *only* an option if *both* the complainant and respondent agree to participate, after receiving a full disclosure of the allegations and their options for a formal resolution, as described below. The complainant, respondent and the University each have the right to end the informal resolution process and to proceed with a formal investigation at any time. The alternative resolution process will result in a letter confirming the outcome of the resolution process, whether an agreement is reached or not. If no agreement is reached, the matter may be forwarded to a formal investigation. Any agreement reached during the informal resolution process must be approved by the Title IX Coordinator to ensure the alleged misconduct is not repeated toward the complainant or other members of the campus community. If applicable, any administrative remedies and/or disciplinary sanctions agreed to will have the same force and effect as though they were imposed following a formal investigation and appeal hearing. If both parties jointly agree on an outcome after the alternative resolution process it cannot be appealed to the Resolution Committee.

## **H. Formal Investigation Procedures**

The investigation and following proceedings are part of a prompt, fair and impartial process to address any allegations of sexual misconduct. If a formal investigation is initiated, an investigator will be assigned and both parties will be notified of their rights and responsibilities throughout the formal investigation process. An explanation of rights and responsibilities, provided to both the complainant and the respondent, will include information or statements regarding the following:

- Information regarding the allegations constituting a potential violation of the student code of conduct, the specific code of conduct section allegedly violated, the identities of the parties involved (subject to complainant requests for confidentiality. See section F. above) and the date and location of the alleged incident(s) prior to any interview, with sufficient time to prepare for meaningful participation.
- Information regarding possible sanctions or protective measures the University may impose following the final determination.
- Information regarding the confidentiality of reports.
- The responsibility of both the complainant and respondent to be truthful in the investigation.
- The right to participate in the investigation by providing additional relevant information or potential witnesses.
- The right of either the complainant or respondent to decline to give a statement about the allegations.
- The responsibility not to retaliate against or intimidate any individual who has filed a Title IX complaint or who has participated in the investigation process.
- The right of participants to be reasonably protected from intimidation or harassment.
- The right to have a support person/personal advisor present during the investigation and appeal hearing. The support person/personal advisor is a silent observer. The support person/personal advisor may be present at the investigation and appeal hearing but may not speak for or on behalf of the complainant/respondent.
- The party's right not to be disciplined for drug or alcohol offenses related to an incident of alleged sexual misconduct, except in extreme circumstances.
- The right of an individual who participates as a complainant or witness in an investigation of alleged sexual misconduct to not be subject to disciplinary sanctions for a violation of the University's student conduct policy at or near the time of the incident, unless the institution determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

After the Title IX Coordinator's decision to initiate a formal investigation in cases of sexual misconduct, the investigator will contact both the complainant and the respondent and will complete interviews.

### **Opportunity for Written Response**

Once the investigator has had the opportunity to speak with both the complainant and respondent, any witnesses offered by either party and review all evidence associated with the case an investigative report will be compiled. The report will be made available to the complainant and respondent for review but no copies of the report will be sent or provided to either of the parties.

When reviewing the reports each party may take notes but may not take pictures of the report. Each party will be allowed 5 business days to provide a written response to the report. The investigator will review each party's response, if they choose to provide one, and will consider this information when making their decision. The investigator will conduct comprehensive follow-up interviews of the parties or relevant witnesses as appropriate. The investigator shall seek to complete the investigation within 50 days.

### **Completion of Investigation**

Once the investigator receives any written responses and concludes the investigation, the investigator will make a determination as to whether the alleged prohibited conduct occurred and whether any University policies were violated. A copy of this report will be provided to the Title IX Coordinator. All determinations in the investigation shall be based on a "preponderance of the evidence" standard, i.e. whether it is more likely than not the alleged misconduct occurred. In other words, based on the evidence, the investigator will ask: "is it more likely than not that the respondent violated the University's Sexual Misconduct Policy or alternatively the Student Code of Conduct?" The Title IX Coordinator will forward the investigative report to the appropriate administrator (if the respondent is a faculty or staff member) to determine what, if any, discipline is warranted. If the respondent is a student, the Title IX Coordinator and Deputy Title IX Coordinator will determine the appropriate sanctions, if any. The Appropriate Administrator will attempt to make a determination as to whether any sanctions will issue within 10 business days after the completion of the investigation. The Title IX Coordinator will determine sanctions for respondents who are initially enrolled as students and have obtained employment with the University through their status as a student. Human Resources will determine sanctions for respondents who are employees of the University, including those employees who initially employed with the University and are taking classes as a student, as a benefit of their employment with the University.

### **Possible Sanctions/Remedies**

If, after a formal investigation, the respondent is found to have violated the University's Sexual Misconduct Policy or Student Code of Conduct the appropriate administrator will determine the most appropriate sanction or remedy. The goal of sanctions is to eliminate a hostile environment, prevent the reoccurrence of the misconduct and to address any effects of the misconduct while considering the impact of separating a student from his/her education. The Title IX Coordinator will work with University departments to impose any sanctions or remedies. Such sanctions and remedies could include, but are not limited to, the following: An order for no contact between the parties, academic probation, alternate housing or class arrangements, limitations for the respondent to attend on-campus classes or enter certain buildings, suspension, expulsion or possible termination from the University. Department heads, the Department of Housing and Residential Life and the Title IX Coordinator will work together to make any necessary changes. The school will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate.

## **I. Resolution Process**

In the form of a written outcome letter, the Title IX Coordinator shall simultaneously inform both parties of the results of the investigation. The letter shall also inform both parties of their right to forward the matter to the Resolution Process for review and will outline the process for doing so. The letter shall specify the date that any disciplinary determination will be deemed final if no request for review is received from either the complainant or the respondent.

Additional review will *only* be granted if there were any of the following issues with the case: (1) A procedural error in the investigation that substantially affected the outcome; (2) Previously unavailable evidence has come to light that could significantly impact the outcome of the case; (3) the findings were not one that a reasonable investigator could have made; and/or (4) The sanctions imposed were not ones that could have been issued by reasonable persons given the findings of the case.

Both the complainant and the respondent have the right to file a request for review under this policy. The request should be filed **in writing and should be received by the Title IX Coordinator/Deputy Title IX Coordinator within 10 business days after the date both parties received notice of the outcome of the investigation**. The request should also state and explain the basis for challenging the decision and include any information or evidence underlying that basis. For example, if a Respondent believes they are entitled to additional review of the matter due to new evidence being discovered which was previously unavailable, the Respondent must provide copies or a summary of the new evidence at the time the request for review is made. The request for review by a student will be considered by three (3) impartial members of the Resolution Committee (see below paragraph for more details regarding committee members). If the Respondent is an employee of the University, the request for review will be considered by the Department of Human Resources. **Review under the Resolution Process will only be granted if the request meets one of the four requirements listed above.**

If the request for review meets one of the four requirements outlined above, a hearing before the Resolution Committee will be granted and a Resolution Committee, consisting of three representatives from the any of the following Departments: Human Resources, Campus Life, Classroom Services, Housing and Residence Life, Campus Safety and/or Athletics, will be convened. One of the Committee members will serve as Chair and will lead the proceedings. The Committee will hear the matter within 20 business days of the request for review. The Title IX Coordinator will also be present during the hearing but will not participate the committee's decision. The members of the committee will receive initial and subsequent annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking as well as training on the investigation and hearing process. This training, conducted in person and online, will include information on how relevant evidence should be used during a proceeding, the proper techniques for questioning witnesses, basic procedural rules and avoiding actual or perceived conflicts of interest.



The Title IX Coordinator shall serve as the hearing coordinator and will handle any logistical issues and maintain documentation of the hearing.

1. If a hearing before the Resolution Committee is granted, the complainant and the respondent shall each have the opportunity to attend the hearing. The hearing will be closed to the general student population and public.
2. If either party makes a request and is granted review by the Resolution Committee, both parties are entitled to a copy of the investigator's findings and will be provided timely notice of the date of the hearing.
3. The complainant and the respondent each have the opportunity to be advised by a support person/personal advisor of their choice, at their expense, at any stage of the process and to be accompanied by that advisor at any meeting or hearing. An advisor may only consult with and advise his or her advisee. An advisor is **not** permitted to speak for or participate on behalf of the advisee at any meeting or hearing.
4. Each party will be able to present relevant evidence and witnesses. If a hearing is granted, it will not be a re-hearing of the entire case but will instead focus *only* on the basis for which the additional review was granted. The Resolution Committee can choose to exclude any witnesses or evidence it deems irrelevant. Formal rules of evidence will not apply. Any questions posed to witnesses must be submitted to the Title IX Coordinator in writing one week prior to the hearing. The questions submitted for each witness will be asked by the Resolution Committee members only. The University will make any and all necessary arrangements to ensure the parties' safety and to avoid any undue emotional distress. Either the complainant or respondent may choose not to participate in the hearing process.
5. The Resolution Committee will review the information presented at the hearing as well as the information provided in the investigation. At the conclusion, the Committee will decide whether to overturn or uphold the findings in the investigation using a preponderance of evidence standard.
6. The complainant and the respondent will be notified simultaneously in writing of the outcome of the Resolution Committee's decision, as well as any changes to those results or disciplinary actions prior to the time that such results become final. The Resolution Committee's decision is final and no further appeal is available.
7. Compliance with these provisions does not constitute a violation of section 444 of the General Education Provision Act (20 U.S.C. 1232g), commonly known as the Family Educational Rights and Privacy Act of 1974 (FERPA).

### **J. Tips for Bystander Intervention**

Everyday there are multiple situations where we can be active bystanders. When we witness comments or jokes about rape, abusive behaviors or someone stuck in an uncomfortable situation,

we have the opportunity to intervene by reinforcing positive behaviors BEFORE a behavior moves further towards sexual violence.

1. Consider whether the situation demands action.
2. Decide whether you have the responsibility to act.
3. Choose the form of assistance to use. Consider the following options:
  - Direct Intervention: Only if you are comfortable, you can consider approaching the person directly.
  - Delegate: Find friends of the person engaging in the negative conduct to intervene. Consider calling a resident advisor, faculty member or campus safety.
  - Distract: Divert the person's attention away from the situation.

4. Understand ways to implement the choice.

There are a number of ways you can implement your chosen response. It could mean helping the person leave the situation, confronting a specific behavior, diffusing a situation, or calling for support. Other supportive bystanders could include security, police or other bystanders.

#### **K. Sex Offender Registration**

Sex offenders are required to report to the San Francisco Police Department. Information on the location of sex offenders in California can be found on the Megan's Law website:

<http://meganslaw.ca.gov/>.

#### **L. Timely Warning Reports Policy**

The University has a Campus Safety Mass Notification System. This complex and sophisticated system relays messages by means of computer, text message and TV monitors for making Timely Warning Reports to the Campus Community when a crime occurs on or off campus that is considered an ongoing or continuing threat to students/employees. The contact person for the Timely Warning Reports is the Vice President of Campus Safety and Lab Resources, Michael Petricca. Warning messages will be communicated to students and staff through the use of the 32" flat screens which are located in high visibility/high traffic areas throughout the University.

The University will also disseminate the timely warning reports through the use of text messages to students and employees of the University. A special broadcast email may also be sent.

#### **M. Victim/Informational Resources**

**What should I do if I am the victim of sexual assault, domestic violence, dating violence or stalking?**

Call 9-1-1 if you are in the midst of any kind of emergency, immediate harm or threat of harm. If you have experienced sexual violence (e.g., rape, acquaintance rape, dating violence, domestic violence, or stalking), you are encouraged to seek immediate assistance from police and healthcare providers for your physical safety, emotional support and medical care. San Francisco Police can

escort you to a safe place and transport you to a hospital or a sexual assault response center for a medical examination, if needed. San Francisco Police can also provide access to a confidential sexual assault advocate. If you would prefer not to notify the police, you are strongly encouraged to seek assistance from the campus Title IX Coordinator who can provide you with information on your options, rights and remedies, and/or a sexual assault counselor or advocate. The campus Title IX Coordinator is available to assist you in notifying the police, if you wish. The sexual assault counselors and advocates listed below can also assist you in notifying the police and/or the campus Title IX Coordinator.

You have the right to decide WHO and WHEN to tell about sexual violence. However, it is *very* important that you get confidential medical attention after being assaulted. Following the incident, you may be physically injured, there may be a chance you contracted a sexually transmitted disease, or that you may become pregnant.

### **Who Should I Contact?**

Complainants may contact any of the following people or the campus safety department's main line (415)618-3911 or (415)618-3896.

Michael G. Petricca, Vice President of Campus Safety & Lab Resources  
180 New Montgomery, Room B-83  
San Francisco, CA 94105  
(415)618-3885  
[Mpetricca@academyart.edu](mailto:Mpetricca@academyart.edu)

Christina Petricca, Title IX Coordinator  
79 New Montgomery Street, Room 475  
San Francisco, CA 94105  
(415)618-8021  
[cpetricca@academyart.edu](mailto:cpetricca@academyart.edu).

Lynda España, Deputy Title IX Coordinator  
79 New Montgomery Street, Room 360  
San Francisco, CA 94105  
(415)618-3813  
[lespana@academyart.edu](mailto:lespana@academyart.edu)

Employees may contact:  
Chris Visslailli  
Human Resources Department  
[CVisslailli@academyart.edu](mailto:CVisslailli@academyart.edu)  
(415)618-6525

**Informational Resources on Prevention and Awareness of Sexual Violence and Abuse**

The University will provide written information to students and employees about existing counseling, health, mental health and other similar services within the community. The University does not currently offer any on-campus counseling, health or mental health services. (See Appendix B for Additional Information and Resources)

**California State Coalition Against Sexual Assault**

<http://www.calcasa.org/>

**California Partnership to End Domestic Violence**

<http://www.cpedv.org/>

**Male Survivors Of Abuse**

<http://www.malesurvivor.org/>

**Rape, Abuse and Incest National Network**

<http://www.rainn.org>

**US Department of Justice**

<http://www.ovw.usdoj.gov/sexassault.htm>

**Department of Education, Office of Civil Rights**

<http://www2.ed.gov/about/offices/list/ocr/index.html>

**Not Alone Campaign – Together Against Sexual Assault**

[NotAlone.gov](http://NotAlone.gov)

**San Francisco Women Against Rape (SFWAR)**

24-hour Rape Crisis Line, collect calls accepted

415-647-RAPE/7273

[www.sfwar.org](http://www.sfwar.org)

[info@sfwar.org](mailto:info@sfwar.org)

**San Francisco Trauma & Recovery Center/Rape Treatment Center**

Medical treatment and counseling, optional police report and evidence collection. Serves adult survivors of trauma, violence and loss through comprehensive care, advocacy and outreach.

Spanish and Asian languages spoken.

2727 Mariposa Street, Suite 100 (at Bryant Street)

San Francisco, CA 94110

(415)437-3000

415-821-3222 (Business Line)

<http://traumarecoverycenter.org/>

**Community United Against Violence (CUAV)**

Serving gay, lesbian, bisexual, transgender communities. 24-hour hotline and counseling for victims of intimate partner violence and hate crimes. Spanish and Asian languages spoken.

415-333-4357 (24-hour crisis line)

<http://www.cuav.org/>

**Child and Adolescent Support Advocacy and Resource Center (CASARC)**

Medical treatment, counseling and police report services available. Serves those 17 and under. Confidential calls accepted. Spanish and Asian languages spoken.

415-206-8386 (24-hour crisis line)

<http://www.casarc.org/>

**Woman Organized to Make Abuse Non-Existent (W.O.M.A.N., Inc.)**

24-hour domestic violence hotline, in-person counseling, support groups, assistance with restraining orders and acquiring shelter. Spanish and Asian languages spoken.

415-864-4722 (24-hour crisis line)

<http://www.womaninc.org/>

**San Francisco 24-hour Hotline for Mental Health Services**

415-255-3737 or 888-246-3333

<http://mentalhealthsf.org/help-now/hotline-crisis-supports/>

## **Appendix A: List of Possible Responsible Employees**

Resident assistants

Resident directors

Student academic advisors or coaches

Faculty members

Athletic coaches

Campus Security Officers

## Appendix B: Resources

*The confidential resources listed below can provide students with support as well as basic information about your options.*

**San Francisco Women Against Rape (SFWAR)**

24-hour Rape Crisis Line, collect calls accepted. Offers confidential counseling to survivors of sexual assault and provides advocacy services.

415-647-RAPE/7273

[www.sfwar.org](http://www.sfwar.org)

[info@sfwar.org](mailto:info@sfwar.org)

**Zuckerberg San Francisco General**

1001 Potrero Ave

San Francisco, CA 94110

The hospital's Emergency Department offers 24/7 medical care, including medical forensic examinations, to survivors of sexual assault.

**San Francisco General Hospital Trauma & Recovery Center/Rape Treatment Center**

Provides medical services for sexual assaults reported through the Zuckerberg San Francisco General Hospital Emergency Department. The Center also provides counseling, optional police reporting services and evidence collection for adult survivors of trauma, violence and loss through its comprehensive care, advocacy and outreach services. Spanish and Asian languages spoken.

2727 Mariposa Street, Suite 100 (at Bryant Street)

San Francisco, CA 94110

(415)437-3000 (Crisis Line)

415-821-3222 (Business Line)

<http://traumarecoverycenter.org/>

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415-864-4722 (24-hour crisis line)

<http://www.womaninc.org/>



**Asian Pacific Islander Legal Outreach**

1121 Mission St, San Francisco, CA 94103

Phone: (415) 567-6255

Community served: Legal advocacy, cultural and linguistic support for Asian Pacific Islander families undergoing domestic violence.

**La Casa De Las Madres**

1663 Mission Street, Suite 225, San Francisco, CA 94103

Adult Crisis Line: 1-877-503-1850

Teen Crisis Line: 1-877-923-0700

Community served: Domestic violence support for women and children.

**Shimtuh**

1700 Broadway, Suite 400, Oakland, CA 94612

Domestic Violence Program (510) 547-3258 / Monday-Friday: 9:30am - 5:30pm

Community served: Referrals for shelter, legal services, counseling, translation services, citizenship/legal residency for Korean- community survivors of domestic violence and their families.

**Narika**

P.O. Box 14014, Berkeley, CA 94712

Helpline: 800- 215-7308

Community served: Advocacy, support, information, and referrals for survivors of domestic violence in the South Asian community- Bangladesh, Bhutan, India, Nepal, Pakistan, Sri Lanka and diasporic communities.