

ArtCenter

ArtCenter College of Design Sexual Misconduct Policy

Effective Date: August 14, 2020

Supersedes: Sexual Misconduct Policy in 2015-16 ArtCenter Student Handbook; Title IX *Policy* Prohibiting Discrimination, Harassment, Retaliation, Sexual Harassment, Sexual Misconduct, Sexual Violence, Dating Violence, Domestic Violence and Stalking against Students; and *Procedure* for Addressing Such Complaints, published in 2018

Subject: Sexual Misconduct Policy

Table of Contents

1. Rationale for Policy	2
2. Scope of Policy	3
3. Title IX Coordinator	5
4. Definitions	6
5. Prohibited Sexual Misconduct	11
6. Other Relevant Policies	17
7. Supportive Measures, Emergency Removals and Confidential Resources	18
8. Notice, Complaints and Reports of Alleged Sexual Misconduct	22
9. General Principles of the Resolution Processes	31
10. Initial Assessment	37
11. Informal Resolution	42
12. Formal Investigations	44
13. Formal Hearings	48
14. Appeals	55
15. Record-Keeping	57
16. Revision of Policy	58



1. Rationale for Policy

A. Policy Statement

ArtCenter College of Design (“ArtCenter” or “the College”) is committed to maintaining an inclusive community that is supportive of students and employees in all of its programs and activities. Part of this commitment is providing an educational and working environment that is free of sexual misconduct in accordance with Title IX of the Higher Education Amendments of 1972 (“Title IX”), which prohibits discrimination on the basis of sex in education programs and activities; Title VII of the Civil Rights Act of 1964 (“Title VII”), which prohibits sex discrimination in employment; and the Campus Sexual Violence Elimination Act (“SaVE Act”), Violence Against Women Act (“VAWA”), and the Clery Act.

To ensure compliance with these and other federal and state laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of employment and education, ArtCenter has developed this Sexual Misconduct Policy (“Policy”), which applies to all students, faculty and staff. This Policy defines the College’s administrative policies and procedures designed to provide a prompt, fair and impartial process to address alleged sexual misconduct or alleged retaliation for reporting or supporting the reporting of sexual misconduct. ArtCenter values and upholds the equal dignity of all members of its community and strives to balance the rights of all parties involved in an informal or formal grievance process.

This Policy supersedes all other ArtCenter policies’ definitions of sexual misconduct as well as processes for addressing such behavior for both students and employees.

B. Notice of Non-Discrimination

ArtCenter does not unlawfully discriminate on the basis of sex in its education programs and activities as required by Title IX, including in its admission and employment practices. ArtCenter has adopted and published grievance processes, outlined in Sections 10-14 of this Policy, that provide for the prompt and equitable resolution of formal complaints alleging any action that would be prohibited by Title IX or would otherwise be prohibited by Section 5 of this Policy.

This Policy prohibiting sexual harassment and discrimination on the basis of sex is a part of ArtCenter’s larger [equal opportunity commitment](#) to prohibit discrimination, harassment and retaliation of any kind, against any member of its community, based on protected classes as defined by the College or federal, state, or local law. Policies and processes addressing discrimination and harassment on the basis of protected class statuses other than sex and gender are defined in the Student Handbook and the Employee Handbook.

C. Free Expression and Academic Freedom

This Policy defines community expectations designed to protect and promote the ArtCenter community’s pursuit of the College’s mission while providing a community free of sex-based harassment and discrimination. Freedom of speech and expression are especially important values within ArtCenter’s academic and creative community. ArtCenter recognizes academic freedom as integral to the pursuit of education. The College supports an environment where there is free expression and exchange of diverse ideas within a respectful, open-minded and safe context. This Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include controversial or sensitive subject matters



protected by academic freedom, and it shall not be misconstrued as discouraging intellectual controversy. However, although ArtCenter students and employees may express views that are controversial and challenge the views of others, they must not infringe on others' rights. All members of the ArtCenter community must adhere to all applicable community expectations, including this Policy, the Student Handbook, the Employee Handbook and the Faculty Handbook. ArtCenter's Statement on Academic Freedom is listed in the Faculty Handbook, Section 4.01, "Academic Freedom."

D. Relevant Resources

ArtCenter values and upholds the equal dignity of all members of its community and strives to provide resources and options to benefit the College community. This Policy outlines on-campus and off-campus confidential resources in Section 7D, supportive measures in Section 7A, and reporting processes in Section 8, which are available to all members of the ArtCenter community.

2. Scope of Policy

A. Students and Employees

This Policy applies to all ArtCenter students and employees, including administrators, faculty and staff. All members of the ArtCenter community are expected to conduct themselves in a manner that does not infringe upon the rights of others.

For the purposes of this Policy, "the ArtCenter community" is a phrase inclusive of, but not limited to, students, student organizations, faculty, administrators, staff, guests, visitors, invitees and ArtCenter Extension participants. The term "complainant" refers to the person who is alleged to be the victim of conduct that could constitute sexual harassment or other sexual misconduct defined in this Policy. The term "respondent" refers to the person who has been reported to be the perpetrator of conduct that could constitute sexual misconduct as defined in this Policy. Section 4 outlines additional definitions of terms used in this Policy.

When the respondent is a member of the ArtCenter community, the resolution processes outlined in this Policy may be applicable regardless of the status of the complainant. If the respondent is unknown or unidentified, the Title IX Coordinator will assist the complainant in identifying appropriate campus and local resources, support resources, and, if appropriate, local law enforcement agencies. The formal and informal processes outlined in this Policy may be applied to incidents, patterns and campus climate, all of which may be addressed and investigated in accordance with this Policy.

B. Third Parties

Independent contractors and other third parties at ArtCenter are also expected to abide by this Policy and other institutional non-discrimination policies. A third party is any individual who is not an ArtCenter student, faculty or staff member, and may include any participant in an ArtCenter-related program or activity, such as visitors, guests, independent contractors and vendors. The Title IX Coordinator will determine the appropriate manner of addressing reported concerns regarding the behavior of third parties. ArtCenter's ability to control or engage with third parties may be limited, but the Title IX Coordinator will assist any student or employee alleging violations of a third party in accessing appropriate resources and



support options. This may include referrals to law enforcement or restriction of the third party from access to campus or ArtCenter activities.

When the respondent is enrolled in or works at another educational institution, the Title IX Coordinator may help the complainant by acting as a liaison with the appropriate individual from that institution, as it may be possible to allege violations through the other institution's policies. If an ArtCenter student or employee experiences sex discrimination in an internship, study abroad or exchange program, or other environment external to ArtCenter, the complainant is encouraged to report to the Title IX Coordinator, who will determine if this Policy applies and may liaise with the other organization to help navigate relevant policies and procedures.

C. Jurisdiction

ArtCenter exercises jurisdiction under this Policy in connection with all academic, educational, co-curricular, extracurricular and other programs and activities of the College, whether those programs or activities take place at ArtCenter's Hillside or South campus, at a designated satellite studio, or at another location if these programs are sponsored by ArtCenter or are under ArtCenter's control. ArtCenter also exercises jurisdiction over students' and employees' behavior in any building owned or controlled by a College-recognized student organization. This Policy can be applied to the effects of off-campus misconduct that effectively deprive someone of access to ArtCenter's educational program or employment. The College may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial College interest, such as a situation that is detrimental to the educational interests or mission of the College.

Regardless of where alleged sexual misconduct occurred, the College will determine whether alleged misconduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. Examples of behaviors within ArtCenter's jurisdiction include those that occur:

- Within ArtCenter-sponsored classes, activities and events, regardless of location
- During activities that derive from class assignments or for which credit may be received, regardless of location
- During on- or off-campus activities that involve staff and students and that materially derive from, relate to, or bear upon the official capacities of an employee(s)
- In any situation in which it appears that a student, staff, or faculty member may present a danger or threat to the health or safety of others

The Title IX Coordinator has the responsibility to determine whether alleged misconduct occurred within the College's jurisdiction as well as how to proceed, as described in Section 10. The College may address complaints to prevent any hostile environment from transferring to ArtCenter's programs or activities.

When complaints of online postings or other electronic communication by students are completely outside of ArtCenter's control and cannot be shown to cause a substantial disruption on campus or in an educational program or activity, the communications are considered protected speech. Examples of online communications outside of ArtCenter's control include those not on ArtCenter websites, networks, email accounts, or in an ArtCenter online course. Support for complainants of such protected speech will be provided, but



students' protected speech is not subjected to discipline. If off-campus discriminatory or harassing speech is made by employees, whether online or in person, ArtCenter may exercise jurisdiction over those communications when such speech is made in an employee's official or work-related capacity.

While ArtCenter may not control websites, social media and other venues in which harassing communications are made, when such communications are reported to the College, it will engage in a variety of means to address and attempt to mitigate the effects. Students and employees are encouraged to be good digital citizens and to refrain from online misconduct that may harm another member of the ArtCenter community. Depending on the circumstances, such behavior may be pursued as a violation of this Policy, the Employee Handbook and/or the Student Handbook.

3. Title IX Coordinator

ArtCenter takes all allegations of sexual misconduct seriously. ArtCenter's Director of Title IX Compliance and Programs is the College's Title IX Coordinator. The Title IX Coordinator reports directly to the President and is housed in the Title IX Office, a part of the Executive Office. The Title IX Coordinator oversees College-wide compliance with the Sexual Misconduct Policy, including reporting, investigation and resolution, as well as education and corrective measures designed to stop, remedy and prevent harassment, discrimination and retaliation prohibited under this Policy.

Questions about this Policy should be directed to the Title IX Coordinator. Any person may report sex discrimination, sexual harassment, or other sexual misconduct to the Title IX Coordinator regardless of whether or not the reporting person is the recipient of the alleged behavior. Anyone wishing to make a report, or any employee mandated to make a report of sexual misconduct, may do so at any time, including outside of business hours, to:

Kristen Entringer
Director, Title IX Compliance and Programs (Title IX Coordinator)
Hillside Campus, Administrative Offices
626 396-2340
Kristen.Entringer@artcenter.edu

Additionally, anonymous reports can be made by calling EthicsPoint at 866 489-3018. Note that anonymous reports may prompt a need for ArtCenter to take action, but the College's ability to fully investigate may be limited.

A. Independence and Conflicts of Interest

The Title IX Coordinator acts with independence and authority free from conflicts of interest or bias toward or against complainants or respondents generally or specifically. The Title IX Coordinator oversees all resolutions under this Policy and takes steps to ensure that individuals materially involved in the administration of informal or formal processes perform their role with objectivity and impartiality. To raise a concern involving bias or conflict of interest by the Title IX Coordinator in the course of overseeing the sexual misconduct resolution process at ArtCenter, contact the ArtCenter President, Lorne M. Buchman, at lorne.buchman@artcenter.edu.



In the event that an incident involves alleged misconduct by the Title IX Coordinator, reports should be made directly to the Vice President for Human Resources:

Lisa M. Sanchez, SPHR, SHRM-SCP
South Campus, 1111 Building, Human Resources Office
626 396-2210
VPHR@artcenter.edu

B. Oversight of Investigators, Decision-Makers and Appeal Officers

As defined in Section 4A, the Title IX Team is a collection of ArtCenter employees and, when appropriate, outside consultants or contractors charged with upholding this Policy and enacting the procedures defined within. Members of the team may fulfill roles as investigators, decision-makers, hearing officers, appeal officers and trained advisors. In accordance with federal regulations, the Title IX Coordinator takes appropriate steps to ensure that all members of the Title IX Team do not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent specifically. The Title IX Coordinator ensures that those with a material role in the informal and formal processes outlined in this Policy receive training on the definition of sexual harassment and how to impartially conduct the process without relying on sex stereotypes. The purpose of this training and oversight is to protect the safety of all members of the ArtCenter community, to ensure a fair process and protections for all parties, and to promote accountability. Any party concerned about the objectivity or impartiality of a member of the Title IX Team should direct concerns to the Title IX Coordinator.

4. Definitions

A. Definition of Terms

The following terms will be utilized throughout this Policy. Further information is available in the identified sections of the policy.

1. **Actual Knowledge** – notice of sexual harassment or other sexual misconduct, or allegations that would be a violation of this Policy, disclosed to ArtCenter’s Title IX Coordinator or designated Officials with Authority, as described in Section 8A; initiates the College’s prompt response.
2. **Adverse Action** – an action that has a substantial and material negative effect on an individual’s ability to participate in a College program or activity free from sex- or gender-based harassment, discrimination, or other misconduct. Adverse action taken against an individual is defined further in Section 5.
3. **Advisor** – any individual selected by a complainant or respondent or appointed by the College to accompany the party during meetings related to the intake, investigation and/or resolution of a sexual misconduct allegation to advise the party on the process and conduct cross-examination for the party at a hearing, if any. Advisors and their role in the process are defined further in Section 9H.
4. **Appeal Officer** – an individual authorized by the Title IX Coordinator or designee to organize, administer and make decisions regarding an appeal process following a mandatory or discretionary dismissal or formal hearing.
5. **Day** – a business day, Monday through Friday, when ArtCenter administrative offices are in normal operation; excludes weekends, observed holidays and other days of full or



partial ArtCenter office closure, including both planned closures and closures due to natural disaster, public health concerns, or other emergencies.

6. **Campus or College** – ArtCenter College of Design, including all properties owned and operated by the College. ArtCenter’s campus locations include, but are not limited to, the following, as well as adjacent ArtCenter parking lots and properties:
 - a. Hillside Campus: 1700 Lida Street (including the Ellwood building, Annex, and Sinclair Pavilion).
 - b. South Campus: 950 S. Raymond Avenue, 870 S. Raymond Avenue, 888 S. Raymond Avenue, and 1111 S. Arroyo Parkway.
 - c. ArtCenter DTLA (satellite studio): 114 W. 4th Street, Los Angeles, CA 90013.
 - d. ArtCenter at the Peterson (satellite studio): 6060 Wilshire Boulevard, Los Angeles, CA 90036.
 - e. ArtCenter Berlin (satellite studio): Hardenbergplatz 2, 10623 Berlin.
7. **Complainant** – an individual who is alleged to be the victim of conduct that could constitute sexual harassment, other sexual misconduct, or retaliation defined in this Policy.
8. **Decision-maker** – any person(s) authorized by the Title IX Coordinator or designee to preside over an informal or formal process outlined in this Policy, including hearings. In presiding over informal processes, decision-makers may facilitate the process without rendering a final determination of responsibility. For the role of a decision-maker in a formal grievance process, see *Hearing Officer*.
9. **Education Program or Activity** – locations, events, or circumstances over which ArtCenter exercises substantial control over both the respondent and the context in which alleged sexual misconduct is reported to have occurred; includes any building owned or controlled an officially recognized ArtCenter student organization.
10. **Employee** – a person holding a paid position at ArtCenter, without regard to title, classification, or status, holding any position at ArtCenter for which compensation is received. This term includes all staff, whether full-time, part-time, on-call, or temporary, including all faculty, who are full-time and part-time, including all professors, instructors, visiting artists and other employees teaching courses.
11. **Final Determination** – a conclusion by the preponderance of the evidence of whether alleged conduct did or did not violate policy; final determinations are reached only following a formal grievance process and the conclusion of any appeal process or the close of an appeal window, if neither party appeals the outcome.
12. **Finding** – a conclusion by the preponderance of the evidence as to whether conduct occurred as alleged.
13. **Formal Grievance Process** – the method outlined in this Policy in Sections 12-14 for formal resolution of an allegation of sexual misconduct; the designated formal resolution process that complies with 34 CFR 106.45 of the Title IX regulations set forth by the Department of Education.
14. **Formal Complaint** – a document signed by a complainant or by the Title IX Coordinator that is both a) alleging sexual harassment and/or another violation of this Policy against a respondent within the jurisdiction and scope of this Policy, and b) requesting initiation of the procedures described in this Policy.
15. **Hearing Officer (may also be referred to as a hearing board or decision-makers)** – any person(s) authorized by the Title IX Coordinator or designee to preside over the



formal hearing process outlined in Section 13 of this Policy to determine whether an ArtCenter student, staff, or faculty member has violated this Policy by a preponderance of the evidence and, if applicable, assign sanctions when a policy violation is determined to have occurred. *See also: Decision-maker.*

16. **Hearing Chair** – an individual authorized by the Title IX Coordinator or designee to both fulfill the role of a hearing officer and to take leadership in organizing, administering and making decisions regarding the formal hearing process.
17. **Hearing Coordinator** – any person(s) appointed by the Title IX Coordinator or designee to help a hearing chair manage a hearing, including preparations or logistics, without fulfilling the role of a hearing officer or decision-maker.
18. **Investigator** – any person(s) appointed by the Title IX Coordinator or designee to gather relevant information related to an allegation of a violation of this Policy, assess relevance and compile the information into an investigation report; the information gathered by the investigator(s) will be considered in any future resolution process, whether formal or informal, as determined by the Title IX Coordinator.
19. **Mandated Reporter** – an ArtCenter employee who is obligated to disclose knowledge, notice and/or reports of harassment, discrimination, or retaliation with the Title IX Coordinator, as defined in Section 8B of this Policy and in the Employee Handbook.
20. **Notice** – information regarding an allegation of sexual misconduct observed by or disclosed to the Title IX Coordinator or other designated Official with Authority.
21. **Official with Authority** – an ArtCenter employee explicitly vested with the responsibility to implement corrective measures for harassment, discrimination and/or retaliation on behalf of the College, as described in Section 8A.
22. **Parties or Party** – complainant(s) and respondent(s); while a parent or guardian with the legal right to act on behalf of a party may do so when appropriate, subject to the Family Educational Rights and Privacy Act (FERPA), the parent is not regarded as the party.
23. **Remedies** – measures provided to a complainant and/or the community following a final determination that found a respondent responsible for a violation of this policy; these measures are designed to prevent the recurrence of policy-violating behavior, address safety and restore access to the College's education program or activity.
24. **Respondent** – an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment, other sexual misconduct, or retaliation as defined in this Policy.
25. **Sanction** – a consequence imposed by the College on a respondent who is found to have violated this Policy.
26. **Sexual Misconduct** – An umbrella term used to categorize prohibited behavior that is sex- or gender-based and/or sexual in nature, as defined in Section 5, which would be a violation of this Policy. Within the sexual misconduct umbrella is Title IX sexual harassment, as defined in Section 5A, which includes sexual harassment, sexual assault, stalking, dating violence and domestic violence.
27. **Student** – a student is defined as an individual who a) is an applicant for admission to ArtCenter or admitted to ArtCenter; b) is enrolled in one or more classes in a degree or non-degree seeking capacity, including ArtCenter Extension programs; c) completed the previous term and is enrolled for the next scheduled term or has completed coursework and is awaiting a degree; d) was enrolled in coursework and is currently serving a suspension or interim suspension; e) is officially representing the College during a period between regular academic terms; f) was enrolled but withdraws or is withdrawn from the



College while a disciplinary matter (including investigation) is pending; or g) is not currently enrolled but has a continuing academic relationship with the College, such as being on a leave of absence or finishing incomplete coursework outside of a term.

28. **Supportive Measures** – non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to a complainant or a respondent during or outside of an investigation or resolution process in an effort to restore or preserve equal access to ArtCenter’s education program or activity without unreasonably burdening the other party. Supportive measures are further defined in Section 7A.
29. **Third Party or Parties** – a person other than an employee or a student. Examples include volunteers, independent contractors, visitors, non-ArtCenter students, and vendors and their employees (including custodial and food service staff).
30. **Title IX (may also be referred to as Title IX of the Education Amendments of 1972)** – a federal law that states, “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.”
31. **Title IX Coordinator** – the ArtCenter employee designated by the College President to ensure compliance with Title IX and ArtCenter’s Title IX program. References to the Title IX Coordinator throughout this Policy may also encompass a designee of the Coordinator for specific tasks.
32. **Title IX Team** – a collection of ArtCenter employees and, when appropriate, outside consultants or contractors charged with upholding this Policy and enacting the procedures defined within. The Title IX Team includes the Title IX Coordinator, deputy coordinators, investigators, decision-makers/hearing officers, appeal officers, trained advisors and anyone who may perform in any of these roles at any given time.

B. Other Terms

Other relevant definitions can be found in the Employee Handbook, Faculty Handbook and Student Handbook. In the event that definitions overlap or conflict, this Policy supersedes other definitions within the specific scope of defining roles and practices for the investigation and resolution of alleged sexual misconduct at ArtCenter. For questions or clarity on the definition of terms used throughout this Policy, individuals should contact the Title IX Coordinator, who is tasked with the interpretation and enforcement of this Policy.

C. Definition of Consent

Prohibited behaviors outlined in Section 5 of this Policy are further defined by an affirmative consent standard, as follows:

1. **Consent** is an informed, affirmative, conscious, voluntary and mutual agreement by all participants to engage in sexual activity, communicated through mutually understandable words and/or actions. It is the responsibility of each person involved in the sexual activity to ensure that they have the affirmative consent of the other participant(s) to engage in the sexual activity before doing so. Affirmative consent must be voluntary and given without coercion, force, threats, or intimidation.
 - a. Affirmative consent must be continuously present throughout an interaction, for all sexual activities, and may be modified, withdrawn, or revoked at any time. Once consent is withdrawn or revoked, the sexual activity must stop immediately.
 - b. Consent to one form of sexual activity or one sexual act does not constitute consent to other forms of sexual activity. Consent given to sexual activity on one occasion



does not constitute consent on another occasion. There must always be mutual and affirmative consent to engage in sexual activity.

- c. The existence of a dating or social relationship between those involved, or the fact of past sexual activities between them, can never by itself be assumed to be an indicator of consent.
- d. Consent cannot be any of the following:
 - i. Consent cannot be inferred from silence, the absence of a “no,” a lack of protest, or a lack of resistance.
 - ii. Consent cannot be obtained from a person who is incapacitated by substances such as alcohol, drugs, and/or medication, and this condition was known or reasonably should have been known by the other individual(s) involved in the sexual activity.
 1. Whether a person who consumed alcohol or other drugs is incapacitated depends on the extent to which the substance(s) impacts the person’s decision-making ability, awareness of consequences, and ability to make informed judgments. Incapacitation is defined as a state in which an individual is incapable of making rational, reasonable decisions, including giving knowing consent, because they lack the capacity to understand the fact, nature, or extent of the sexual activity, also known as the *who, what, when, where, why* and/or *how* of the sexual interaction. A person may still be conscious but lack the capacity to give knowing consent to sexual activity.
 2. Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment and/or blackout.
 - iii. Consent cannot be obtained from a person who is asleep, unconscious, or otherwise temporarily or permanently mentally or physically incapacitated or unable to communicate, and this condition was known or reasonably should have been known by the other individual(s) involved in the sexual activity.
 - iv. Consent cannot be obtained through force.
 1. Force is defined as the use of physical violence, physical imposition, verbal or physical threats, and/or intimidation (implied threats) to gain sexual access or otherwise cause a person to engage in activity to which they do not consent.
 - a. A threat is defined as conduct that causes the reasonable expectation of injury to the health or safety of any person or damage to any property. A threat may be used to gain access to something that an individual otherwise did not consent to, including sexual access. Threats can be communicated in an oral, nonverbal, written, or physical manner.
 - b. Intimidation is defined as implied threats or acts that cause a reasonable fear of harm or injury to a person or property.
 - v. Consent cannot be obtained through coercion.
 1. Coercion is defined as an unreasonable pressure used to gain sexual access, which means more than an effort to persuade, seduce, or attract another person to engage in sexual contact. When



a person communicates that they do not want to engage in a sexual activity, that they want to stop sexual activity, or that they do not want to engage in anything other than a specific sexual activity, continued pressure beyond the boundary they have communicated can be coercive. The evaluation of coercion focuses on the actions of the person allegedly applying the pressure as well as how the pressure is received. In evaluating whether coercion was present, ArtCenter will consider:

- a. The frequency of the application of the pressure
 - b. The intensity of the pressure, such as disparaging remarks
 - c. The degree of isolation of the person being pressured
 - d. The duration of the pressure
 - e. Any power dynamic created by the relative positions of those involved within the ArtCenter community or larger society
- e. Consent cannot be obtained from a person under the age of 18.
- f. An individual's own intoxication from alcohol, drugs, or medication or an individual's recklessness or failure to take reasonable steps to ascertain affirmative consent does not diminish their responsibility to obtain consent before engaging in sexual activity. An individual must take reasonable steps, in the circumstances known to the person at the time, to ascertain whether the other person(s) involved affirmatively consented prior to sexual activity. The question of whether an individual should have known of the incapacity of another person(s) involved in sexual activity is an objective question about what a reasonable person, exercising sober, good judgment, would have known in the same or similar circumstances.

5. Prohibited Sexual Misconduct

Considering applicable laws and guidance from the Department of Education's Office for Civil Rights ("OCR"), the Equal Employment Opportunity Commission ("EEOC") and the State of California, ArtCenter has adopted the following definitions of prohibited sexual misconduct conduct for the context of the College's employment and educational environment. The prohibited behaviors in Sections 5A and 5B may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved. Prohibited misconduct defined in Sections 5A and 5B also include actions online, when such online or cyber behaviors occur in or have an effect on the College's education program or activities or use College networks, technology or equipment, as defined in Section 2C.

A. Sexual Misconduct Defined by Title IX Regulations

The following provisions of this Policy define prohibited behaviors in accordance with federal Title IX regulations that apply to all members of the ArtCenter community. Please refer to the affirmative consent standard defined in Section 4C for further information. Alleged violations of the following five provisions of this Policy will usually be addressed through a formal grievance process as outlined in Sections 10-14, as determined by the Title IX Coordinator.



1. **Sexual harassment** – As an umbrella category, sexual harassment includes conduct on the basis of sex or that is sexual in nature that meets the definition of one or more of the following:

- a. *Quid pro quo harassment* – Conduct on the basis of sex in which an ArtCenter employee conditions the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct. Quid pro quo harassment applies whether the conditions proposed by the employee are implied or communicated explicitly. Acquiescence to unwelcome conduct in a quid pro quo context to avoid potential negative consequences does not indicate affirmative consent, indicate that the conduct was not unwelcome, or diminish the employee's statements or actions amounting to quid pro quo harassment.

As such, examples of *quid pro quo* harassment include:

- A professor insists that a student have sex with them in exchange for a good grade, regardless of whether the student accedes to the request and irrespective of whether a good grade is promised or a bad grade is threatened
- A supervisor tells employees in their department that they are more likely to be promoted if they submit to requests from their superior ranging from invitations to intimate dates to appeals for back rubs or sexual favors

- b. *Sexual Harassment* – Unwelcome conduct on the basis of sex 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.

For the purposes of this definition, the following terms apply:

- *Conduct on the basis of sex* is defined as either being explicitly sexual in nature or referencing one sex or the other, often deriving its sex-based nature from the circumstances in which the conduct occurs. Conduct of a sexual nature does not need to express any sexual desire. Determining whether conduct is on the basis of sex does not require probing into the subjective motive of the respondent, such as whether the behavior targeted a complainant because of the complainant's or the respondent's actual or perceived sex.
- *Unwelcome conduct* is defined as conduct that either is neither solicited nor incited and is regarded by the complainant as undesirable or offensive.
- *Objectively offensive conduct* is defined as that which would be offensive to a reasonable person under similar circumstances and with similar identities, considering the totality of the known circumstances.
- *Denies equal access* is defined as a deprivation of equal access as measured against the access of a person who has not been subjected to sexual harassment. Denial of equal access to the College's education program or activity does not equate to an entire or total denial of access.

In determining whether conduct is sufficiently severe, pervasive and objectively offensive to constitute a violation of Section 5A.1.b. Sexual Harassment, the conduct in question is evaluated based on the totality of the circumstances from the



perspective of a reasonable person in similar circumstances, including but not limited to:

- The context in which the alleged incident occurred,
- The identities, expectations and relationship between involved parties,
- The type, frequency and duration of the conduct,
- Any similar previous patterns that may be evidenced, and/or
- The principles of academic freedom, if applicable.

As such, examples of *sexual harassment* include:

- Two supervisors frequently “rate” several employees’ bodies and sex appeal, commenting suggestively about their clothing and appearance directly to them and to other employees, causing employees to seek employment elsewhere
- A professor engages students in class discussions about their past sexual experiences, including asking for explicit details and demanding that students answer them in front of their peers, despite their communicated discomfort and the fact that the conversations in no way are germane to the subject matter of the class

2. **Sexual assault** – As required by Title IX, ArtCenter defines sexual assault as conduct, attempted or completed, that meets one or more of the following definitions, considering the affirmative consent standard defined in Section 4C.

- a. *Sex offenses, forcible* – Any sexual act directed against another person, without the consent of the complainant, including instances in which the complainant is incapable of giving consent, including:
 - i. *Forcible rape* – Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the complainant.
 - ii. *Forcible sodomy* – Oral or anal sexual intercourse with another person, forcibly and/or against that person’s will, or not forcibly or against the person’s will (non-consensually) in instances where the complainant is incapable of giving consent due to being under the age of 18 or because of temporary or permanent mental or physical incapacity.
 - iii. *Sexual assault with an object* – The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person’s will (non-consensually) or not forcibly or against the person’s will in instances where the complainant is incapable of giving consent due to being under the age of 18 or because of temporary or permanent mental or physical incapacity.
 - iv. *Forcible fondling* – The touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, forcibly and/or against that person’s will (non-consensually), or not forcibly or against the person’s will in instances where the Complainant is



incapable of giving consent due to being under the age of 18 or because of temporary or permanent mental or physical incapacity.

- b. *Sex offenses, non-forcible* – Non-forcible sexual intercourse without consent, including:
 - i. *Incest* – Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by California law.
 - ii. *Statutory rape* – Non-forcible sexual intercourse with a person who is under the statutory age of consent, which is 18 per California law.

3. **Dating violence** – Violence on the basis of sex 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's statement 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 the 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.

4. **Domestic violence** – Violence, on the basis of sex, committed:
- a. By a current or former spouse or intimate partner of the complainant, or
 - b. By a person with whom the complainant shares a child in common, or
 - c. By a person who is cohabitating with, or has cohabitated with, the complainant as a spouse or intimate partner, or
 - d. By a person similarly situated to a spouse of the complainant under the domestic or family violence laws of California, or
 - e. By any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of California.

To categorize an incident as domestic violence, the relationship between the respondent and the complainant must be more than two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

5. **Stalking** – A course of conduct on the basis of sex directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.

For the purposes of this definition, the following terms apply:

- *Course of conduct* is defined as two or more acts, including, but not limited to, acts in which the respondent directly, indirectly, or through third parties, by any action,



method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

- *Reasonable person* is defined as means a reasonable person under similar circumstances and with similar identities to the complainant.
- *Substantial emotional distress* is defined as significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

B. Discrimination and Non-Title IX Sexual Misconduct

The following provisions of this Policy define prohibited behaviors, which may be within or outside of Title IX, that apply to all members of the ArtCenter community. Please refer to the affirmative consent standard defined in Section 4C for further information.

1. **Discriminatory harassment on the basis of sex** – unwelcome and harassing oral, written, graphic, or physical conduct on the basis of actual or perceived sex or gender that is objectively offensive and is sufficiently severe or pervasive such that it creates a hostile environment that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.
2. **Sex/gender-based discrimination** – conduct that subjects an individual to disparate treatment on the basis of gender identity, gender expression, pregnancy, marital status, or sexual orientation, including conduct that deprives, limits, or denies members of the community of educational or employment access, benefits, or opportunities on the basis of these protected characteristics. Depriving an individual of academic or employment opportunities on the basis of a protected characteristic listed above may include, but not be limited to:
 - Refusing to hire or promote a person
 - Terminating or demoting a person
 - Refusing admission to an academic program or activity
 - Subjecting an individual to different academic or work performance standards
3. **Sexual exploitation** – taking non-consensual or abusive sexual advantage of another for the benefit or advantage anyone other than the exploited party, when that conduct does not otherwise constitute sexual harassment or discriminatory harassment under this Policy. Sexual exploitation may involve, but is not limited to:
 - a. Intentionally watching an individual who is undressing, completely or partially nude, using the bathroom, or engaging in sexual activity without the consent of the person being observed. This includes allowing others to observe such conduct.
 - b. Engaging in sexually explicit behavior or sexual activity in public
 - c. Invasion of sexual privacy
 - d. Prostituting another person
 - e. Recording, streaming, sharing, or capturing audio, video, or photos of nudity, sexual activity, or other sexually related activity of a person(s) without the consent of all involved in the activity, including making or posting "revenge porn"
 - f. Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity



- g. Knowingly exposing someone to or transmitting a sexually transmitted infection (“STI”), sexually transmitted disease (“STD”), or human immunodeficiency virus (“HIV”) to another person without that person’s knowledge or consent
 - h. Intentionally exposing one’s genitals in non-consensual circumstances, including while in a public area or by sending unwelcome digital images or videos
 - i. Removing a condom or other protection during sexual intercourse without affirmative consent of the other individual(s) involved in sexual activity or intentionally misleading a sexual partner(s) to believe a condom or protection is being used during sexual intercourse
 - j. Causing or attempting to cause the incapacitation of another person to gain sexual access
 - k. Engaging in sex trafficking
 - l. Creation, possession, or dissemination of child pornography; knowingly soliciting a person under the age of 18 for sexual activity or sexual images
 - m. Misappropriation of another person’s identity on apps, websites, or other venues designed for dating or sexual connections
 - n. Going beyond the boundaries of consent
4. **Threats, intimidation, hazing, or bullying on the basis of sex** – conduct that amounts to a form of sex discrimination outside of Title IX when the act is based upon the complainant’s actual or perceived sex or gender. Examples include:
- a. Threatening or causing physical harm, extreme verbal, emotional, or psychological abuse, or other conduct that threatens or endangers the health or safety of any person
 - b. Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another
 - c. Bullying, defined as repeated or severe aggressive behavior likely to physically and/or mentally intimidate or intentionally hurt, control, or diminish another person, while not being a form of speech or conduct protected by the First Amendment
 - d. Hazing, defined as acts likely to cause physical or psychological harm or social ostracism when related to admission, initiation, pledging, or otherwise joining a group
 - e. Violation of other ArtCenter policies toward an individual due to their actual or perceived sex or gender, when the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities
5. **Retaliation** – materially adverse action such as intimidating, threatening, coercing, harassing, or discriminating against an individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy. Retaliation may also include denial or revocation of access to academic or employment opportunities, violation of a No Contact Order, efforts to impede an investigation or grievance process, filing a knowingly false or bad faith cross-complaint, and/or engaging in other behavior that violates ArtCenter policy toward a person because they reported alleged misconduct or engaged



a grievance process outlined in this Policy. Retaliation is a violation of this policy whether or not the initial allegation(s) is found to be a violation of Policy.

Retaliation includes charging an individual for a policy violation arising out of the same facts or circumstances as a report or complaint of sex discrimination or sexual harassment for the purpose of interfering with any right or privilege secured by Title IX. Engaging in protected speech under the First Amendment does not constitute retaliation. Charging an individual with making a materially false statement in bad faith in the course of a grievance process under this Policy also does not constitute retaliation, provided that a determination regarding responsibility in that process, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

6. **Bad faith complaint of sexual misconduct** – reporting a knowingly false and/or malicious allegation or counter-complaint under this Policy. This provision prohibits intentionally making a false report of sexual misconduct to ArtCenter in an attempt to use the process(es) defined in this policy against another individual(s) or the institution, in contrast to allegations made in good faith, even if found to be erroneous in the course of an investigation. A determination that no Policies were violated following an investigation process is not, in and of itself, evidence of a bad faith complaint.

6. Other Relevant Policies

A. Student Policies

Other ArtCenter policies and standards of conduct for students, including the Student Handbook, may be implicated in an allegation of sexual misconduct when the respondent is a student or student group. Reporting procedures and resolution processes in the Student Handbook still apply, unless it is determined that potential violations of one or more other policies will be investigated simultaneously within a process outlined in this Policy. The parties will be informed in writing of all potential violations of policy that are being evaluated in a present investigation. Students should understand that providing false information, tampering with or destroying evidence after being directed to preserve such evidence, or deliberately misleading an official conducting an investigation or hearing can be subject to discipline under the Student Handbook and/or this Policy, depending on the circumstances. Student employees who receive information about alleged sexual misconduct in the course of their job duties but fail to fulfill mandated reporting obligations may also face discipline.

B. Employee Policies

Other ArtCenter policies and standards of conduct for employees may be implicated in an allegation of sexual misconduct when the respondent is an ArtCenter employee. These policies include the Faculty Handbook, Employee Handbook, Discrimination, Harassment and Retaliation (“DHR”) policies, Standards of Conduct, No Dating Policy, Ethics and Professional Conduct, Conflicts of Interest, Confidentiality, and Information Technology Use. Reporting procedures and resolution processes related to these policies still apply, unless it is determined that potential violations of one or more other policies will be investigated simultaneously within a process outlined in this Policy. The parties will be informed in writing of all potential violations of policy that are being evaluated in an investigation. Employees should understand that providing false information, tampering with or destroying evidence after being directed to preserve such evidence, deliberately misleading a Title IX Team



Member conducting an investigation or hearing, or failure to abide by mandated reporting obligations can be subject to discipline under the Employee Handbook and/or this Policy, depending on the circumstances.

7. Supportive Measures, Emergency Removals and Confidential Resources

When a student or employee reports to ArtCenter that they may have experienced sexual misconduct, whether or not the incident(s) occurred on campus or at an ArtCenter event, ArtCenter will provide the individual with written information about resources and options, including health and mental health resources and other supportive measures appropriate for the situation.

A. Supportive Measures

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate to complainants, respondents and witnesses, as reasonably available, and without any fee or charge to the individual(s). Supportive measures are available before or after the filing of a formal complaint or where no formal complaint has been filed.

Supportive measures are options and steps that ArtCenter can provide on a temporary or ongoing basis to support the personal, academic and/or professional success of an individual who may have been impacted by alleged sexual misconduct and/or a grievance process. Such measures are designed to restore or preserve access to ArtCenter's employment or educational program or related activity, protect the safety of all parties or the College environment, and/or deter harassment, discrimination and/or retaliation without unreasonably burdening another involved party. In implementing supportive measures, the College will act to ensure that any academic or occupational impact on the parties is as minimal as possible. Disciplinary measures are separate from supportive measures, and they may be implemented only following the conclusion of a grievance process.

The Title IX Coordinator promptly makes supportive measures available to involved parties upon receiving notice or a formal complaint. The Title IX Coordinator will respond promptly to actual knowledge of an alleged violation of this Policy by promptly contacting the complainant to discuss the availability of supportive measures, considering the complainant's wishes with respect to supportive measures, informing the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explaining the process for filing a formal complaint either at that time or in the future, if the complainant has not done so already.

The Title IX Coordinator is responsible for both equitably offering supportive measures to complainants and respondents and ensuring the effective implementation of such measures. Complainants, respondents and witnesses may make requests for supportive measures to the Title IX Coordinator or designee working with them to address a reported concern. The College provides supportive measures as reasonably available. All supportive measures and referrals to resources are confidential to the extent that maintaining confidentiality does not impair ArtCenter's ability to provide such resources.

Available Supportive Measures – Measures that may be offered to complainants, respondents and witnesses may include, but not be limited to:

- Academic assistance as appropriate, such as:



- Changes to academic situations, such as transferring to another section of a course or rescheduling an academic assignment
- Completing a course and/or courses online (if otherwise appropriate)
- Academic tutoring or other academic support
- Preserving eligibility for academic scholarships, financial aid, internships, study abroad, or international student visas
- Arranging for extended deadlines, the re-taking of a class or withdrawal from a class without penalty
- Issuing a No Contact Order or other contact limitations between parties
- Adjustments to or scheduling for usage of campus dining locations or other campus resources
- Mental health services, including counseling and referrals to off-campus medical and mental health services
- Assistance in finding alternative housing
- Assistance in arranging for alternative ArtCenter employment arrangements, such as a change to work schedule, work location, or remote work as appropriate
- Consultation with or escort from Campus Security or local police as appropriate
- Increased security or monitoring of certain areas of campus
- Safety planning
- Referral to Employee Assistance Program, if applicable
- Education to the ArtCenter community or community subgroup(s)
- Referral to community-based service providers
- Visa and immigration assistance
- Student academic or financial aid counseling
- Transportation and parking assistance
- Timely warnings
- Any other actions deemed appropriate by the Title IX Coordinator

B. Emergency Removals

Emergency removals are steps taken by ArtCenter to address a credible safety concern identified by the College, whether or not a grievance process is pending. In most cases, the enrollment or employment status of a respondent will not be changed upon receipt of an allegation of sexual misconduct. However, an emergency removal from the College's education program or activity is appropriate when necessary to protect the physical health or safety of any student or other individual to whom the respondent is determined to pose an immediate threat. Such threat must be deemed to be rising from allegations of sexual misconduct. Removing a respondent from the College's education program or activity on an emergency basis may be deemed appropriate following an individualized safety and risk analysis that determines there is a credible, immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment. This risk analysis is performed by the Title IX Coordinator, Campus Security and members of the Title IX Team, as appropriate, using standard objective violence risk assessment procedures and at times in consultation with members of ArtCenter's behavioral intervention team. The analysis is individualized with respect to the particular respondent and an examination of the circumstances of the allegations of sexual misconduct that raises concern of an immediate threat to any person's physical health or safety. When such a concern justifies removal, the College provides the respondent with notice of the determination and offers an opportunity



for the respondent to challenge the decision immediately following their removal from campus and/or other programs or activities.

The process for emergency removals applies to all respondents, regardless of employment or student status. Respondents who are employees receive the same process with respect to emergency removals as respondents who are students. Therefore, in all cases in which an emergency removal is imposed, with or without a grievance process pending, the respondent will be given notice of the action and the option to meet with the Title IX Coordinator and/or designee(s) as soon as reasonably possible thereafter given the circumstances, without delay, so that the respondent may show cause as to why the emergency removal should not be implemented or that it should be modified.

If the respondent chooses to engage in a meeting with the Title IX Coordinator and/or designee(s), the discussion is not to be construed as a hearing on the merits of the allegation(s). Instead, the meeting is an administrative process to determine solely whether the emergency removal is appropriate. The respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation. The respondent may have an advisor of their choice accompany them to the meeting. The Title IX Coordinator, in consultation with others involved in the individualized risk assessment, has the discretion to implement or stay an emergency removal and to determine the conditions and duration.

If the respondent does not respond to the Title IX Coordinator to request such meeting within five days of the notice of emergency removal, the College will deem the emergency removal as stayed, and no further opportunities for a meeting will be offered. There is no appeal process for emergency removal decisions. The College will continue to monitor identified safety risks and seek to remove or modify an emergency removal in the event that the health or safety risk is no longer applicable.

Emergency removals are not meant to penalize a respondent while a grievance process is pending. ArtCenter will use the least restrictive means possible when determining an appropriate emergency removal to ensure the continued safety of the involved parties and the ArtCenter community while also attempting to minimize the academic or occupational impact on the parties. When the standards for emergency removal are met, the College may remove the respondent from all aspects of ArtCenter's education programs and activities or may narrow the removal to certain activities, classes, organizations, or areas, at the College's discretion. Offering the respondent an alternate employment or academic assignment may be an option, if deemed appropriate.

Violation of an emergency removal under this Policy will be grounds for discipline, which may include expulsion of a student or termination of employment.

C. Administrative Leave

ArtCenter reserves the right to place a non-student employee respondent on administrative leave during a pending grievance process as described by this Policy. An administrative leave is not equivalent to an emergency removal and is not subject to the same level of individualized safety risk analysis or opportunity to be heard directly following notice. An administrative removal is determined by the Title IX Coordinator and Human Resources, at times in consultation with other members of the Title IX Team.



D. Confidential Resources

ArtCenter has identified that the licensed counselors working in Student Mental Health Counseling Services out of the Center for the Student Experience have a professional requirement to maintain confidentiality* of a conversation. The licensed counselors working in Counseling Services are the only employees at ArtCenter who are not required to report actual or suspected discrimination or harassment as described in Section 8B. If a student discloses information about potential sexual misconduct to a counselor when the individual is not acting in the role that provides them privilege (such as when a counselor is serving as a lecturer or club advisor rather than in their counseling role), the individual is required to make a report to the Title IX Coordinator. To make an appointment for counseling services, students should contact:

ArtCenter Student Mental Health Counseling Services
Center for the Student Experience
Hillside – Room 200B
To make an appointment, contact:
626.396.2323
mhcounseling@artcenter.edu
Walk-in appointments available

*While licensed counselors working in their official capacity at ArtCenter are required by law to maintain confidentiality, there are certain, specific situations during which they are required to communicate confidential information with outside authorities. For example, counselors are required to report suspected child abuse or neglect, including intentional access to unlawful sexual images involving individuals under 18 years of age, to local law enforcement or the county welfare department. They may also have an obligation to report threats of immediate or imminent harm to self or others. They also may be compelled by a court order or subpoena to disclose information in a criminal proceeding. Non-identifiable information may be disclosed by licensed counselors for statistical tracking purposes as required by the Clery Act. Other information may be disclosed as required by law.

All members of the ArtCenter community interested in confidential support services are welcome to contact the following off-campus resource:

Sexual Assault and Domestic Violence Advocacy Services:
Peace Over Violence
892 N. Fair Oaks Ave
Pasadena, CA 91103
www.peaceoverviolence.org
Emergency Hotline: 626 793-3385
Confidential, nonjudgmental support for emergency, advocacy and referrals

Employees interested in confidential support services are welcome to contact the following off-campus resource:

Employee Assistance Program: Managed Health Network (“MHN”)
Confidential 24-Hour Help Line for Employees: 1 800 227-1060
TTY users call 711
mhn.advantageengagement.com, with company code: artcenter



Each of the above resources are available free of charge.

8. Notice, Complaints and Reports of Alleged Sexual Misconduct

Student and employee complainants interested in reporting an allegation of sexual misconduct have the choice to report to local law enforcement, to ArtCenter, to neither, or to both. Supportive measures and confidential resources described in Sections 7A and 7D are available to all ArtCenter community members regardless of whether or not the full details of an alleged incident are reported to ArtCenter.

Any individual who discloses personally identifiable details of alleged sexual misconduct with any ArtCenter employee other than a licensed counselor in Mental Health Counseling Services can expect those details to be disclosed with the Title IX Coordinator, who is committed to responding promptly. Generally, campus climate surveys, classroom assignments, human subjects research, or campus sexual misconduct awareness events do not provide notice that employees must report to the Title IX Coordinator, unless the person making the disclosure clearly indicates that they wish a report to be made. The Title IX Coordinator or designee can provide supportive measures following such disclosures without a formal investigation.

This Policy distinguishes between reporting alleged sexual misconduct and filing a formal complaint. Reporting or providing notice of potential incidents allows the College to provide supportive measures to the complainant, but does not necessarily result in the initiation of a formal grievance process. Filing a formal complaint, as described in Section 8D, initiates a formal grievance process, including a formal investigation, hearing and appeal opportunity, as outlined in Sections 12-14. All complainants who report incidents of potential sexual misconduct are offered individualized supportive measures, as described in Section 7A.

A. Contact Information for Reporting an Allegation of Sexual Misconduct to ArtCenter

Notice or complaints of potential violations of this Policy may be made using any of the following options:

1. Report or give verbal notice to the Title IX Coordinator. Any person may report potential sex discrimination, sexual harassment, or other sexual misconduct to ArtCenter's Title IX Coordinator, regardless of whether or not the person is the recipient of the alleged behavior. Such reports may be made at any time, including outside of business hours, using the following contact information:
Kristen Entringer
Director, Title IX Compliance and Programs (Title IX Coordinator)
626 396-2340
Kristen.Entringer@artcenter.edu
Hillside Campus Administrative Offices
1700 Lida Street
Pasadena, CA 91103
2. Submit an anonymous report by calling EthicsPoint at 866 489-3018. Note that anonymous reports may prompt a need for ArtCenter to take action, but a complainant's decision to remain anonymous may greatly limit the College's ability to stop the alleged misconduct or collect relevant information. ArtCenter offers supportive measures to all complainants, but when a report is received anonymously, the College is not able to



offer such resources. Reporting does not carry an obligation to initiate a formal response, as the College respects complainant requests to dismiss complaints unless there is a compelling threat to health and/or safety. For these reasons, all members of the community are encouraged to report to the Title IX Coordinator to discuss their concerns, as complainants are largely in control of any process that may follow and should not fear a loss of privacy by making a report that allows the College to discuss and/or provide supportive measures.

3. Contact one or more of the following ArtCenter employees, who are all members of the Title IX Team and have been deemed as Officials with Authority. The Officials with Authority listed below are authorized to accept notice or reports of potential violations of this Policy on behalf of ArtCenter. All identified individuals will properly route information to the Title IX Coordinator and explain the process for filing a formal complaint. Anyone not certain to whom to report is encouraged to contact the Title IX Coordinator directly.

Title IX Coordinator:

Director, Title IX Compliance and Programs (Title IX Coordinator):
Kristen Entringer
Hillside Campus, Administrative Offices
626 396-2340
Kristen.Entringer@artcenter.edu

For safety or security matters:

Director of Campus Security:
Jim Finch
Campus Security
626 396-2225
jim.finch@artcenter.edu

For student-to-student matters:

Associate Provost for Student Affairs/Dean of Students:
Ray Quirolgico, Ed.D.
Center for the Student Experience
626 396-2325
ray.quirolgico@artcenter.edu

Associate Director for Student Equity:
Jessica Krause
Center for the Student Experience
626 396-2323
jessica.krause@artcenter.edu

For faculty matters:

Associate Provost for Faculty Affairs:
Ted Young, Ph.D.
Office of the Provost
626 396-4281
ted.young@artcenter.edu



Provost:
Karen Hofmann
Office of the Provost
626 396-2303
karen.hofmann@artcenter.edu

For Human Resources matters:

Vice President, Human Resources:
Lisa M. Sanchez, SPHR, SHRM-SCP
Human Resources
626 396-2210
VPHR@artcenter.edu

Associate Vice President, Human Resources:
Tracy Kerr
Human Resources
626 396-4349
tracy.kerr@artcenter.edu

For matters related to ArtCenter Extension:

Managing Director of ArtCenter Extension:
Dana Walker-Juick
ArtCenter Extension
626 396-2376
dana.walker-juick@artcenter.edu

Director, K-12 Programs:
Paula Goodman
ArtCenter Extension
626 396-2347
paula.goodman@artcenter.edu

B. Mandatory Duty to Report

It is the duty and responsibility of every ArtCenter faculty, staff and administrative employee to ensure compliance with this Policy. With the exception of licensed counselors working in Student Mental Health Counseling Services, any ArtCenter employee who knows or has reason to know of allegations or acts that may constitute a violation of this Policy is required to immediately inform the Title IX Coordinator of all relevant information regarding the allegation, including the names of those involved. All members of the community should understand that making a disclosure of any personally identifiable details to any employee other than a licensed counselor will result in all known details of the allegation(s) being forwarded to the Title IX Coordinator. An employee's failure to report potential violations of this Policy in a timely manner may result in discipline, including possible termination of employment.

Student employees who receive information about alleged sexual misconduct in the course of their job duties must report such information to the Title IX Coordinator. This reporting obligation also applies to ArtCenter third parties such as contractors or volunteers who are directly responsible for the welfare of students and/or the larger ArtCenter community.



Students not acting in an employee capacity are strongly encouraged to report any alleged violations of this Policy, although they are not required to do so.

Employees with a mandatory duty to report are required to disclose all information they have received or have come to know about a given allegation, including the names of those involved and date(s) and nature of the alleged incident(s), even if the person who initially disclosed information to the employee requested confidentiality. Employees are not able to promise confidentiality to anyone reporting sexual misconduct. However, they must respect the privacy of those involved by sharing information only with those who have a legitimate need to know, which includes the Title IX Coordinator and appropriate deputies or designees. The Title IX Coordinator will determine whether confidentiality is appropriate given the circumstances of each alleged incident.

When an ArtCenter employee violates this Policy, they have a duty to report their own misconduct. However, an employee who experiences behavior that may violate this Policy, and who therefore would be defined as a complainant, is not required to report their own experience.

ArtCenter students and employees are encouraged to cooperate with the ArtCenter-appointed Title IX Coordinator, investigators, decision-makers, hearing officers, appeal officers in the course of their work to resolve allegations of policy violations.

C. Timely Warnings

If an allegation of sexual assault, domestic violence, dating violence and/or stalking is reported to ArtCenter, and the Title IX Coordinator and Campus Security determine that the allegation also constitutes a possible ongoing or continuing danger or threat of bodily harm to members of the campus community, a timely warning notice will be distributed to the community in a manner consistent with the requirements of the Clery Act. This determination is made on a case-by-case basis with the intent to maintain appropriate transparency and protect the community. A timely warning related to a report of sexual misconduct will not disclose a complainant's name or other identifying information, while still providing sufficient information for community members to make safety decisions in light of the potential danger.

D. Formal Complaints

A formal complaint is a document signed by a complainant or signed by the Title IX Coordinator alleging a violation of this Policy by a named respondent(s) and requesting that ArtCenter formally investigate the allegation(s). A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by email, and may be filed by a parent or guardian with the legal right to act on behalf of a complainant, subject to FERPA. In order to be considered a formal complaint, a document filed by a complainant must be in writing either on paper or electronically and must contain the complainant's physical or digital signature or otherwise indicate that the complainant is the person filing the formal complaint for the purpose of initiating a formal process at the College, as outlined by this Policy. A complainant must be participating in or attempting to participate in employment or other education program or activity of the College in order to file a formal complaint. Following the filing of a formal complaint, the Title IX Coordinator begins initial assessment to properly resolve the matter through a formal grievance process or informal resolution in accordance with Sections 10-14. As required by Title IX, the College sends written notice of the allegations to both the complainant and respondent upon receiving a formal complaint.



If allegations are submitted in a form that does not meet the definition of a formal complaint, the Title IX Coordinator will contact the complainant to ensure that a formal complaint is filed correctly, if that is the complainant's intent. Formal complaints are not necessary to access supportive measures, but they are necessary to initiate an informal resolution or formal grievance process.

E. Timeframe for Reporting

There is no time limit for a complainant to report alleged sexual misconduct to ArtCenter. In fact, the sensitive nature of these incidents can often cause reports of sexual misconduct to be delayed. If a report is delayed in such a way that one of the involved parties is no longer at ArtCenter at the time of the report, the College will identify if there is an ongoing concern for the safety of the campus community and will seek to take steps to end the harassment, prevent its recurrence and remedy its effects, when possible. Delaying a report may impede on ArtCenter's ability to conduct a thorough investigation and/or to take appropriate remedial actions. Acting on allegations significantly impacted by the passage of time is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer resources and/or engage in informal or formal action, as appropriate.

Prompt reporting will better enable ArtCenter to respond, determine the relevant issues, offer timely supportive measures and interim actions as appropriate, and determine an outcome in a timely manner. In the event of a delayed report, ArtCenter will apply the definitions in place at the time of the alleged misconduct and utilize the appropriate informal or formal process in place at the time the allegation is reported.

F. Preserving Information

ArtCenter encourages parties involved in making or responding to an allegation to collect and preserve relevant information and documents. Complainants, respondents and witnesses should consider whether there is information they can gather and provide to the investigator(s) during the course of the investigation. Often, documents such as text messages, emails, receipts, photos, videos, or social media posts or messages may be helpful during an investigation or hearing. It may be helpful not to delete this information and to preserve it for later. If a complainant, respondent, or witness has already deleted text messages or other materials, they may wish to contact their phone carrier to find out if they can be recovered. Involved parties are encouraged to write down a list of possible witnesses to submit to investigator(s).

Any individual considering reporting an allegation of sexual misconduct to law enforcement is encouraged to take steps to preserve evidence for use in the legal process, which is separate from any ArtCenter process. Section 8G describes steps for preserving physical evidence. Preserving evidence may be helpful in obtaining a protective order, restraining order, or similar lawful order issued by a criminal, civil, or tribal court, if desired. Individuals have a right to seek such orders outside of ArtCenter and may contact the Title IX Coordinator or Campus Security for support in doing so.

G. Reporting to Hospitals and Medical Professionals

Individuals interested in a forensic exam (also known as a "rape kit") may do so 24 hours a day, 365 days a year at San Gabriel Valley Medical Center, located at 438 West Las Tunas Drive, San Gabriel, CA 91776. Individuals are asked to contact the Sexual Assault Forensic



Nurse at 877 209-3049 before arriving at the medical center. Other local hospitals or urgent care facilities do not conduct forensic exams.

Information can be best collected from forensic exams if the exam is conducted as soon as possible after an alleged incident. While it may be difficult, individuals seeking a forensic exam are encouraged to avoid bathing, showering, douching, or brushing their teeth before the exam if at all possible. Preserving physical objects to provide during the exam may also be helpful, such as clothing worn during an alleged incident or other relevant materials. Collect items in a separate paper (not plastic) bag if possible and bring to the forensic exam.

Under California law, any health practitioner employed in a health facility, clinic, physician's office, or local or state public health department or clinic is required to make a report to local law enforcement if providing medical services for a physical condition that the health practitioner knows or reasonably suspects is related to a wound or physical injury inflicted by a firearm or assaultive or abusive conduct (including crimes defined as rape, sexual assault and dating and domestic violence). This exception does not apply to sexual assault and domestic violence counselors and advocates.

H. Reporting to Law Enforcement or Campus Security

Individuals have the right to report, or not report, allegations of sexual misconduct to law enforcement. ArtCenter will always support an individual who wishes to make a report to the police or other local authorities. It is the practice of all staff conducting intake to remind students, faculty and staff of this reporting option. Reporting to law enforcement may initiate a criminal investigation and adjudication within the criminal justice system. A criminal process is entirely separate from any formal or informal process at ArtCenter.

1. **Contacting local police** – If an individual wishes to report to the police, they are encouraged to contact the police local to where the alleged incident occurred. The local police for both the Hillside Campus and South Campus is the Pasadena Police Department:

207 Garfield Avenue
Pasadena, CA 91101
General Contact Number: 626 744-4501
Non-Emergency Response: 626 744-4241
Emergency: 911

If a report is made to the police related to an incident that is being investigated at ArtCenter, the College will cooperate with the police investigation to the extent possible under federal and state law.

2. **Contacting Campus Security** – Anyone who wishes to report to Campus Security may do so by calling 626 396-2211. Employees and students with protective or restraining orders in place are encouraged to provide a copy to Campus Security. When behavior in violation of this Policy is reported to Campus Security, Campus Security will immediately notify the following, as appropriate:
 - a. Title IX Coordinator – The Title IX Coordinator or designee will then connect with the student(s) or employee(s) who made the report to provide supportive



measures, options for filing a formal complaint and other resources as appropriate.

- b. Pasadena Police Department – The complainant may request that their name is not provided to the police, and Campus Security can honor that request.

I. Requesting Anonymity or No Investigation

If a complainant wishes that their name not be disclosed or an investigation not take place, they may make such a request to the Title IX Coordinator. The Title IX Coordinator balances the request with ArtCenter's obligation to comply with federal law, to protect the complainant, and to provide a safe and non-discriminatory working and academic environment for all community members. Often, requests for anonymity or a lack of action stem from concerns about potential retaliation or a concern about privacy, and the Title IX Coordinator will discuss these concerns with the appropriate individuals and seek to address the concerns. Neither anonymity nor requests for no investigation can be guaranteed, as ArtCenter must consider the welfare of all community members as well as a fair process for all. Supportive measures are available, regardless of requests for anonymity or no investigation.

When a complainant requests anonymity, ArtCenter takes all reasonable steps to respond to the report consistent with the complainant's requests, but its ability to take action may be limited by these requests. The College's goal is to provide the complainant with as much control as possible over which steps ArtCenter takes with their complaint, while also balancing the College's obligation to protect its community. In cases in which the complainant requests anonymity or no formal action and the circumstances allow the College to honor that request, the Title IX Coordinator will offer supportive measures to the complainant and the community. In cases where the respondent is an employee, ArtCenter may be compelled to act on the allegations, regardless of the complainant's wishes.

If a complainant elects to take no action and that request is granted, the Title IX Coordinator will inform them of their right to file a formal complaint at a later date. Upon making a formal complaint, a complainant can expect that the College will take the complainant's rights and complaint seriously and follow appropriate processes as outlined in this Policy.

The Title IX Coordinator has the ultimate discretion over whether the College proceeds when the complainant does not wish to do so. The Title IX Coordinator may sign a formal complaint to initiate a grievance process after carefully considering a variety of factors and determining that, as part of a non-deliberately indifferent response, a grievance process is the best course of action to address the allegation(s). Considerations that may lead the Title IX Coordinator to initiate a process when a complainant has requested no action include but are not limited to the following:

- The severity of the alleged conduct, including whether a weapon or violence was involved in the alleged incident
- Evidence of patterns of misconduct or predatory misconduct
- Any potential threats to community safety, including the outcome of a violence risk assessment
- Involvement of parties under the age of 18
- The respective positions of the complainant and respondent
- Whether the allegations or circumstances known at the time suggest there is an increased risk of future acts of sexual violence under similar circumstances
- Whether the respondent has been named in other reports of sexual misconduct



- Whether the respondent has any record of violence

In instances where the complainant does not wish to sign a formal complaint but the Title IX Coordinator determines that a formal process is necessary, the Title IX Coordinator signs a formal complaint to initiate the grievance process. In these cases, the Title IX Coordinator is not regarded as a party. When the complainant is known, the complainant is named and regarded as a party and is encouraged, but not required, to participate in the investigation or any subsequent actions taken by ArtCenter. As such, the complainant receives written notice of allegations, notice of meetings or interviews to which the complainant is invited, a copy of the investigation report, and information about any subsequent hearing, outcome and appeal opportunity, so the complainant may choose to participate in the process at a later date. If the complainant does not participate, a trained advisor may be appointed as proxy for the complainant throughout the process, acting to ensure and protect the complainant's rights.

The Title IX Coordinator has full discretion in determining whether or how to address multiple reports involving a single respondent in cases where complainants wish to remain anonymous or otherwise are unwilling to participate in a formal process. The Title IX Coordinator may consolidate formal complaints in situations that arise out of the same facts or circumstances and involve more than one complainant, more than one respondent, or what amount to counter-complaints by one party against the other. When the Title IX Coordinator executes the formal complaint, they do not become the complainant.

In all cases, the final decision on whether, how, and to what extent ArtCenter will conduct an investigation, and whether other measures will be taken in connection with a report of prohibited conduct, is the responsibility of the Title IX Coordinator.

J. Not Participating in an Informal or Formal Process

While ArtCenter encourages students and employees to participate fully with any formal or informal processes set forth by this Policy, every individual has the right to choose whether to participate. This Policy prevents retaliation against any person for exercising their rights under Title IX to either participate or refuse to participate in a Title IX grievance process. However, any misuse, abuse, or purposeful misrepresentation in a formal grievance process or informal resolution may be grounds for discipline, separate from any process or outcome related to the initial allegation(s).

1. **Nonparticipation in investigations** – The participation of both complainants and respondents in investigative interviews is crucial to ArtCenter's ability to thoroughly gather and analyze relevant information, but individuals have the right not to participate in a grievance process. When a complainant chooses not to participate in an investigation, they still retain all rights of a complainant under this Policy irrespective of their level of participation. When a witness or respondent chooses not to participate in an investigation, ArtCenter will proceed with its process, and the investigator(s) will gather all available relevant information. Neither a pending criminal matter stemming from the same alleged incident nor a respondent's lack of participation will halt ArtCenter's formal grievance process.
2. **Nonparticipation in formal hearings** – Complainants and respondents have an opportunity to review the information collected during the investigation prior to a hearing as part of the formal grievance process. If either party requests an informal resolution process prior to a hearing, the Title IX Coordinator shall determine whether



an informal resolution is viable at that stage. While parties have the right not to participate in a formal hearing, any party who provides relevant information in an investigation but fails to participate in the hearing will not have their statements relied upon in final decision-making. Typically, if a complainant or respondent chooses not to participate in a hearing, the Title IX Coordinator appoints an advisor as proxy for the party, acting to ensure and protect the rights of the party. If during a hearing a party's advisor will not conduct cross-examination on their behalf during a hearing, the College will appoint an advisor to the party who will do so thoroughly, regardless of the participation or non-participation of the advised party in the hearing itself.

K. Amnesty for Complainants and Witnesses

ArtCenter encourages the reporting of violations of this Policy by any member of the ArtCenter community. In support of this, ArtCenter offers student complainants and witnesses amnesty for minor violations of Student Handbook, such as the use of alcohol or other drugs, related to the alleged incident unless the violation is deemed egregious. At its discretion, ArtCenter may also offer employee complainants amnesty for certain minor violations of Employee Handbook policies occurring at or near the time of the alleged incident or as a result of the incident in question. Egregious violations that do not qualify for amnesty regardless of the student or employee status of an individual include physical abuse, illicit drug distribution, academic dishonesty, ethical or financial misconduct, or conduct that places the health or safety of another person at risk. The decision not to offer amnesty to respondents is not based on sex or gender, but on the fact that the rationale for amnesty – as an incentive to report serious misconduct – is rarely applicable to respondents.

L. Reporting to Governmental Authorities

Individuals experiencing harassment or discrimination always have the right to file a formal grievance with government authorities. Students may file a complaint with OCR. ArtCenter employees, including student employees, may also file a complaint with the California Department of Fair Employment and Housing (“DFEH”) or the EEOC.

Office for Civil Rights (OCR) Headquarters
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline #: 800 421-3481
Facsimile: 202 453-6012
TDD#: 877 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

Office for Civil Rights, California Office
U.S. Department of Education
50 United Nations Plaza
Mail Box 1200, Room 1545
San Francisco, CA 94102
Phone: 415 486-5555
Fax: 415 486-5570
TDY: 800 877-8339
Email: ocr.sanfrancisco@ed.gov



Web: <http://www.ed.gov/ocr>

Department of Fair Employment and Housing (DFEH)
contact.center@dfeh.ca.gov
www.dfeh.ca.gov

United States Equal Employment Opportunity Commission (EEOC)
1 800 669-4000
TTY: 1 800 669-6820
ASL Video Phone: 844 234-5122
Los Angeles District Office
Roybal Federal Building
255 East Temple St., 4th Floor
Los Angeles, CA 90012
www.eeoc.gov

9. General Principles of the Resolution Processes

A. Standard of proof

The standard of proof utilized by ArtCenter for determining a violation of this Policy is the preponderance of the evidence. Preponderance of the evidence means that a decision of responsibility for a policy violation will be made on whether it is more likely than not that the respondent violated this Policy based on the totality of information gathered during the investigation. “More likely than not” means that the information supporting one outcome (responsible or not responsible) outweighs or is more than the information supporting the opposite outcome.

B. Privacy and Confidentiality

ArtCenter is committed to protecting the privacy of all individuals involved in a process under this Policy. Every effort will be made to protect the privacy interests of all involved individuals and treat all parties with dignity and respect. The College maintains the privacy of the identity of any complainant, respondent, witness and individual who has made a report of an alleged violation of this Policy, except as may be permitted or required by law, or to carry out any investigation, hearing, or other process outlined in this Policy.

All ArtCenter community members should be aware of mandatory reporting requirements of certain ArtCenter employees. The only employees at ArtCenter who are not required to report actual or suspected discrimination or harassment are licensed counselors working in Student Mental Health Counseling Services out of the Center for the Student Experience, as described in Section 7D. All other ArtCenter employees are required to report potential violations of this Policy to the Title IX Coordinator as described in Section 8B. All ArtCenter employees who are involved in proceedings outlined in this Policy receive specific training and guidance about safeguarding the privacy of information.

The terms *privacy* and *confidentiality* have specific meanings under this Policy:

1. Privacy relates to the practice of limiting the circle of individuals who are aware of or have access to information related to an allegation, case, or involved parties. The use of this information is limited to members of the Title IX Team or other ArtCenter employees who, due to their role, have a legitimate “need to know” in order to fulfill



their duties related to the intake, investigation, hearing, appeal, supportive measures, or informal resolution of reported allegations. These ArtCenter administrators receive specific training how to protect the information related to case and otherwise be respectful of the rights and privacy of all individuals involved in the process. The College reserves the right to designate which ArtCenter officials have a legitimate educational interest in being informed of incidents that fall within this Policy, in accordance with FERPA.

2. Confidentiality relates to the legal obligation to maintain secure information, which is prescribed by an individual's role at the College, such as mental health counselors. Confidentiality means that the information disclosed with a certain ArtCenter employee or outside professional cannot be disclosed to others without the express permission of the individual who disclosed the information. The only employees at ArtCenter who are identified as having a professional requirement to maintain confidentiality are licensed counselors working in Student Mental Health Counseling Services out of the Center for the Student Experience, as described in Section 7D.

Anonymous reports can be made by calling EthicsPoint at 866 489-3018. Note that anonymous reports may prompt a need for ArtCenter to take action, but the College's ability to fully investigate may be limited.

C. Timeframe for Investigations

ArtCenter will act promptly upon receipt of a formal complaint. The College will avoid undue delays within its control in order to complete investigations and hearings in a prompt, fair and impartial manner, generally within 60 to 90 days after the intake interview, unless the timeline has been reasonably extended. ArtCenter may temporarily pause or delay the process or allow for a limited extension of the timeframe for a given investigation for good cause with written notice to both the complainant and respondent, describing the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of the parties or witnesses, concurrent law enforcement activity, the need for language assistance or accommodation of disabilities, campus closures such as those for holidays, breaks, or emergencies, and approved extension requests from one or more parties. ArtCenter will provide regular timeline and progress updates to the complainant and respondent at least monthly. Cases that are particularly complex or involve unusual circumstances may require more time to complete, and any matter that proceeds through a formal grievance process with a hearing will follow specific timelines outlined by this Policy for information review and hearing preparation. If the Title IX Coordinator, investigator(s) and/or hearing officer(s) determine that an extension of the investigation or hearing timeline is warranted or necessary, they will notify the parties in writing, including the reason for the delay and the anticipated date of completion.

The timeline for any appeals process is generally 30 days. If the Title IX Coordinator and/or appeals officer(s) determine that an extension of the appeals timeline is warranted or necessary, they will notify the parties in writing, including the reason for the delay and the anticipated date of completion.

D. Weighing Information

ArtCenter engages in neutral information-gathering throughout sexual misconduct investigations, gathering all available information, regardless of whether it supports or does not support a possible finding of a policy violation. Information found by the Title IX



Coordinator, investigator(s), hearing officer(s) and/or appeal officer(s) to not be relevant may be excluded from the process and decision-making.

The formal grievance process involves an objective evaluation of all collected relevant information collected. Determinations of whether policy was violated are made at the end of the process using the preponderance of the evidence standard as described in Section 9A. Credibility determinations are not in any way based on an individual's status as a complainant, respondent, or witness. Until a respondent is determined to be responsible by a preponderance of the evidence for a policy violation, ArtCenter operates with the presumption that the respondent is not responsible for the reported misconduct.

Certain types of information are likely to be excluded or not weighed heavily in determinations of preponderance related to potential policy violations under this Policy:

1. **Privileged information** – No person at any time will be required to disclose information protected under a legally recognized privilege, such as that secured through medical, psychological, psychiatric and similar treatment records or through attorney-client privilege. Investigators and hearing officers will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege in writing or a parent with the legal right to do so waives the privilege on their behalf.
2. **Prior sexual history** – The sexual history of a complainant, respondent, or witness is generally not considered in the formal grievance process. Questions and evidence about a complainant's prior sexual history and sexual disposition are deemed irrelevant with two limited exceptions. First, an exception exists for questions and evidence about the complainant's prior sexual behavior offered to prove that someone other than the respondent committed the conduct alleged by the complainant. Secondly, questions and evidence related to specific incidents of prior sexual history between a complainant and respondent may be permitted to assess context for how the parties had previously communicated consent, and how that may have informed any possible communication of consent in the present case.
3. **Irrelevant information** – Questions and evidence raised in a formal grievance process are included only when deemed directly related and/or relevant. Unduly repetitious questions will be deemed irrelevant in a hearing. While all directly relevant questions and evidence will be permitted, hearing officers and appeal officers will weigh evidence appropriately due to its level of relevance and credibility. For example, while directly relevant character evidence is not excluded from a formal grievance process, it likely would not be relied upon with the same weight as first-hand information about the allegations.

E. Disability Accommodations

ArtCenter is committed to full compliance with the Americans with Disabilities Act of 1990 ("ADA"), as amended, and Section 504 of the Rehabilitation Act of 1973, both of which prohibit discrimination against qualified individuals with disabilities, in addition to other federal and state laws protecting the rights of people with disabilities. A part of this commitment is ArtCenter's full inclusion of individuals with disabilities in the processes outlined in this Policy, including investigations, hearings, appeals and informal resolutions. ArtCenter provides reasonable accommodations to individuals with a qualified disability throughout these processes, as determined by the College following an interactive process with those involved



to identify the nature and extent of the restrictions and the appropriate accommodation. The Title IX Coordinator may coordinate with the Associate Dean of Students or Human Resources to develop and provide appropriate accommodations for those with documented disabilities. If complainants, respondents, or witnesses have questions or need assistance with processes under this Policy, they are encouraged to inform the Title IX Coordinator, investigator(s), hearing officer(s), appeal officer(s), the Associate Dean of Students, or Human Resources, as appropriate. The administrator(s) will provide reasonable accommodations in accordance with the Student Handbook, the ACX Student Guide, or the Employee Handbook. A reasonable accommodation may include an extension of timeline, an interpreter and/or other resources.

F. Administrative Procedures, Authority and Documentation

The administrative process for addressing allegations of sexual misconduct under this Policy in no way relates to or is governed by formal rules of process or technical rules of evidence or procedure applied in criminal or civil court. This Policy outlines definitions and procedures utilized in all formal and informal processes related to sexual misconduct at ArtCenter. Any procedural questions related to this Policy should be referred to the Title IX Coordinator.

Documentation of the names of involved parties, a summary of allegations and the resolution measures taken for each case is maintained in the Title IX Office by the Title IX Coordinator. All ArtCenter employees have an obligation to provide all information related to sexual misconduct allegations and cases to the Title IX Coordinator in order for the Coordinator to address the reported concerns and document each report. The Title IX Coordinator follows the record retention policies set forth in Section 15.

G. Rights of Involved Parties

A core principle of both informal resolutions and formal grievance processes under this Policy is the equitable treatment of both complainants and respondents. In accordance with law and regulations, and in support of ArtCenter's commitment to a fair and equitable process, complainants and respondents are afforded the following in a formal grievance process under this Policy:

1. The right to receive written information about available resources, including available supportive measures and the choice to report to local authorities;
2. The right to timely written notice of the alleged policy violations and have those explained clearly and fully, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures and possible sanctions, as well as timely written notice of any material changes to such notice;
3. The right to be accompanied by an advisor, as described in Section 9H;
4. The right to provide an oral or written statement outlining their perspective on the allegation(s);
5. The right to discuss the allegations under investigation and gather and present relevant documentation, information, witnesses and questions to investigator(s) and hearing officer(s);
6. The right to review all relevant and directly related information and materials concerning the allegations, including a copy of the investigation report and the right to respond to such information;
7. The right to cross-examine other parties through the party's own advisor in any formal hearing that may occur, as described in Section 13F;



8. The right to not respond to specific questions asked by administrators handling the matter;
9. The right to receive written notice of the date, time and location or mode of any meeting or formal hearing that is part of the resolution process; and
10. The right to receive the outcome in writing, including applicable appeal information.

H. Right to an Advisor

Complainants and respondents each have the opportunity to have one person of their choice, called an advisor, accompany them throughout the process outlined in this Policy, including meetings with the Title IX Coordinator, investigator(s), decision-maker(s)/hearing officer(s), appeal officer(s), or other administrators during a formal or informal process. Complainants and respondents may each have only one advisor with them during a meeting, but they are not required to retain the same advisor throughout every meeting. The advisor may be anyone, including an attorney. While it is not advisable to choose as an advisor someone who is also a witness in the process, should a party decide to do so, the Title IX Coordinator, investigator(s) or hearing officer(s) in the matter will explore options for involving that person as both an advisor and witness and reduce the potential for bias and conflicts of interest. The Title IX Coordinator, investigator(s) and hearing officer(s) in the matter also retain the right to be accompanied by the College's legal counsel as deemed appropriate during any meeting as part of an informal or formal process under this Policy.

At the investigation stage, the Title IX Coordinator will offer to assign an individual to serve as an advisor for any party if the party wants an advisor but does not have someone they know to fulfill the role at the investigation stage. A party may choose to be assigned an advisor from the pool of trained employees, choose a non-trained advisor from outside the pool, or proceed without an advisor for an informal process or investigation. Parties should note that only advisors may engage in cross-examination during the hearing. Therefore, each party must have an advisor participate in any hearing that may take place. If a party elects to proceed without an advisor to a hearing process, if their advisor of choice is unavailable or asked to leave a hearing proceeding for failure to adhere to College policy, or if their advisor does not conduct cross-examination for the party, ArtCenter will assign an advisor to the party for the specific purpose of conducting cross-examination during the hearing. An ArtCenter-appointed advisor is a process advisor who is trained on the institutional process and how to conduct appropriate cross-examination during the hearing. Extensive questioning of the parties and witnesses will be conducted by the hearing officers prior to cross-examination of the parties.

Advisors are welcome to meet with the Title IX Coordinator and/or the investigator or other administrator(s) conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows advisors to clarify any questions they may have about ArtCenter processes and the role of an advisor.

1. **Role and expectations of the advisor** – The following expectations and limitations apply to the role of an advisor. A party and their advisor will each be asked to sign a statement of understanding, acknowledging the following at the start of a process:
 - a. During an investigation or other non-hearing meeting, advisors may not speak on behalf of the individual they are supporting, including answering or asking questions for them, outside of making routine requests for a break or asking clarification on policy or process. Advisors may not participate in an



investigative meeting on behalf of the party whom they are supporting without the party also being present.

- b. An advisor's participation in the process must not interfere with the process or meeting. Any advisor who steps out of their role will be warned only once that their behavior is not meeting expectations set by this Policy. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from an investigative meeting, that meeting may continue without the advisor present or may be reconvened. In the event that a party's advisor of choice is removed during a hearing, the College will appoint an advisor to step into the role or, at the discretion of the hearing officers, the hearing may be reconvened after addressing concerns with the party's advisor of choice. The Title IX Coordinator, investigator(s), hearing officer(s) and appeals officer(s) have the authority to determine what constitutes appropriate behavior of an advisor, and these administrators have the responsibility to take reasonable steps to ensure compliance with this Policy.
- c. Advisors are expected to act ethically, with integrity and in good faith. Advisors are subject to removal from the process if there is reason to suspect that they are engaging or have engaged in violations of this Policy, such as retaliating against another party or recording any portion of a meeting in any capacity without consent of all participating parties.
- d. Advisors are permitted to observe and consult with the complainant or respondent they are supporting and raise concerns as needed to ensure that the process does not violate applicable laws or policies.
- e. Advisors may confer quietly, as necessary, with the complainant or respondent they are supporting, as long as the advisor does not disrupt the process. For longer or more involved discussions, the complainant or respondent and advisor may request a break to allow for a private conversation, not to exceed 15 minutes. If more than 15 minutes is necessary, a rescheduling or reconvening of the meeting may be considered.
- f. ArtCenter provides an optional consent form that authorizes the College to disclose information directly with a party's advisor. The parties must complete and return this form to the Title IX Coordinator before ArtCenter is able to disclose information or records directly with an advisor for the narrowly defined purposes outlined in the consent form. The College will not comply with requests to communicate solely through an advisor, as all communications will be made directly with the party and, if authorized, with a copy to the advisor.
- g. The advisor is expected to maintain the privacy of the oral and written information and records to which they gain access in their role as advisor. ArtCenter may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by ArtCenter's privacy or anti-retaliation expectations.
- h. The process cannot be unreasonably delayed to accommodate the schedule of an advisor, and ArtCenter does not typically change scheduled meetings to accommodate an advisor's availability. ArtCenter expects advisors to adjust



their schedules to allow for their participation in relevant meetings and interviews that have been scheduled directly with the person they are advising.

- i. ArtCenter guarantees each party an equal right to be accompanied by an advisor, but it cannot guarantee that chosen or appointed advisors will have equal experience. If one party selects an advisor who is an attorney, but the other party does not, or cannot afford an attorney, ArtCenter is not obligated to provide one. ArtCenter can, however, provide a party with an advisor selected by the Title IX Coordinator from the trained pool of ArtCenter employees. An appointed advisor is trained in the process and will act in the best interests of their advisee, but the appointed advisor is not an advocate or attorney.
2. **Advisor resources** – The following are resources for finding an advisor:
- a. Respondents may wish to contact organizations such as:
 - i. FACE (<http://www.facecampusequality.org>)
 - ii. SAVE (<http://www.saveservices.org>)
 - b. Complainants may wish to contact organizations such as:
 - i. The Victim Rights Law Center (<http://www.victimrights.org>)
 - ii. The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim’s Bar Association.

I. Circumstantial Procedural Considerations

The following are additional circumstances that the Title IX Coordinator considers when managing the formal grievance process:

1. **Multiple complainants and/or respondents** – When an alleged incident involves more than one complainant and/or respondent, the Title IX Coordinator will determine whether the investigation and formal resolution processes for those involved should be conducted separately or in one, consolidated process.
2. **Pending criminal investigations and/or proceedings** – The investigation and formal grievance processes outlined in this Policy are not altered for matters also involving a pending criminal investigation or proceeding other than a potential delay or extension to ArtCenter’s resolution timeline, if granted at the request of a law enforcement agency. ArtCenter may temporarily delay the fact-finding portion of an investigation for several days to a few weeks while a law enforcement agency is gathering evidence. If such a delay is granted, the College will communicate in writing the anticipated duration of the delay and the rationale to the parties. ArtCenter actions are not typically altered in response to the status of civil or criminal charges involving the underlying incident(s).

10. Initial Assessment

Before allegations of sexual misconduct are investigated and directed to a formal grievance process or informal process as appropriate, the Title IX Coordinator gathers preliminary information and makes an initial assessment on whether and how to proceed with addressing the reported concern, sometimes in collaboration with another member of the Title IX Team.

A. Notice and Outreach

After receiving notice of alleged sexual misconduct, the Title IX Coordinator seeks to identify and promptly contact the complainant to schedule an intake meeting, as described below in



Section 10B. The Title IX Coordinator will commonly contact the complainant's ArtCenter email account if the complainant is a student or employee.

If the Title IX Coordinator determines that the report does not on its face constitute a potential violation of this Sexual Misconduct Policy, the Title IX Coordinator may refer the report to another appropriate office, such as the Center for the Student Experience, Faculty Affairs, or Human Resources.

If the Title IX Coordinator, in consultation with Campus Security, believes a reported allegation of sexual misconduct constitutes a possible ongoing or continuing threat to the campus community, a timely warning notice will be distributed according to Section 10C.

B. Filing of Formal Complaint

Following initial outreach to the complainant, the Title IX Coordinator or designee will meet with the complainant to explain available options and resources under this Policy, including the availability of supportive measures with or without the filing of a formal complaint and the process for filing a formal complaint. In this meeting, the Title IX Coordinator or designee informs the complainant of the general principles of this Policy, including the right to have an advisor throughout the process as well as the right to seek another process outside of ArtCenter, such as filing a report with local law enforcement. The complainant will also receive written information, such as a brochure of resources and/or a copy of this Policy, either printed or electronic, as well as contact information for available resources such as Campus Security and counseling services. The complainant may have an advisor of their choice accompany them during this meeting.

If the complainant's concerns would implicate this Policy, the Title IX Coordinator seeks to determine if the complainant wishes to file a formal complaint, and will assist them to do so, if desired. The filing of a formal complaint obligates the College to investigate allegations listed in the complaint. In order to file a formal complaint, a complainant must be participating in or attempting to participate in employment or other education program or activity of the College. Upon notice, but before the filing of a formal complaint, the complainant has three options:

1. *Supportive response* – If a supportive and remedial response is preferred by the complainant and deemed appropriate by the Title IX Coordinator, the Title IX Coordinator will implement supportive measures in accordance with the complainant's needs and wishes. No formal grievance process is initiated unless the complainant elects to file a formal complaint. While the College may engage in discussions with an identified respondent about the complainant's concerns while maintaining the complainant's anonymity, it is important to note that under federal Title IX regulations, the College may not take disciplinary action against a respondent without completing a formal grievance process for any alleged violations of Section 5A, unless emergency removal is warranted per Section 7B.
2. *Informal resolution* – If a complainant chooses to file a formal complaint and prefers an informal resolution, the Title IX Coordinator assesses whether informal resolution is suitable. When appropriate, the College will then proceed with an informal resolution as described in Section 11, which begins with a written notice of allegations to both parties.
3. *Formal process* – If a complainant chooses to file a formal complaint and prefers a formal grievance process, the Title IX Coordinator determines if the formal grievance process outlined in Sections 12-14 is applicable to the allegation(s), as described in the



rest of Section 10. If so, the parties each receive a written notice of investigation and allegations, as described in Section 12.

If the complainant does not wish to file a formal complaint, the Title IX Coordinator determines whether to sign a formal complaint based on the totality of the circumstances, including the outcome of a violence risk assessment indicating a compelling threat to health and/or safety, if applicable. When a formal complaint is signed by the Title IX Coordinator, the written notice of allegations sent to both parties includes details about the allegations, including the identity of the parties, if known. Formal complaints are required to begin the formal grievance process.

In the event that the complainant has questions or concerns about available processes or resources, the Title IX Coordinator or designee may meet with or otherwise communicate with the complainant more than once during initial assessment. Supportive measures or adjustments to supportive measures are offered to the complainant with or without the filing of a formal complaint. The complainant has the right to have an advisor accompany them to any and all meetings during initial assessment and any subsequent process.

Determinations on potential dismissals and the applicability of the formal grievance process are the responsibility of the Title IX Coordinator, as described in Sections 10E and 10F.

C. Violence Risk Assessments

Initial assessment may involve an individualized violence risk assessment, depending on the nature of the complaint. Violence risk assessments are conducted by the Title IX Coordinator, Campus Security and members of the Title IX Team, at times in consultation with the CARE Team, in order to assess any potential violence or danger, regardless of the presence of a vague, conditional or direct threat. The result of a violence risk assessment is a determination on the level of risk, if any, of actionable violence, often with a focus on targeted/predatory escalations, or other immediate threat to the physical health or safety of any student or other individual arising from the allegations of a violation of this Policy. A violence risk assessment is utilized in one or more of the following determinations, when applicable:

- Whether to implement an emergency removal as described in Section 7B;
- Whether the Title IX Coordinator should pursue/sign a formal complaint without a participatory complainant;
- Whether the scope of an investigation should be on an incident and/or pattern and/or climate;
- Whether there are grooming behaviors or potential predatory conduct;
- Whether it is reasonable to try to resolve a complaint through informal resolution and what modality may be most successful;
- Whether to permit a voluntary withdrawal by the respondent;
- Whether to impose transcript notation or communicate with a transfer institution about a respondent;
- Whether a Clery Act Timely Warning or trespass order is needed;
- Assessment of appropriate sanctions and remedies to be applied post-hearing.

When the Title IX Coordinator determines that a complaint necessitates a violence risk assessment, the respondent is required to participate pursuant to College policy. Failure to



fully cooperate with a required violence risk assessment may be grounds for sanctioning under the Employee Handbook or Student Handbook, as appropriate.

D. Written Notice of Formal Complaint

When a complainant raises allegations of sexual misconduct in a formal complaint, the College must notify the respondent that the allegations were raised. Therefore, all members of the College community are encouraged to understand the definition of a formal complaint in Section 8D.

After receiving a formal complaint, the Title IX Coordinator provides a written notice to the complainant and respondent about the formal complaint. At this stage, the following options remain:

1. **Dismissal and appeal opportunity** – If a formal complaint is filed and the matter is subsequently dismissed for reasons outlined in Section 10E, the Title IX Coordinator will promptly send written notice of the dismissal and its rationale to both parties. Upon such notice, the complainant and respondent have equal opportunity to appeal the College’s dismissal decision. Appeal procedures in Section 14 apply.
2. **Informal resolution** – After the parties have been provided a copy of the written notice of a formal complaint, both parties may, in writing, voluntarily agree to engage in an informal resolution, as defined in Section 11. Informal resolution is not an option to resolve allegations that an employee sexually harassed a student.
3. **Formal grievance process** – The standard response to a formal complaint is the initiation of a formal grievance process, which includes a formal investigation, formal hearing and one appeal opportunity, as defined in Sections 12-14.

E. Dismissals

Title IX regulations require that, upon receipt of a formal complaint, the Title IX Coordinator consider grounds of potential mandatory dismissal and potential discretionary dismissal of the formal complaint before proceeding with an investigation:

1. **Grounds for mandatory dismissals** – As mandated by the Title IX regulations, the College must dismiss a formal complaint or one or more allegations therein under Title IX if, at any time during the investigation or hearing, it is determined that:
 - a. The conduct alleged in the formal complaint, even if proved, would not constitute prohibited conduct defined in Section 5A; and/or
 - b. The conduct did not occur in ArtCenter’s educational program or activity, which includes locations, events, or circumstances over which the College exercises substantial control over both the respondent and the context in which misconduct allegedly occurred, as well as any building owned or controlled by a student organization; and/or
 - c. The conduct did not occur against a person in the United States; and/or
 - d. At the time of filing a formal complaint, the complainant is not participating in or attempting to participate in ArtCenter’s education program or activity.

When one or more of the above applies, Title IX regulations require the College to dismiss the allegations under Title IX and notify the complainant and respondent in writing that the matter will not be pursued “under Title IX,” although the College may inform the parties of intentions to otherwise address the allegation(s) through a formal or informal process outlined in Sections 12-14 of this Policy or in the Employee Handbook or Student Handbook. Dismissing a complaint because of the mandatory dismissal



reasons above is procedural; this does not diminish the College's commitment or authority to properly address a complaint as deemed appropriate by the Title IX Coordinator. Each party has a right to appeal a dismissal under the procedures for appeal in Section 14.

2. **Grounds for discretionary dismissals** – As outlined in federal Title IX regulations, the College may dismiss a formal complaint or one or more allegations therein under Title IX if, at any time during the investigation or hearing:
- a. The conduct alleged in the formal complaint, even if proved, would not constitute a violation of any portion of this Policy; and/or
 - b. The complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein and the Title IX Coordinator determines that ArtCenter can honor that request; and/or
 - c. The respondent is no longer enrolled in or employed at ArtCenter; and/or
 - d. Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal of a matter “under Title IX,” the College will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties and inform them if the College will proceed with a process for any remaining allegations. This dismissal decision is appealable by any party under the procedures for appeal in Section 14. A complainant who decides to withdraw a complaint may later request to refile it.

F. Applicability of Formal Grievance Process

For matters involving a student respondent, the formal grievance process outlined in Sections 12-14 is applicable following the filing of a formal complaint in instances where the student respondent is alleged to have violated of any provision(s) of Sections 5A or 5B of this Policy when the respondent was a student (or student employee) at the time of the alleged misconduct. Either the complainant or respondent may request an informal resolution, per Section 11.

For matters involving a non-student employee respondent, the formal grievance process outlined in Sections 12-14 usually applies to alleged violations of Section 5A of this Policy. In matters involving an employee respondent allegedly violating a provision of Section 5B of this Policy, the Title IX Coordinator determines whether the formal grievance process outlined in Sections 12-14 is applicable or whether the matter will be handled in accordance with the Employee Handbook. Either the complainant or respondent may request an informal resolution, per Section 11, as long as the matter does not involve allegations that an employee sexually harassed a student.

Depending on the nature of the complaint, a formal grievance process addresses:

- a. an alleged incident, and/or
- b. a pattern of alleged misconduct, and/or
- c. an alleged culture/climate issue.

The formal grievance process is used to determine whether or not this Policy has been violated. If a violation(s) is found by a preponderance of evidence, ArtCenter will promptly provide remedies to the complainant designed to ensure that the College is not deliberately indifferent to harassment or discrimination, their potential recurrence, or their effects.



11. Informal Resolution

The Title IX Coordinator may offer informal resolution only after a formal complaint is filed. Informal resolution, as a completely voluntary process, may serve as a potential alternative to address alleged behavior in a timely manner without completing a formal grievance process. Informal resolution is a valid option at any point prior to reaching a final determination through a formal grievance process, except for cases in which a formal complaint alleges that an employee sexually harassed a student.

In an informal resolution, the parties agree to forgo the formal grievance process, including the investigation and hearing, depending on when the parties agree to engage in an informal resolution. At any point prior to agreeing to an informal resolution, each party has a right to withdraw from the informal resolution process and resume the formal grievance process with respect to the formal complaint. The informal process is generally appropriate when:

1. Both the complainant and respondent mutually agree in writing to resolve the situation cooperatively through informal resolution,
2. The Title IX Coordinator determines that an informal process is appropriate for the specific allegations and is consistent with ArtCenter's institutional values and legal obligations, and
3. The information available at the time indicates that the alleged behavior does not involve serious sexual misconduct or a significant risk to the ArtCenter community.

A. Initiating Informal Resolution

Before a formal complaint alleging violations of this Policy may proceed to an informal resolution, the Title IX Coordinator informs the parties in writing, generally through their ArtCenter-issued email addresses, of the allegations, the requirements of ArtCenter's informal resolution process and how it differs from the formal grievance process, privacy implications of participating in informal resolution, and consequences that could result from participating in the informal process, including the records that will be maintained or could be disclosed from an informal process. Informal resolution proceeds only with written consent from the complainant and the respondent. If either party does not agree to complete an informal resolution or withdraws from such process, the formal complaint will instead be addressed through a formal grievance process. ArtCenter does not require any person to participate in informal resolution rather than a formal grievance process.

The goal of informal resolution is to achieve an outcome that is acceptable to the complainant, respondent and ArtCenter, and often to counsel and educate one or more individuals. The nature of the informal resolution process is designed to be flexible and tailored to the specific circumstances of a particular case, including the needs of the involved parties. Any involved party may, at any time, end the informal process and opt to utilize the formal grievance process.

B. Informal Resolution Procedures

Once the complainant and respondent agree to use informal resolution to address a formal complaint, the Title IX Coordinator or designee will facilitate communication between the parties to reach a mutually agreeable resolution.



Informal resolutions of a formal complaint are generally concluded within 45 days of written notice to the Title IX Coordinator that both parties wish to proceed with the informal resolution process. Such notice that the parties wish to proceed with an informal resolution effectively pauses the timeline for the formal grievance process. The timeline for the formal grievance process resumes only if the informal resolution fails or if the parties withdraw their written consent to engage in the informal resolution process and therefore opt to pursue the formal grievance process.

Unlike the formal grievance process, no audio recordings of the informal resolution process are permitted. Statements made during an informal resolution process and may not be used for or against either party in any formal grievance process that may occur in place of or following the informal process. Therefore, if an informal resolution process fails or any party withdraws from the informal process, the formal grievance process will resume with respect to the formal complaint, and statements made during the informal process will not be permitted or relied on by the hearing officer(s) or appeal officer(s).

When informal resolution is used, the outcome will be placed in writing and provided to both the complainant and respondent. Results of formal complaints resolved by informal resolution are not appealable. Informal resolution documents from a matter with a respondent who is an ArtCenter employee will be disclosed with the employee's direct supervisor(s) and/or the chair of the department in which the employee holds a primary appointment. The matter will then be considered closed. Documentation of any final resolution reached through informal resolution is maintained by ArtCenter for seven years, as required by law. Failure to comply with an informal resolution agreement may result in disciplinary action through this Policy, the Student Handbook, or the Employee Handbook.

C. Informal Resolution Options

Informal resolution includes, but is not limited to, targeted or broad-based educational programming or training, adjustments to reduce proximity between the involved parties, and/or direct or indirect action by the Title IX Coordinator or ArtCenter to address the behavior, prevent its reoccurrence and remedy its effects. The Title IX Coordinator, in consultation with appropriate members of the Title IX Team, makes the ultimate determination of whether a particular type of informal resolution is viable. Informal resolution may include, but not be limited to:

1. Conflict Resolution – Conflict resolution may include mediation by which a mutually agreed upon resolution of an allegation is reached to address less serious, yet inappropriate conduct. The Title IX Coordinator or designee is the mediator in this process. The mediator does not make a determination of responsibility or issue a decision, but instead assists the parties in developing solutions that the complainant, respondent and ArtCenter all approve.
 - a. Mediation meeting(s) – Conflict resolution can involve meetings with the parties and a trained mediator in the same space in person or virtually, during which the parties discuss the alleged behavior, its impact and a resolution.
 - b. Facilitated discussion (shuttle diplomacy) – Conflict resolution can involve the trained mediator facilitating conversation between the parties without the



complainant and respondent in the same space. This may happen in real time or asynchronously.

2. Restorative Justice – Restorative justice is a philosophical approach that embraces the reparation of harm, including identifying who or what has been harmed and what actions are necessary to repair the harm.
 - a. Restorative conferences – These discussions are hosted by trained facilitators with the parties and any other stakeholders to develop a shared agreement of how to repair the harm. The parties work together to develop an agreement that resolves the issue and repairs relationships that were damaged by their actions. Restorative conferences usually involve the respondent acknowledging the impact of their actions and agreeing to take steps to repair the harm caused.
3. No contact orders between the parties and/or separating physical work or academic locations of the parties, including changes to employment/class arrangements.
4. A discussion with the respondent, possibly including the respondent's supervisor(s).
5. A written explanation, apology, or other communication between the parties, facilitated by the Title IX Coordinator or designee.
6. Acceptance of responsibility – The respondent can choose to take responsibility for the alleged policy violations at any point during a formal grievance process or an informal resolution process, as described in Section 11C, which may result in agreed-upon sanctions and/or remedies.
7. Educational training for an individual, group, or unit.
8. Facilitated discussion between the parties.

D. Informal Resolution When a Respondent Accepts Responsibility

At any point in a formal grievance process or informal resolution process, the respondent may accept responsibility for all or some of the alleged violations of this Policy. If a respondent indicates an intent to accept responsibility for all alleged violations during a formal grievance process, the formal process will be paused, and the Title IX Coordinator will determine whether an informal resolution may be appropriate, with written consent of both parties. If applicable, an informal resolution process may be utilized to allow the parties and the College to agree on the respondent's responsibility, sanctions and/or remedies. Such an outcome is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the formal grievance process will resume at the same point at which it was paused.

When an informal resolution is accomplished, the appropriate sanction(s) or responsive action(s) are promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence and remedy the effects of the discriminatory conduct, both on the complainant and the community.

12. Formal Investigations

Once the Title IX Coordinator receives or signs a formal complaint initiating a formal grievance process, the Title IX Coordinator assigns an investigator(s) to the case. The formal investigation process, as part of a formal grievance process, is utilized to address alleged violations of this Policy when one or more of the following is true:



1. The informal resolution process is inappropriate due to the nature of the allegations or the severity or repeat nature of the alleged behavior, or
2. One or more parties have not consented to the informal resolution process, or
3. The informal resolution process was unsuccessful

Procedures for formal investigations are guided by the general principles of the formal grievance process outlined in Section 9. Investigations involve interviews with all relevant parties and witnesses and obtaining available, relevant evidence. Complainants and respondents have the same full and fair opportunity to suggest witnesses and questions, provide information to the investigator(s), and fully review and respond to all directly related and/or relevant information collected during the investigation before the matter is referred to a formal hearing, as outlined in Section 13.

A. Assignment of Investigators

The Title IX Coordinator assigns a trained investigator(s) to the case with consideration to whom is best suited based on role at ArtCenter so that the investigator(s) does not have a conflict of interest or bias, as described in Section 3A. The investigator(s) may be ArtCenter employees from the Title IX Team or be a contracted investigator hired by the College. The parties may, at any time during the resolution process, raise a concern to the Title IX Coordinator regarding bias or conflict of interest of an investigator, and the Title IX Coordinator determines whether the concern is reasonable cause to assign a different investigator as well as remedy any impact of any potential bias or conflict.

B. Notification

The Title IX Coordinator and/or assigned investigator(s) will provide a written notice of investigation and allegations (“NOIA”) to the complainant and respondent, if known, at the commencement of the formal grievance process. The purpose of the NOIA is to facilitate each party’s ability to prepare for investigative interviews by preparing to share their account and selecting an advisor to accompany them, if they choose to do so. The NOIA is delivered in writing to each party and often reviewed for clarity in a meeting with the Title IX Coordinator or assigned investigator(s). If notification cannot be made in person or delivered via email to the parties’ ArtCenter-issued email accounts, ArtCenter will mail a copy of the letter to the local or permanent addresses of the parties as indicated in official ArtCenter records. Once mailed, emailed and/or received in person, notice will be presumptively delivered.

The NOIA includes the following:

- A meaningful summary of all of allegations;
- The identity of the involved parties (if known);
- The precise misconduct being alleged;
- The date and location of the alleged incident(s) (if known);
- The specific policies implicated;
- A description of the applicable procedures;
- A statement of the range of potential sanctions/responsive actions that could result if a policy violation was found;
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period;
- A statement about ArtCenter’s policy on retaliation;
- Information about the privacy of the process;



- A statement of each party's right to an advisor of their choosing, suggestions for finding an advisor, and a statement that advisors are mandatory if the matter is referred to a formal hearing, as defined in Section 13;
- A statement informing the parties that ArtCenter prohibits knowingly making false statements or submitting knowingly false information during the resolution process;
- Detail on how the party may request disability accommodations during the interview process;
- A link to the College's Title IX website that includes FAQs and relevant resources;
- The name(s) of the investigator(s), along with a process request that the Title IX Coordinator address any conflicts of interest that the party(ies) may perceive that the investigator(s) have;
- An instruction to preserve any evidence that is directly related to the allegations.

The NOIA will also note that ArtCenter utilizes the preponderance of the evidence standard in its neutral decision-making process and presumes the respondent is not responsible for the reported misconduct unless and until the relevant information gathered during the investigation and hearing process supports a different determination. The NOIA includes information from this Policy, relevant resources, information about accessing supportive measures and relevant contact information.

The NOIA may be updated for both parties if more information that facilitates the parties' ability to participate in the process becomes available as the investigation progresses, such as an addition or dismissal of specific allegations.

C. Information Gathering

The investigator(s) gathers information from the complainant, respondent and identified witnesses. The information gathering phrase may include, but not be limited to, the following:

1. Meet with the complainant and respondent to review the NOIA with each, explaining the process in more detail and answering questions.
2. Meet with each party and witnesses to gather their accounts of the alleged incident(s), providing written notice of the date, time and location or mode of each meeting and anticipated participants with sufficient time for the individual to prepare to participate when their attendance is requested.
3. Ask the complainant and respondent for all information related to the allegations, including names of potential witnesses, personal accounts of the alleged incident(s), and documentation related to the incident. Examples of collected documentation include, but are limited to, documented communications between parties, receipts, photos, video, or other information relevant to the allegations. Multiple meetings are likely to take place during the investigation process.
4. Collect documentation that may be in possession of the College.
5. Provide regular status updates to the complainant and respondent throughout information gathering.

The investigator(s) engages in neutral information-gathering by meeting with those who are available and collecting information those individuals are willing to provide. The investigator(s) may be accompanied by the College's legal counsel as deemed appropriate during any investigative meeting.



D. Information Review

At the conclusion of information gathering, the investigator(s) prepares a draft investigation report that contains a timeline of the investigation and addresses all relevant evidence. The draft investigation report includes a list of undisputed and disputed facts and an index all of the information collected to date. Copies of all witness interviews and other gathered information are included in an appendix to the draft report. The draft investigation report will not contain any factual determinations or policy analysis. The investigator(s) submits the draft report to the Title IX Coordinator, who may require the investigator(s) to conduct additional information gathering prior to sending the draft investigation report to the parties.

The complainant and respondent receive the same fair opportunity to inspect, review and comment on the draft report and all collected information in a period of time called information review. Information review takes place for ten days, but the parties may elect to waive the full ten days. Information review is usually conducted through email or a secure online file-share platform. The parties have equal access to all information directly related to the reported misconduct that has been collected to date, including information upon which ArtCenter does not intend to rely in reaching a responsibility determination, so that each party may meaningfully respond to the information prior to the conclusion of the investigation.

The files shared with the parties through email or a secure online file-share are redacted versions of the information. Full, unredacted copies are made available for in-person review or through live, facilitated online review with the investigators, Title IX Coordinator, or designee. If it is not possible to share some files as redacted copies online, such as videos that cannot be redacted and/or require specific software to view, the investigator(s) will offer equitable opportunities for the parties to review the information in person or using a secure screen-share in a remote meeting. Parties participating in information review are expected to protect the privacy of the information and are prohibited from making copies, photos, reproductions, or recordings of any material or sharing any material under review during this process.

The complainant and respondent are provided a deadline by which they may submit a written response to the draft investigation report to the investigator(s). In this written response, the parties may provide additional information or request that the investigator(s) gather additional relevant information, whether from currently identified witnesses or parties, new witnesses, or from the institution. Advisors are not permitted to submit written responses to the draft investigation report on their own or on behalf of the party they are advising. The investigators will consider all timely responses submitted by the parties, but requests for information deemed by the investigator(s) to be irrelevant may be denied. If necessary, the investigator(s) will conduct additional information-gathering before finalizing the investigation report. The investigator(s) may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties, allowing each party an opportunity to review and comment on the other party's written response.

Following information review, the investigator(s) incorporates relevant elements of the parties' written responses into the final investigation report by including any additional relevant evidence, making necessary revisions and documenting the rationale(s) for any change(s) made as a result of information review. The investigation report is then shared with the Title IX Coordinator for review and feedback prior to finalization.



E. Final Investigation Report

The final investigation report includes a timeline of the investigation, a list of undisputed and disputed facts, and an index all relevant information collected before and during information review. The final investigation report is shared as simultaneously as possible through email or secure online file-share with each party and their advisor, if any, upon a party's signed information release for their advisor of choice to receive such information. The parties are also provided with a file of any directly related evidence that was not included in the report. The final investigation report is provided to the parties at least ten days prior to the date of the scheduled hearing so they may review and prepare to participate in the hearing. A copy of the final investigation report will be issued to the Title IX Coordinator and to the hearing officer(s) assigned to the hearing.

Only information that was gathered by the investigator(s) and included in the final investigation report may be considered in the determination of whether a violation of this Policy has occurred. Complainants, respondents and witnesses are instructed to provide all information that they want the investigator(s) to consider prior to the completion of the final investigation report, as new information will usually not be allowed during any subsequent formal hearing or appeal process, unless it can be clearly demonstrated that such information was not reasonably available to the parties at the time of investigation. If new information is uncovered during the course of a hearing, the matter may be remanded back to the investigator(s) for review, and a new hearing will be convened.

F. Determination of Next Steps

After having the opportunity to review and comment on the finalized investigation report, the Title IX Coordinator, investigator, or designee connects with the complainant and respondent regarding next steps in the formal grievance process. The determination of whether to proceed to a hearing will follow considerations listed in Section 10F. Either party may request an informal resolution at this stage.

13. Formal Hearings

Following the completion of a formal investigation and ten days of information review, the final investigation report is provided to the parties. At that stage, provided that the complaint is not resolved through informal resolution, the Title IX Coordinator will refer the matter to a hearing, if either required due to the allegations relating to Title IX sexual harassment as defined in Section 5A or otherwise appropriate due to the nature of the allegations and potential outcomes. The procedures below may be used to simultaneously address collateral alleged misconduct arising from the investigation or occurring in conjunction with the allegations of sexual misconduct. Procedures for formal hearings are guided by the general principles of the formal grievance process outlined in Section 9.

A. Assignment of Hearing Officers

In referring the matter to a hearing, the Title IX Coordinator will designate one to three hearing officers, identifying one as the hearing chair. The hearing chair takes steps to organize, administer and make decisions regarding the hearing process. None of the hearing officers, including the hearing chair, will have had previous involvement with the case or investigation. Any hearing officer who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties and all witnesses



in advance of the hearing. If a hearing officer is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

Upon notice of the hearing, if either party objects to the assignment of a hearing officer(s) due to demonstrated conflicts of interest or bias, the party must raise this concern with the Title IX Coordinator in writing at least five days prior to the hearing, along with a rationale for the objection. If the Title IX Coordinator receives a request to remove a hearing officer from the board, the Coordinator will consider the request. A hearing officer(s) will be replaced only if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation.

B. Notice of Hearing

The hearing chair will provide the complainant and respondent with a detailed, written hearing notice letter no less than ten days prior to a hearing. Once mailed, emailed and/or received in person, the hearing notice letter will be presumptively delivered. The hearing notice letter will contain:

1. A description of the alleged misconduct, a list of all provisions of policy allegedly violated, and the purpose of the hearing
2. A statement of the potential sanctions/responsive actions that could result, as described in Section 13H
3. The time, date and location or mode of the hearing (in person, remote, or a hybrid) and a reminder that attendance is mandatory, superseding all other campus activities. If any party does not appear at the scheduled hearing, whether in person or through pre-arranged conferencing technologies, the hearing will be held in their absence. For compelling reasons, the hearing chair may reschedule the hearing.
4. Information about how the live hearing will be facilitated without the parties in the same room, utilizing appropriate technology that enables the hearing officer(s) and parties to see and hear a party or witness answering questions. Information about any technology that will be used to facilitate the hearing will be included.
5. A list of all individuals who will attend the hearing, including witnesses whose information will be used to make a determination.
6. Instructions on how to object to any hearing officer on the basis of demonstrated bias.
7. A description of the applicable hearing procedures, including how to request that witnesses participate, how questioning of parties and witnesses will be facilitated, and how the hearing will be recorded, as well as how to access the recording following the hearing. This will include instructions that parties are prohibited from recording, sharing, streaming, photographing, or otherwise disseminating any portion of the hearing.
8. Notification that both the complainant and respondent may have the assistance of an advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an advisor, in which case the College will appoint one for the purpose of facilitating questioning at the hearing. The notification will explain that each party must have an advisor present at the hearing, without exceptions.
9. Notification that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any



statements given prior to the hearing will not be considered by the hearing officers. For compelling reasons, the hearing chair may reschedule the hearing.

10. An invitation to each party to submit an impact statement to the hearing chair prior to the hearing, for the hearing officer(s) to review during any sanctioning determinations.
11. An invitation to contact the Title IX Coordinator at least seven days prior to the hearing to arrange any disability accommodations, language assistance and/or interpretation services that may be needed at the hearing.
12. A copy of all the materials provided to the hearing officer(s) about the matter, unless they have been provided already.

C. Witnesses

Both the complainant and respondent have the opportunity to request that identified witnesses participate in the hearing and will receive a deadline by which to do so during information review. The hearing chair may decide in advance of the hearing that certain witnesses do not need to be physically present if their account is adequately summarized in the investigation summary report and decision-making does not rely on the hearing officers' assessment of the witness's credibility, in consultation with the parties, investigators and Title IX Coordinator as necessary. Only witnesses who provided information during the investigation will be included in the hearing. If a party wants to request that a new witness be included in the hearing, the party must submit a written request to the hearing chair that includes a summary of what the witness observed, a statement as to why the witness's presence is relevant to making a determination of responsibility at the hearing, and the reason the witness was not interviewed by the investigator(s). The Title IX Coordinator and hearing chair will determine if there is sufficient justification for a witness who was not interviewed by the investigator(s) to participate in the hearing. Alternatively, they may require that the investigator(s) interview the witness prior to the hearing, leading the process back to the information review stage outlined in Section 12D.

D. Hearing Preparation

At the discretion of the hearing chair, the parties may be invited to communicate with the hearing chair prior to the hearing to prepare for the hearing either via email or in a meeting, to understand what kind of information and questions are appropriate for the hearing setting. This opportunity may allow for parties to discuss the questions they intend to ask during cross-examination and understand how the issue of relevance will be determined by the hearing officer(s). Similarly, the parties may discuss any concerns of relevance regarding about evidence identified as directly related but not relevant by the investigator(s). The hearing chair may determine to allow for information to be incorporated into the investigation report and hearing record, and will update both parties and the other hearing officer(s) of any changes or additions. Additionally, in the event that the hearing will be facilitated through video-conference, or if materials require in-person review prior to the hearing, the College may also allow for other preparatory meetings to facilitate proper set-up of relevant technology or to allow for investigation report review in the ten days prior to the hearing, which may or may not be facilitated by the hearing chair.

Any pre-hearing meeting with the hearing chair will not involve any other hearing officers, but the hearing chair may consult and/or be accompanied by the Title IX Coordinator or the College's legal counsel. Documentation of any communication and/or meeting(s) will be maintained by the College.



E. Hearing Participation

Hearings often require the coordination of several schedules, including the parties, their advisors, identified relevant witnesses and hearing officers. For this reason, ArtCenter requests that all parties prioritize the hearing over other commitments. Any relevant employee witnesses are asked to participate as a part of their employment with ArtCenter. The following requirements apply to hearing participation and scheduling:

1. **Submission to cross-examination** – If a party or witness does not submit to cross-examination at the hearing, whether by failing to appear at the hearing or not answering questions posed by the other party through their advisor, the hearing officers must not rely on any statement that the non-participatory party or witness provided in either the investigation or hearing. The prohibition of relying on statements provided by an absent party also applies to documents and records to the extent that they contain the statements of a party or witness who has not submitted to cross-examination. While the hearing officers would not rely on such statements of an absent party or witness in reaching a determination regarding responsibility, they also cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence or refusal to answer cross-examination questions at the hearing.
2. **Hearings at the end of a term** – Hearings following investigations that finish near or after the end of an academic term will be unable to be resolved prior to the end of term. Hearing timelines include the ten days' notice provided to the parties prior to the hearing, the length of the hearing, the period of time necessary for the hearing officers to complete the written outcome and the appeals window. Therefore, if the respondent in such a case is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved, including any appeal. A student facing alleged violations under this Policy is not in good standing to graduate.
3. **Requests to reschedule** – In the event of documented extenuating circumstances, a complainant or respondent may request to reschedule the hearing. This request must be made in writing to the hearing chair no later than two days prior to the originally scheduled hearing. The decision of whether to reschedule is at the discretion of the hearing chair and Title IX Coordinator, with consideration to the prompt and equitable completion of the process.

F. Hearing Process

The hearing process is routinely completed through a video-conferencing technology with the complainant and respondent in separate rooms from one another. The purpose of this process is to allow all cross-examination to occur directly, orally and in real time by each party's advisor of choice, allowing for the parties and hearing officer(s) to simultaneously see and hear the party answering questions without needing to be in the same space. During the hearing, the hearing officer(s), who will have already reviewed the investigation summary report, will hear from the investigator(s), complainant, respondent and witness(es) to gather the information needed to determine the credibility of the information presented, weigh all information and determine whether or not a provision(s) of this Policy was violated by a preponderance of the evidence. On rare occasions, with the permission of all parties, this process may be handled with all parties present in the same physical space.

At the hearing, the hearing officer(s) has the authority to hear and make determinations on all alleged policy violations listed in the hearing notice letter. In the event that questions arise related to procedure or relevance, the hearing chair makes the final determination. The



hearing officer(s) are entitled to have the advice and assistance of the College's legal counsel.

Hearings are conducted in private following ArtCenter-specific rules of decorum. Nothing about the hearing is to be construed as a criminal or legal process. Participants at the hearing will include the hearing officer(s), parties, the hearing facilitator, the investigator(s) who conducted the investigation, advisors to the parties, any called witnesses, the Title IX Coordinator, and anyone providing authorized accommodations or assistive services. The hearing officer(s) may remove any party (including complainant, respondent, witness, or advisor) from a hearing for reasons including, but not limited to, disruption, waste of time, sharing irrelevant, immaterial, or unduly repetitive information, or failing to adhere to requests of the hearing administrators. Participant expectations will be recited to all participants at the start of the hearing. If a party, witness, or advisor is asked to leave due to failure to adhere to participant expectations, the hearing officer(s) will determine whether to reschedule or proceed without their participation.

The first party to share information at the hearing is the investigator(s) for the case, who presents a summary of the final investigation report, including disputed and undisputed information. The investigator(s) is then subject to questioning by the hearing officer(s) and the parties through their advisors, after which the investigator(s) remain present during the entire hearing process to address issues or questions that arise. Investigators are not to be asked their opinions on credibility, recommended findings, or determinations at any time.

Next, both the complainant and respondent have an opportunity to present their account of events, answer questions posed by the hearing officer(s), and then ask questions of the other party and any witnesses through their advisor. The hearing officer(s) will first ask the complainant, respondent, investigator(s) and witnesses questions and then will open an opportunity for cross-examination through the parties' advisors. Questions asked by one party's advisor of the other party or witnesses must be determined relevant by the hearing officer(s). Before a party or witness answers a cross-examination question posed by a party's advisor, there is a pause to allow the hearing officer(s) to determine relevance and instruct the party whether or not to answer the question as posed, including offering a rationale for any question deemed irrelevant and therefore not allowed. Specifically, the hearing officer(s) has the responsibility to either exclude or instruct a party and their advisor to rephrase any questions that are not directly relevant, unduly repetitive (and thus irrelevant), abusive, or otherwise not probative of the disputed facts or to the determination of the case. When there is disagreement on the relevance of a posed question, the hearing chair has final say on all determinations of relevance, subject to any appeal. The hearing chair may ask advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the advisors on relevance once the chair has ruled on a question.

F. Record of Hearing

Hearings will ordinarily be audio recorded, with the exception of any deliberation between the hearing officer(s), although video recording may serve as a substitute. This record will be the property of the College and available to the hearing officers, the parties and their advisors, and appropriate ArtCenter administrators for review in a controlled environment, as determined by the Title IX Coordinator. Respondents, complainants and advisors at the hearing are free to take their own written notes, but they may not record, share, or stream



any photography, video or audio of the hearing. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

G. Hearing Outcomes

Following the conclusion of the hearing, the hearing officer(s) deliberate in closed session(s) to determine whether the respondent violated the policies outlined in the hearing notice letter. The outcome is determined on the preponderance of the evidence, based solely upon material presented at the hearing, including any investigation reports and attachments. In matters where it is found more likely than not that the alleged misconduct took place, the hearing officer(s) will determine the appropriate sanction(s). Determination of sanctions may be made in consultation with other appropriate administrators, as required, to consider any pertinent conduct history and/or employment action history of the respondent. The hearing officer(s) will then prepare a written outcome detailing the determination and rationale, including the evidence used in support of its determination, the evidence disregarded, credibility assessments and any sanctions, if applicable. This written outcome will be provided to the Title IX Coordinator for review within a reasonably prompt timeframe. Following the Title IX Coordinator's review, the written outcome will be made available to the parties as simultaneously as possible, generally within 10-14 days of the hearing. The hearing chair will notify the parties if an extension of this timeline is necessary. Once the written outcome is mailed, emailed and/or received in person to the parties, notice will be presumptively delivered.

The outcome notice will contain a description of the procedural steps taken by the College from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, methods used to obtain evidence, and hearings held. The outcome notice specifies the determination on each alleged policy violation, detailing the findings of fact that support the determination, conclusions regarding the application of the relevant policy to the facts at issue, and a rationale for the result of each allegation. It also includes any sanctions assigned and whether remedies will be provided to the complainant in an effort to ensure access to the College's employment or education program or activity. The outcome notice will detail an appeal request deadline by which both parties have an equal opportunity to appeal the hearing outcome if they disagree with the outcome on one or more relevant criteria, as outlined in Section 14.

If neither party requests an appeal by the deadline, the findings and sanctions (if any) outlined the hearing outcome will become the final determination on the matter at the close of the appeal window. If one or both parties appeal, the outcome of the appeal will become the final determination on the matter on the date that the College simultaneously provides the written determination of the appeal result to the parties. The matter will then be considered closed, and the outcome will be disclosed to the appropriate administrator(s). Documentation of any final resolution reached through the formal grievance process is maintained by ArtCenter for seven years, described in Section 15.

H. Sanctions

When a hearing leads to a determination of responsibility for a violation of this Policy, sanctions will be assigned to the respondent and remedies will be provided to the complainant.



Sanctions are determined based on the totality of circumstances surrounding the found violations. Other factors considered when determining a sanction or responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The respondent's disciplinary history, if any
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the sexual misconduct
- The need for sanctions/responsive actions to prevent the future recurrence of sexual misconduct
- The need to remedy the effects of the sexual misconduct on the complainant and the larger ArtCenter community
- The impact on the parties
- Any other information deemed relevant by the hearing officer(s) that was available and/or discussed at the hearing

The sanctions described in below are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

1. **Student sanctions** – For student respondents, all forms of sexual misconduct are violations of this Policy and the Student Code of Conduct in the Student Handbook. Students found responsible for violations of this Policy and the Student Code of Conduct are subject to sanctions that can include suspension or expulsion. Sanctions assigned to students for sexual misconduct range from educational interventions and formal warnings to suspension or expulsion, depending on the severity of the violation and any potential conduct history the student has on file at the time of the decision. When suspension is assigned, students will be assigned educational sanctions to complete before returning to campus and/or enrollment. The context and severity of violations, as well as multiple violations stemming from one incident, may lead to a multi-year suspension or expulsion for any violation of this Policy. The following are the typical sanctions that may be imposed, individually or in combination, upon students following a violation of this Policy, including sexual assault, stalking, dating violence and domestic violence:

- Formal warning
- Required counseling and/or administrative meetings
- Educational interventions
- Probation
- Loss of privileges, campus restrictions and/or limitation on activities beyond a No Contact Order to prohibit the respondent from shared classes or extra-curricular activities with the complainant
- Suspension
- Expulsion
- Withholding diploma
- Revocation of degree
- Bar against readmission, re-enrollment, or a drop in one or more classes
- Other actions

2. **Employee sanctions** – For employees, all forms of sexual misconduct are violations of this Policy and the Employee Handbook. Violations by employees are taken seriously. Employees who violate this policy will be subject to discipline, up to and including



termination of employment. Some Policy violations may also subject the employee responsible to potential criminal and civil penalties under federal and state law. Sanctions assigned to employees for sexual misconduct range from educational interventions and formal warnings to suspension or termination, depending on the severity of the violation and any potential history of past misconduct the employee has on file at the time of the decision. The following are the typical sanctions that may be imposed, individually or in combination, upon employees following a violation of this Policy, including sexual assault, stalking, dating violence and domestic violence:

- Formal warning
- Required counseling and/or administrative meetings
- Educational interventions
- Loss of privileges, campus restrictions and/or limitation on activities
- Job demotion or reassignment
- Suspension with or without pay for a specific period of time
- Dismissal or termination
- Bar against rehire
- Other actions

I. Remedies

Following the conclusion of a formal grievance process or informal resolution, and in addition to any sanctions implemented, the Title IX Coordinator may implement remedies for the complainant and/or the campus community that are intended to stop the misconduct, remedy the effects and prevent reoccurrence. Remedies are designed to restore or preserve the complainant's equal access to the College's education program or activity, and while they may include the same individualized services listed in Section 7, remedies may be disciplinary, punitive, or burdensome for the respondent. The Title IX Coordinator is responsible for the effective implementation of any remedies. Remedies may include, but are not limited to:

- Referrals to counseling, health services, or the Employee Assistance Program
- Permanent alteration of employment or academic arrangements
- Climate surveys, individual or community education, or other community outreach
- Policy modification and/or training
- Transportation accommodations
- Consultation with or escort from Campus Security
- Long-term contact limitations between the parties

At the discretion of the Title IX Coordinator, supportive measures may also be provided to the parties even if no policy violation is found, as described in Section 7.

J. Failure to Comply with Sanctions and/or Remedies

Outcome letters include instructions for respondents to comply with any assigned sanctions within a specified timeframe. Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether through refusal, neglect, or any other reason, may result in additional sanction(s) or action(s), including suspension, expulsion, notation on a student's official transcript and/or termination. A suspension will be lifted only when compliance is achieved to the satisfaction of the Title IX Coordinator and, as appropriate, the Dean of Students, Human Resources and/or the respondent's supervisor.



14. Appeals

Complainants and respondents each have one appeal opportunity following a dismissal or a hearing outcome. The complainant and respondent may submit an appeal request in writing no later than five days after the date of the dismissal or hearing outcome. A written appeal request must follow the instructions provided on the notice of dismissal or hearing outcome letter and must be directed to the identified appeal officer referenced in the letter. A trained appeal officer will be assigned to the matter by the Title IX Coordinator, who will ensure the individual has no conflicts of interest and has not been an investigator or decision-maker in the case previously. Questions about how to submit an appeal may be directed to the Title IX Coordinator or to the hearing officer(s).

Written appeal requests are typically limited to seven pages, double-spaced, in 12-pt typeface. In the instance of particularly complex or simultaneous cases, an extension on this page limit may be granted by the appeal officer identified in the outcome report. Appeals must be well-reasoned, substantive and demonstrative of at least one of the following criteria:

1. New relevant evidence that, in the exercise of reasonable diligence, was not reasonably available at the time the determination regarding responsibility or dismissal was made, is now available and is potentially sufficient to affect the outcome; and/or
2. A procedural irregularity affected the outcome of the matter; and/or
3. The Title IX Coordinator, investigator(s), or hearing officer(s) had a conflict of interest or bias for or against complainants or respondents generally or for or against the specific complainant or respondent, which affected the outcome of the matter.

If the appeals officer determines that a written appeal request submitted by a party does not demonstrate the criteria listed above, the request will be denied and the parties will be notified in writing of the denial and the rationale. The original outcome is therefore upheld.

If a written request for appeal does meet one or more of the appeals criteria, the appeal officer will notify the non-appealing party, the Title IX Coordinator and, when appropriate, the investigators and/or the hearing officer(s). The notified party(ies) will have an opportunity, if requested, to review the original written appeal request. They may submit a written response to the portion of the appeal that was approved and involves them within five days of being notified that an appeal was submitted. If both parties appeal, this same process will be followed to collect written responses to both appeal requests. Neither party may submit any new requests for appeal after this time period.

Appeals are narrow in scope and are not a full re-processing of the matter. The issues and evidence raised on appeal shall be limited to those raised and identified during the investigation and hearing, unless new evidence becomes available after such process and is made part of the appeal by the appealing party. Appeal decisions are deferential to the original outcome, making changes only where there is clear error or a compelling reason. In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal. Appeal outcomes may include affirming the original outcome, changing or amending the outcome in whole or in part, or, for appeals of hearing outcomes, the matter may be remanded in one of the following ways:



1. Remand the matter to the original investigator(s), hearing officer(s) and/or designee for reconsideration in the event that the appeal officer determines that new information not previously available needs to be considered. In limited circumstances, decisions on new evidence may be made on appeal.
2. Remand the matter to the Title IX Coordinator to remedy an error in collaboration with the original hearing officer(s), in the event that the appeal officer determines that there was a procedural irregularity that affected the outcome. In limited circumstances in which an irregularity or error cannot be adequately addressed by the original hearing officer(s) (as in cases of bias), the appeal officer may order a new hearing with new hearing officer(s).

The appeal officer may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed, and documentation of any such consultation will be maintained. The appeal officer will respond in writing to the written appeal request within 30 days. The written appeal response includes a summary of the issues raised on appeal, a summary of the evidence considered, and the determination(s) reached regarding the identified issues using the preponderance of the evidence standard. The appeal response will provide a rationale for the final outcome. The appeal response is delivered as simultaneously as possible to both parties and the Title IX Coordinator either in person, via email to ArtCenter-issued email addresses, or by mail to the local or permanent addresses of the parties in institutional records. Once emailed, mailed, or provided in person, notice will be presumptively delivered. The determination becomes final on the date that the written appeal determination is sent to the parties. There are no further opportunities for appeal.

15. Record-Keeping

As required by federal Title IX regulations and other state and federal laws and regulations, ArtCenter will maintain all records related to an alleged violation of this Policy, regardless of later dismissal or other resolution of the allegation, for at least seven years. As such, the College will maintain documentation of all actions taken under this policy for a given case for at least seven years from the date of creation of the last record pertaining to the case. All documentation and records are private and confidential to the extent possible under law.

Documentation for each investigation includes the following:

- Any actions, including any supportive measures, taken in response to a report or formal complaint of an alleged violation of this Policy, including:
 - a. The basis for all conclusions that the response was not deliberately indifferent
 - b. Any supportive measures offered to the complainant
 - c. If no supportive measures were provided to the complainant, documentation as to why such a response was not clearly unreasonable in light of the known circumstances
- Any determination regarding responsibility and any audio recording or transcript required under federal regulations
- Any disciplinary sanctions imposed on the respondent
- Any remedies provided to the complainant designed to restore or preserve equal access to the College's education program or activity
- Any appeal and its result
- Any informal resolution and its outcome
- All materials used to train the Title IX Coordinator, investigators, hearing officers, decision-makers and any person who facilitates an informal resolution process



16. Revision of Policy

This Policy is effective on August 14, 2020. The College reserves the right to make changes to this Policy as necessary, and once those changes are posted online, they are in effect. This Policy will be reviewed and updated annually by the Title IX Coordinator.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to state or federal law or regulations require policy or procedural alterations not reflected in this current policy and procedures. If government laws or regulations change—or court decisions alter—the requirements in a way that impacts this Policy, this document will be construed to comply with the most recent government regulations or holdings.

Inquiries about the application of Title IX at ArtCenter may be referred to ArtCenter's Title IX Coordinator and/or to the [Assistant Secretary for Civil Rights at the U.S. Department of Education](#). Questions about this Policy or reports of potential violations of this Policy may be made at any time, including outside of business hours, to:

Kristen Entringer, Director, Title IX Compliance and Programs (Title IX Coordinator)
626 396-2340
Kristen.Entringer@artcenter.edu
Hillside Campus Administrative Offices
1700 Lida Street
Pasadena, CA 91103

Additional information about Title IX and sexual misconduct resources may be found at artcenter.edu/title-ix.

Portions of this Policy were adapted from the ATIXA 2020 One Policy, Two Procedures Model. Use and adaptation of this model with citation to ATIXA is permitted through a limited license to ArtCenter College of Design. All other rights reserved. ©2020 ATIXA.

