

ArtCenter

ARTCENTER COLLEGE OF DESIGN
Human Resources
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Effective Date: 01/09/2017

Revised: 04/19/2017

Supersedes: Sexual Misconduct Policy in 2015-16 ArtCenter Student Handbook

Subject: 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 (“Policy”)

- **Notice of Non-Discrimination and Policy Statement.** ArtCenter College of Design (“ArtCenter” or “the College”) is committed to maintaining an inclusive community that values diversity and fosters tolerance and mutual respect. We embrace and encourage our community differences in Age, Ancestry, Color, Gender, Gender Expression, Gender Identity, Transgender Identity, Genetic Information, National Origin, Marital Status, Medical Condition, Mental Disability, Physical Disability, Race or Ethnicity, Religious Creed (religious belief, observance and practice), Sex, Sexual Orientation, Veteran or Military Status, and other characteristics that make our community unique.¹ All Students have the right to participate fully in ArtCenter programs and activities free from Discrimination, Harassment and Retaliation.

ArtCenter prohibits Discrimination, Harassment and Retaliation of any kind, including Sexual Harassment, Sexual Misconduct, Sexual Violence, Dating Violence, Domestic Violence and Stalking against Students by anyone. Such behavior violates this Policy and may also violate state or federal law.

This Policy applies to all unwelcome sex-based and Gender-based conduct; all unwelcome conduct of a sexual nature; all sex Discrimination, including Gender and Transgender identity Discrimination and sexual orientation Discrimination that implicates Gender; and all pregnant and parenting/nursing Discrimination. This Policy further applies to any sex/Gender-based discriminatory stalking, hazing, bullying, arson, vandalism, theft and any other policy violation that is sex/Gender-based that causes a discriminatory effect.

Prohibited sex Discrimination includes Sexual Harassment. Some examples of possible Sexual Harassment include:

¹ Key capitalized terms are located under the Definitions section of this Policy. Terms contained within this Policy are intended to be Gender-neutral.



- A professor insists that a student have sex with him/her in exchange for a good grade. This is Sexual Harassment regardless of whether the student accedes to the request.
- A female student is repeatedly asked for dates by another female student, despite the first student declining each request and asking the second student to stop contacting her.
- A student repeatedly sends sexually oriented jokes around on an e-mail list s/he created, even when asked to stop, causing one recipient to avoid the sender on campus.
- Explicit sexual pictures are displayed in a professor's office.
- Two students frequently "rate" several students' bodies and sex appeal, commenting suggestively about their clothing and appearance.
- A professor engages students in discussions about their past sexual experiences, yet the conversation is not in any way germane to the subject matter of the class. The professor probes for explicit details, and demands that students answer, though they are clearly uncomfortable and hesitant.
- An ex-girlfriend widely spreads false stories about her sex life with her former boyfriend to the clear discomfort of the boyfriend, turning him into a social pariah on campus.
- Male students take to calling a particular brunette student "Monica" because of her resemblance to Monica Lewinsky. Soon, everyone adopts this nickname for her, and she is the target of relentless remarks about cigars, the president, "sexual relations" and Weight Watchers.
- A male student grabs a female student by the hair, then grabs her breast and puts his mouth on it. While this is Sexual Harassment, it is also a form of Sexual Violence.
- A male student videotaped consensual sexual activity with another male student who was unaware that their sexual activity was videotaped until it was sent to other students as blackmail for refusing additional sexual activity.
- A male student stares at a female student and looks her up and down for a long time while suggestively licking his lips whenever he sees her on campus. The female student avoids certain classes or campus activities because she knows or believes that the male student will be there.

In evaluating complaints, ArtCenter will use the Affirmative Consent standard. Engaging in any sexual activity without first obtaining Affirmative Consent to the specific sexual activity is Sexual Misconduct and constitutes a violation of this Policy, whether or not the sexual activity violates any civil or criminal law. Under this Policy, "No" always means "No," and "Yes" may not always mean "Yes." Anything but a clear, knowing and voluntary consent to any sexual activity is equivalent to a "No."

The College recognizes academic freedom to be integral and vital in the pursuit of truth and education, and supports an environment in which there is free expression and exchange of intellectually diverse ideas and beliefs within a respectful, open-minded and safe context. Intellectual controversy is not



discouraged. Faculty and students may at times express views that are controversial and challenge views of others, while valuing the others' right to free expression as well. The rights of others may not be violated. All members of the ArtCenter community must adhere to all applicable laws, including those related to discrimination, harassment, obscenity, and defamation, and adheres to applicable College policies in the Faculty Handbook.

The College's Statement on Academic Freedom is listed in the Faculty Handbook, section 4.01, "Academic Freedom."

If you have questions regarding this Policy, contact the Discrimination, Harassment, Retaliation (DHR) Administrator and Title IX Coordinator, in Human Resources at (626) 396-4348, or DHR-TIX@artcenter.edu (Directory information is in the Resources section of this document.)

- **Jurisdiction.** ArtCenter shall exercise jurisdiction under this Policy in connection with all academic, educational, extracurricular, and other programs and activities of the College, whether those programs or activities take place at the College's Hillside or South campus, or at another location if these programs are sponsored by ArtCenter or under ArtCenter's control.

At its discretion, ArtCenter may respond to complaints of Discrimination, Harassment, Retaliation, Sexual Harassment, Sexual Misconduct, Sexual Violence, Dating Violence, Domestic Violence and Stalking that occur in an off-campus location *and* do not occur within an educational program that is sponsored by ArtCenter or under ArtCenter's control. ArtCenter may address such complaints such as to prevent any hostile environment from transferring to ArtCenter's on- or off-campus programs.

- **Guiding Laws.** This policy is established in compliance with the California Equity in Higher Education Act, Title IX, VAWA/Campus SaVE Act, Title VI and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and the Age Discrimination Act of 1975, as amended where applicable, among other applicable state and federal laws.
- **Who's Covered?** This Policy covers all Students at ArtCenter. Employees are also covered under Title IX and are subject to its terms. Students who are found to have violated this Policy shall be subject to Discipline commensurate to the violation. Student discipline shall be administered in accordance with the Student Code of Conduct in the Student Handbook.
- **What's Covered?** ArtCenter prohibits:

Discrimination, including **Harassment**, because of any Protected Status, i.e., Age for individuals over 40, Ancestry, Color, Gender, Gender Expression, Gender Identity, Transgender Identity, Genetic Information, Marital Status,



Medical Condition, Mental Disability, National Origin, Physical Disability, Race or Ethnicity, Religious Creed (religious belief, observance and practice), Sex, Sexual Orientation, and Veteran or Military Status.² It is ArtCenter's policy that no Employee or Student shall be excluded from participation in, or be denied the benefits of, any ArtCenter program or activity because of any Protected Status.

Retaliation for exercising rights under this Policy, opposing Discrimination or Harassment because of a Protected Status, or for participating in any manner in any related investigation or proceeding.

Dating Violence, Domestic Violence and Stalking are often based on Gender. ArtCenter prohibits all such misconduct whether or not it is based on Gender.

Sexual Harassment, Sexual Misconduct and Sexual Violence of any kind, which includes sexual activity or sexual touching that occurs without Affirmative Consent. Engaging in any sexual activity without first obtaining Affirmative Consent to the specific activity constitutes Sexual Misconduct and is a violation of this Policy, whether or not the conduct violates any civil or criminal law.

Sexual Harassment may create a sexually hostile environment that affects access to or participation in ArtCenter programs and activities. ArtCenter prohibits all Sexual Misconduct whether or not it also includes Sexual Harassment. Sexual activity includes, but is not limited to, kissing, touching intimate body parts, fondling, intercourse, penetration of any body part and oral sex. Intimate body parts are defined as the genital or anal areas, groin, inner thigh, buttock or breast of any person.

- **Affirmative Consent Standard.** Affirmative Consent means an informed, affirmative, conscious, voluntary and mutual agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that s/he has the Affirmative Consent of the other participant(s) to engage in the sexual activity. Lack of protest or resistance does not mean Affirmative Consent, nor does silence mean Affirmative Consent. Affirmative Consent must be voluntary and given without coercion, Force, threats or intimidation.

The existence of a dating or social relationship between those involved, or the fact of past sexual activities between them, should never by itself be assumed to be an indicator of Affirmative Consent. A request for someone to use a condom or birth control does not, in and of itself, constitute Affirmative Consent.

Affirmative Consent can be withdrawn or revoked. Consent to one form of sexual activity (or one sexual act) does not constitute consent to other forms of

² ArtCenter does not unlawfully discriminate against undocumented individuals who are granted driver licenses under section 12801.9 of the California Vehicle Code. Such persons have Protected Status.



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.

Consent must be ongoing throughout a sexual activity and can be revoked at any time, including after penetration. Once consent is withdrawn or revoked, the sexual activity must stop immediately.

Affirmative Consent cannot be given by a person who is incapacitated. A person is unable to consent when s/he is asleep, unconscious or is incapacitated due to the influence of drugs, alcohol or medication so that s/he could not understand the fact, nature or extent of the sexual activity. A person is incapacitated if s/he lacks the physical and/or mental ability to make informed, rational decisions.

Whether a person who used alcohol or other drugs is incapacitated depends on the extent to which the alcohol or other drugs impact the person's decision-making ability, awareness of consequences, and ability to make informed judgments. A person's own incapacitation from drugs or alcohol does not diminish that person's responsibility to obtain Affirmative Consent before engaging in sexual activity. Under this policy, "No" always means "No," and "Yes" may not always mean "Yes." Anything but a clear, knowing and voluntary consent to any sexual activity is equivalent to a "No."

A person with a medical or Mental Disability may also lack the capacity to give consent. Sexual activity with a minor (a person under 18 years old) is not consensual, because a minor is considered incapable of giving consent due to age.

It shall not be a valid excuse that a person affirmatively consented to the sexual activity if the Respondent knew or reasonably should have known that the person was unable to consent to the sexual activity under any of the following circumstances:

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

It shall not be a valid excuse that the Respondent believed that the person consented to the sexual activity under either of the following circumstances:

1. The Respondent's belief in Affirmative Consent arose from the intoxication or recklessness of the Respondent;



2. The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the person affirmatively consented.
- **Mandatory Duty to Report.** Except as provided below, any Employee who knows or has reason to know of allegations or acts that violate this Policy shall promptly inform the DHR Administrator and Title IX Coordinator, or designee or the Assistant Dean of Students, or designee. Students who are employed by the College are considered Employees pursuant to the terms of chapter 3 of the Student Handbook.³

Employees with a mandatory duty to report are required to disclose all information including the names of the Parties, **even where the person has requested that his/her name remain confidential.** The DHR Administrator and Title IX Coordinator will determine whether confidentiality is appropriate given the circumstances of each such incident.

Under California law, **all** psychotherapists, psychologists, professional clinical counselors and professional counselors are mandatory child abuse and neglect reporters, under the California Child Abuse and Neglect Reporting Act (CANRA), and are required to report suspected child abuse or neglect involving alleged victims, Complainants or Reporting Parties under 18 years of age to local law enforcement or the county welfare department.⁴ These professionals will explain this limited exception to victims, if applicable.

Some or all of these professionals may also have reporting obligations under California law to: (1) local law enforcement in cases involving threats of immediate or imminent harm to self or others where disclosure of the information is necessary to prevent the threatened danger; or (2) to the court if compelled by court order or subpoena in a criminal proceeding related to the Sexual Harassment, Sexual Misconduct, Sexual Violence, Dating Violence, Domestic Violence or Stalking incident.⁵ If applicable, these professionals will explain this limited exception to alleged victims or Complainants.

Employees Who Do Not Have A Mandatory Duty to Report: The following Employees are **not** required to report **personally identifiable information** about an incident of Discrimination, Harassment, Retaliation, Sexual Harassment,

³ All individuals employed by the College full-time or part-time, including workers hired on a temporary basis, are considered Employees unless acting in the capacity of Student. Students are considered Employees for works created as part of Work-Study or teaching assistantship assignments. Employees shall not include individuals acting within their capacity as members of the Board of Trustees.

⁴ See Cal. Penal Code §§ 11164-11174.3. See Cal. Penal Code § 11165.7 for a complete listing of mandatory reporters for child abuse and neglect.

⁵ See Cal. Evid. Code § 1035.4.



Sexual Misconduct, Sexual Violence, Dating Violence, Domestic Violence or Stalking to the Director of Diversity, Equity, Inclusion and Title IX Coordinator:⁶

1. Psychotherapists; professional licensed counselors; and licensed clinical social workers who work on campus, acting solely in those roles or capacities as part of their employment, in the provision of mental health treatment or counseling (*and those who act under their supervision, including all individuals who work or volunteer in these centers and offices*); and
 2. Campus Security are **not** required to report any **personally identifiable information** about an individual who complains of certain sex offenses,⁷ **if the Complainant requests confidentiality**, but must report all known facts of the incident, including the identity of the perpetrator (if known), to the DHR Administrator and Title IX Coordinator.⁸
- **Submitting a Complaint.** Complaints may be made orally or in writing. This procedure provides Students with a process to address alleged violations of this Policy by an Employee (including faculty), another Student or a Third Party. To report alleged violations or to submit a complaint, a Student shall contact the Assistant Dean of Students in The Center for the Student Experience (CSE) or the Director of Public Programs for Students in this program. The date of receipt shall be deemed to be the Complaint submission date. The Assistant Dean of Students or Director of Public Programs may refer the Complaint to the DHR Administrator and Title IX Coordinator for investigation if the Responding Party or Complainant is a College Employee.

⁶ Employees who do **not** have a mandatory duty to report personally identifiable information are required to report that an incident covered by this Policy occurred. All personally identifiable information is kept confidential, but statistical information must be passed along to Campus Security regarding the type of incident and its general location (on or off campus, in the surrounding area, but no addresses are given) for publication in the Annual Security Report. This report helps to provide the community with a clear picture of the extent and nature of Campus crime, to ensure greater community safety. The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category. This reporting protects the identity of the victim and may be done anonymously using the procedures in this Policy. Mandated federal reporters include all College Employees with the exception of those specified as not having a mandatory duty to report. Employees with a mandatory duty to report are required to report personally identifiable information of which they are aware.

⁷ See Cal. Penal Code § 293; Cal. Gov. Code § 6254(f)(2) (“The name of a victim of any crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3 (as added by Chapter 337 of the Statutes of 2006), 288.3 (as added by Section 6 of Proposition 83 of the November 7, 2006, statewide general election), 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor.”)

⁸ Certain Campus officials – those deemed Campus Security Officers – have a duty to report Sexual Harassment, Sexual Misconduct, Dating Violence, Domestic Violence and Stalking for federal statistical reporting purposes under the Clery Act. All personally identifiable information is kept confidential, but statistical information regarding the type of incident, the date, the Clery crime category, and its Clery location category are published in the Annual Security Report. This report helps to provide the community with a clear picture of the extent and nature of Campus crime, to ensure greater community safety.



The Assistant Dean of Students or Director of Public Programs may refer the Complaint to the DHR Administrator and Title IX Coordinator for investigation if the Responding Party is a Third Party. If appropriate, a referral may be made to an off-campus, qualified investigator.

This procedure provides Employees with a process to address alleged violations of this Policy by an Employee, another Student or a Third Party. To report alleged violations, an Employee shall contact the DHR Administrator and Title IX Coordinator for investigation if the Responding Party or Complainant is a College Employee.

- **Timeline for Submitting a Complaint.** Complaints should be brought forward as soon as possible after the conduct occurs. While there is no stated timeframe for making a Complaint, prompt reporting will better enable the College to respond to the Complaint, determine the relevant issues, and provide an appropriate remedy and/or action. All incidents should be reported even if a significant amount of time has passed. However, delaying a report or Complaint may impede the ability to conduct an investigation or take appropriate remedial actions. There may be applicable statutes of limitations for further criminal or civil enforcement.
- **Complaint Requirements.** To submit a Complaint, the Complainant may contact the Assistant Dean of Students, the Director of Public Programs or the DHR Administrator and Title IX Coordinator pursuant to the procedures to file a Complaint above. A written Complaint is **not** required; however, the Complainant may submit a written Complaint, subject to the following requirements:
 1. The Complainant's full name, address (including email address) and telephone number(s);
 2. The Complainant's job title, position or Student status;
 3. The term and year of the Complainant's most recent active academic status or the term and year in which s/he sought admission to the College, if a Student;
 4. The name of the Respondent(s) and job title, position or Student status, if known;
 5. The Protected Status that is the basis for any alleged Discrimination, Harassment or Retaliation, the Respondent's activity that is the basis for the alleged Retaliation, or whether Dating Violence, Domestic Violence or Stalking is alleged;



6. A clear, concise statement of the facts that constitute the allegations, including pertinent date(s) and sufficient information to identify any individuals who may provide relevant information during the course of any investigation;
 7. A statement verifying that the information provided is true and accurate to the best of the Complainant's knowledge;
 8. The full name, address and telephone number of the Complainant's Advisor, if any;
 9. The specific harm resulting from the allegations;
 10. The specific remedy sought;
 11. The Complainant's signature; and
 12. The date on which the Complaint is submitted.
- **Intake interview.** The Assistant Dean of Students, the Director of Public Programs or the DHR Administrator and Title IX Coordinator shall meet with the Complainant to receive a verbal report or Complaint. If the Complainant or Reporting Party has submitted a written Complaint, the Assistant Dean of Students, the Director of Public Programs or the DHR Administrator and Title IX Coordinator shall meet with the Complainant as soon as possible, but no later than **three Working Days** after the written Complaint was received. The Complainant shall make him/herself available for this meeting.

The meeting shall serve as the initial intake interview with the Complainant and will:

1. Explain the investigation procedure and timelines, and answer any questions about them;
2. Inform the Complainant of his/her rights, including the right to have an Advisor throughout the process;
3. Provide the Complainant with a copy of this Policy;
4. Discuss Interim Remedies, as appropriate, which may include counseling, academic adjustments, no-contact orders, or other available remedies, in order to protect and support the Complainant during the College's investigation;
5. Inform the Complainant of the right to file a criminal complaint with local law enforcement or with the Office for Civil Rights;



6. Offer to assist the Complainant with filing a criminal complaint;
7. Assure the Complainant that such filing will not significantly delay the College investigation;
8. Provide the Complainant an opportunity to schedule other meeting(s), provide documentary evidence, and accept the Complainant's list of potential witnesses;
9. Advise the Complainant of available resources such as Campus Security, Sexual Assault Victim Advocacy, or psychological counseling center; and
10. Provide **written** information, such as a brochure of resources, to any individual who reports to the College that s/he has experienced Sexual Harassment, Sexual Misconduct, Sexual Violence, Dating Violence, Domestic Violence or Stalking.

When the process moves from intake to a formal investigation process, prior to, or during the initial interview with the Respondent, the Assistant Dean of Students, the DHR Administrator and Title IX Coordinator, or for Public Programs Complaints, the Associate Provost for Faculty Affairs, shall:

1. Explain the investigation procedure and timelines, and answer any questions about them;
 2. Inform the Respondent of his/her rights, including the right to have an Advisor throughout the process;
 3. Provide the Respondent with a copy of this Policy;
 4. Provide the Respondent with a description of the Complainant's allegations against the Respondent;
 5. Provide the Respondent an opportunity to respond to the allegations, including scheduling other meeting(s), accepting documentary evidence, and accepting the Respondent's list of potential witnesses;
 6. Advise the Respondent of available resources such as Campus Security or psychological counseling center; and
 7. Discuss any Interim Remedies, as appropriate.
- **Advisor.** The Complainant and the Respondent may elect to be accompanied by one Advisor to any meeting or interview regarding the Complaint.
 1. The Advisor may be anyone, including an attorney, or, in the case of the Complainant, a Sexual Assault Victim's Advocate, provided the Advisor is



not a person with information relevant to the allegations who may be interviewed by the DHR Administrator and Title IX Coordinator, Assistant Dean of Students, Associate Provost for Faculty Affairs or Investigator during the investigation.

2. All Advisors are subject to the same College rules, whether they are attorneys or not. The Advisor is expected to advise ethically, with integrity and in good faith, as follows:
 - a. The Advisor may not present on behalf of the Complainant or Respondent in a meeting or interview.
 - b. The Advisor may not answer questions regarding the subject matter of the investigation for the Complainant or Respondent. However, the Advisor may observe and consult with the Complainant or Respondent and take appropriate action to ensure that the investigation does not violate applicable laws or policies.
 - c. The Advisor may confer quietly with the Complainant or Respondent as necessary, as long as the Advisor does not disrupt the process. For longer or more involved discussions, the Complainant or Respondent and his/her Advisor may request a break or step out of the meeting or interview to allow for a private conversation or caucus, not to exceed 15 minutes.
 - d. The Advisor is expected to refrain from interference with the College investigation and resolution. Any Advisor who steps out of their role in any investigation or meeting under this Policy will be warned once and only once. 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 a meeting, that meeting will typically continue without the Advisor present. Subsequently, the DHR Administrator and Title IX Coordinator, Assistant Dean of Students, Associate Provost for Faculty Affairs, Investigator, or the College's General Counsel will determine whether the Advisor may be reinstated, may be replaced by a different Advisor, or whether the Complainant or Respondent will forfeit the right to an Advisor for the remainder of the process.
 - e. The College will not provide documentation related to the allegations or the investigation to the Advisor. The Complainant and Respondent are not restricted from discussing and sharing documentation with the Advisor. The Advisor is expected to maintain the privacy of the records shared with them by the Complainant or Respondent. These records are prohibited from being shared with third parties, disclosed publically, or used for purposes not explicitly authorized by the College. The College 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 the College's privacy expectations.

- f. The College expects an Advisor to adjust his/her schedule to permit attendance at College meetings and interviews when scheduled. The College does not typically change scheduled meetings to accommodate an Advisor's inability to attend.
 3. A Complainant or Respondent may elect to change the Advisor during the process, and is not locked into using the same Advisor throughout.
 4. The Complainant or Respondent is required to provide written notice of the Advisor's name to the Assistant Dean of Students, Associate Provost for Faculty Affairs, DHR Administrator and Title IX Coordinator or Investigator, who is conducting the investigation at least two business days before the date of their first meeting or interview. The Complainant or Respondent is required to provide a subsequent timely notice to the College Employee who is conducting the investigation if they change the Advisor at any time.
 5. The College cannot guarantee equal advisory rights, meaning that if one Party selects an Advisor who is an attorney, but the other Party does not, or cannot afford an attorney, the College is not obligated to provide one.
- **Confidentiality.** Information regarding the Complaint may be shared on a "need to know" basis with other College Employees, and with law enforcement (with the Complainant's written consent), except for some limited exceptions related to Employees who do not have a mandatory duty to report personally identifiable information. The DHR Administrator and Title IX Coordinator shall endeavor to honor any request for confidentiality; however, the DHR Administrator and Title IX Coordinator shall also weigh requests for confidentiality against the College's duty to provide a safe and nondiscriminatory environment for all members of the College community. **Confidentiality, therefore, cannot be ensured.**

The DHR Administrator and Title IX Coordinator has the sole responsibility of receiving and deciding upon all Complainant requests for confidentiality involving cases of Sexual Harassment, Sexual Misconduct, Sexual Violence, Dating Violence, Domestic Violence or Stalking, and determines if the request can be honored under the facts and circumstances of the particular case. In cases indicating pattern, predation, threat, weapons and/or violence, or a Hostile Environment that permeates the College community, the College will likely be unable to honor a request for confidentiality.

While discretion remains important, Parties are not restricted from discussing and sharing information related to the Complaint with others that may support or assist them in presenting their case.



The DHR Administrator and Title IX Coordinator may consult with the College's General Counsel, the Vice President of Human Resources, the Associate Provost for Faculty Affairs or the Assistant Dean of Students, if applicable.

Confidentiality, as it relates to medical and counseling records, are privileged and confidential documents that students will not be required to disclose.

- **Voluntary Informal Resolution.** Complainants who believe they have experienced Discrimination, Harassment, Retaliation, Sexual Harassment, Dating Violence, Domestic Violence or Stalking under this Policy may initiate the Voluntary Informal Resolution process prior to, or instead of, submitting a Complaint with the DHR Administrator and Title IX Coordinator. The purpose of the Voluntary Informal Resolution process is to explore whether the Complainant's concern can be resolved by the College without an investigation. Under no circumstance shall a Complainant be required to use the Voluntary Informal Resolution process to address prohibited behaviors. Voluntary Informal Resolution includes, but is not limited to, discussion with the Parties, separating physical locations of the Parties, or referring one or more of the Parties to counseling. If Voluntary Informal Resolution is used, the outcome will be placed in writing and provided to both Parties. The matter will then be considered closed. The Complainant may end the Voluntary Informal Resolution process at any time. The Complainant will be provided with information on how to submit a formal complaint.
- **Investigation Procedure.** The Complainant and the Respondent shall have equal opportunities to present relevant witnesses and evidence in connection with the investigation and equal access to information being considered in the investigative process, consistent with FERPA. The College will conduct a fair and impartial investigation to be completed no later than **60 Calendar Days** after the intake interview, unless the timeline has been extended by mutual written agreement by the Complainant and the Assistant Dean of Students, Associate Provost for Faculty Affairs or the DHR Administrator and Title IX Coordinator. The timeline should not be extended for a period longer than an additional **30 Calendar Days** from the original due date. Upon inquiry, the Complainant and Respondent shall be advised of the status of the investigation.
- **Investigation Report.** Within the investigation period stated above, the Assistant Dean of Students, the Associate Provost for Faculty Affairs, the DHR Administrator and Title IX Coordinator or Investigator shall prepare an investigation report. The report shall include a summary of the allegations, the investigation process, the Preponderance of the Evidence standard, a detailed description of the evidence considered, and appropriate findings.
- **Notice of Investigation Outcome.** Within **10 Calendar Days** of issuance of the final investigation report, the Assistant Dean of Students, the Associate Provost for Faculty Affairs or the DHR Administrator and Title IX Coordinator shall notify the Complainant and Respondent in writing and in person of the outcome of the investigation. If an in-person meeting is not possible, a written



report will be mailed to the last known address. The Notice shall include a summary of the allegations, the investigative process, the Preponderance of the Evidence standard, the evidence considered, the findings of fact, a determination as to whether this Policy was violated, and if so, any Remedies to be afforded to the Complainant (such as a directive that the Respondent not contact the Complainant). The Notice shall advise the Complainant and Respondent of their right to submit an appeal under this Policy and of the College's no-retaliation policy for having participated in or submitted a Complaint.

- **Submitting an Appeal.** Any Complainant or Respondent may submit an appeal no later than **10 Calendar Days** after the date of the Notice of Investigation Outcome, as follows:
 1. The appeal shall be submitted to the Associate Provost for Student Affairs/Dean of Students if the Complainant and Respondent are Students.
 2. The appeal shall be submitted to the Managing Director of Public Programs if the Complainant and Respondent are Public Programs Students.
 3. The appeal shall be submitted to the Provost if the Complainant is a Student and the Respondent is a faculty member or if the Complainant is a faculty member and the Respondent is a Student.
 4. The appeal shall be submitted to the Vice President of Human Resources if the Complainant is a Student or staff member and the Responding Party is a staff member.
- **Written Appeal Required.** The appeal shall be in writing and shall be based on one or more of the appeal issues listed below:
 1. New, compelling evidence not available at the time of the investigation; or
 2. Evidence of a mistake or fraud in the investigation process, or prejudicial procedural errors impacted the investigation outcome to such a degree that the investigation did not comply with this Policy; or
 3. The investigation outcome is unsupported by the evidence, based on the Preponderance of the Evidence standard; or
 4. Compelling argument that the sanctions imposed are not consistent with the severity of the violation(s).
- **Issues and Evidence on Appeal.** Both Parties have the right to participate equally in the appeal process even if one Party has not submitted the appeal. The issues and evidence raised on appeal shall be limited to those raised and identified during the investigation, unless new evidence becomes available after the investigation process and is made part of the appeal by the appealing Party.



The administrator receiving the appeal may review the investigation file, evidence, policies, and/or conduct an interview, at his/her discretion, with the appealing party to clarify the written appeal, to aide in reaching a decision. Appeals shall be addressed to the applicable administrator identified above:

1. Associate Provost for Student Affairs/Dean of Students, The Center for the Student Experience, Ray Quirolgico, ray.quirolgico@artcenter.edu, 626.396.2325
 2. Managing Director of Public Programs, Dana Walker-Juick, dana.walker-juick@artcenter.edu, 626.396.2376
 3. Provost, Office of the Provost, Fred Fehlau, fred.fehlau@artcenter.edu, 626.396.2352
 4. Vice President, Human Resources, Lisa M. Sanchez, lisa.sanchez@artcenter.edu, 626.396.2210
- **Timeline to Respond to an Appeal.** The administrator conducting the appeal review shall respond to the appealing Party no later than **30 Calendar Days** after receipt of the written appeal unless the timeline has been extended by mutual written agreement of the Complainant and the administrator conducting the review. The extension shall not exceed **10 Calendar Days** from the original due date.
 - **Appeal Response.** The Appeal Response shall include a summary of the issues raised on appeal, a summary of the evidence considered, the Preponderance of the Evidence standard, and the determination(s) reached regarding the issue(s) identified within the written appeal. A copy of the final Appeal Response shall be forwarded to the Complainant and Respondent, as well as the DHR Administrator and Title IX Coordinator. The Appeal Response is final and concludes the Complaint and appeal review process under this Policy.
 - **General Provisions for Investigation and Appeal Review**

Impartial Investigations. All investigations and appeal reviews shall be conducted impartially and in good faith.

False Statements Prohibited. A Complainant shall proceed with a Complaint in good faith. A Respondent shall proceed with a response in good faith. A Complainant who knowingly and intentionally files a false Complaint or a Respondent or any individual who is determined to have provided false statements or information during the investigation/appeal review will be reviewed under the College's policies for appropriate action.



Cooperation in an Investigation. Students are required to cooperate with the investigation and other processes set forth in this Policy including, but not limited to, attending meetings, being forthright and honest during the process, and keeping confidential the existence and details of the investigation/review. The failure to cooperate with a College investigation may be grounds for discipline. If a Complainant and/or Respondent and/or Witness refuses to cooperate, ArtCenter may draw all reasonable inferences and conclusions on the basis of all available evidence and conclude the investigation/review. A Respondent's refusal to be interviewed or cooperate with the investigation does not stop the investigation. The investigation will continue and the Investigator will reach findings based on the Preponderance of the Evidence gathered during the investigation. Moreover, a Respondent's refusal to cooperate based on a simultaneous criminal prosecution will not delay or halt the College's investigation.

Duty to Investigate. The College has an obligation to make reasonable efforts to investigate and address instances of Sexual Harassment, Sexual Misconduct and Sexual Violence when it knows or should have known about such instances, even when a Complainant chooses not to participate in an investigation and to respond to Complaints, reports or information about incidents of Sexual Harassment, Sexual Misconduct and Sexual Violence. The College has a duty to stop prohibited Sexual Harassment, Sexual Misconduct and Sexual Violence; eliminate any hostile environment; take steps to prevent the reoccurrence of Sexual Harassment, Sexual Misconduct and Sexual Violence; and address any effects on Campus from such conduct.

Reasonable Accommodations. ArtCenter will provide reasonable accommodations to individuals with a qualified Disability throughout the investigative and appeal process. Reasonable accommodations will be 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 administrator receiving the Complaint or appeal will provide reasonable accommodations to any Party or witness with a qualified Disability upon request by the person needing the accommodation in accordance with the Student Handbook, ArtCenter at Night Student Guide or Employee Handbook.

A reasonable accommodation may include an extension under these procedures. The timeframe for the investigation and Appeal Response will automatically be adjusted for the time needed, if any, to provide reasonable accommodations.

Amnesty for Complainant, Reporting Party and Witness. The College encourages the reporting of violations of this Policy by any Complainant, Reporting Party and witness(es). No Complainant, Reporting Party or witness in investigations or proceedings under this Policy will be subject to discipline by the College for related violations of conduct policies occurring at or near the time of the incident



unless the College determines the violation was egregious including, but not limited to, plagiarism, cheating, academic dishonesty, ethical or financial misconduct, or conduct that places the health and safety of any other person at risk.

- **Definitions.** For purposes of this Policy, the following definitions apply:

Adverse Action means an action that has a substantial and material adverse effect on the Complainant's ability to participate in a College program or activity free from Discrimination, Harassment or Retaliation. Minor or trivial actions or conduct not reasonably likely to do more than anger or upset a Complainant does not constitute an Adverse Action.

Advisor: The Complainant and the Respondent may each elect to be accompanied by an Advisor to any meeting or interview regarding the allegations, including the appeals process. The Advisor may be anyone, including an attorney, or, in the case of the Complainant, a Sexual Assault Victim's Advocate, provided the Advisor is not a person with information relevant to the allegations or a witness who may be interviewed by the DHR Administrator and Title IX Coordinator, the Assistant Dean of Students, the Associate Provost for Faculty Affairs or Investigator during the investigation. The Advisor may not answer questions regarding the subject matter of the investigation for the Complainant or the Respondent. However, the Advisor may observe and consult with the Complainant or Respondent and take appropriate action to ensure that the investigation does not violate applicable laws or policies. See the section on Advisors for more information.

Affirmative Consent means an informed, affirmative, conscious, voluntary and mutual agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that s/he has the Affirmative Consent of the other participant(s) to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative Consent can be withdrawn or revoked. Affirmative Consent cannot be given by a person who is incapacitated. A person with a medical or mental Disability may also lack the capacity to give consent. Sexual activity with a minor (under 18 years old) is never consensual because a minor is considered incapable of giving legal consent due to age. In evaluating Affirmative Consent, a person's past sexual history will typically not be used in determining whether Sexual Harassment, Sexual Misconduct or Sexual Violence occurred. However, history may be relevant under limited circumstances. See the section on Affirmative Consent for more information.

Age means how old a person is, or the number of years from the date of a person's birth and is a Protected Status for those 40 years of age or older.⁹

Appeal Response refers to the decision provided to the Complainant and the Respondent upon completion of the appeal process provided in the Appeals section.

⁹ See 34 C.F.R. § 110.3



Assistant Dean of Students means the College Employee who functions as the College's Student Conduct Officer, with primary responsibility for coordinating responses to any reports alleging violations of College policies involving Students, including the Student Code of Conduct and this Policy. The Assistant Dean of Students also functions as the Student Disability Services Coordinator in The Center for the Student Experience, who is responsible for providing reasonable accommodations to Students in accordance with the Student Handbook.

Calendar Days are defined as Monday through Sunday and include official holidays.

Campus or College means ArtCenter College of Design and all properties collectively located on the Hillside and South campuses in Pasadena, California. Specifically, ArtCenter's campus property locations include the following:

Hillside Campus: 1700 Lida Street (including the Ellwood building, Annex, Sinclair Pavilion, parking lots, and immediately surrounding areas).

South Campus: 950 S. Raymond Avenue, 870 S. Raymond Avenue, 888 S. Raymond Avenue, and 1111 S. Arroyo Parkway.

Complainant means an individual who submits a Complaint to report an alleged violation of this Policy. It also includes any person who is alleged to have experienced a violation of this Policy in cases where some other person, i.e. the Reporting Party, has made a report on that person's behalf. A Complainant may also be referred to as a Party to the Complaint.

Complaint means a report of a violation of this Policy or a communication alleging Discrimination, Harassment, Retaliation, Sexual Misconduct, Sexual Harassment, Sexual Violence, Dating Violence, Domestic Violence or Stalking, against an Employee, a Student, or a Third Party.

Dating Violence is abuse committed by a person who is or has been in a social or dating relationship of a romantic or intimate nature with the alleged victim or Complainant.¹⁰ This may include someone the alleged victim just met; i.e., at a party, introduced through a friend, or on a social networking website. For purposes of this definition, "abuse" means intentionally or recklessly causing or attempting to cause bodily injury or placing another person in reasonable apprehension of imminent serious bodily injury to him/herself, or another. Abuse does not include non-physical, emotional distress or injury.

Discrimination, Harassment Retaliation Administrator and Title IX Coordinator) means the College Employee who is designated to administer this Policy and coordinate compliance with Title IX; VAWA/Campus SaVE Act; the Jeanne Clery Act;

¹⁰ See Cal. Penal Code § 13700 (b).



and other related state and federal laws prohibiting Discrimination, Harassment and Retaliation, including those based on Gender or Sex, including Sex Discrimination, Sexual Harassment, Sexual Misconduct, Sexual Violence, Dating Violence, Domestic Violence and Stalking. The DHR Administrator and Title IX Coordinator may delegate tasks to one or more designees, provided that any designee shall be properly trained on at least an annual basis on Title IX, investigations and this Policy, and is a management or supervisory Employee or an external consultant. The name of, and contact information for the DHR Administrator and Title IX Coordinator shall be made readily available to the College community.

Disability means Mental Disability or Physical Disability as defined in California Education Code § 66260.5 and California Government Code § 12926, and is a Protected Status.

Discipline means any disciplinary action taken to correct a violation of the prohibitions against Discrimination, Harassment, Retaliation, Sexual Harassment, Sexual Misconduct, Sexual Violence, Dating Violence, Domestic Violence and Stalking set forth in this Policy. Discipline for Employees includes, but is not limited to, suspension, demotion and termination of employment. Third Parties may be banned from the College until further notice or permanently. Discipline for Students includes, but is not limited to, probation, suspension and expulsion. Suspension of one or multiple terms, expulsion, withdrawal in lieu of suspension or expulsion, and withdrawal with pending misconduct investigation or disciplinary proceeding shall be entered on the Student's transcript permanently without exception; this requirement cannot be waived in connection with any settlement agreement. See the definition of Remedies below.

Discrimination means Adverse Action taken unlawfully against a Student, Employee or Third Party by ArtCenter, a Student, Employee, or Third Party because of a Protected Status.

Domestic Violence is abuse committed against a Complainant who is a current or former spouse; current or former cohabitant; someone with whom the Respondent has a child; someone with whom the Respondent has or had a dating or engagement relationship; or a person similarly situated under California domestic or family violence law. Cohabitant means two unrelated persons living together for a substantial period of time, resulting in some permanency of relationship. It does not include roommates who do not have a romantic, intimate, or sexual relationship. Factors that may determine whether persons are cohabiting include, but are not limited to: (1) sexual relations between the Parties while sharing the same living quarters; (2) sharing of income or expenses; (3) joint use or ownership of property; (4) whether the Parties hold themselves out as spouses; (5) the continuity of the relationship; and, (6) the length of the relationship. For purposes of this definition, "abuse" means intentionally or recklessly causing or attempting to cause bodily injury or placing another person in reasonable apprehension of imminent serious bodily



injury to him/herself, or another.¹¹ Abuse does not include non-physical, emotional distress or injury.

Employee means a person holding a position at ArtCenter. This term includes all staff, whether full-time, part-time, on-call, or temporary, including Students who are employed by the College and acting as staff; all faculty, who are full-time and part-time, such as a Professor/Adjunct Professor, Associate Professor/Adjunct Associate Professor, Assistant Professor/Adjunct Assistant Professor, Instructor, and Visiting Artist. This term does not include Third Parties or volunteers.

Force is the use of physical violence and/or physical imposition on a person to make the person engage in activity that is against her/his will. Force may be used to gain sexual access. Force includes, but is not limited to:

1. Threats;
2. Intimidation (implied threats); and
3. Coercion that overcomes free will, or overcomes resistance, or that produces consent.¹² Coercion is unreasonable pressure for sexual activity. Coercion occurs when a person does not affirmatively consent to sexual activity and another person continues pressure beyond that point.

There is no requirement for a person to resist any sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of Force or coercion is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.

A person's use of or incapacitation from alcohol or other drugs will never function to excuse any forceful or coercive conduct that violates this Policy.

Force or coercion may occur regardless of the sexual orientation and/or Gender identity of the individuals engaging in sexual activity if a person's conduct meets the definition of Force or coercion above.

Gender means sex, and includes a person's Gender or transgender identity and Gender expression.¹³ Gender or transgender identity means a person's identification as male, female, a gender different from the person's sex at birth, non-binary or transgender. Gender expression means a person's Gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at

¹¹ See Cal. Penal Code § 13700(b) and Cal. Family Code § 6211.

¹² For example: "Have sex with me or I'll hit you." "Okay, don't hit me, I'll do what you want."

¹³ See Cal. Educ. Code § 66260.7.



birth. Sex includes, but is not limited to, pregnancy, childbirth, breastfeeding, or associated medical condition(s).¹⁴ They are Protected Statuses.

Genetic Information is a Protected Status and means:¹⁵

1. The Student, Employee or Third Party's genetic tests.
2. The genetic tests of the Student, Employee or Third Party's family members.
3. The manifestation of a disease or disorder in the Student, Employee or Third Party's family members.
4. Any request for, or receipt of genetic services, or participation in clinical research that includes genetic services, by Student, Employee, Third Party, or by their family member.
5. Genetic Information does not include information about any Student, Employee or Third Party's sex/Gender or Age.

Harassment means unwelcome conduct, based on a person's Protected Status, that is sufficiently severe, persistent or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the Complainant, and is in fact considered by the Complainant, as limiting her/his ability to participate in or benefit from the services, activities or opportunities offered by the College.

Hostile Environment. A Hostile Environment is created when Sexual Harassment is sufficiently severe, persistent or pervasive and objectively offensive that it unreasonably interferes with, denies or limits a person's ability to participate in or benefit from the College's programs based on sex. The conduct does not need to be repetitive, and this is particularly true if the Harassment is physical. If sufficiently severe, a single or isolated incident can create a Hostile Environment. A Hostile Environment may be created not only for the Complainant, but also for others who witness the conduct.

In evaluating the severity and pervasiveness of the conduct, the College considers all relevant circumstances, i.e., the constellation of surrounding circumstances, expectations, and relationships between the Complainant and Respondent. Whether a Hostile Environment has been created depends on the particular circumstances of the incident. Relevant considerations include, but are not limited to:

1. The degree to which the conduct affected one or more person's ability to participate in or benefit from the College's programs based on sex;
2. The type, frequency or duration of the conduct;

¹⁴ See Cal. Gov. Code § 12926(r); 34 C.F.R 106.40

¹⁵ See Cal. Civ. Code § 51(2)(a) – (c).



3. The identity, age and sex of the alleged harasser and the alleged victim, and the relationship between them;
4. The number of individuals who engaged in the allegedly harassing conduct and at whom the Harassment was directed;
5. The location of the incidents, and context in which they occurred; and
6. Whether other incidents occurred at the College involving different Complainants.

Investigator means the person tasked by the College with investigating a Complaint. All Investigators shall receive annual training, and refresher training as needed, regarding such issues as the laws governing Discrimination, Harassment and Retaliation; Title IX and VAWA/Campus SaVE Act; as well as other related state and federal laws prohibiting Discrimination, Harassment and Retaliation based on Gender or sex, including sex Discrimination, Sexual Harassment, Sexual Misconduct, Sexual Violence, Dating Violence, Domestic Violence and Stalking; Complainant, Respondent, Employee and witness privacy rights; and the Family Educational Rights and Privacy Act of 1974 (FERPA). For matters involving sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating Violence, Domestic Violence or Stalking, the Investigator shall also receive annual training on how to conduct an investigation process that protects the safety of the Complainant(s) and the College community.

If the investigation is delegated to an Investigator, the DHR Administrator and Title IX Coordinator shall monitor, supervise and oversee the investigation to ensure that it is conducted in accordance with the standards, procedures and timelines set forth in this Policy.

The Investigator shall not be within the administrative control or authority of any Respondent ArtCenter Employee. The Investigator may be the DHR Administrator and Title IX Coordinator, or designee/neutral third party investigator, or the Assistant Dean of Students, or designee, or the Associate Provost for Faculty Affairs, or designee.

Marital Status means an individual's state of marriage, non-marriage, divorce or dissolution, separation, widowhood, annulment or other marital state.¹⁶

Nationality includes citizenship, country of origin, and national origin and is a Protected Status.¹⁷

Parties or Party to a Complaint are the Complainant(s) and the Respondent(s).

Preponderance of the Evidence means the greater weight of the evidence, i.e., that the evidence on one side outweighs, preponderates over, or is more than, the evidence on the other side. The Preponderance of the Evidence is the applicable

¹⁶ See 2 Cal. Code Regs §11053.

¹⁷ See Cal. Educ. Code § 66261.5.



standard for demonstrating facts and reaching conclusions in an investigation conducted pursuant to this Policy.

Protected Status includes Age for individuals over 40 years of age, Ancestry, Color, Gender, Gender Expression, Gender Identity, Transgender Identity, Genetic Information, National Origin, Marital Status, Medical Condition, Mental Disability, Physical Disability, Race or Ethnicity, Religious Creed, Sex, Sexual Orientation, and Veteran or Military Status. Protected Status includes individuals who are granted driver licenses under section 12801.9 of the Vehicle Code.

Quid Pro Quo Harassment is unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal, or physical conduct of a sexual nature by a person having power or authority over another. Such conduct constitutes Sexual Harassment when submission to sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational or employment progress, development or performance. This includes when submission to such conduct would be a condition for access to receiving the benefits of any of the College's educational or employment programs. Examples of Quid Pro Quo Harassment include, but are not limited to:

1. An attempt to coerce or Force an unwilling person into a sexual relationship;
2. Subjecting a person to egregious, unwelcome sexual attention;
3. Punishing a refusal to comply with a sexually based request;
4. Conditioning a benefit on submitting to sexual advances;
5. Sexual Violence;
6. Dating Violence or Domestic Violence;
7. Stalking; and
8. Gender-based bullying.

Race or Ethnicity includes ancestry, color, ethnic group identification and ethnic background and is a Protected Status.¹⁸

Religious Creed is a Protected Status and includes all aspects of religious belief, observance and practice, and includes agnosticism and atheism. Religious dress and grooming practices, such as wearing religious clothing, head or face covering, jewelry and artifacts, are part of an individual's religious observance or belief.¹⁹

¹⁸ See Cal. Educ. Code § 66261.3.

¹⁹ See Cal. Educ. Code § 66262.



Remedies mean actions taken to correct allegations and/or reported violations of Discrimination, Harassment, Retaliation, Sexual Harassment, Sexual Misconduct, Sexual Violence, Dating Violence, Domestic Violence or Stalking as set forth in this Policy. Remedies can include Discipline or other corrective action. The Assistant Dean of Students, the Associate Provost for Faculty Affairs or the DHR Administrator and Title IX Coordinator shall assist and provide the Complainant with reasonable Remedies as requested throughout the reporting, investigation, appeal, and disciplinary processes, and thereafter.

Interim Remedies shall be offered prior to the conclusion of an investigation in order to immediately stop any wrongdoing and/or reduce or eliminate any negative impact, when appropriate. Interim remedies may be made by or on behalf of the Complainant to any College official responsible for Title IX compliance and will not disproportionately impact the Complainant. Persons reporting that they have been the victim of sex Discrimination, Sexual Harassment, Sexual Misconduct, Sexual Violence, Dating Violence, Domestic Violence or Stalking must be provided reasonable and available Interim Remedies, if requested, regardless of whether the person chooses to report the conduct to local law enforcement, and regardless of whether an investigation is conducted under this Policy. Examples include, but are not limited to:

1. Issuing a no-contact directive;
2. Offering the option of psychological counseling services;
3. Changes to academic situations;
4. Completing a course and/or courses online (if otherwise appropriate);
5. Academic tutoring;
6. Arranging for the re-taking of a class or withdrawal from a class without penalty; and/or
7. Any measure as appropriate to stop further alleged harm until an investigation is concluded or a resolution is reached.

Reporting Party means an individual who submits a Complaint to report an alleged violation of this Policy on behalf of another person who has allegedly experienced a violation of this Policy.

Respondent means ArtCenter, an ArtCenter Employee, a Student or a Third Party who is alleged to have violated this Policy.

Retaliation means Adverse Action taken against a Complainant because s/he has or is believed to have:



1. Exercised rights under this Policy;
2. Reported or opposed conduct which s/he reasonably and in good faith believes is in violation of this Policy;
3. Assisted or participated in a Policy-related investigation/proceeding regardless of whether the Complaint was substantiated; or
4. Assisted someone in reporting or opposing a violation of this Policy, or
5. Assisted someone in reporting or opposing Retaliation under this Policy.

Retaliation may occur whether or not there is a power or authority differential between the individuals involved.

Sexual Assault Victim's Advocate refers to Third Party professionals who support victims of Sexual Harassment, Sexual Misconduct, Sexual Violence, Dating Violence, Domestic Violence and Stalking. They must be certified and have received specialized training to provide advice and assistance including, but not limited to, the provision of information about available options in the Complaint, law enforcement, legal and medical processes, and with emotional and decision-making support. Sexual Assault Victim's Advocates may serve as the Complainant's Advisor and assist in seeking services. They must be committed to maintaining the highest possible level of confidentiality permissible under state and federal laws in their communications with the persons they assist.²⁰

Sexual Harassment a form of sex Discrimination, is unwelcome verbal, nonverbal or physical conduct of a sex-based and/or Gender-based, or sexual in nature. Sexual Harassment includes, but is not limited to, sexual advances, requests for sexual favors, and any other conduct of a sexual nature where:

1. It is *Quid Pro Quo*, meaning submission to, or rejection of, the conduct is explicitly or implicitly used as the basis for any decision affecting a person's Employee/academic status or progress, or access to benefits and services, honors, programs or activities available at or through the College; **or**
2. The conduct creates a *Hostile Environment* such that it is sufficiently severe, persistent or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the

²⁰ See Cal. Evid. Code §§ 1035.2 and 1035.4.



shoes of the Complainant, and is in fact considered by the Complainant, as limiting his or her ability to participate in or benefit from the services, activities or opportunities offered by the College.

Sexual Harassment includes, but is not limited to:

1. Being forced to engage in unwanted sexual contact as a condition of membership in a student organization;
2. Being subjected to video exploitation or a campaign of sexually explicit graffiti;
3. Being exposed to unwanted images of a sexual nature in a classroom that are unrelated to the coursework; or
4. Acts of verbal, non-verbal or physical aggression, intimidation or hostility based on Gender or sex-stereotyping, even if those acts do not involve conduct of a sexual nature.

This Policy covers unwelcome conduct of a sexual nature. While romantic, sexual, intimate, personal or social relationships between members of the College community may begin as consensual, they may evolve into situations that lead to Sexual Harassment, Sexual Misconduct or Sexual Violence, including Dating Violence, Domestic Violence or Stalking, subject to this Policy.

Sexual Misconduct. Engaging in any sexual activity without first obtaining Affirmative Consent to the specific activity is Sexual Misconduct, whether or not the conduct violates any civil or criminal law.

Sexual Misconduct offenses include, but are not limited to:

1. **Sexual Harassment**, as defined above;
2. **Non-Consensual Sexual Contact** or attempts to commit same, which is defined as any intentional sexual activity or touching, however slight, with or without an object, by a person upon another person that is without consent and/or by Force;
3. **Non-Consensual Sexual Intercourse** or attempts to commit same, which is defined as any sexual intercourse, however slight, with or without an object, by a person upon another person that is without consent and/or by Force; or
4. **Sexual Exploitation** or attempts to commit same, which occurs when one person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other



than the one being exploited, and that conduct does not otherwise constitute one of the other Sexual Misconduct offenses. Examples of Sexual Exploitation include, but are not limited to:

- a. Invasion of sexual privacy;
- b. Prostituting another person;
- c. Non-consensual digital, video or audio recording of nudity or sexual activity;
- d. Unauthorized sharing or distribution of digital, video or audio recording of nudity or sexual activity;
- e. Engaging in voyeurism;
- f. Going beyond the boundaries of consent;²¹
- g. Knowingly exposing someone to, or transmitting a sexually transmitted infection (STI), sexually transmitted disease (STD), or human immunodeficiency virus (HIV) to another person;
- h. Intentionally or recklessly exposing one's genitals in non-consensual circumstances;
- i. Inducing another to expose their genitals; and
- j. Sexually based stalking and/or bullying may also be forms of Sexual Exploitation.

Sexual activity or sexual touching includes any physical sexual acts. Such conduct may be unwelcome, such as Non-Consensual Sexual Contact or Non-Consensual Sexual Intercourse. Sexual activity or sexual touching includes, but is not limited to:

1. Kissing;
2. Touching or kissing intimate body parts such as the breasts, groin, genitals, anus, buttocks, mouth or inner thigh, or having another touch you or themselves with or on any of these body parts;
3. Fondling;
4. Penetration of any body part; and

²¹ Examples are: 1. allowing another person to hide in a closet and observe consensual sexual activity, or 2. disseminating sexual pictures that were taken with the photographed person's consent, but that person did not consent to the dissemination of those photos.



5. Oral sex.

Sexual Misconduct may include using physical Force, coercion, violence, threats or intimidation, ignoring the objections of the other person, causing the other person's incapacitation through the use of drugs or alcohol, or taking advantage of the other person's incapacitation to engage in sexual activity.

Men, as well as women and persons who identify as non-binary,²² can be victims of Sexual Misconduct.

Sexual activity with a minor is never consensual when the Complainant is under 18 years old, because the minor is considered incapable of giving legal consent due to age.

Sexual Orientation means one's preference in sexual partners and includes heterosexuality, homosexuality or bisexuality and is a Protected Status.²³

Sexual Violence is a form of Sexual Misconduct that refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent, such as due to the person's age, or use of drugs or alcohol, or because an intellectual or other disability prevents the person from having the capacity to give consent. A number of different acts fall into the category of Sexual Violence, including Non-Consensual Sexual Contact and Non-Consensual Sexual Intercourse.

Stalking means engaging in a repeated Course of Conduct directed at a specific person that would cause a Reasonable Person to fear for his/her or others' safety or to suffer Substantial Emotional Distress.²⁴ For purposes of this definition:

1. **Course of Conduct** means two or more acts including, but not limited to, acts in which the stalker directly, indirectly or through Third Parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens, communicates to or about a person, or interferes with a person's property;
2. **Reasonable Person** means a reasonable person under similar circumstances and with the same Protected Status(es) as the Complainant;
3. **Substantial Emotional Distress** means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.

Student means an applicant for admission to ArtCenter, an admitted ArtCenter Student, an enrolled ArtCenter Student, an ArtCenter Public Programs Student, an ArtCenter Student between academic terms, an ArtCenter graduate awaiting a degree,

²² "Non-binary" is a form of Gender identity that refers to any Gender that is not exclusively male or female. Non-binary individuals may also identify as transgender.

²³ See Cal. Educ. Code § 66262.7.

²⁴ See Cal. Penal Code § 646.9



an ArtCenter student currently serving a suspension or interim suspension, and an ArtCenter Student who withdraws or is withdrawn from the College while a disciplinary matter (including investigation) is pending.

Third Party or Parties means a person other than an Employee or a Student. Examples include volunteers, independent contractors, non-ArtCenter students, vendors and their employees and visitors.

Title IX means 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."

VAWA means the Violence Against Women Reauthorization Act of 2013 (which amends the Jeanne Clery Disclosure of Campus Crimes Statistics Act, commonly known as the Clery Act) (20 U.S.C. 1092(f)), under its Campus Sexual Violence Elimination Act provision (Campus SaVE Act).

Veteran or Military Status means service in the uniformed services and is a Protected Status.

Working Days are defined as Monday through Friday, excluding all official holidays or College closures.

- **Resources**

- **Campus and Local Resources**

1. **Interim** DHR Administrator and Title IX Coordinator:
Lisa M Sanchez, SPHR, SHRM-SCP
Human Resources Department
626.396.4348
866.489.3018 (EthicsPoint; Anonymous Reports)
DHR-TIX@artcenter.edu
2. Director of Campus Security:
Jim Finch
Campus Security
626.396.2225
jim.finch@artcenter.edu
3. Assistant Dean of Students/Director of The Center for the Student Experience:
Kendra Stanifer
Center for Student Experience
626.396.2396
kendra.stanifer@artcenter.edu



4. Associate Provost for Faculty Affairs:
Ted Young
Office of the Provost
626.396.4281
ted.young@artcenter.edu

5. Managing Director of Public Programs:
Dana Walker-Juick
Public Programs
626.396.2376
dana.walker-juick@artcenter.edu

6. Associate Provost for Student Affairs/Dean of Students:
Ray Quirolgico, Ed.D.
Center for Student Experience
626.396.2325
ray.quirolgico@artcenter.edu

7. Vice President, Human Resources:
Lisa M. Sanchez, SPHR, SHRM-SCP
Human Resources
626.396.2210
VPHR@artcenter.edu

8. Provost:
Fred Fehlau, M.F.A
Office of the Provost
626.396.2352
fred.fehlau@artcenter.edu

9. Local Police:
Pasadena Police Department
207 Garfield Avenue
Pasadena, CA 91101
General Contact Number: 626.744.4501
Non-Emergency Response: 626.744.4241
Emergency: 911

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



11. San Gabriel Valley Medical Center: (Sexual Assault Response Team)
438 West Las Tunas Drive
San Gabriel, CA 91776
The Sexual Assault Forensic Nurse should be contacted
prior to arrival
SART Hotline: 1.877.209.3049
Available 24 hours per day/365 days of the year

12. 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, Non-judgmental support for emergency,
advocacy, and referrals

13. Employee Assistance Program: **(Students, please contact CSE for support services)**

Community Action EAP
Confidential 24-Hour Help Line for Employees:
1.800.777.9376
www.CAEAP.com

Outside Resources

14. Know Your Rights About Title IX (U.S. Department of Education, Office for Civil Rights):
<http://www2.ed.gov/about/offices/list/ocr/docs/title-ix-rights-201104.html>

15. U.S. Department of Education, Regional Office, Office for Civil Rights:
Joe Barison, PAS
50 Beale Street, Room 9700
San Francisco, CA 94105
Phone: 415.486.5555 or 415.486.5700
TDD: 877.521.2172
Fax: 415.486.5719

16. U.S. Department of Education, National Office, Office for Civil Rights:
Mailing Address:
400 Maryland Avenue, SW
Washington, D.C. 20202
General Inquiries: 800.872.5327
<http://www2.ed.gov/about/offices/list/ocr/index.html>



17. California Coalition Against Sexual Violence:
1215 K. Street, Suite 1850
Esquire Plaza
Sacramento, CA 95814
Voice: 916.446.2520
Fax: 916.446.8166
SMS/Text: 916.905.2272
<http://www.calcasa.org/>
General Inquiries: info@calcasa.org
18. Office of Violence Against Women (OVW), United States Department of Justice:
145 N Street, NE, Suite 10W.121
Washington, D.C. 20530
Phone: 202.307.6026
Fax: 202.305.2589
TTY: 202.307.2277
<https://www.justice.gov/ovw>
ovw.info@usdoj.gov
19. National Domestic Violence Hotline:
i. What is a Healthy Relationship <http://www.thehotline.org/is-this-abuse/healthy-relationships/>
Hotline: 1.800.799.7233
Hotline TTY: 1.800.787.3224
<http://www.thehotline.org/>
20. Office for Victims of Crime, Domestic and Family Violence:
<http://ovc.ncjrs.gov/topic.aspx?topicid=27>
21. National Institute of Justice, Intimate Partner Violence:
<http://www.nij.gov/topics/crime/intimate-partner-violence/Pages/welcome.aspx>
22. Centers for Disease Control and Prevention, Intimate Partner Violence:
<http://www.cdc.gov/ViolencePrevention/intimatepartnerviolence/index.html>



What To Do If You've Experienced Non-Consensual Sexual Intercourse, Non-Consensual Sexual Contact, Domestic Violence, Dating Violence, or Stalking

After an incident of Non-Consensual Sexual Intercourse, Non-Consensual Sexual Contact, Domestic Violence or Dating Violence, the person who experienced this should consider seeking medical attention as soon as possible at San Gabriel Valley Medical Center (Sexual Assault Response Team) at 1.877.209.3049, 438 W. Las Tunas Drive, San Gabriel. The center is open 24 hours a day, 365 days a year. The Sexual Assault Forensic nurse should be contacted prior to arrival at 1.877.209.3049.

The person should not:

- Bathe or shower
- Use the restroom
- Change clothes
- Comb hair
- Clean up the area where the incident took place
- Move anything the offender may have touched

In California, evidence may be collected even if you choose not to make a report with law enforcement. It is important that a person who has experienced Non-Consensual Sexual Intercourse or Non-Consensual Sexual Contact not bathe, douche, smoke, change clothing or clean the bed/linen area where the incident occurred if the incident occurred in the past 96 hours, so that evidence as may be necessary to the proof of criminal activity, may be preserved.

In circumstances of Non-Consensual Sexual Intercourse or Non-Consensual Sexual Contact, if the person does not opt for forensic evidence collection, health care providers can still treat injuries and take the steps to address concerns of pregnancy, or STIs or STDs.

Persons who have experienced Non-Consensual Sexual Intercourse or Non-Consensual Sexual Contact, Dating Violence, Domestic Violence and Stalking are encouraged to also preserve evidence by saving text messages, instant messages, social networking pages and other communications, and keeping pictures, logs or other copies of documents – if they have any – that would be useful to ArtCenter's investigating/adjudicating officials or law enforcement.

ArtCenter strongly encourages all persons to report violations of this Policy, according to the procedures set forth herein. ArtCenter requires that all mandatory reporters report violations of this Policy, according to the procedures set forth herein.

Although ArtCenter strongly encourages all members of its community to report violations of this Policy to law enforcement, it is the person's choice whether or not to make such a report and the person has the right to decline involvement with the police.



ArtCenter's DHR Administrator and Title IX Coordinator, in Human Resources, The Center for the Student Experience, the Counseling Center or Campus Security will assist any person in notifying the police. The Pasadena Police Department may also be reached directly by calling 626.744.4241 or Dispatch at 626.744.4501, or in person at 207 N. Garfield Ave., Pasadena, CA 91101.

Even if the person has not yet decided to report the incident, receiving a forensic medical exam and keeping the evidence safe from damage will improve the chances that the police can access and test the stored evidence at a later date.

A forensic medical exam may be performed at a hospital or other healthcare facility, by a sexual assault nurse examiner (SANE), sexual assault forensic examiner (SAFE) or another medical professional. This exam is complex and, on average, takes three to four hours. While this may seem lengthy, medical and forensic exams are comprehensive because the person deserves and needs special attention to ensure that they are medically safe and protected. In addition, it is important to collect evidence so that if the person chooses to report the incident to the police, they can access the stored evidence.

