



Cleveland Institute of Art

## **SEXUAL MISCONDUCT POLICY**

### **INTRODUCTION**

Title IX of the Education Act Amendments of 1972 (“Title IX”) prohibits discrimination on the basis of sex in educational programs and activities operated by recipients of Federal financial assistance.

The Cleveland Institute of Art is committed to providing a learning, working and living environment that promotes personal integrity, civility, and mutual respect in an environment free of sexual misconduct, violence, and discrimination. Sexual discrimination violates an individual’s fundamental rights and personal dignity. The Cleveland Institute of Art regards sexual discrimination in all its forms to be a serious offense if practiced by students, faculty, or staff.

The Institute does not discriminate on the basis of gender, gender identity, or sexual orientation in its educational programs or in any other activities sponsored by the Institute, as required by Title IX of the Education Act of 1972 (and its amendments) and Title VII of the Civil Rights Act of 1968. This non-discrimination policy extends to all applicants for admission to the Institute, as well as all students who are full- or part-time, matriculated for a degree or not, and visiting students.

The Institute’s Title IX Administrator is Ray Scragg, Vice President of Human Resources and Inclusion (rscragg@cia.edu or 216.421.7312), 11610 Euclid Ave., Cleveland OH 44106. Inquiries concerning the application of Title IX requirements may be directed to Mr. Scragg. You may also contact the Office for Civil Rights, US Department of Education, 1350 Euclid Avenue, Suite 325, Cleveland, OH 44115, 216.522.4970, or OCR.Cleveland@ed.gov

### **ACTIONS THAT A VICTIM OF SEXUAL VIOLENCE SHOULD TAKE IMMEDIATELY**

- Get to a safe place
- Tell a trusted person about the incident
- Call 911 or University Circle Police (216-791-1234) or Case Police (216-368-3333) and/or go directly to the emergency room at any local hospital for medical attention. The closest hospital to CIA’s facilities is:
  - University Hospitals of CWRU, 11100 Euclid Avenue, 216-844-3722

Note that this hospital has a SANE nurse (Sexual Assault Nurse Examiner)

- It is important that the physical evidence of the violence be preserved. Do not wash hands, shower, douche, urinate, consume liquids or food, brush hair or teeth, or change clothes immediately following the incident.
- The complainant can request an advocate or other support person during an examination at a hospital. An advocate is available from the Cleveland Rape Crisis Center (216-619-6192).
- The complainant is not obligated to talk to the police, but the police will be called to the emergency room.
- Making sure evidence is collected does not obligate the complainant to pursue any action, but does leave all options open.
- Hospitals are required to report felony crimes (rape is a felony crime) but if the complainant is over 18, his/her name does not have to be disclosed.

## **FUNDAMENTAL UNDERSTANDINGS**

### **Consent**

Consent is the equal approval, given freely, willingly, and knowingly, of each participant to desired sexual involvement. Consent is an affirmative, conscious decision – indicated or expressed clearly by words or actions – to engage in mutually accepted sexual contact. A person forced to engage in sexual contact by force, threat of force, or coercion has not consented to contact.

Lack of mutual consent is the crucial factor in any sexual misconduct. Consent to some form of sexual activity does not necessarily constitute consent to another form of sexual activity. Similarly, consent to one sexual act does not necessarily constitute consent to any subsequent sexual acts. Silence without demonstrating permission does not constitute consent. Consent CANNOT be given if a person's ability to resist or consent is incapacitated because of a mental illness, physical condition or impairment, or if there is a significant age or perceived power differential.

### **Incapable of Giving Consent**

An individual may be incapable of giving consent due to incapacitation or substantial impairment. Incapacitation is a state in which someone cannot make rational, reasonable decisions because the person lacks the capacity to give knowing consent (e.g. to understand the “who, what, when, where, why, or how” of their sexual interaction). An individual who is not incapacitated, but is substantially impaired, may be incapable of giving consent. Examples of incapacitation and substantial impairment include, but are not limited to, being:

- a. unconscious,
- b. frightened,
- c. physically or psychologically pressured or forced,
- d. intimidated,
- e. incapacitated because of a psychological or physiological health condition or disability;
- f. incapacitated because of voluntary or involuntary intoxication or use of drugs or alcohol,
- g. age,
- h. intellectual disability, or
- i. deceptive or forced administering of any drug, intoxicant, or controlled substance.

### **Guidance Regarding Sexual Consent**

Consent can only be accurately gauged through direct communication about the decision to engage in sexual activity. Presumptions based upon contextual factors (such as clothing, alcohol consumption, or dancing) are unwarranted, and should not be considered as evidence for consent.

Although consent does not need to be verbal, verbal communication is the most reliable form of asking for and gauging consent. Talking with sexual partners about desires and limits may seem awkward, but serves as the basis for positive sexual experiences shaped by mutual willingness and respect.

### **Unwelcome Behavior**

Unwelcome behavior is an action that is not solicited or invited, and is undesirable or offensive. Behavior or action that is perceived to be voluntary or consensual may not necessarily be welcome. Power relationships, intimidation, and/or fear of consequences may be contributing factors in this determination.

### **Coercion**

Coercion is unreasonable pressure for sexual activity.

### **Force**

Force is the use of physical violence or superior strength, and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that overcome resistance or produce the appearance of consent.

## **DEFINITIONS AND EXAMPLES**

Misconduct that falls within this Sexual Misconduct Policy includes:

### **Sexual Harassment**

Sexual harassment can be defined as any unwelcome verbal or non-verbal sexual advance, requests for sexual favors, other verbal or physical conduct of a sexual nature, and/or conduct directed at an individual(s) because of gender when:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or student status; or
- b. Submission to or rejection of such conduct is used as the basis for decisions affecting the individual with regard to employment (salary increases, work assignments, discipline, etc.) or to student status (grades, recommendations, assignments, etc.); or
- c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or educational experience, or creates an intimidating, hostile, or offensive work and/or educational environment. Such conduct generally involves more than one incident and must be severe or pervasive (or may be both severe and pervasive).

Acts that constitute sexual harassment take a variety of forms and may include but are not limited to the following unwelcome actions:

- a. Propositions, invitations, solicitations, and flirtations of a sexual nature.
- b. Threats or insinuations that personal employment, wages, academic grade, promotional opportunities, classroom or work assignments, or other conditions of employment or academic life may be adversely affected by not submitting to sexual advances.
- c. Verbal expressions of a sexual nature, including sexual communications about a person's body, dress, appearance, or sexual activities; the use of sexually degrading language, name calling,

sexually suggestive jokes or innuendoes; suggestive or insulting gestures, sounds, or whistles; sexually suggestive phone calls.

- d. Sexually suggestive objects or written materials such as e-mail or internet communications, pictures, photographs, cartoons, text messages, videos, DVDs, or other recorded media.
- e. Inappropriate and unwelcome physical contact such as touching, patting, pinching, hugging, or other sexually suggestive contact.
- f. Stalking of a sexual nature (i.e. persistent and unwanted contact of any form whether physical, electronic, or by any other means). For stalking to fall within this policy, the content or the nature of the stalking must have a sexual component.
- g. Stereotyping or generalizing about a group based on gender. These types of comments typically constitute sexual harassment when associated with other sexual behavior or comments.

While a particular interaction must be offensive to both a reasonable person and to the complainant to constitute unlawful harassment, faculty and staff members and other persons of authority should be sensitive to questions about mutuality of consent that may be raised and to the conflicts of interest that are inherent in personal relationships that result from professional and educational interactions. Sexual harassment is particularly damaging when it exploits the educational dependence and trust between students and faculty/staff. When the authority and power inherent in faculty/staff relationships with students, whether overtly, implicitly, or through misinterpretation, is abused in any way, there is potentially great damage to the individual student, to the respondent individual, and to the climate of the institution.

### **Sexual Exploitation**

Sexual exploitation occurs when an individual takes non-consensual, unjust, 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 behavior does not otherwise constitute non-consensual sexual contact, non-consensual sexual intercourse, or sexual harassment. Sexual exploitation includes, but is not limited to:

- a. Non-consensual recording or audio capturing of any form of sexual activity
- b. Voyeurism
- c. Knowingly transmitting an STD or HIV to another person
- d. Prostituting or trafficking another person
- e. Invasion of sexual privacy, including exposing one's sexual body parts or exposing another's sexual body parts

### **Non-Consensual Sexual Contact**

- a. Any intentional sexual touching;
- b. with any object or body part;
- c. by a person upon another person;
- d. without consent and/or by force.

Sexual contact includes: intentional contact with the breast(s), buttock(s), groin or genitals, or touching another with any of these body parts; making another person touch you or themselves with any of these body parts; and/or any intentional bodily contact in a sexual manner.

### **Forced Sexual Activity**

Is defined as sexual activity by force or against the will of the complainant.

Force includes the use of physical means, violence, threats, intimidation or coercion with any object or body part by a person upon another person.

### **Non-Consensual Sexual Intercourse**

- a. Any sexual intercourse (anal, oral, or vaginal);
- b. with any object or body part;
- c. by a person upon a person;
- d. without consent.

### **Forced Sexual Intercourse**

- a. Sexual intercourse (anal, oral, or vaginal) by the use of force, including physical force, threat, intimidation, or coercion;
- b. with any object or body part;
- c. by a person upon another person.

### **Intimate Partner Violence (including dating violence and domestic violence)**

Intimate partner violence (IPV) occurs when a current or former intimate partner uses or threatens physical or sexual violence. IPV may also take the form of a pattern of behavior that seeks to establish power and control by causing fear of physical or sexual violence. Stalking may also constitute IPV.

### **Stalking**

Stalking is repeated or obsessive unwanted attention directed toward an individual or group that is likely to cause alarm, fear, or substantial emotional distress. Stalking may take many forms, including following, lying in wait, monitoring, and pursuing contact. Stalking may occur in person or through a medium of communication such as letters, e-mail, text messages, or telephone calls. In some circumstances, two instances of such behavior may be sufficient to constitute stalking.

### **Sexual Intimidation**

Sexual intimidation involves, without limitation, threatening another person with a sex act against them, stalking (including cyber stalking), and/or engaging in indecent exposure

## **RELEVANT CONSIDERATIONS**

### **Relationships Involving Authority or Power**

When one party has any professional responsibility for another's academic or job performance, or professional future, CIA considers sexual relationships between the two individuals to be a basic violation of professional ethics and responsibility. This includes but is not limited to sexual relationships between faculty and their students, or between supervisors and their employees, even if deemed to be mutually consenting relationships. Because of the imbalance of these relationships, "consent" may be difficult to assess, may be deemed not possible, and may be construed as coercive. Such relationships also have the potential to result in claims of sexual harassment. (See the section on Consensual Relationships in the CIA Student Handbook.) With regard to sexual or romantic relationships between a supervisor and employee, CIA may require the individuals to be reassigned, if feasible, or may require one or both individuals to separate employment.

### **Intention vs. Impact**

The fact that someone did not intend to engage in sexual misconduct against an individual is not considered a sufficient explanation or defense to a complaint of sexual misconduct. For example, in some instances, cultural differences may play a role in the interpretation of behavior, by either the complainant or respondent, which may result in a complaint of sexual misconduct. It is expected that all members of the CIA community are knowledgeable about what constitutes sexual misconduct under this policy. Although the respondent's perceptions will be considered, in most cases it is the effect and characteristics of the behavior on the complainant, and whether a reasonable person in a similar situation would find the conduct offensive that determines whether the behavior constitutes sexual misconduct.

### **Academic Freedom**

CIA adheres to the principles and traditions of academic freedom. Academic freedom is a right of all faculty, and applies to Institutional activities including teaching and research. Each faculty member may consider, in his or her class or studio, any topic relevant to the subject matter of the course as defined by the appropriate academic unit. However, these freedoms must be balanced with the rights of others not to be sexually harassed. It is therefore understood that the principles of academic freedom permit topics of all types, including those with sexual content, to be part of courses, lectures, and other academic pursuits. If there are questions about whether the course material or the manner in which it is presented falls within the definition of sexual harassment, the concerned party(ies) should contact the Title IX Officer (see below).

### **Relationship to Criminal Laws Regarding Sexual Crimes**

Conduct need not rise to criminal activity under state, federal or local in order to constitute a violation under this policy. In addition, neither Title IX nor this policy provides the same elements, burdens of proof or due process rights that would apply in a criminal proceeding.

## **RESPONSIBILITIES OF THE INSTITUTE COMMUNITY**

Any member of the CIA community who is consulted about, observes, and/or witnesses behavior involving potential sexual misconduct (see definitions above) has the responsibility to report same to one of the Designated Reporting Officers (see list below). In addition, to the extent possible, the reporting member of the CIA community should advise the person experiencing the sexual misconduct of the CIA Sexual Misconduct Policy and encourage the person to promptly report the misconduct to a Designated Reporting Officer. Because the Institute is committed to maintaining a positive educational and work environment, this obligation of the community member to report also includes instances in which that person learns of the allegation from any of these sources:

- a. A person who has experienced the sexual misconduct;
- b. A person who witnessed the sexual misconduct; or
- c. A person who heard about the sexual misconduct from another individual under such circumstances that the community member reasonably believes misconduct occurred.

### **Cooperation with Investigations**

All members of the CIA community are strongly encouraged to cooperate and participate in inquiries and investigations, appear at any hearing as requested, and cooperate with resolutions of complaints and implementations of sanctions, as applicable. This cooperation with an investigation includes any requests from other educational institutions investigating a sexual misconduct complaint. Failure to cooperate may impact the results of an investigation.

### **Support of Witnesses and Bystanders/Bystander Intervention**

Since the safety of the community is important to everyone, members of the Institute are strongly encouraged to offer help and assistance to others in need, including preventing sexual misconduct. While individuals are sometimes hesitant to offer assistance for fear that they might be subject to sanctions for other concurrent policy violations (such as alcohol violations), the Institute will consider providing an educational intervention as opposed to sanctions or discipline for those who offer assistance.

### **Cross-Institutional Investigations**

While CIA can only impose sanctions against CIA faculty, staff, and students (vs. non-members of the CIA community), the Title IX Administrator and Designated Reporting Officers will work with other area colleges to investigate any instances of sexual misconduct reported that involve members of their communities (as witnesses, complainants, or respondents). In such cases, an investigator from each institution that is involved will share investigative responsibilities. The process of the respondent's home institution will be used in reporting, investigating, and conducting the hearing.

## **REPORTING**

### **Reporting an incident of sexual violence**

The Institute strongly encourages persons who experience sexual violence to immediately report this, seek assistance, and pursue Institute action for their own protection and that of the entire CIA community. Reports of sexual violence can be accepted at any time, with the caution that the longer the time between the event and the report, the more difficult it might be to launch and conduct an investigation or take any action.

If the Institute receives an anonymous report of sexual violence, it will conduct an inquiry into the matter. This may limit the Institute's ability to conduct an effective inquiry and take action concerning the report.

### **Reporters**

All members of the CIA community who witness or learn of alleged sexual violence from the person who claims to have experienced same, or through another party, have the obligation to report this to one of the three persons at CIA who are Designated Reporting Officers (DRO), and thus obliged to take action as a result of receiving the report:

- Ray Scragg, Vice President of Human Resources and Inclusion and Title IX Administrator  
rscragg@cia.edu or 216-421-7312
- Lisa Schumann, Assistant Director of Human Resources and Title IX Coordinator for Faculty and Staff  
lschumann@cia.edu or 216-421-7405
- Nancy Neville, Dean of Student Affairs and Title IX Coordinator for Students  
nneville@cia.edu or 216-421-7427

### **Types of Reporters**

CIA students, faculty, or staff are all considered **NON-CONFIDENTIAL** reporters. They are required to notify one of the Designated Reporting Officers (DRO) above and provide as much information as possible. The DRO who receives the report will make every effort to keep the report confidential to the

extent possible and consistent with legal requirements and/or the requirement to investigate allegations and take action. A complainant may request that a report be kept anonymous and/or confidential, and the Institute will consider such requests. Students should be aware, however, that honoring such requests may limit the Institute's ability to fully investigate and respond to the report. The Institute will maintain reports in a secure manner.

The role of a Designated Reporting Officer (DRO) includes:

- a. Receive initial complaint(s) regarding alleged sexual misconduct and to make the complainant aware of the Institute's obligation to investigate and take appropriate action as warranted.
- b. Provide the complainant and the respondent information about the policy and process.
- c. Provide help and resources to the complainant.
- d. Hear the initial complaint by the complainant and the response of the respondent, and to make safety and support arrangements as appropriate.
- e. Determine if the complaint falls within the Sexual Misconduct Policy and if so, to determine appropriate next steps.
- f. Conduct any warranted inquiry into reports from anonymous sources. In such circumstances, the Institute may be limited in its ability to conduct an effective inquiry and take action concerning the report.

### **CONFIDENTIAL Support Resources (CSRs)**

(CSRs) are those members of the community who are licensed or designated by law as professionals who can receive privileged communication, and receive information regarding possible sexual misconduct in the context of a professional relationship with the reporter of that information. These professionals are not obligated to provide any information to a DSO or law enforcement entity, but do have a duty to report if there is an imminent danger to the reporter or others. Confidential Reporters provide advice, support, and guidance about how to manage the situation following sexual violence without instituting an investigative action. The report to this person remains confidential. The CRS designee can play the role of a counselor, confidant, or resource, or provide other support to the person making the report. It is hoped that a CRS who receives a report will notify a DSO that a report has been received, but is not obligated, unless permitted by the reporter, to reveal the name or any other identification of the person making the report. Discussions with a confidential source are not considered a report to the Institute, or a request that the Institute take any action in response to the report.

Current Confidential Reporters are found in the following organizations:

- CWRU Health Services, 2145 Adelbert Rd., 216-368-2450 (24/7)
- CWRU Counseling Services, Sears 220 on the Case campus, 216-368-5872 (24/7)
- CWRU Flora Stone Mather Center for Women (and men), Tinkham Veale University Center, Suite 248 on Case campus (11038 Bellflower Road), 216-368-0985 M-F 8:30-5:00 and ask for the Licensed Professional Health Advocate
- Cleveland Rape Crisis Center, 216-619-6192 (24/7)
- The Domestic Violence Center (216-391-4357 (HELP) (24/7))

Anonymous reports can be made, however little action can be taken as a result of anonymity.

### **Reports to Police**

The Institute is not required to make a report of sexual violence to a police authority for any person 18 years of age or older. If the complainant or person who experienced sexual violence is under age 18, or

under 21 and physically or mentally impaired, a report must be made. In the case where a report is not required, the Institute strongly encourages complainants to file a police report. Sexual violence may constitute a criminal act. A member of the police department has a responsibility to uphold and enforce the law even if the person reporting the violence does not want to participate in the process or make a complaint. If the person who experienced the sexual violence is at a hospital, the emergency room staff are required to report felony crimes to the police. If the complainant is 18 or older, his/her name does not have to be disclosed. If the person who is believed to have experienced sexual violence is under the age of 18, or under 21 and physically or mentally impaired, the Designated Reporting Officer is required to report the violence to the appropriate social service agency and the police, who may then contact the parent or legal guardian.

### **Contact of Parent/Guardian/Partner**

In some instances when there is a health or safety concern involving a student, the Institute may decide to notify a parent or guardian of a student aged 18 or older. In making this decision, the desire of the complainant will be considered along with the need to protect his/her safety and that of the campus community. The Institute will notify a parent or guardian of student under the age 18 in the event of a reported incident.

## **CONFIDENTIALITY**

To protect the integrity of the inquiry, investigation, and resolution using this policy, all parties and witnesses are expected to maintain the confidentiality of the process. However, confidentiality is not required if disclosure is required by law, or if disclosure is necessary to report a crime or a violation of law, or to engage in concerted activity regarding terms or conditions of employment, or in relation to the right of a student respondent or complainant to re-disclose the outcome of the process under FERPA and/or the Campus Crime Statistics Act (Clery Act) laws.

Although there is an expectation of confidentiality to all aspects of the process, CIA recognizes that there are instances in which complete confidentiality cannot be guaranteed. For instance, the complainant, respondent, and witnesses may need support. Furthermore, some information may need to be disclosed in order to conduct a thorough investigation. Should the need arise for parties and/or witnesses to share with others information regarding this process, they are encouraged to confer with the Designated Reporting Officers before taking this action.

## **STEPS TAKEN AFTER A REPORT IS MADE**

### **Sexual violence involving a member of the faculty or staff**

A report of sexual violence against a faculty or staff member is investigated by the DRO who is designated to investigate reports filed by members of those groups.

### **Interim Actions**

Upon receipt of a complaint and before a full investigation has begun, the DRO may need to take immediate actions to protect the safety and well-being of the individuals involved in a complaint of sexual misconduct. These actions may include, but are not limited to, the following:

- a. Notify the respondent that a complaint has been made against them;
- b. Provide a copy of the Sexual Misconduct Policy to the complainant and the respondent;
- c. Establish an agreement between the complainant and the respondent that each is not to initiate contact with the other party or parties until further notice by the DRO. Failure to honor the agreement may result in restriction either party's presence on campus;

- d. Issue a no contact order;
- e. Have each of the parties and any witnesses acknowledge the expectation of confidentiality as outlined in this policy;
- f. Advise all parties and any witnesses that they may not retaliate against any party or any witness involved in a sexual misconduct complaint.

### **Timely Warnings**

Once a sexual misconduct report is made, the Institute will take steps to protect the campus and the person who experienced the misconduct. If it is felt that the alleged event poses a substantial threat of bodily harm or danger to members of the campus community, while considering the safety of students, faculty, and staff as well as the privacy interests of all persons involved, an alert will be sent. Regardless of the action taken, every effort will be made to ensure that the complainant's name and other identifying information is not disclosed while enough information will be provided to enable community members to take safety precautions.

### **Federal Reporting Obligations**

In compliance with the Campus Crime Statistics Act (also known as the Jeanne Clery Disclosure of Campus Security Policy and Crimes Statistics Act), the Institute is required to record certain reported crimes on campus, any sexual misconduct that constitutes a crime (i.e. anything in this policy that is not defined as sexual harassment) which include conduct covered under this policy as sexual misconduct, such as rape, sexual assault, stalking, intimidation, dating violence, domestic violence, and hate crimes. Anonymous reports are also included in the Clery Act Report statistics. The following information is included: crime, date, location, and status (student, faculty, staff, stranger, etc.) of those involved in the crime. Names of the complainant, respondent, or witnesses are not included in any crime statistics. If the complaint made may also constitute a criminal act, the Designated Reporting Officer will inform the complainant of the right to file a criminal complaint with the police.

### **Sexual Misconduct Involving a Student**

Upon receipt of a complaint, an initial investigation will be conducted by the Title IX coordinator for students, and may include interviews of the complainant, the respondent, any witnesses, and a review of any relevant evidence, such as documents, including emails, text messages, and other communications. After this initial investigation, in consultation with the Title IX Administrator, a determination will be made whether the allegation of misconduct falls under the definition of sexual harassment, sexual violence, or if the complaint should be dismissed. These findings will result in one of the following actions:

**Sexual harassment:** The complaint will be referred to the Institute Conduct Officer in Student Affairs, and addressed using the process for sexual harassment outlined in the Student Handbook. This may result in an informal process using a facilitated resolution, or a formal process using an administrative hearing. When determining the course to follow, the following factors will be considered:

- a. The results of the investigation
- b. The wishes of the complainant and the respondent
- c. If there is a pattern of behavior involving sexual misconduct
- d. The nature and severity of the behavior or action

**Sexual violence:** The complaint will be referred for processing by the Title IX Administrator and Coordinators/Investigators under the following procedures for processing of a case of sexual violence.

### **Investigation**

Upon determination that the complaint is an allegation that, if true, would constitute a case of sexual violence, the DRO for students initiates an investigation of the report. This investigation will be started within one week of the receipt of the report, unless the complainant agrees to other timing.

While an investigation is taking place, it is possible that interim actions will be taken to protect the complainant. These actions may include but not be limited to changes in living arrangements and/or class schedules, and/or imposition of a “no contact” requirement. See also “Interim Actions” above.

If a full report is given, the steps of the investigation will depend upon the allegations, but will typically be comprised of interviews of the complainant, the respondent, and any witnesses to the sexual violence or events surrounding the alleged incident. This investigation will begin within one week of receipt of the report. The DRO may conduct follow-up interviews if necessary. The DRO will collect evidence relevant to the allegations or defenses, including without limitation items such as emails, text messages, photographs, recordings and other evidence. The DRO will review police reports if they have been filed.

Upon completion of the interview process, the DRO for students will present his/her findings to the Title IX Administrator and the DRO for faculty/staff. These individuals will review the findings and determine if a hearing should proceed. The hearing will take place within two weeks of the decision to hold such, unless the complainant and respondent agree to other timing.

### **Rights of the Complainant and Respondent**

Both the complainant and the respondent have rights during the investigation and the resulting process. These include the right to

- Confidentiality as defined in this policy (above)
- Options outlined (below) in this policy during the hearing process
- The presence of a support person (as outlined below) at meetings during the initial inquiry and the hearing procedures
- Not be questioned about past sexual behavior unless that line of inquiry is relevant to the current case
- Have the investigation of allegations proceed in a timely and thorough manner
- Refrain from making self-incriminating statements
- Be informed of the outcome of the misconduct process in a timely manner

### **Hearing**

Within 24 hours of the decision that a hearing will take place, the complainant and the respondent will be notified of the date and time of the hearing. The respondent is required to attend the hearing; the complainant is invited to the hearing but is not required to attend. Included in the hearing notification will be information about the hearing itself. The Title IX Committee will draft a written complaint and provide a copy to both the respondent and the complainant.

Upon request, either the complainant or the respondent may review the DRO’s investigation file prior to the hearing. Certain confidential information, such as confidential medical information, may be redacted. While the complainant, respondent, and support persons will have an opportunity to review all materials before the hearing, the review of materials must be done on CIA premises and may not be removed from CIA or be reproduced by any means.

- The hearing is closed and generally includes the respondent and/or one support person.

- The complainant may also attend the hearing and can have one support person present.
- The complainant and respondent (and their support persons) may be physically separated in different rooms.
- These support persons may be in the same room as the hearing, but will not be permitted to speak with anyone at the hearing other than the person whom they are accompanying.
- A support person may be a lawyer, but as is true with any other advisor/advocate, a lawyer will not be permitted to speak to anyone but his/her client, nor make a statement or present evidence at the hearing.
- The complainant may submit an additional written statement concerning the effect of the sexual violence and the desired sanction(s) for the respondent. This written statement must be submitted at least 2 business days before the scheduled hearing.
- The respondent may submit a written statement about the sexual violence allegation and possible sanction(s) for the misconduct. The written statement must be submitted at least 2 days before the scheduled hearing.
- Members of the Title IX Committee may ask questions of the respondent and the complainant, and will consider statements and any relevant information gained during the investigation.
- While the hearing allows for cross-examination, all questions will be addressed to the Title IX Committee to ensure that one party does not directly cross-examine the other. A representative of the Committee will then direct questions, if appropriate, to the witness. The representative may choose to rephrase questions for clarity. The Committee reserves the right to not pose a requested question if it is not relevant or is duplicative.
- The Title IX Officer will serve as the Chair of the hearing.
- The Designated Reporting Officer who initially investigated the complaint will present his/her findings at the hearing.

At the conclusion of the hearing, the hearing officers (the Title IX Administrator and the two Title IX investigators/coordinators) will go into closed session, deliberate the content of the hearing, and reach a conclusion based upon a preponderance of the evidence as to the level of responsibility of the respondent related to the charge of sexual violence against the complainant. The finding will be one of the following:

- a. The Sexual Misconduct Policy was not violated; or
- b. The Sexual Misconduct Policy was violated (see Findings below)

### **Findings**

The following is a non-inclusive list of possible results of the hearing:

- No finding of responsibility
- Requirement of an apology
- Written warning or letter of reprimand
- No contact order between person who filed the accusation and the respondent
- Release of the respondent from campus-controlled housing
- Reassignment of one of the parties to a different residential location
- Change of class schedule of one of the parties
- Requirement to undergo additional training concerning sexual assault, sexual violence, and/or substance abuse
- Requirement to participate in appointment(s) with a specialized counselor

- Requirement for participation in community service related to prevention of sexual assault or violence
- Placement on probation
- Prohibition from participation in selected activities or organizations
- Suspension from CIA
- Dismissal from CIA

In determining the sanctions resulting from a finding that the policy was violated by the responsible person, the Title IX Committee can consider the nature and severity of the offense and /or the prior violations of institutional policy(ies). The Committee may also consider the statements of the complainant and the respondent regarding the impact of the behavior/incident during the sanction process.

A written report of the findings will be drafted by the Title IX Officer (who chaired the hearing), including the reason for the finding and sanction(s) if applicable. This report will be communicated to the complainant, the respondent, and the Title IX Reporting Officers within 48 hours of the conclusion of the hearing. The finding may be shared with specific academic managers and/or appropriate institutional managers, as appropriate. A copy of the report will be maintained on file in the Title IX Office.

Sanctions will be imposed immediately unless implementation is temporarily stayed by the Title IX Officer, pending the outcome of any appeal. The Title IX Officer (who chaired the hearing) will identify and notify the individuals responsible for carrying out any sanctions. If the implementation of any sanction(s) is stayed, and neither party appeals the decision within 14 days of the release of the findings (see below), the President will make a final determination as to implementation of the sanction(s). If no stay is requested and no appeal is made, the decision of the Title IX Committee will be final.

### **Appeals**

An appeal of the findings of the hearing officers must be filed within 14 days of the release of the findings to the complainant and the respondent. An appeal must be based on at least one of the following circumstances:

- The investigative and/or hearing processes, as outlined, were not followed in a manner that may have affected the finding; or
- Additional information or new evidence pertaining to the investigation has become available; or
- The sanction was inappropriate for the violation

Appeals are made to the Title IX Officer. Consideration of the appeal will be made by the President & CEO of the Institute in conjunction with the Title IX Officer. A response to the appeal will be made within 30 days of the filing of the appeal.

### **FALSE CLAIMS**

A complaint or report that the Institute's sexual violence policy has been violated is a serious matter. Dishonest complaints or reports are also against our policy, and CIA will take appropriate action up to and including expulsion if its investigation determines that deliberately dishonest and/or bad faith accusations have been made. Note that insufficient proof that sexual violence has occurred is not the same as a false allegation.

## **RETALIATION**

If anyone involved in the investigative process (complainant, respondent, witness) feels that he/she is experiencing retaliation, they should report that activity to a Designated Reporting Officer. The Institute will take action against anyone who retaliates, regardless of the outcome of the investigation.

## **RETENTION OF RECORDS**

All records of hearings involving students will be retained for five (5) years after the student has separated from CIA. Records will be kept in a confidential and secure location and only made available to Designated Reporting Officers, other appropriate CIA officials, or other authorized individuals as required by law.

## **PREVENTION AND EDUCATION**

CIA provides all members of the student body, faculty, and staff with training concerning prevention of sexual misconduct, substance abuse, domestic violence, and stalking through programming and educational activities throughout the academic year.

## LOCAL RESOURCES

### **University Hospitals**

11100 Euclid Avenue  
216-844-3722

### **CWRU Health Services**

2145 Adelbert Road  
216-368-2450 (24/7)

### **CWRU Counseling Services**

Sears 220 on the Case campus  
216-368-5872 (24/7)

### **CWRU Flora Stone Mather Center for Women (and men)**

Tinkham Veale University Center, Suite 248 on Case campus (11038 Bellflower Road)  
216-368-0985 M-F 8:30-5:00 and ask for the Licensed Professional Health Advocate

### **Cleveland Health Services – *Free Clinic***

12201 Euclid Avenue  
216-644-5847 (24/7)

### **Cleveland Rape Crisis Center**

216-619-6192 (24/7)

### **Domestic Violence & Child Advocacy Center**

216-391-4357 (HELP) (24/7)

## TITLE IX COORDINATORS AT AREA COLLEGES

### Cleveland Institute of Music

David Gilson, Associate Dean for Student Affairs and Title IX Coordinator  
CIM Cutter 101  
11021 East Boulevard  
216-791-5000  
David.Gilson@cim.edu

### Case Western Reserve University

Darnell Parker, Associate VP for Student Affairs  
Adelbert Hall 110  
10900 Euclid Avenue  
216-368-2020  
darnell.parker@case.edu

## OTHER SOURCES FOR INFORMATION

### Office for Civil Rights

US Department of Education  
1350 Euclid Avenue  
Suite 325  
Cleveland OH 44115  
216-522-4970  
OCR.Cleveland@ed.gov

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