

## **Sexual Assault, Sexual Harassment, and Sex Non-Discrimination Policy Under Title IX**

### **Section 1. Introduction and Scope**

The Cleveland Institute of Art is committed to providing a learning, working, and living environment free from discrimination on the basis of sex, as required by Title IX of the Education Amendments of 1972 and as set forth in this Policy.

This policy prohibits sexual assault, sexual harassment, and discrimination based on gender, pregnancy, parental status, sex stereotypes (such as treating persons differently because they do not conform to sex-role expectations or because they are attracted to or are in relationships with persons of the same sex), gender identity, and transgender status.

Title IX protects all students and prospective students, all employees and applicants for employment, and all visitors to the Institute's education programs and activities.

### **Section 2. Reporting and Institutional Response**

Any member of the CIA community who is consulted about, observes, and/or witnesses behavior involving a potential violation of this Policy has the responsibility to report it to the Title IX Coordinator. This requirement excludes persons identified as Confidential Resources, such as mental health counselors and medical professionals. In addition, to the extent possible, members of the CIA community should also encourage those directly involved to promptly make a report to the Institute's Title IX Coordinator, Vivian Scott, who can be reached at 216.421.7476 or [vrscott@cia.edu](mailto:vrscott@cia.edu).

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.

Reports of Title IX Sexual Harassment will be investigated and adjudicated in accordance with the ***Institute Procedures for Responding to Reports of Title IX Sexual Harassment*** which outlines the Title IX Sexual Harassment Grievance Procedure mandated by Federal law.

Reports of Title IX violations concerning pregnant or parenting students will be investigated and adjudicated in accordance with the ***Institute Procedures for Responding to Title IX Reports Involving Pregnant or Parenting Students***.

Reports of Title IX violations concerning sex or gender stereotypes will be investigated and adjudicated in accordance with the ***Institute Procedures for Responding to Title IX Reports Involving Sex Stereotypes***.

### **Section 3. Jurisdiction**

This Policy applies to conduct that occurs within an education program or activity of the Institute. For jurisdictional purposes, “education program or activity” includes locations, events, or circumstances over which the Institute exercises substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization officially recognized by the Institute.

If reported conduct meets all the jurisdictional requirements, the matter will proceed according to one of the procedures described above, as appropriate.

If the conduct does not meet all jurisdictional requirements, the Title IX Coordinator must dismiss the matter under the Policy, but may refer the matter to be adjudicated under Student Code of Conduct or Human Resources policies as appropriate, depending on the status of the respondent.

#### **Section 4. Definitions**

**Complainant** – an individual who is alleged to be the victim of conduct that could constitute sexual harassment

**Consent, Incapacitation, and Coercion** – 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. Engagement in sexual contact by force, threat of force, or coercion is not consensual. 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 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, flirtation, or dancing) are unwarranted, and should not be considered as evidence of 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. *Please note that consent can be withdrawn at any time.*

An individual may be incapable of giving consent due to incapacitation, substantial impairment, or coercion. 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:

1. Unconsciousness
2. Being frightened
3. Physically or psychologically pressured or forced
4. Feeling intimidated
5. A psychological or physiological health condition or disability
6. Voluntary or involuntary intoxication or use of drugs or alcohol
7. Age – the age of consent in the State of Ohio is 16 (Ohio Revised Code § 2907.04):

8. Intellectual disability

9. Deceptive or forced administering of any drug, intoxicant, or controlled substance.

Coercion is unreasonable pressure to take part in sexual activity. Unreasonable pressure can be exerted through physical or emotional force, intimidation, misuse of authority, or outright threats. When someone makes it clear that they do not want to engage in sexual activity or does not want to go beyond a certain point of sexual interaction, continued pressure beyond that point may be considered coercive. Ignoring or dismissing the objections of another person may also be a form of coercion.

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.

**Respondent** – an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment

**Sex-Based Discrimination** – conduct on the basis of sex, occurring within the Institute's education program or activity, that has the purpose or effect of substantially or unreasonably interfering with a person's participation in educational programs or activities, including employment or academics, or otherwise adversely affects an individual's employment or educational opportunities. Discrimination may occur when an individual or individuals are treated differently specifically because of his/her/their gender, sexual orientation, or pregnancy. Discrimination and harassing behaviors can include: derogatory comments, name-calling, physical conduct or other expressive behavior directed at an individual or group on the basis of gender/gender identity, sexual orientation or pregnancy.

**Sexual Harassment** - conduct on the basis of sex, occurring within the Institute's education program or activity, that satisfies one or more of the following:

1. An employee of the Institute conditioning the provision of an aid, benefit, or service of the Institute on an individual's participation in unwelcome sexual conduct.
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the Institute's education program or activity.
3. Sexual Assault, defined in 20 U.S.C. 1092(f)(6)(A)(v) as "an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation." This includes rape, sodomy, sexual assault with an object, fondling, and incest. The Policy applies the following definitions of these sex offenses:

- a. Rape: the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without consent, including instances where the Complainant is incapable of giving consent due to age, or a temporary or permanent mental or physical incapacity.
  - b. Sodomy: oral or anal sexual intercourse with another person with another person without consent, including instances where the Complainant is incapable of giving consent due to age, or a temporary or permanent mental or physical incapacity.
  - c. Sexual Assault with an Object: the use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person without consent, including instances where the Complainant is incapable of giving consent due to age, or a temporary or permanent mental or physical incapacity.
  - d. Fondling: the touching of the private body parts of another person for the purpose of sexual gratification without consent, including instances where the Complainant is incapable of giving consent due to age, or a temporary or permanent mental or physical incapacity.
  - e. Incest: nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - f. Statutory Rape: nonforcible sexual intercourse with a person who is under the statutory age of consent. In Ohio, the statutory age of consent is 16 years of age.
4. Dating Violence, defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; and (iii) The frequency of interaction between the persons involved in the relationship.
5. Domestic Violence, defined as violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Ohio, or by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Ohio.
6. Stalking, defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.

**Title IX Coordinator** – the employee designated by a recipient to coordinate its efforts to comply with Title IX responsibilities is referred to as the “Title IX Coordinator.”