



SEXUAL MISCONDUCT POLICY

Section 1. Introduction and Coverage

The Cleveland Institute of Art (the “Institute”) 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. Sex discrimination, sexual misconduct, sex-based crimes, and sexual harassment violate an individual’s fundamental rights and personal dignity.

The Institute has a broad non-discrimination policy that exceeds the requirements under current law. As for gender, the Institute’s policy provides that 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 nondiscrimination 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.

In addition, Title IX assigns further obligations upon colleges and universities like the Institute to investigate and adjudicate complaints by students of sexual misconduct. This policy applies to all such Title IX sexual misconduct complaints by students, or reports of sexual misconduct involving a student. This policy applies to sexual misconduct involving students whether the misconduct is alleged to have been committed by another student, faculty member, or staff member. This policy does not apply to allegations among or between faculty or staff members. Further, this policy does not apply to allegations by students against a non-student or non-employee of the Institute.

The Institute’s Title IX Officer is Charise Reid, Vice President of Human Resources and Inclusion (clreid@cia.edu or 216.421.7312), 11610 Euclid Ave., Cleveland OH 44106. Inquiries concerning the application of Title IX requirements may be directed to Ms. Reid. 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

Section 2. Immediate Actions for Victims of Sexual Violence

A victim of sexual violence should 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 the Institute’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. Making sure evidence is collected does not obligate the Complainant to pursue any action, but does leave all options open.

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.

Hospitals are required to report felony crimes (rape is a felony crime) but if the Complainant is over 18, the victim's name does not have to be disclosed.

Section 3. Concepts and Definitions

A. Sexual Misconduct: For purposes of this policy, the term "Sexual Misconduct" shall refer to the Title IX definition of Sexual Harassment, which is 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.

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

1. Propositions, invitations, solicitations, and flirtations of a sexual nature.
2. 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.
3. 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.
4. Sexually suggestive objects or written materials such as e-mail or internet communications, pictures, photographs, cartoons, text messages, videos, DVDs, or other recorded media.
5. Inappropriate and unwelcome physical contact such as touching, patting, pinching, hugging, or other sexually suggestive contact.
6. Stereotyping or generalizing about a group based on gender.
7. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v). "Sexual Assault" is defined by 20 U.S.C. 1092(f)(6)(A)(v) as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.
8. "Dating violence" as defined in 34 U.S.C. 12291(a)(10). "Dating Violence" is defined by 34 U.S.C. 12291(a)(10) 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.
9. "Domestic violence" as defined in 34 U.S.C. 12291(a)(8). "Domestic Violence" is defined by 34 U.S.C. 12291(a)(8) as a felony or misdemeanor crime of 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.
10. "Stalking" as defined in 34 U.S.C. 12291(a)(30). The definitions of these terms as of the effective date of this policy are supplied below, but subject to change based on any revision to these laws. "Stalking" is defined by 34 U.S.C. 12291(a)(30) 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.
11. "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.

B. 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. 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.

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.

C. Incapable of Giving Consent: An individual may be incapable of giving consent due to incapacitation, substantial impairment, or other factors. 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:

1. Unconsciousness
2. Being frightened
3. Physically or psychologically pressured or forced
4. Feeling intimidated
5. Incapacitated because of a psychological or physiological health condition or disability
6. Incapacitated because of voluntary or involuntary intoxication or use of drugs or alcohol
7. Age
8. Intellectual disability
9. Deceptive or forced administering of any drug, intoxicant, or controlled substance.

D. 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.

E. Coercion: Coercion is unreasonable pressure for sexual activity.

F. 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.

Section 4. Relevant Considerations

A. Relationships Involving Authority or Power

When one party has any professional responsibility for another’s academic or job performance, or professional future, the Institute 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 Cleveland Institute of Art Student Handbook.) With regard to sexual or romantic relationships between a supervisor and employee, the Institute may require the individuals to be reassigned, if feasible, or may require one or both individuals to separate employment.

B. 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 Institute 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.

C. Academic Freedom

The Institute adheres to the principles and traditions of academic freedom. Academic freedom is a right of all students and 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 Coordinator (see below).

D. 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.

Section 5. Responsibilities of the Institute Community

A. Reporting Responsibility

Any member of the Institute community who is consulted about, observes, and/or witnesses behavior involving potential sexual harassment (see definition above) is strongly encouraged to report same to one of the Designated Reporting Officers (see list below). In addition, to the extent possible, the reporting member of the Institute community should advise the person experiencing the sexual misconduct of the Institute Sexual Misconduct Policy and encourage the person to promptly report the misconduct to a Designated Reporting Officer.

The Institute can only act if its Designated Reporting Officer receives actual knowledge of a complaint of a violation that is covered by this policy.

B. Cooperation.

All members of the Institute 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

C. 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.

D. Cross-Institutional Investigations

While the Institute's jurisdiction is limited to conduct by the Institute's faculty, staff, and students occurring within the Institute's education program or activity, the Title IX Officer and Title IX Coordinators 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, keeping in mind limits imposed by applicable law. The process of the respondent's home institution will be used in reporting, investigating, and conducting the hearing, but at all times the Institute will adhere to its obligations under Title IX.

Section 6. Complaint Procedure

A. Reporting Sexual Misconduct to the Institute

The Institute strongly encourages any student who has experienced sexual misconduct to immediately report this, seek assistance, and pursue Institute action. Reports of sexual misconduct may be made at any time to the following Designated Reporting Officers via phone, email, or in-person:

- Jesse Grant, Dean of Students and Title IX Coordinator for Students, jlgrant@cia.edu or 216-421-7427
- Lisa Schumann, Associate Director of Human Resources and Title IX Coordinator for Faculty and Staff, lschumann@cia.edu or 216-421-7405
- Charise Reid, Vice President of Human Resources and Inclusion and Title IX Officer, clreid@cia.edu or 216-421-7312

Additionally, reports may be mailed to the attention of a Designated Reporting Officer at: 11610 Euclid Avenue, Cleveland, Ohio 44106.

While anonymous reports of sexual harassment are accepted, anonymity may limit the Institute's ability to conduct an effective inquiry and take action concerning the report. Confidential resources are available to those who believe they have been subject to sexual harassment to help understand the resources available and the grievance process, as further described in this policy.

The Institute's students, faculty, or staff are all considered **NON-CONFIDENTIAL** reporters, and are strongly encouraged to notify one of the DROs above and provide as much information as possible.

B. Contacting a Confidential Support Resource (CSR)

A student that has experienced sexual misconduct may also contact a Confidential Support Resource (CSR). CSRs are those members of the community who are designated as professionals who can receive confidential communication and 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 DRO 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 DRO 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))

C. Reports to Police of Sexual Violence

Sexual violence may constitute a criminal act. 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. Depending upon the circumstances, the Institute may, in its discretion, report allegations of sexual violence to the police. Upon a complaint of sexual violence, 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 who have experienced sexual violence to file a police report. 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 DRO is required to report the violence to the appropriate social service agency and the police, who may then contact the parent or legal guardian.

D. Contact of Parent/Guardian

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.

Section 7. Confidentiality

The fact that a complaint has been filed will be made known to the Respondent(s) and his/her/their advisors. In addition, the Institute may disclose information gathered in connection with its investigation, as well as the adjudication of the complaint, to the parties and their advisors. Otherwise, the Institute will keep such information confidential except as required by law, or to carry out any investigation or hearing related to the report or complaint. To protect the integrity and credibility of the process, all parties and witnesses are expected to maintain the confidentiality of the process. 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.

Section 8. Procedure for Adjudicating Complaints

A. Initiating Supportive Measures

When a Designated Reporting Officer has actual knowledge of a report of sexual misconduct, the Title IX Coordinator shall promptly respond by contacting each complainant, informing the complainant of available supportive measures, describing the process for filing a formal complaint, and making supportive measures available to the complainant with or without the filing of a formal complaint. If supportive measures are not provided to a complainant, the Institute will document the reasons why.

Supportive measures will be designed to restore or preserve equal access to education and will be customized to each party's needs. These measures may include, but are not limited to, things like moving a Complainant or Respondent's seat in a class; alternate housing arrangements; modified work schedules; a no-contact order; course-related adjustments; revised class schedules; deadline extensions; counseling; leaves of absence; and increased campus escort services and other security services.

B. Removal of Respondent

The Institute may remove a Respondent from the Institute's education program or activity on an emergency basis if, after the Institute conducts an individualized safety and risk analysis, it determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal. In this circumstance, the Institute will provide Respondent with notice of the decision and an opportunity to challenge the decision immediately after removal. Nothing in this section prohibits the Institute from placing an employee on administrative leave.

C. Initiating the Grievance Process

If a Complainant wishes to make a formal complaint of sexual misconduct, or if the Title IX Coordinator wishes to make a formal complaint of sexual misconduct, the Institute will initiate the grievance process set forth in this Policy. The Title IX Coordinator will endeavor to follow the wishes of the Complainant, and may only initiate a formal complaint against the wishes of a Complainant if in the Title IX Coordinator's discretion they determine not initiating a formal complaint would be clearly unreasonable in light of the known circumstances. Where appropriate, the Title IX Coordinator may consolidate formal complaints.

Whenever a formal complaint is filed, the Title IX Coordinator shall promptly initiate the Grievance Procedure as set forth below.

The Institute is not obligated to initiate an investigation if it is plain from the face of the complaint that the Complaint does not present a question of violation of the policy even if the allegations are taken as true. In such circumstances, the Institute shall notify the parties of that finding in writing.

D. Investigation Process

1. Upon receipt of a formal complaint, the Institute will provide the parties with notice regarding the grievance process and the allegations of sexual harassment contained in the formal complaint ("Notice"). The Notice shall include sufficient details known at the time such as the parties involved in the incident if known, the conduct allegedly constituting sexual harassment, and the date and location of the incident if known ("Notice").
2. Upon receipt of a formal complaint, the Institute will assign an impartial investigator free of any conflict of interest to conduct an investigation. The investigator may be an employee of the Institute or an agent of the Institute, and will be properly trained in accordance with Title IX regulations.
3. The parties will be given sufficient time to review the Notice and to prepare a response before the initial investigatory interview with the investigator.
4. All parties may utilize an advisor to act as a resource during the grievance process. An advisor may, but need not be, an attorney. During the investigation, a party's advisor may be present at any time that party is being interviewed and may provide support to the party during the interview. However, during the investigation, the advisor may not speak on behalf of the party. A faculty respondent may utilize a member of the Faculty Personnel Committee as his/her advisor, but is not required to do so.
5. After being given sufficient time to review the Notice and prepare a response, the Investigator shall conduct an investigation that may include witness interviews and review of documents or other relevant evidence necessary to evaluate whether or not a policy violation occurred. Both parties will be provided an equal opportunity to produce inculpatory and exculpatory information and identify possible witnesses. No party will be restricted from discussing the allegations or presenting relevant evidence. The Institute, chiefly through its investigator, shall have the burden of gathering information sufficient to reach a determination regarding responsibility. Nothing in this policy obligates the investigator to interview all of the witnesses designated by a party if such interviews would be duplicative or irrelevant.
6. At the conclusion of the investigation, the investigator shall provide both parties and their advisors with a copy of all relevant evidence. Each party will be given at least 10 days to review the evidence, and submit a written response (if any) for the investigator's consideration.

7. The investigator shall then prepare a written Investigation Report fairly summarizing the relevant evidence, and provide a copy to both parties. The investigator shall submit this Investigation Report to the parties no less than ten days before any scheduled hearing. Each party may submit a written response to the Investigation Report. The purpose of the Investigative Report is to summarize factual findings, not conclusions as to whether a policy violation occurred. The investigator may also make findings that go to the credibility and cooperation of witnesses.

E. Hearing Process

1. The Institute shall appoint a Hearing Officer to preside over a live hearing, to be conducted promptly after the conclusion of the investigation. The Hearing Officer may be an employee of the Institution other than the Title IX Coordinator, or a third-party agent of the Institution. The Hearing Officer shall be free of any conflict of interest pertaining to the parties, and will be properly trained in accordance with Title IX regulations.
2. The Institute shall make arrangements for the hearing to be recorded or otherwise transcribed. The Institute shall make arrangements for the hearing to be conducted such that the parties need not be physically present in the same room, but situated in such a way using technology that the parties and decision makers can simultaneously see and hear any party or witness answering questions.
3. Each party must have an advisor during the hearing. The advisor may, but need not be, an attorney. If a party does not have an advisor, the Institute will assign the party an advisor without charge.
4. The hearing will not be open to the public, and attendance will be limited to the Hearing Officer, investigator, the parties and their advisors, and relevant witnesses
5. Relevant evidence shall be presented at hearing, including testimony from the investigator and all relevant witnesses. Each party, or their advisor, may ask the investigator and witnesses relevant questions. Whether or not evidence is relevant, or a question is relevant, lies within the sole discretion of the Hearing Officer. Questions and evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant unless offered: (1) to prove that someone other than the respondent committed the act; or (2) concern specific incidents of the complainant's prior sexual behavior with respondent for purposes of proving consent. The Hearing Officer will evaluate all questions, and make a relevance determination before the question is answered. If the Hearing Officer determines any evidence, or any question, is not relevant, they will state the basis for this finding before excluding the evidence or the question.
6. If a party or witness does not submit to cross-examination at the hearing by the advisor, the Hearing Officer will not rely on any statement of that party or witness in reaching a determination regarding responsibility, nor will the Hearing Officer draw an inference from that person's absence from the hearing.
7. At the conclusion of the hearing, the Hearing Officer will take the matter under advisement and promptly issue a written Determination Letter regarding responsibility, evaluating whether a preponderance of the evidence shows whether the respondent did or did not violate the Policy. The Determination Letter will: (1) identify the allegations potentially constituting sexual harassment; (2) describe the procedural steps taken since the formal complaint, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held; (3) findings of fact supporting the determination; (4) conclusions regarding the Policy; (5) a statement, including the rationale for, the result as to each individual allegation including a determination of responsibility; (6) any disciplinary sanctions imposed upon the respondent, and any remedy designed to restore or preserve equal access to the Institute's education program or activity; and (7) the procedure and permissible bases for either party to appeal the determination. The Determination Letter shall be provided to the parties simultaneously.
8. If a party is found responsible, a three person panel consisting of the Dean of Students (Title IX Coordinator, Students), Vice President of Human Resources (Title IX Officer) and Associate Director of Human Resources (Title IX Coordinator, faculty and staff) may consider the nature and severity of the violation, prior violations by the

respondent, and statements from the complainant regarding the impact of the conduct when considering possible sanctions. Sanctions include,

- a. Requirement of an apology
 - b. Written warning or letter of reprimand
 - c. No contact order between person who filed the accusation and the Respondent
 - d. Release of the Respondent from campus-controlled housing
 - e. Reassignment of one of the parties to a different residential location
 - f. Change of class schedule of one of the parties
 - g. Requirement to undergo additional training concerning sexual assault, sexual violence, and/or substance abuse
 - h. Requirement to participate in appointment(s) with a specialized counselor
 - i. Requirement for participation in community service related to prevention of sexual assault or violence
 - j. Placement on probation
 - k. Prohibition from participation in selected activities or organizations
 - l. Suspension from the Institute
 - m. Dismissal from the Institute
 - n. Any additional sanctions that may be deemed appropriate
9. Any sanction will be imposed immediately unless implementation is temporarily stayed by the Title IX Officer, pending the outcome of any appeal. If neither party appeals the decision within 14 days of the release of the findings (see below), the sanction will be implemented upon expiration of the appeal deadline. If no stay is requested and no appeal is made, the decision of the Hearing Officer will be final.

F. Dismissal of Formal Complaints

1. The Institute must dismiss a formal complaint if the conduct alleged: (1) would not constitute sexual harassment as defined by this Policy if proved; (2) did not occur in the Institute's education program or activity, or in the United States.
2. The Institute may dismiss a formal complaint if at any time during an investigation or hearing: (1) a Complainant notifies the Title IX Coordinator in writing of their desire to withdraw the formal complaint or allegations within; (2) the Respondent is no longer enrolled in or employed by the Institute; or (3) specific circumstances prevent the Institute from being able to gather sufficient information to reach a determination as to the formal complaint or allegations within it.
3. Dismissal of a formal complaint does not preclude action under any other Institute policy. For instance, with regard to a complaint against a faculty or staff member, depending upon the circumstances the Institute may choose to proceed with disciplinary action regardless of the dismissal of a complaint under this policy.

G. Appeal Procedure

1. While either party may appeal the Hearing Officer's determination, appeals are limited to the following situations: (1) a procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available at the time of the determination or dismissal was made, which could affect the outcome of the matter; or (3) the Title IX Coordinator, investigator, or Hearing Officer had a conflict of interest or bias for or against a parties generally, or the individual Complainant or Respondent, that affected the outcome of the matter.
2. A party may appeal by submitting written notice of its desire to appeal ("Notice of Appeal"), which must include a brief, plain statement describing the permissible basis for appeal, within 14 days of the issuance of the Determination Letter.
3. Upon receipt of a timely Notice of Appeal, the Institute shall assign an impartial Appeal Officer, free of any conflict of interest, to preside over the appeal. The investigator may be an employee of the Institute or an agent of the Institute, and will be properly trained in accordance with Title IX regulations.

4. Upon receipt of a timely Notice of Appeal, the Institute shall provide written notice of the appeal to all parties. Each party will be given 15 days to prepare and submit a written statement in support of, or challenging, the Determination Letter.
5. The Appeal Officer shall review all written statements, and in turn, issue a written statement regarding their decision with respect to the appeal, describing the rationale for their decision (“Appeal Determination”). The Appeal Determination will be provided to the parties simultaneously. The Appeal Determination is final.
6. During the appeal process, the Institute will make available reasonable and equitable supportive measures based upon the specific needs of the parties, if any.

H. Informal Resolution

1. Except where an employee is alleged to have engaged in sexual misconduct as to a student, the parties may mutually agree to informally resolve a formal complaint at any time before a Determination Letter is issued.
2. If a party wishes to explore informal resolution, the Institute shall issue a notice to all parties describing the informal resolution process, the allegations, the requirements of the informal resolution process, that any party may withdraw from the informal resolution process before it is completed, and how any records generated as part of the informal resolution process will be maintained.
3. To complete informal resolution, the parties must voluntarily consent to informal resolution.

I. Continuances

A request to continue or reschedule a hearing or other event under this policy will be granted if all parties consent to the request. If a party does not consent, the request will only be granted for good cause shown.

Section 9. False Claims

A complaint or report that the Institute’s sexual harassment policy has been violated is a serious matter. Dishonest complaints or reports, or knowing submission of false information, are also against our policy, and the Institute 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.

Section 10. Retaliation Prohibited

Retaliation is defined as any effort to intimidate, threaten, coerce, or discriminate against any individual: (1) for making a report or complaint under this Policy, or for testifying, assisting, participating, under this Policy; or (2) for the purpose of interfering with the Grievance Procedure. The terms “intimidate, threaten, coerce, or discriminate” include charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances contained in a report or complaint of sexual harassment. If anyone involved in the investigative process (complainant, respondent, witness) feels that they are experiencing retaliation, they should report that activity to a Designated Reporting Officer, and the allegation will be dealt using the Grievance Procedure in this Policy, and if an individual is found responsible they will be subject to sanctions.

Section 11. Retention of Records

All records of reports, complaints, supportive measures, investigations, hearings, outcomes, sanctions, and appeals will be retained for seven years. Records will be kept in a confidential and secure location and only made available to Designated Reporting Officers, other appropriate Institute officials, or other authorized individuals as required by law.

Section 12. Prevention and Education

The Institute 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.

Section 13. Interplay with Faculty/Staff Policies

The Institute may take employment disciplinary actions up to and including discharge of employment of a faculty or staff member that is the subject of a complaint under this policy. The Institute need not wait until the final adjudication under this policy to take such disciplinary action. If the faculty or staff member wishes to file a grievance in connection with such disciplinary action, they may do so after the conclusion of the investigation, grievance, and hearing process. The Institute may rely upon the information collected in the investigation of a complaint under this policy in connection with any disciplinary grievance. In any case, the Institute will not re-hear facts or issues already adjudicated under this policy in a subsequent disciplinary grievance.

Section. 14 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