

SEX- AND GENDER-BASED MISCONDUCT POLICY

I. PURPOSE OF POLICY

The University of the Arts (“the University”) is committed to creating and maintaining a workplace and educational environment, as well as other benefits, programs, and activities, free from acts of Sex- and Gender-Based Misconduct, including acts of sexual harassment, sexual assault, dating violence, domestic violence, stalking, and other forms of sex- and gender-based misconduct. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of safety and respect in all aspects of the educational program or activity, the University has developed internal policies and procedures that provide a prompt, thorough, and impartial process for those involved in allegations of sexual harassment and other forms of sex- and gender-based misconduct. The University values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process.

II. TITLE IX COORDINATOR

The University’s Title IX Coordinator oversees implementation of the University policies relating to equal opportunity, harassment, and nondiscrimination, including Sex- and Gender-Based Misconduct, as addressed by this Policy. The Title IX Coordinator is responsible for coordinating the University’s efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent Sex- and Gender-Based Misconduct prohibited under this Policy. To contact the University’s Title IX Coordinator, please e-mail titleix@uarts.edu (full contact information just below) or visit www.uarts.edu/titleix.

The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this Policy and these procedures. University employees involved in the University grievance process under this Policy are vetted and trained to ensure they are not biased¹ for or against any party in a specific case, or for or against Complainants¹ and/or Respondents², generally.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the University of the Arts President at president@uarts.edu. Concerns of bias or a potential conflict of interest by any other University of the Arts employee involved in the Title IX process should be raised with the Title IX Coordinator.

¹ A Complainant is an individual who is alleged to be the victim of conduct that could constitute a violation of this Policy.

² A Respondent is an individual who has been reported to be the perpetrator of conduct that could constitute a violation of this Policy.

Reports of misconduct or discrimination committed by the Title IX Coordinator should be reported to the University President at president@uarts.edu. Reports of misconduct or discrimination committed by any other employee involved in the Title IX process should be reported to the Title IX Coordinator.

III. ADMINISTRATIVE CONTACT INFORMATION

The University has determined that the following administrators are Officials with Authority to address and correct Sex- and Gender-Based Misconduct. Formal Complaints or notice of alleged Policy violations, or inquiries about or concerns regarding this Policy and procedures, may be made internally to:

Title IX Coordinator

Vacant
320 South Broad Street, Philadelphia, PA 19102
Hamilton Hall 302
215-717-6362
titleix@uarts.edu

Associate Vice President for Human Resources

Christine M. Schaefer, SPHR, SHRM-SCP
320 South Broad Street, Philadelphia, PA 19102
Hamilton Hall 260
215-717-6366
cschaefer@uarts.edu

Assistant Vice President for Student Services

Sara Pyle
401 South Broad Street, Philadelphia, PA 19102
Gershman Hall 309
215-717-6627
spyle@uarts.edu

President

David Yager
320 South Broad Street, Philadelphia, PA 19102
Hamilton Hall 110
215-717-6380
president@uarts.edu

IV. COMPLAINTS TO EXTERNAL AGENCIES

Inquiries may be made externally to:

**U.S. Department of Education’s Office for Civil Rights
Philadelphia Office**

100 Penn Square East, Suite 515, Philadelphia, PA 19107-3323
215-656-8541

OCR.Philadelphia@ed.gov

<https://www2.ed.gov/about/offices/list/ocr/complaintprocess.html>

**Pennsylvania Human Relations Commission
Philadelphia Regional Office**

110 North 8th Street, Suite 501, Philadelphia, PA 19107
215-560-2496

<https://www.phrc.pa.gov/Pages/default.aspx>

**Equal Employment Opportunity Commission
Philadelphia District Office**

801 Market Street, Suite 1000, Philadelphia PA 19107-3126
1-800-669-4000

PDOContact@eeoc.gov

<https://www.eeoc.gov/employees/howtofile.cfm>

V. MANDATED REPORTING

All University employees (faculty, staff, administrators) are expected to report actual or suspected discrimination or harassment to appropriate officials immediately, though there are some limited exceptions.

In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality and are not required to report actual or suspected discrimination or harassment. They may offer options and resources without any obligation to inform an outside agency or campus official unless a Complainant has requested the information be shared. If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator who will take action when an incident is reported to them.

VI. PRIVACY VS. CONFIDENTIALITY

References made to *confidentiality* refer to the ability of identified confidential resources to not report crimes and violations to law enforcement or college officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse. References

made to *privacy* mean University offices and employees who cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible for tracking patterns and spotting systemic issues.

VII. CAMPUS AND COMMUNITY RESOURCES

The University is committed to treating all individuals with dignity, care and respect. A Complainant, Respondent, or any other individual impacted by a report of behavior under this policy will have equal access to support, resources and counseling services through the University. We encourage community members to seek the support of campus and community resources. The University's Title IX Coordinator can provide information about this Policy and University procedure, connect individuals with resources and supportive measures, and assist any party in the event that an official report and/or resolution is pursued. Individuals are encouraged to use all available resources, regardless of whether the incident occurred recently or in the past.

a. LAW ENFORCEMENT:

In the event of an emergency, please call 911, then notify Public Safety on the emergency line: 215-717-6666.

You may also make a report directly to a University Public Safety Officer (PSO). Public Safety officers are stationed in University buildings. When a PSO receives a report of sexual misconduct, they will notify the Professional On-Duty (POD) staff member, who is trained to inform reporting parties of the options and resources available.

b. MEDICAL SERVICES:

Those who have experienced conduct prohibited by this Policy are strongly encouraged to seek medical treatment. A medical provider can provide emergency and/or follow-up medical services, and the opportunity to discuss any health care concerns in a confidential medical setting. A medical exam following a sexual assault has two goals: first, to diagnose and treat the full extent of any injury or physical effect (sexually transmitted infection or pregnancy) and second, to properly collect and preserve evidence. There is a limited window of time (typically 72 to 96 hours) following an incident of sexual assault to preserve physical and other forms of evidence.

On-Campus:

Student Health Services: Student Health Services can provide confidential medical services to University students, such as evaluation and treatment of minor injuries, pregnancy tests, and HIV and STI testing.

Gershman Hall 306
M-F 9am-5pm
215-717-6230
www.uarts.edu/students/health-services

Off-Campus:

The Philadelphia Sexual Assault Response Center (PSARC) is designated to provide forensic rape examinations to victims of sexual assault. It is recommended that individuals who wish to pursue legal action receive this examination, which includes a collection of evidence. You do not need to file a police report to receive services at PSARC. PSARC is located within the same building as the Philadelphia Police Department Sexual Victims Unit. During this examination, you can receive treatment for injuries and sexually transmitted infections (STIs) as well as emergency contraception. You are not responsible for payment of the medications or medical forensic examination. Transportation to PSARC can be provided by the Philadelphia Police Department.

300 E. Hunting Park Avenue, Philadelphia, PA 19124
215-800-1589

c. CONFIDENTIAL RESOURCES:

The following resources maintain confidentiality for notice received within their confidential roles. Generally, any information disclosed to the resources listed below will be held in confidence unless the individual sharing the information gives their consent to the disclosure of that information.

Confidential resources are not obligated to share information with the University's Title IX Coordinator and disclosure to a confidential resource does not constitute a report to the University.

On Campus:

Student Counseling Center: Services at the University Counseling Center are available to all University students, free of cost. Counseling provides a safe, confidential place to talk and discuss varying issues in a private and confidential setting. Therapists in the Counseling Center are trained to assist students impacted by sexual, physical, and emotional abuse, including those students who may have witnessed or have been accused of sexual misconduct.

Gershman Hall 205/206
M-F 11am-1pm (walk in hours)
215-717-6630
counseling@uarts.edu
www.uarts.edu/counseling

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Student Health Services: Better description here

Gershman Hall 306

M-F 9am-5pm

215-717-6230

healthservices@uarts.edu

www.uarts.edu/students/health-services

Employee Assistance Program (for employees only): All University employees are entitled to use the confidential Employee Assistance Program (EAP). Through EAP, employees can access counseling services via telephone and in-person. University employees can obtain more information about EAP [here](#).

Off-Campus:

Philadelphia Center Against Sexual Violence (formerly known as WOAR): The Philadelphia Center Against Sexual Violence provides free and confidential individual and group counseling to children and adults who have experienced sexual violence: this includes sexual abuse, sexual assault, rape/date rape, and incest.

1617 John F. Kennedy Blvd., Suite 800

215-985-3333

www.woar.org

Women Against Abuse: Women Against Abuse provides a number of services to victims of abuse, including 24-hour emergency safe havens, legal advocacy and representation, long-term housing and supportive services, and more.

100 South Broad Street, Suite 1341, Philadelphia, PA 19110

215-386-1280

www.womenagainstabuse.org

For more local and national resources, please visit the Title IX Resource Page at www.uarts.edu/titleix.

VIII. SUPPORTIVE MEASURES

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party, including

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measures designed to protect the safety of all parties or the University community, or deter further acts of harmful behavior.

The University will maintain the privacy of the supportive measures, provided that privacy does not impair the University's ability to provide the supportive measures. The University will act to ensure as minimal an academic impact on the parties as possible, and will implement measures in a way that does not unreasonably burden the other party. Supportive measures may include, but are not limited to:

- Referral to medical and mental health services, including counseling;
- Referral to the Employee Assistance Program;
- Academic accommodations;
- Public Safety escort services;
- No Contact Directives (mutual restrictions on contact between the parties);
- Leaves of absence;
- Changes in campus housing or assistance in finding alternative housing;
- Assistance in arranging for alternative University employment arrangements and/or changing work schedules;
- Student financial aid counseling;
- Safety planning;
- Persona Non Grata orders;
- Transportation accommodations;
- Visa/immigration services (phila.gov/departments/office-of-immigrant-affairs/); or
- Assistance in identifying additional resources including off-campus and community advocacy, support, and services.

The University may provide supportive measures regardless of whether a Complainant seeks to pursue the University's Formal Grievance process. Supportive measures may be requested by both Complainants and Respondents. The University determines which measures are most appropriate on a case-by-case basis.

IX. EMERGENCY REMOVAL

The University may determine that it is necessary to remove a Respondent from the University on an emergency basis, if the Respondent poses an immediate threat to the physical health or safety of any student or other individual in the University community, based on the specific allegations raised under this Policy. This risk analysis is performed by the Title IX Coordinator in conjunction with the appropriate University administrators, including but not limited to the Associate Vice President for Human Resources, the Assistant Vice President for Student Services, and/or the Director of Public Safety.

In all cases in which an emergency removal is imposed, the student or employee will be notified of the action and provided with an opportunity to challenge the decision following the removal, and be given the option to meet with the Title IX Coordinator and other appropriate University

administrators prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified. This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested in a timely manner, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it equitable to do so.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator and other appropriate University administrator for the meeting regarding any emergency removal. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this Policy will be grounds for discipline, which may include expulsion or termination.

The University will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

The University reserves the right to place a non-student employee respondent on administrative leave even if the emergency removal provision does not apply.

X. CONDUCT PROHIBITED BY POLICY

a. SEXUAL HARASSMENT

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved. Sexual Harassment, as an umbrella category, includes the actual or attempted offenses of quid pro quo sexual harassment, hostile environment sexual harassment, sexual assault, domestic violence, dating violence, and stalking.

Sexual Harassment is conduct on the basis of sex that satisfies one of the following:

- i. Quid Pro Quo Sexual Harassment:** An employee of the University conditions (implicitly or explicitly) the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct.
- ii. Hostile Environment Sexual Harassment:** Unwelcome conduct, determined by a reasonable person to be so severe, and pervasive, and objectively offensive that it

effectively denies a person equal access to the University's educational program or activity.

iii. Sexual Assault:

1. **Sex Offenses, Forcible:** Any sexual act directed against another person, without the consent of the complainant, including instances in which the complainant is incapable of giving consent.
2. **Forcible Rape:** Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the complainant
3. **Forcible Sodomy:** Oral or anal sexual intercourse with another person, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
4. **Sexual Assault with an Object:** The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
5. **Forcible Fondling:** The touching of the private body parts of another person (buttocks, groin, breasts), for the purpose of sexual gratification, forcibly, and/or against that person's will (non-consensually), or not forcibly against the person's will in instances in which the complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
6. **Incest:** Non-forcible sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by Pennsylvania law.
7. **Statutory Rape:** Non-forcible sexual intercourse, with a person who is under the statutory age of consent in Pennsylvania.

iv. Dating Violence: Violence on the basis of sex committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on the complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of the definition, dating violence includes, but is not

limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

v. Domestic Violence: Violence on the basis of sex 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, or by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant under domestic or family violence laws of Pennsylvania, 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 Pennsylvania.

vi. Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for their safety or the safety of others; or (b) suffer substantial emotional distress.

b. OTHER FORMS OF SEX- AND GENDER-BASED MISCONDUCT:

i. Discriminatory Harassment: Unwelcome conduct based on a person's actual or perceived sex, gender, gender-identity, or sexual orientation, and such conduct unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities by creating a hostile environment. A hostile environment is one that is severe **or** pervasive, **and** objectively offensive. The University does not tolerate discriminatory harassment of any employee, student, visitor, or guest, and the University will act to remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a "hostile environment" under this section.

ii. Sexual Exploitation: An act or acts of conduct in which a person exploits or takes advantage of another person in a sexual manner without consent. Examples of Sexual Exploitation include, but are not limited to, the following:

1. Recording (audio or video) or photographing sexual activity without the knowledge and consent of all parties involved
2. Electronic or printed transmission (posting online, texting, emails, etc.) of sounds or images of sexual activity without the knowledge or consent of all parties involved
3. Voyeurism (spying on others who are engaged in an intimate or sexual act)
4. Going beyond consent (having consensual sex but allowing other people to watch without the knowledge of the consenting party)
5. Prostituting another person
6. Public indecency (exposing yourself without consent)
7. Knowingly exposing an individual to a sexually transmittable infection or virus without his or her knowledge.

XI. SEXUAL HARASSMENT: RELATED DEFINITIONS

As used in the Sexual Harassment offenses listed above, the following definitions and understandings apply:

- a. **Coercion**: Coercion is verbal and/or physical conduct used to compel another individual to engage in sexual activity against their will. Coercion may include a wide range of behaviors, including manipulation, abuse of trust or power, intimidation, or express or implied threats of physical or emotional harm.
- b. **Consent**: Consent is an affirmative, voluntary, and clear communication indicating a willingness to engage in a mutually agreed upon sexual activity. Consent may not be inferred from silence, passivity, lack of resistance or lack of active response. Consent cannot be obtained through the use of coercion or force or by taking advantage of the incapacitation of another person. Consent to engage in sexual activity may be withdrawn by any party at any time. Withdrawal of consent must also be outwardly demonstrated by words and/or actions that indicate a desire to end sexual activity. Withdrawal of consent may in some cases be demonstrated through nonverbal conduct alone. Once withdrawal of consent has been clearly expressed, sexual activity must reasonably cease. A previous sexual relationship and/or current relationship with a partner, do not, by themselves, imply consent.
- c. **Force**: Force is the use or threat of physical violence or intimidation to overcome an individual's free will to choose whether or not to consent to engage in sexual activity.
- d. **Incapacitation**: Incapacitation is a state in which an individual is unable to make an informed and rational decision to engage in sexual activity because the person lacks conscious awareness of the nature of the act or is physically helpless. Engaging in sexual activity with an individual who one knows, or based on the circumstances should reasonably know, to be mentally or physically incapacitated constitutes a violation of this policy. Incapacitation may result from the use of alcohol or drugs, whether voluntary or involuntary, if an individual's level of impairment is such that they are unable to make conscious decisions or are physically helpless. Alcohol and drugs impair a person's decision-making capacity, awareness of consequences, and ability to make informed judgments. It is especially important that anyone engaging in sexual activity be aware of the other person's level of intoxication. Consumption of drugs or alcohol may diminish one's ability to give consent to engage in sexual activity, but being intoxicated or impaired due to consumption of drugs or alcohol is never an excuse for sexual misconduct, and does not diminish one's responsibility to obtain consent.
- e. **Substantial Emotional Distress**: Substantial emotional distress is defined as significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

XII. RETALIATION

Protected activity under this Policy includes reporting an incident that may implicate this Policy, participating in the Informal Resolution Process or Formal Grievance Process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy. Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. The University is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation. It is prohibited for the University or any member of the University community to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy and procedure. 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 as a report or complaint of sex discrimination, or a report or complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation. The exercise of rights protected under the First Amendment does not constitute retaliation. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this Policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

XIII. AMNESTY

The University encourages reporting and seeks to remove any barriers to reporting by making the procedures for reporting transparent and straightforward. The University recognizes that an individual who has been drinking or using drugs at the time of the incident may be hesitant to make a report or provide information in connection with an investigation under this Policy because of the perceived potential for disciplinary consequences for their own conduct. When information is uncovered through the Title IX investigative process that involves alcohol or drug usage in violation of the Student Code of Conduct, this information **will not be used** to pursue any disciplinary action for alcohol or drug use, provided that any such violations did not and/or do not place the health or safety of any other person at risk. The University may, however, initiate an educational discussion or pursue other educational remedies regarding alcohol or other drugs.

Student health and safety are of primary concern of the University. As such, in cases of significant intoxication as a result of alcohol or other substance abuse, we encourage individuals to seek medical assistance for themselves or others. Please see the Medical Amnesty Policy in the Student Handbook for more information.

XIV. REPORTS INVOLVING MINORS

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For purposes of this Policy and relevant law, a child is defined as an individual under the age of 18. Any University employee who has reasonable cause to suspect abuse of a child that the employee has come into contact with during the course of employment must make a report to the Title IX Coordinator, who will facilitate a report to local law enforcement and the Pennsylvania Department of Public Welfare division of Child Welfare Services. This requirement applies to an employee's suspicion of past or present abuse of a person who is a child at the time of the report. All other members of the University community (students, visitors, guests, etc.) are strongly encouraged to report whenever child abuse is suspected.

In the interest of protecting the safety and welfare of a child, any uncertainty about whether reporting is required or whether abuse has actually occurred should always be resolved in favor of making a report. Do not investigate, attempt to obtain proof, or try to solicit information from the child. This responsibility lies with the Pennsylvania Department of Human Services. If the child is in immediate danger, please call 911 immediately.

Employees may submit a report of suspected child abuse directly to the Pennsylvania Department of Human Services by submitting an online report (preferred method) to the Pennsylvania Department of Human Services at www.compass.state.pa.us/cwis or calling Pennsylvania's Child Line at 800-932-0313 (alternative method). Please Note: If you call Childline, you must also submit a written report within 48 hours. Once an employee submits a report to the Pennsylvania Department of Human Services, they must then notify the University's Title IX Coordinator by calling (215) 717-6362 or emailing titleix@uarts.edu.

XV. FILING A FORMAL COMPLAINT WITH THE UNIVERSITY

Notice or complaints of Sex- and Gender-Based Misconduct may be made using any of the following options:

- File a complaint with, or give verbal notice to, the Title IX Coordinator, Associate Vice President for Human Resources, Assistant Vice President for Student Services, or University President. Such a report may be made at any time by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator or any other official listed.
- Report online, using third party provider EthicsPoint, at www.uarts.ethicspoint.com. A report may be made anonymously through EthicsPoint, however please know that the University may be limited in its ability to respond to a report of prohibited discrimination, harassment, or retaliation without identifying information of all parties involved, and will be excluded from providing the Complainant with supportive measures and options without that individual's name and contact information.

A Formal Complaint means a document filed/signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that the University of the Arts investigate the allegation(s). A Complaint may be filed with the Title IX Coordinator in

person, by mail, or by electronic mail, by using the contact information in the section immediately above, or as described in this section. As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the University) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. At the time of filing a Formal Complaint, the Complainant must be participating in or attempting to participate in the education program or activity of the University.

If a Complainant does not wish to make a Formal Complaint, the Title IX Coordinator may determine a Formal Complaint is necessary. The University of the Arts will inform the Complainant of this decision in writing, and the Complainant need not participate in the process further but will receive all notices issued under this Policy.

Nothing in this Policy prevents a Complainant from seeking the assistance of state or local law enforcement alongside the appropriate on-campus process, and the University will assist the Complainant in contacting law enforcement, if requested.

Upon receipt of a Formal Complaint, the University of the Arts will provide the Complainant with information about the option to use the Informal Resolution Process or the Formal Grievance Process, as outlined below.

The timeframe for the completion of the Formal Grievance Process begins with the filing of a Formal Complaint. The Formal Grievance Process will be concluded within a reasonably prompt manner, and no longer than ninety (90) business days after the filing of the Formal Complaint, provided that the Formal Grievance Process may be extended for a legitimate reason, including but not limited to the absence of a party, a party’s advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

XVI. INFORMAL RESOLUTION PROCESS

Informal Resolution can include three different approaches:

- When the parties agree to resolve the matter through an alternative resolution mechanism including but not limited to mediation or restorative practices;
- When the Respondent accepts responsibility for violating this Policy, and desires to accept a sanction and end the resolution process; or
- When the Title IX Coordinator can resolve the matter informally by providing supportive measures to remedy the situation.

To initiate Informal Resolution, a Complainant needs to submit a Formal Complaint, as defined above. If a Respondent wishes to initiate Informal Resolution, they should contact the Title IX Coordinator to so indicate.

It is not necessary to pursue Informal Resolution first in order to pursue the Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process.

Prior to implementing Informal Resolution, the University will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the University.

The University will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

The Respondent may accept responsibility for all or part of the alleged Policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used according to the criteria in that section above.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and the University are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of University Policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

XVII. FORMAL GRIEVANCE PROCESS

a. JURISDICTION

i. Jurisdiction Under the May 2020 Title IX Final Rule

On May 19, 2020, the U.S. Department of Education issued a Final Rule under Title IX of the Education Amendments of 1972 that mandates a grievance process that this University must follow to comply with the law in these specific covered cases before issuing a disciplinary sanction against a person accused of sexual harassment. *See*, 85 Fed. Reg. 30026 (May 19,

2020). The full text of the Final Rule and its extensive Preamble are available here: <http://bit.ly/TitleIXReg>.

The Formal Grievance Process will apply for purposes of Title IX when all of the following elements are met, in accordance with the May 2020 Final Rule, and in the reasonable determination of the Title IX Coordinator:

- (1) The conduct is alleged to have occurred in the United States; and
- (2) The conduct is alleged to have occurred in the education program or activity of the University of the Arts, where the University has control over both the program and the alleged harasser; and
- (3) The alleged conduct, if true, would constitute covered Sexual Harassment as defined in section IXa or Other Forms of Sex- and Gender-Based Misconduct as defined in section IXb of this policy; and
- (4) The Complainant was participating in or attempting to participate in the University's educational program at the time of the complaint.

If any one of these elements is not met, the Title IX Coordinator will notify the parties that the Formal Complaint is "dismissed for the purposes of Title IX." Each party may appeal this dismissal using the procedure outlined in "Appeals," below.

Upon dismissal for the purposes of Title IX, the Formal Complaint may be reinstated under the Formal Grievance Process pursuant to the section below.

ii. Reinstatement of the Formal Grievance Process

At the discretion of the Title IX Coordinator, as determined on a case by case basis, the Formal Grievance Process may be reinstated when the following elements are met, irrespective of the location of the alleged conduct:

- (1) The conduct is alleged to have occurred between individuals who are current members of the University community;
- (2) The alleged conduct has had or can be reasonably predicted to have a continuing negative effect on the University and its students, faculty, visiting faculty, affiliates, staff, contractors, vendors, visitors or guests; and
- (3) The alleged conduct, if true, would constitute covered Sexual Harassment as defined in section IXa or Other Forms of Sex- and Gender-Based Misconduct as defined in section IXb of this policy.

If any one of these elements is not met, the Title IX Coordinator will notify the parties that the Formal Complaint is dismissed under the Formal Grievance Process. Each party may appeal this dismissal using the procedure outlined in "Appeals," below.

Additionally, the University of the Arts retains discretion to utilize the Student Code of Conduct, Staff Manual, and/or Faculty Handbook to determine if a violation of such policies have occurred. If so, the University of the Arts will refer the allegations to the appropriate resolution process.

b. DISCRETIONARY DISMISSAL GROUNDS

The Title IX Coordinator, in consultation with appropriate University administrators, may dismiss the Formal Complaint under the Formal Grievance Process, at any time during the investigation or hearing, if:

- (1) A Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint or any allegations raised in the Formal Complaint; or
- (2) The Respondent is no longer enrolled or employed by the University of the Arts; or,
- (3) If specific circumstances prevent the University from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations within the Formal Complaint.

The Title IX Coordinator will notify the parties that the Formal Complaint is dismissed under the Formal Grievance Process if determined appropriate under the discretionary dismissal grounds. Each party may appeal this dismissal using the procedure outlined in “Appeals,” below.

Additionally, the University of the Arts retains discretion to utilize the Student Code of Conduct, Staff Manual, and/or Faculty Handbook to determine if a violation of such policies have occurred. If so, the University of the Arts will refer the allegations to the appropriate resolution process.

c. NOTICE

i. Notice of Allegations

The Title IX Coordinator will draft and provide the Notice of Allegations, containing a notice of the date, time, and location of initial interview, to any party to the allegations under this Policy after the institution receives a Formal Complaint of the allegations. The University will provide sufficient time for the parties to review the Notice of Allegations and prepare a response before any initial interview.

The Title IX Coordinator, in consultation with appropriate University officials, may determine that the Formal Complaint must be dismissed on the grounds identified above, and will issue a Notice of Dismissal. If such a determination is made, any party to the allegations of sexual harassment identified in the Formal Complaint will receive the Notice of Dismissal in conjunction with, or in separate correspondence after, the Notice of Allegations.

ii. Ongoing Notice

If, in the course of an investigation, the institution decides to investigate allegations about the Complainant or Respondent that are not included in the Notice of Allegations and are otherwise prohibited under this Policy, the University will notify the parties whose identities are known of the additional allegations by their institutional email accounts or other reasonable means.

The parties will be provided sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional charges.

d. RIGHT TO AN ADVISOR

i. Who May Serve as an Advisor

The parties may each have an Advisor of their choice present with them for all meetings and interviews within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of the University community. An Advisor who is chosen from outside of the University community is requested to meet with the Title IX Coordinator to review the Advisor role.

The Title IX Coordinator will also offer to assign a trained Advisor for any party if the party so chooses. Any Advisor provided for a party by the University will be trained by the University and be familiar with the University policy and procedures.

The University may permit parties to have more than one Advisor upon special request to the Title IX Coordinator. The decision to grant this request is at the sole discretion of the Title IX Coordinator and will be granted equitably to all parties.

ii. Role of the Advisor

All Advisors are subject to the same University policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or the Hearing Body except during a hearing proceeding, during cross-examination.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by University. The University may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the University's privacy expectations.

Any Advisor who oversteps their role as defined by this Policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

e. INVESTIGATION

i. General Rules of Investigations

The Title IX Coordinator will designate a qualified investigator to perform an investigation of the allegations under a reasonably prompt timeframe after issuing the Notice of Allegations.

The University, and not the parties, has the burden of proof and the burden of gathering evidence, i.e. the responsibility of showing a violation of this Policy has occurred. This burden does not rest with either party, and either party may decide not to share their account of what occurred or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from the University and does not indicate responsibility.

The University cannot access, consider, or disclose medical records without a waiver from the party (or parent, if applicable) to whom the records belong or about whom the records include information. The University will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence, (i.e. evidence that tends to prove and disprove the allegations) as described below.

ii. Inspection and Review of Evidence

Prior to the completion of the investigation, the parties will have an equal opportunity to inspect and review the evidence obtained through the investigation. The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation.

Evidence that will be available for inspection and review by the parties will be any evidence that is directly related to the allegations raised in the Formal Complaint. It will include any:

(1) Evidence that is relevant, even if that evidence does not end up being relied upon by the institution in making a determination regarding responsibility; and

(2) Inculpatory or exculpatory evidence (i.e. evidence that tends to prove or disprove the allegations) that is directly related to the allegations, whether obtained from a party or other source.

All parties must submit any evidence they would like the investigator to consider prior to when the parties' time to inspect and review evidence begins.

The University will send the evidence made available for each party and each party's Advisor, if any, to inspect and review.

The parties will have ten (10) calendar days to inspect and review the evidence and submit a written response by email to the investigator. The investigator will consider the parties' written responses before revising the Investigative Report.

The University will provide the parties five (5) calendar days after the initial inspection and review of evidence, and before the investigator completes their Investigative Report, to provide additional evidence in response to their inspection and review of the evidence, and then provide the parties five (5) calendar days to inspect, review, and respond to the party's additional evidence through a written response to the investigator. Those written responses will be disclosed to the parties.

Any evidence subject to inspection and review will be available at any hearing, including for purposes of questioning.

The Advisors must agree not to disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the Title IX grievance process.

The Advisors must agree not to photograph or otherwise copy the evidence.

iii. Investigative Report

The investigator will prepare an Investigative Report that fairly summarizes relevant evidence.

Only relevant evidence (including both inculpatory and exculpatory – i.e. tending to prove and disprove the allegations) will be included in the Investigative Report.

The investigator may redact irrelevant information from the Investigative Report when that information is contained in documents or evidence that is/are otherwise relevant.

f. HEARING

i. General Rules of Hearings

The University will not issue a disciplinary sanction arising from the Formal Grievance Process under this Policy without holding a live hearing, unless otherwise resolved through an Informal Resolution process.

The live hearing may be conducted with all parties physically present in the same geographic location, or, at the University's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually. The University will use technology that will enable participants simultaneously to see and hear each other. At its discretion, the University may delay or adjourn a hearing based on technological errors not within a party's control.

All proceedings will be recorded through audio recording. That recording will be made available to the parties for inspection and review.

ii. Continuances or Granting Extensions

The University may determine that multiple sessions or a continuance (i.e. a pause on the continuation of the hearing until a later date or time) may be needed to complete a hearing. If so, the University will notify all participants and endeavor to accommodate all participants' schedules and complete the hearing as promptly as practicable.

iii. Participants in the Live Hearing

All participants in the live hearing are subject to the Rules of Decorum. Live hearings are not public, and the only individuals permitted to participate in the hearing are as follows:

1. Complainant and Respondent (The Parties)

The parties cannot waive the live hearing, though they are not required to attend. The University may still proceed with the live hearing in the absence of a party and may reach a determination of responsibility in their absence, through admissible and available evidence. Evidence of statements by parties or witnesses cannot be considered if those parties or witnesses do not testify at the hearing. However, a verbal or written statement constituting part or all of the allegation itself is not a statement that must be excluded if the maker of the statement does not submit to questioning about that statement. A statement would not include a document, audio recording, audiovisual reading, and/or digital media, including but not limited to text messages, emails, and social media postings, that constitute the conduct alleged to have been the act of sexual harassment under the formal complaint.

The University will not threaten, coerce, intimidate, or discriminate against the party in an attempt to secure the party's participation.

If a party or witness does not submit to questioning at the hearing, the Hearing Body cannot rely on any prior statements made by that party or witness in reaching a determination regarding

responsibility, but may reach a determination regarding responsibility based on evidence that does not constitute a “statement” by that party or witness.

The Hearing Body cannot draw an inference about the determination regarding responsibility based solely on a party’s absence from the live hearing or refusal to answer questions.

2. The Hearing Body

The Hearing Body will consist of either a single decision-maker (external to the University); or a hearing panel of three (3) voting panel members, including a Chair.

No member of the Hearing Body will also have served as the Title IX Coordinator, Title IX Investigator, or Advisor to any party in the case, nor may any member of the Hearing Body serve on the Appeals Body in the case.

The Hearing Body will be trained on topics including how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias, issues of relevance and questions, including how to apply the prior sexual history/predisposition protections provided for complainants, any technology to be used at the hearing, the definition of sexual harassment, the scope of the institution’s education program or activity, and how to conduct a grievance process.

No member of the Hearing Body will have a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case. The parties will have an opportunity to raise any objections regarding the Hearing Body’s actual or perceived conflicts of interest or bias at the commencement of the live hearing.

3. Advisor

Questioning is required during the hearing, but must be conducted by the parties’ Advisors. The parties are not permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, the University will appoint a trained Advisor for the limited purpose of conducting any questioning.

A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party’s Advisor will not conduct questioning, the University will appoint an Advisor who will do so thoroughly, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses will also be conducted by the Hearing Body during the hearing.

4. Witnesses

Witnesses cannot be compelled to participate in the live hearing, and have the right not to participate in the hearing free from retaliation.

If a witness does not submit to questioning, as described below, the Hearing Body cannot rely on any statements made by that witness in reaching a determination regarding responsibility, including any statement relayed by the absent witness to a witness or party who testifies at the live hearing.

iv. Hearing Procedures

For purposes of this section, the “Hearing Chair” refers to either a single decision maker or a member of a panel chosen for that role.

For all live hearings conducted under the Formal Grievance Process, the procedure will be as follows:

- The Hearing Chair (either a single external decision maker or the Chair, as described above) will open and establish rules and expectations for the hearing;
- The parties will each be given the opportunity to provide opening statements;
- The Hearing Body will ask questions of the parties and witnesses;
- Parties will be given the opportunity for questioning after the Hearing Body conducts its initial round of questioning. During the Parties’ questioning, the Hearing Chair will have the authority to pause questioning at any time for the purposes of asking the Hearing Body’s own follow up questions; and any time necessary in order to enforce the established rules of decorum.

v. Questioning Procedure

Each party’s Advisor will conduct questioning of the other party or parties and witnesses. During questioning the Advisor will ask the other party or parties and witnesses relevant questions and follow-up questions, including those challenging credibility directly, orally, and in real time.

Before any question is answered, the Hearing Chair will determine if the question is relevant. Questions that are duplicative of those already asked, including by the Hearing Chair, may be deemed irrelevant if they have been asked and answered. Abusive questions may be deemed irrelevant as well.

vi. Review of Recording

The recording of the hearing will be available for review by the parties during the timeframe of the appeal, unless there are any extenuating circumstances. The recording of the hearing will not be provided to parties or advisors.

g. DETERMINATION OF RESPONSIBILITY

i. Standard of Proof

The University uses the preponderance of the evidence standard for investigations and determinations regarding responsibility of Formal Complaints covered under this Policy. This means that the investigation and hearing determines whether it is more likely than not that a violation of the Policy occurred.

ii. General Considerations for Evaluating Testimony and Evidence

While the opportunity for questioning is required in all hearings under the Formal Grievance Process, determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the Hearing Body.

The Hearing Body shall not draw inferences regarding a party or witness' credibility based on the party or witness' status as a Complainant, Respondent, or witness, nor will it base its judgments in stereotypes about how a party or witness would or should act under the circumstances.

Generally, credibility judgments should rest on the truthfulness of the party or witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence.

Credibility judgments should not rest on whether a party or witness' testimony is non-linear or incomplete, or if the party or witness is displaying stress or anxiety.

Both inculpatory and exculpatory (i.e. tending to prove and disprove the allegations) evidence will be weighed in equal fashion.

Parties may call "expert witnesses." The University does not provide for expert witnesses in other proceedings. The expert witness will be allowed to testify and be questioned, and their testimony evaluated accordingly.

Parties may call character witnesses to testify, though their testimony must be relevant to the complaint.

The University will admit and allow relevant testimony regarding polygraph tests ("lie detector tests") and other procedures that are outside of standard use in academic and non-academic conduct processes.

Where a party or witness' conduct or statements demonstrate that the party or witness is engaging in retaliatory conduct, including but not limited to witness tampering and intimidation, the Hearing Body may draw an adverse inference as to that party or witness' credibility.

iii. Components of Determination Regarding Responsibility

The written Determination Regarding Responsibility will be issued simultaneously to all parties through their institution email account, or other reasonable means as necessary. The Determination will include:

- Identification of the allegations potentially constituting prohibited conduct under this Policy;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding which section of the Policy if any, the Respondent has or has not violated.
- For each allegation:
 - A statement of, and rationale for, a determination regarding responsibility;
 - A statement of, and rationale for, any disciplinary sanctions the University of the Arts imposes on the respondent; and
 - A statement of, and rationale for, whether remedies designed to restore or preserve equal access to the University of the Arts's education program or activity will be provided by the University of the Arts to the Complainant; and
- When the determination is considered by the institution to be final, and any changes to the determination that could occur prior to finalization.
- The University's procedures and the permitted reasons for the Complainant and Respondent to appeal (described below in "Appeal").

iv. Timeline of Determination Regarding Responsibility

If there are no extenuating circumstances, the determination regarding responsibility will be issued by the University within ten (10) calendar days of the completion of the hearing.

h. SANCTIONS

Factors considered when determining a sanction may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Hearing Body

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

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

i. Student Sanctions:

Sanctions may include, but are not limited to, the following:

- **Warning:** A written notification that a violation of the Student Code of Conduct occurred and that any further responsible finding of misconduct may result in more severe disciplinary action. Warnings are typically recorded for internal purposes only and are not considered part of a student's permanent student conduct record. Though disclosed with a student's signed consent, a student who receives a warning is still considered in good standing*.
- **Probation:** A written notification that indicates a serious and active response to a violation of the Student Code of Conduct. Probation is for a designated period of time and includes the probability of more severe sanctions, if found responsible for additional violations of the Student Code of Conduct, including suspension or expulsion³ from the University. Notification of probation is considered a change in good standing³ status.
- **Loss of privileges:** Denial of the use of certain University facilities or the right to participate in certain activities, events, programs, or to exercise certain privileges for a designated period of time.
- **Restitution:** A student may be required to make payment to an individual or to the University related to the misconduct for damage, destruction, defacement, theft, or unauthorized use of property.
- **Fines:** The University of the Arts reserves the right to impose fines, as appropriate, in addition to requiring payment for costs resulting from or associated with the offenses.
- **Relocation or removal from (University-operated) housing:** Relocation is the reassignment of a student from one living space to another. Removal from housing is the removal of a student from all University-operated housing. Relocation and removal from housing are typically accompanied by the loss of privileges regarding the visitation to specific residential areas for a specified period of time. The University may take such action for remedial, rather than disciplinary purposes.
- **Revocation of Affiliation:** Revocation of affiliation is the permanent removal of a student as a member of a specific organization and/or the permanent removal of an organization's recognized affiliation with the University.

³ A student is not in good standing when the student has been found responsible for a student conduct policy violation and as a result is serving a sanction of probation, suspension, or expulsion. Students employed as a Resident Assistant or First Year Guide must be in and remain in good standing throughout their employment.

- **No Contact Directives:** No Contact Directives are directives to students that restrict the contact and/or communication between or among designated parties. No Contact Directives may be the result of a student conduct process or put in place temporarily. No Contact Directives are not legal protective orders as those are issued by a court of law.
- **Persona Non Grata:** Persona Non Grata prohibits an individual from a specific or all campus property. Violation of a persona non grata may subject the violator to arrest for trespass.
- **Educational/Assessment/Referrals:** The University reserves the right to impose counseling or substance assessments or other required educational sanctions.
- **Suspension:** The separation of a student from the University for a specified period of time, after which the student is eligible to return. Conditions for re-enrollment may be required and will be included in the notification of suspension. During the period of suspension, the student may not participate in University academic or extracurricular activities and may be barred from all property owned or operated by the University. Suspension from the University will result in automatic “W” grades in all classes for the semester in which suspension was sanctioned. Students who are suspended may not be on campus without specific, written permission of the Assistant Vice President for Student Services or designee. Suspension is for a designated period of time and includes the probability of more severe sanctions, including expulsion, if found responsible for violations of the Student Code of Conduct. Notification of suspension will normally be sent to parents, as it results in a change in good standing status.
- **Expulsion:** Expulsion is the permanent separation of the student from the University. Expulsion from the University will result in automatic “W” grades in all classes for the semester in which expulsion was sanctioned. Students who are expelled may not be on campus without specific, written permission of the Assistant Vice President for Student Services or designee. Notification of expulsion will normally be sent to parents/guardians, as it results in a change in good standing status.

The following sanctions, among others, may be imposed upon student groups or organizations:

- **Deactivation:** Loss of privileges, including University recognition, for a specified period of time.

More than one of the above sanctions listed may be imposed for any single violation. Other than University expulsion, disciplinary sanctions shall not be made part of the student’s academic transcript but will become part of the student’s permanent record. A student’s permanent record is subject to review only by those authorized to request it, such as transfer higher-education institutions and future employers and in other cases when the student initiates the disclosure.

ii. Employee Sanctions

Sanctions may include, but are not limited to, the following:

- **Verbal Warning:** An in-person meeting with the Title IX Coordinator, the Respondent's supervisor or other appropriate administrator, to discuss behavioral expectations and standards for University community members.
- **Written Warning:** Notice, in writing, that continuation or repetition of prohibited conduct may be cause for additional disciplinary action.
- **Educational Requirements:** Completion of training, projects, programs, or requirements designed to help the employee manage behavior and understand why it was inappropriate. Includes appropriate and relevant community service opportunities.
- **Suspension:** Exclusion from University premises, attending classes, and other privileges or activities for a specified period of time, as set forth in the suspension notice. Notice of this action will remain in the employee's file. Conditions for return to work may be specified in the suspension notice.
- **Termination:** Permanent termination of employment status and exclusion from University premises, privileges, and activities. This action will be permanently recorded in the employee's file.
- **Other discipline** may be imposed instead of, or in addition to, those specified above. More than one of the disciplinary outcomes listed above may be imposed for any single violation.

i. APPEALS

Each party may appeal the dismissal of a Formal Complaint or any included allegations and/or a determination regarding responsibility. To appeal, a party must submit their written appeal within five (5) calendar days of being notified of the decision, indicating the grounds for the appeal.

The limited grounds for appeal available are as follows:

- Procedural irregularity that affected the outcome of the matter (i.e. a failure to follow the institution's own procedures);
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter.

The submission of appeal stays any sanctions for the pendency of an appeal. Supportive measures and remote learning opportunities remain available during the pendency of the appeal.

If a party appeals, the University will as soon as practicable notify the other party in writing of the appeal, however the time for appeal will be offered equitably to all parties and will not be extended for any party solely because the other party filed an appeal.

Appeals for matters involving student Respondents will be decided by the Vice President for Enrollment Management and Student Affairs; appeals for matters involving staff Respondents will be decided by the Vice President for Finance and Administration, and appeals for matters involving faculty Respondents will be decided by the Vice President for Academic Affairs. Appeal Officers are free of conflict of interest and bias, and will not serve as investigator, Title IX Coordinator, or on the Hearing Body in the same matter.

Outcome of appeal will be provided in writing simultaneously to both parties, and include rationale for the decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the University is permitted to share under state or federal law.

XVIII. OBLIGATION TO PROVIDE TRUTHFUL INFORMATION

All University community members are expected to provide truthful information in any report or proceeding under this Policy. Knowingly submitting or providing false or misleading information in connection with an alleged Policy violation is prohibited and subject to disciplinary sanctions. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not ultimately substantiated. Nor should a finding of policy violation, alone, be used to support a complaint that that Respondent lied in the resolution process.

XIX. STATEMENT OF ACADEMIC FREEDOM

The free expression and study of ideas are essential to the pursuit of a higher education. At times, it will be necessary to consider ideas that some community members may find unpleasant or offensive, for the simple reason that offensive ideas are part of our history and culture. All University community members must be empowered to discuss any topic or idea that is germane to the subject at hand, while at the same time acting as good citizens and participants in a shared endeavor with people of all political and social worldviews and with varied backgrounds. This calls for honest discussion, the asking of questions to clear up misconceptions, and a search for the universal growing from careful examination of the specific contexts of studied works. It calls for treating other community members as human beings with individual sets of experiences and opinions, treating them with dignity, but also extending to them the respect not only of their experiences and opinions, but also of their intellectual curiosity and resilience.

Additionally, this Policy adopts the Statement of Academic Freedom found in the University's Faculty Handbook. Speech that meets the policy definition of sexual harassment, above, is not protected by academic freedom or free speech rights.

XX. Recordkeeping

University of the Arts will maintain for a period of [at least] seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to the University of the Arts's education program or activity;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. University of the Arts will make these training materials publicly available on University of the Arts' website. (Note: If the University of the Arts does not maintain a website, the University of the Arts must make these materials available upon request for inspection by members of the public.); and
7. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
8. The basis for all conclusions that the response was not deliberately indifferent;
9. Any measures designed to restore or preserve equal access to the University of the Arts' education program or activity; and
10. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

University of the Arts will also maintain any and all records in accordance with state and federal laws.

XXI. Disabilities Accommodations in the Resolution Process

University of the Arts is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the University of the Arts' resolution process.

Anyone needing such accommodations or support should contact the Director of Educational Accessibility or AVP for Human Resources, who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

XXII. Revision of this Policy and Procedures

This Policy and procedures supersede any previous policy(ies) addressing harassment, sexual misconduct, discrimination, and/or retaliation under Title IX and will be reviewed and updated annually by the Title IX Coordinator. The University of the Arts reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government laws or regulations or court holdings.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.
This Policy and procedures are effective August 14, 2020.