



THE WORLD'S PREMIER  
CULINARY COLLEGE

# Harassment, Sexual Misconduct and Discrimination Policy

## POLICY INFORMATION

Policy#:

Original Issue Date: 9/18/2013

Current Revision Date: 9/23/16

Initial Adoption Date:

## RESPONSIBLE OFFICE

Title	Department
Title IX and Age Discrimination Act Coordinator	Faculty Relations
Associate Vice President & Dean, Student Affairs	Student Affairs
Director, Campus Safety	Campus Safety

## SCOPE

Constituency	Campus Locations
(Select all that apply) <input checked="" type="checkbox"/> Staff <input checked="" type="checkbox"/> Faculty <input checked="" type="checkbox"/> Students <input checked="" type="checkbox"/> Contractors <input checked="" type="checkbox"/> Visitors	(Select all that apply) <input checked="" type="checkbox"/> Hyde Park <input checked="" type="checkbox"/> Greystone <input checked="" type="checkbox"/> San Antonio <input type="checkbox"/> Singapore

(Select a Policy Type)
<input checked="" type="checkbox"/> Organization Policy
<input type="checkbox"/> Legal Policy
<input type="checkbox"/> Education Policy
<input type="checkbox"/> Marketing Policy
<input type="checkbox"/> Finance Policy
<input type="checkbox"/> Technology Policy
<input type="checkbox"/> Compliance Policy
<input type="checkbox"/> HR Policy
<input type="checkbox"/> Enrollment Policy
<input type="checkbox"/> Advancement Policy
<input type="checkbox"/> Operations Policy

**Responsible Cabinet Member**

Vice President-Administration and Shared Services

**POLICY HISTORY**

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**Policy Editorial Committee & Responsible Cabinet Member Approval to Proceed:**

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**Policy Advisory Committee (PAG) Approval to Proceed, Date**

9/12/13, 9/14/16

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**Board Approval to Proceed (if required), Date**

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**Cabinet Approval to Proceed, Date**

9/23/16

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**Policy Revision Dates:**

10/23/13, 6/9/15, 9/23/16

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**Scheduled Review Date:**



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# Harassment, Sexual Misconduct, and Discrimination Policy

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*Adopted June 9, 2015*

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## 1. POLICY STATEMENT

The Culinary Institute of America (CIA) is committed to providing a working and learning environment free from harassment. Members of the CIA community, guests, and visitors have the right to be free from any form of **harassment** (which includes sexual misconduct and sexual harassment) or **discrimination**; all are expected to conduct themselves in a manner that does not infringe upon the rights of others.

The Culinary Institute of America prohibits harassment against individuals on the basis of race, color, sex, sexual orientation, gender identity, religion, disability, age, genetic information, marital status, veteran status, ancestry, or national or ethnic origin, or any protected group or classification under federal or state laws. These principles also apply to admissions, financial aid, academic matters, career services, counseling, housing, employment policies, scholarship programs, medical services, and all other programs and activities available at the CIA.

Members of the CIA community, guests, and visitors who believe that he or she has been or is being subjected to a form of harassment is strongly urged to use the resolution procedures described in this policy.

The Culinary Institute of America's Harassment, Sexual Misconduct, and Discrimination Policy is consistent with Title IX of the Education Amendments of 1972, Title VI and Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Age Discrimination in Employment Act of 1967, the Genetic Information Non-Discrimination Act of 2008, and other applicable state or federal law. In some instances, this policy will be amended to extend beyond federal protections when state laws or statutes (such as California's Leonard's Law) provide compelling reasons to do so.

## 2. NON-DISCRIMINATION STATEMENT

The Culinary Institute of America (CIA) is an Equal Opportunity Employer committed to the principle of equal opportunity in education and employment, in compliance with Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title VI and Title VII of the Civil Rights Act of 1964, Age Discrimination Act of 1975, and other federal, state, and local laws.

The CIA does not discriminate against individuals on the basis of race, color, sex, sexual orientation, gender identity, religion, disability, age, genetic information, marital status, veteran status, ancestry, national or ethnic origin, or any other protected group or classification under federal or state laws. These principles also apply to admissions, financial aid, academic matters, career services, counseling, housing, employment policies, scholarship programs, medical services, and all other programs and activities available at the CIA.

The Culinary Institute of America, pursuant to Title IX, Title VII, and state laws also prohibits sexual harassment, which includes sexual assault and sexual violence.

**The Senior Director, Faculty Relations** is designated as the Title IX Coordinator and Age Discrimination Act Coordinator for the CIA and is responsible for coordinating compliance with the above applicable laws, statutes and regulations as set forth in this statement. Inquiries to the CIA concerning the application of the Age Discrimination Act and Title IX, and their implementing regulations, may be referred to the Title IX and Age Discrimination Act Coordinator or to the Office for Civil Rights (OCR) of the U.S Department of Education.

**The Director of Compliance** is designated as the Section 504 Coordinator for the CIA and is responsible for coordinating compliance under Section 504 of the Rehabilitation Act of 1973. Inquiries relating to Section 504 may be referred to the Section 504 Coordinator.

Additionally, complaints including the procedure for filing a complaint regarding this Non Discrimination statement and the CIA's compliance with Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title VI and Title VII of the Civil Rights Act of 1964, Age Discrimination Act of 1975, and other federal, state, and local laws, may also be directed to the following Civil Rights Compliance Officers:

Joseph Morano - Senior Director, Faculty Relations  
Title IX and Age Discrimination Act Coordinator  
The Culinary Institute of America  
1946 Campus Drive  
Hyde Park, NY 12538  
Office: Roth Hall Room S326  
Telephone: 845-451-1314  
Email: [J\\_morano@culinary.edu](mailto:J_morano@culinary.edu)

Maura A. King, Director—Compliance  
Section 504 Coordinator  
The Culinary Institute of America  
1946 Campus Drive Hyde Park, NY 12538  
Office: Roth Hall Room S-351  
Telephone: 845-451-1429  
E-mail: [m\\_king@culinary.ed](mailto:m_king@culinary.ed)

Or

U.S. Department of Education  
Office for Civil Rights  
Lyndon Baines Johnson Department of Education Bldg.  
400 Maryland Avenue, SW  
Washington, DC 20202-1100 Telephone: 800-421-3481

FAX: 202-453-6012; TDD: 877-521-2172

Email: [OCR@ed.gov](mailto:OCR@ed.gov)

### 3. POLICY

Verbal or physical conduct, intimidation, hazing, bullying, or stalking by or towards an individual based on a protected category can be viewed as **harassment** or **discrimination** and is a violation of this policy depending on the circumstances of the incident.

**A. Harassment** can take many forms, such as words, visual images, gestures, or other verbal or physical conduct by any means. To constitute harassment there must be a finding that the conduct was:

- 1) based on one or more of the protected categories listed in the policy statement above.
- 2) unwelcome and offensive
- 3) either severe or repeated and pervasive such that it had the intended purpose or the effect of:
  - a) interfering with an individual's work/academic performance; or
  - b) creating an intimidating, hostile, or abusive work or educational environment.

Harassment also includes **Sexual misconduct** including unwelcome sexual advances, requests for sexual favors, or other unwanted verbal or physical conduct of a sexual nature depending on the circumstances of each case. Examples of sexual misconduct include: sexual harassment, physical assault with sexual intent, sexual contact without consent, sexual intercourse without consent, and/or attempts to commit a sexual activity. In order for individuals to engage in sexual activity of any type with each other, there must be clear, knowing, and voluntary consent prior to and during sexual activity. Individuals who consent to a sexual activity must be able to understand what they are doing. Under this policy, "No" always means "No," and "Yes" may not always mean "Yes." Anything but a clear, knowing and voluntary consent to any sexual activity is equivalent to a "No." The use of force or coercion to obtain consent or engage in a sexual activity is a violation of this policy and the law.

Even with consent, there are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as professor and student, supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. Intimate relationships also have the potential to interfere with the CIA's ability to provide an appropriate and safe working environment for students, faculty, and staff; and may constitute sexual harassment or other unlawful discrimination. As a result, the CIA has adopted a comprehensive Fraternization Policy, which can be found on the student and staff/faculty portals.

**B. Discrimination** occurs when an individual acts in a prejudiced or biased manner in the conduct of his/her day-to-day CIA activities such as when attending class or at work. All members of the CIA community, guests, and visitors are expected to contribute to a work and study atmosphere that fosters trust and respect. Students, staff, faculty, guests, and visitors must be treated equitably and be respected for their individuality. When a person intentionally or inadvertently creates a situation of discrimination, there can be negative consequences both to the persons involved as well as to the educational and working environment of the CIA.

#### 4. REPORTING

The CIA does not permit either harassment or discrimination in its programs and activities on the basis of race, color, sex, sexual orientation, gender identity, religion, disability, age, genetic information, marital status, veteran status, ancestry, or national or ethnic origin, or any protected group or classification protected by institutional policy or state, local, or federal law. Any individual who believes they have been subjected to discrimination or harassment in violation of this policy should follow the procedure outlined in this policy to report these concerns.

This process involves an immediate initial investigation to determine if there is reasonable cause to believe that this policy has been violated. If so, the CIA will initiate a prompt, thorough, and impartial investigation. This investigation is designed to provide a fair and reliable determination about whether this policy has been violated. If so, the CIA will take steps to prevent further harassment and/or discrimination, to correct its effects if appropriate, and prevent its recurrence.

Individuals who wish to report a concern or complaint relating to discrimination or harassment may do so by reporting the concern to the CIA Title IX and Age Discrimination Act Coordinator:

Joseph Morano, Senior Director - Faculty Relations  
Title IX and Age Discrimination Act Coordinator  
The Culinary Institute of America  
1946 Campus Drive  
Hyde Park, N.Y. 12538-1499  
Phone: 845-451-1314  
Fax: 845-451-1076  
Email: [J\\_Morano@culinary.edu](mailto:J_Morano@culinary.edu);

Or

Maura A. King, Director—Compliance  
Section 504 Coordinator  
The Culinary Institute of America  
1946 Campus Drive Hyde Park, NY 12538



Office: Roth Hall Room S-351  
Telephone: 845-451-1429  
E-mail: [M\\_king@culinary.edu](mailto:M_king@culinary.edu)

Individuals with complaints of this nature also have the right to file a formal complaint with the United States Department Education:

Office for Civil Rights (OCR)  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
Customer Service Hotline #: (800) 421-3481  
Facsimile: (202) 453-6012  
TDD#: (877) 521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

## A. Reporting Process

When reporting an incident all individuals have the right and can expect:

- 1) to have incidents of harassment or discrimination taken seriously by the CIA,
- 2) to have those incidents investigated and properly resolved through appropriate administrative procedures, and
- 3) that only people who need to know will be advised of the circumstances and that this information will be shared only as necessary with Investigators, witnesses, and the accused individual. The need to know will be determined by the Title IX Coordinator, as necessary in the purpose of conducting an investigation.

Depending upon the nature of the incident, every reasonable effort should be made to constructively resolve an issue or concern directly using one or more of the following steps:

### Informal Resolution Process

This informal process is not appropriate for complaints of sexual assault, rape, or other violent acts.

- 1) Whenever possible and safe, the problem or issue should first be discussed by the person who has the concern with the individual who has demonstrated the offending behavior.
- 2) If satisfactory resolution to the problem or issue is not reached after discussion with the individual(s) involved, the direct supervisor of the offending individual should be contacted in order to attempt to resolve the situation.

- 3) If the efforts above are unsuccessful OR the person with the concern believes that the conduct cannot be effectively addressed through these informal means, a formal reporting process should be initiated.
- 4) If the issue is not resolved or the person with the concern determines that the resolution is unsatisfactory within twenty-one (21) Business Days after the alleged incident occurred the formal process should be initiated.
- 5) If the formal process is initiated it must be done so as soon as practicable, as but no later than sixty **(60) Business Days** after the alleged incident occurred.

In resolving any problem or issue as outlined above, The CIA does not require the person with the concern to contact either the student/faculty/staff member involved or their supervisor if doing so is impractical or inappropriate due to the nature of the matter.

### Formal Resolution Process

In initiating a formal process, the individual reporting their concern (the “Complainant”) is encouraged to speak with appropriate CIA officials as outlined herein to report the incident(s) of the alleged harassment or discrimination as soon as practicable after it is deemed that an attempt at informally resolving the matter will not be possible, but no later than **sixty (60) Business Days** after the alleged incident occurred. Additionally, the Complainant has the right to file a complaint with a local law enforcement agency.

All CIA employees in the following roles; campus safety, residential life, faculty, student affairs, human resources, directors, deans, managers, and other supervisory campus employees are considered “Responsible Employees” and thus are required to report any incident of assault, sexual harassment, harassment or discrimination to their Manager, the Office of Student Affairs, the Campus Safety Office, and/or the Human Resources Department. All Responsible Employees shall also report the complaint to the Title IX and Age Discrimination Act Coordinator, as well as the Section 504 Coordinator, if appropriate. The Title IX and Age Discrimination Act Coordinator, or Section 504 Coordinator as appropriate, will be responsible for ensuring that the appropriate procedures are followed during the investigation process.

A formal report / statement outlining the incident(s) / nature of the harassment or discrimination should be prepared by the Title IX and Age Discrimination Act Coordinator, the 504 Coordinator as appropriate, or his/her designee as part of the preliminary process which shall form the basis of the complaint (“Complaint”) and possible subsequent investigation.

Campus employees who work in the Health Services or Counseling and Psychological Services offices are required (except as outlined under Section B. Confidential Reporting) to report any assault, sexual harassment, or violent crime (**direct or indirect knowledge of**) along with any potential threats made towards any individual on or off campus.

- 1) When reporting an incident, the Complainant should **contact one** of the following Department/areas:
  - a) **Students** – Reporting should be made in person (in writing or orally) to the:  
*(Contact Information may be found on the student portal or by clicking on the link indicated in blue).*
    - i. Hyde Park Students - [Office of Student Affairs in Hyde Park](#)
    - ii. Greystone Students - [Education Department at Greystone](#)
    - iii. San Antonio Students - [Education Department at San Antonio](#)
    - iv. [Title IX and Age Discrimination Act Coordinator](#)
    - v. [Section 504 Coordinator](#)
  - b) **Faculty / Staff** - Reporting should be made in person (in writing or orally) to the:  
*(Contact Information may be found on the employee portal or by clicking on the link indicated in blue).*
    - vi. [Human Resource Department at Hyde Park and Greystone](#)
      - i. [Managing Director at Greystone](#)
      - ii. [Managing Director at San Antonio](#)
      - iii. [Managing Director at Singapore](#)
      - iv. [Department Head](#)
      - v. [Title IX and Age Discrimination Act Coordinator](#)
      - vi. [Section 504 Coordinator](#)
- 2) All Complainants (students, faculty, or staff) should complete the following steps when formally reporting an incident of harassment or discrimination:
  - a) Submit a formal Complaint, in writing including:
    - i. the Complainant’s name and all contact information.
    - ii. the description of the alleged incident(s) or behavior, who specifically was involved, when and where it occurred, and the desired remedy sought. As much detail as possible should be provided regarding the incident such as who, what, when, where, why, and how.
    - iii. A brief outline and description of all informal efforts, if any, to resolve the issue(s) with the individual(s) involved and/or that individual’s supervisor. This includes names, dates and times of attempted or actual contact along with a description of the discussion and the manner of communication made in the course of each effort. If contacting the individual(s) involved and/or their supervisor is impracticable or inappropriate, the complainant should state the reasons why.

All Complaints should be signed by the Complainant.

- b) Provide, if possible, any supporting documentation and evidence of the incident(s) or behavior which are immediately available. These items should be referenced within the body of the formal Complaint.
- c) Submit any additional supporting materials as quickly as is possible.

- 3) Any guest, visitor, or third parties who wish to file a Complaint for violations of this policy may contact the CIA's Title IX and Age Discrimination Act Coordinator, Section 504 Coordinator, or the Office for Civil Rights of the U.S. Department of Education.
- 4) The CIA has an obligation to investigate any complaint of harassment or discrimination which is reported.

## B. Confidential Reporting

When a Complainant consults CIA officials regarding matters covered within this policy, he/she should be aware of the concepts of confidentiality, privacy, and mandatory reporting in order to make informed choices.

Although the CIA will make every effort to ensure the confidentiality of any investigation and the privacy of those persons involved, once a Complaint has been filed, it is the CIA's responsibility to take appropriate action to resolve the situation. When an employee of the CIA has been informed of an incident or issue of discrimination or harassment, they have a mandatory duty to report the situation as described to a Responsible Employee as further defined within Section A of this policy. All Complaints will be held in confidence and disclosed only to the extent necessary for the investigation.

If a Complainant desires that a particular incident be discussed on an entirely private and confidential basis, he/she should speak with one of the designated personnel or agencies listed below ("Confidential Resources"):

- 1) off-campus mental health counselors, or
- 2) off-campus health service providers, or
- 3) off-campus rape crisis resources who can maintain confidentiality, or
- 4) members of the clergy who in their capacity as a spiritual advisor will also maintain confidentiality.
- 5) on-campus licensed mental health professionals (whose licensure requires confidentiality from reporting incidents or complaints of sex discrimination and harassment/assault) working in their professional capacity. The on-campus licensed mental health professional shall provide information as to how to file a complaint with the designated Title IX and Age Discrimination Act Coordinator or Section 504 Coordinator (if appropriate), and will assist the victim in filing a complaint, if appropriate.

In such instances, the CIA shall not be considered to have knowledge of the incident or situation and therefore, the Complainant should have no expectation of the matter being investigated or resolved by College authorities.

Neither the CIA nor the law requires that the private information shared by an individual with those working as Confidential Resources will be divulged except in circumstances such as when the reporting party discloses a) information which can be reasonably interpreted as

a situation where there is risk of harm to self or others or b) incidents that involve a minor. Otherwise, a Complainant may seek assistance from these Confidential Resources without starting a formal process that is beyond the Complainant's control, or that may violate her/his privacy.

### **C. Retaliation and Malicious Reporting**

The CIA will make every reasonable effort to protect the Complainant and other student, staff, faculty, or third parties who believe themselves to be the object of harassment, or discrimination and/or are involved in a complaint process or investigation from any type of retaliation. Retaliation against anyone who is involved in a complaint process is a violation of law and this policy.

The malicious reporting of a false complaint of harassment, discrimination, or retaliation is also a violation of this policy.

Claims of retaliation or malicious reporting will be viewed as a separate complaint under this policy and will be thoroughly investigated.

## **5. INVESTIGATION PROCEDURES**

The CIA reserves the right to take measures deemed necessary in response to an alleged violation of this policy in order to protect both the rights as well as personal safety of students, faculty, staff members, or Third Parties. When a student, faculty, staff member or Third Party is found to have violated this policy, serious sanctions may be used to reasonably ensure the rights and safety of the CIA community.

Not all forms of harassment and discrimination will be deemed as equally serious offenses and the CIA reserves the right to impose different sanctions ranging from written warning to dismissal, depending on the severity of the offense.

For the purposes of this policy, this process or investigation protocol will be applied to all harassment and discrimination complaints as defined in this policy; especially those governed by Title IX, including sexual violence, sexual harassment, intimate partner violence, stalking, and/or gender-based bullying or hazing.

Elements of this process are focused around the following:

- A. Investigation Process
- B. Investigation Findings
  - i) Student vs. Student
  - ii) Student vs. Staff / Faculty
  - iii) Staff / Faculty vs. Staff / Faculty
  - iv) Third Party Involvement

## A. Investigation Process

Upon receipt of a Complaint, the Title IX and Age Discrimination Act Coordinator, or 504 Coordinator as appropriate working with the appropriate CIA office will open a formal case file and assign an Investigator. The Investigator will direct the investigation process and confer with the Title IX and Age Discrimination Act Coordinator and/or 504 Coordinator as appropriate on interim actions, accommodations for the Complainant (if required), and/or other necessary remedial short-term actions.

There will be no retaliation against any individual for filing a Complaint and/or for assisting, testifying, or participating in the investigation of such a complaint. All Complaints will be held in confidence and disclosed only to the extent necessary for the investigation.

During the course of an investigation, certain investigative procedures may take place which include, but are not limited to, the following:

- 1) An initial meeting with the student, faculty, staff member, or third party (the "Respondent") will be held to inform him/her that a formal complaint has been filed against him/her and to explain the nature of the allegations.
- 2) The respondent and complainant may be accompanied during any meeting or proceeding by a single advisor of their choice. Advisors may speak privately to their advisee during any such meeting or proceeding. Either party may request a brief recess to consult with their advisor which will be granted at the discretion of the Investigator or Hearing Officer conducting such meeting or proceeding. Advisors may not present evidence, present witnesses, or otherwise participate in any meeting or proceeding.
- 3) While the investigation is pending, the Title IX and Age Discrimination Act Coordinator or 504 Coordinator (if appropriate) working with the appropriate CIA offices may:
  - a) take immediate and appropriate interim action to address harassment allegations before a final determination is made on the complaint.
  - b) take any other necessary actions to ensure compliance with applicable law and CIA policy.
  - c) based upon the nature and seriousness of the allegations, request that the Human Resources Department immediately transfer or remove the Respondent employee from their duties on a temporary basis while the investigation is ongoing.
  - d) based upon the nature and seriousness of the allegations, request that the Respondent student be moved into alternate classes, suspended or otherwise re-assigned on a temporary basis while the investigation is ongoing.

- e) based upon the nature and seriousness of the allegations, bar a third party respondent from access to the campus or engagement with the complainant to the extent provided by law.
- 4) A formal investigation will be held; usually initiated within **ten (10) Business Days** after the Complaint is made.
- The Investigator will take the following steps:
- a) Thoroughly review the Complaint and all supporting documentation and evidence.
  - b) Confirm the identity and contact information of the Complainant.
  - c) Meet with the Complainant.
  - d) In coordination with the Title IX and Age Discrimination Act Coordinator, or 504 Coordinator if appropriate, initiate any necessary remedial actions.
  - e) Commence a thorough, reliable and impartial investigation by developing an investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the Respondent, who may be given notice prior to or at the time of the interview.
  - f) Contact or request meeting(s) with other staff, faculty, students, or others who may be able to provide additional relevant information as part of the investigation.
  - g) Make a finding, based on a preponderance of the evidence whether a policy violation is more likely than not to have occurred.
- 5) No audio or video recording (of any kind) of the proceedings under this policy is permitted by any party, unless circumstances require such accommodations. The decision to permit an accommodation will be made by the Investigator and the Title IX and Age Discrimination Act Coordinator or 504 Coordinator if appropriate.
- 6) At the Investigator's discretion, he/she may remove anyone disrupting a meeting which is being held under their authority from further discussions.
- 7) The Investigator will normally complete the investigation within **sixty (60) Business Days** after the investigation is commenced. The Investigator will then issue a formal report detailing the results of the investigation and recommended corrective action, if any, for consideration by the Title IX and Age Discrimination Act Coordinator or 504 Coordinator if appropriate.
- 8) The formal report, and any additional supporting documentation, is to be shared with the Title IX and Age Discrimination Act Coordinator or 504 Coordinator if appropriate who does have the option of sharing with appropriate CIA administrative personnel and/or legal counsel if needed. The contents of the final report and supporting documentation will not be shared with the Respondent or Complainant in written format and is the **sole property of The Culinary Institute of America**.

- 9) Where the Respondent or Complainant is an individual guest, visitor, contractor, restaurant patron, continuing education student, or any other person not under the direct employment of the CIA or attending a CIA credit program (“Third Party”) a best effort will be made by the Investigator to contact said individual to obtain a written statement along with any materials that may support the Investigation process.

## B. Investigation Findings

### i) Student vs. Student

Following completion of the investigation process, the Title IX and Age Discrimination Act Coordinator, or 504 Coordinator if appropriate, will appoint a Hearing Officer. The Hearing Officer has final decision-making authority with regard to the resolution of formal complaints. Such decisions are subject to appeal as outlined further within this policy.

The following procedures will be followed at the conclusion of an investigation:

- 1) The Investigator will provide a final report within **fifteen (15) Business Days** after the conclusion of the investigation on the findings of the investigation to the Hearing Officer and Title IX and Age Discrimination Act Coordinator or 504 Coordinator, if appropriate, for review and consideration.
- 2) The Title IX and Age Discrimination Act Coordinator, 504 Coordinator, Office of Student Affairs, or Hearing Officer will hold individual meetings with the Complainant and Respondent to review the investigation findings within **fifteen (15) Business Days** of the investigation’s written outcome. The Complainant and Respondent will be provided in writing the outcome of the investigation findings at these individual meetings.
  - a. In cases that are directly related to harassment the Complainant will also be informed of any sanctions placed upon the Respondent, in instances where the sanction directly affects the Complainant.
- 3) Where the Respondent was not found responsible for the alleged violation(s) to this policy, the investigation should be closed and all parties will be notified in writing within **fifteen (15) Business Days** of the investigation’s written outcome of this determination.
- 4) If the Respondent violated this policy, a meeting with the Hearing Officer will be held with the Respondent within **fifteen (15) Business Days** of the investigation’s written outcome to review the investigation findings. If the Respondent accepts the findings, the Hearing Officer will impose appropriate sanctions in writing for the



violation, after consultation with the Title IX and Age Discrimination Act Coordinator, or 504 Coordinator, if appropriate.

- 5) If the Respondent or Complainant rejects the findings of the investigation (in whole or in part), they must notify the Title IX and Age Discrimination Act Coordinator, or 504 Coordinator, if appropriate, in writing within **five (5) Business Days** of receiving the written determination.
  - a. Where the Respondent or Complainant has rejected the findings of the investigation (in whole or in part), the Hearing Officer will advise the Title IX and Age Discrimination Act Coordinator, or 504 Coordinator, if appropriate, who will call a hearing within **twenty-one (21) Business Days** over which the Hearing Officer shall preside. The intent of this hearing will be to provide an equitable resolution via an equitable process, respecting the civil and legal rights of all participants. The Hearing Officer will be charged with making a final ruling following the hearing on the basis of the preponderance of the evidence. Such ruling shall be subject to appeal as outlined within this policy.
    - i. During the hearing, the Hearing Officer will review the findings of the investigation and consider other and/or additional evidence and/or witnesses presented by the parties to the Complaint.
    - ii. If it is determined that the Respondent violated this policy, the Hearing Officer shall impose appropriate sanctions for the violation.
    - iii. If it is determined that the Respondent did not violate this policy, the Hearing Officer will close the investigation.
    - iv. All parties will be notified in writing within **fourteen (14) Business Days** of the final determination of the Hearing Officer. In cases that are directly related to harassment the Complainant will also be informed of any sanctions placed upon the Respondent, in instances where the sanction directly affects the Complainant.

## **ii) Student vs. Faculty / Student vs. Staff / Staff vs. Student / Faculty vs. Student**

At the conclusion of the investigation process, the Title IX and Age Discrimination Act Coordinator or 504 Coordinator if appropriate will appoint a Hearing Officer. The Hearing Officer has final decision-making authority with regard to the resolution of formal complaints. Such decisions are subject to appeal as outlined further within this policy.

The following procedures will be followed at the conclusion of an investigation:

1. The Investigator will provide a final report within **fifteen (15) Business Days** after the conclusion of the investigation on the findings of the investigation to the

Hearing Officer, the Human Resources Department, and Title IX and Age Discrimination Act Coordinator or 504 Coordinator if appropriate.

2. The Hearing Officer and Human Resources Department shall determine whether a policy violation has occurred.
3. The Title IX and Age Discrimination Act Coordinator, Section 504 Coordinator (as appropriate) Office of Student Affairs, or Hearing Officer will hold individual meetings with the Complainant and Respondent to review the investigation findings within **fifteen (15) Business Days** of the investigation's written outcome. The Complainant and Respondent will be provided in writing the outcome of the investigation findings at these individual meetings.
  - a. In cases that are directly related to harassment the Complainant will also be informed of any sanctions placed upon the Respondent, in instances where the sanction directly affects the Complainant.
4. Where the Respondent was not found responsible for the alleged violation(s) to this policy, the investigation should be closed and all parties will be notified in writing of this determination within **fifteen (15) Business Days** of the investigation's written outcome.
5. If the Respondent has violated this policy, the Human Resources Department, Department Head, Dean, or Managing Director will meet with the faculty or staff member and provide them with a written notification of the investigation's outcome along with any appropriate sanctions within **fifteen (15) Business Days** of the investigation's written outcome.
6. If the Respondent or Complainant rejects the findings of the investigation (in whole or in part), they must notify the Title IX and Age Discrimination Act Coordinator or Section 504 Coordinator if appropriate, in writing within **five (5) Business Days** of receiving the written determination.
  - a) Where the Complainant or the Respondent has rejected the findings of the investigation (in whole or in part), the Title IX and Age Discrimination Act Coordinator, or 504 Coordinator, if appropriate, will call a hearing within **twenty-one (21) Business Days** over which the Hearing Officer shall preside. The hearing will provide an equitable resolution via an equitable process, respecting the civil and legal rights of all participants. The Hearing Officer will be charged with making a final ruling following the hearing on the basis of the preponderance of the evidence. Such ruling shall be subject to appeal as outlined within this policy.
    - i. During the hearing, the Hearing Officer will review the findings of the investigation and consider other and/or additional evidence and/or witnesses presented by the parties to the Complaint.

- ii. If it is determined that the Respondent violated this policy, the Human Resources Department shall impose appropriate sanctions for the violation.
- iii. If it is determined that the Respondent did not violate this policy, the Hearing Officer will close the investigation.
- iv. All parties will be notified in writing within **fourteen (14) Business Days** of the final determination of the Hearing Officer. In cases that are directly related to harassment the Complainant will also be informed of any sanctions placed upon the Respondent, in instances where the sanction directly affects the Complainant.

### iii) Faculty / Staff vs. Faculty / Staff

At the conclusion of the investigation, the Title IX and Age Discrimination Act Coordinator, or 504 Coordinator, if appropriate, and Human Resources Department shall determine whether a policy violation has occurred. All decisions are subject to appeal as outlined further within this policy below.

The following procedures will be followed at the conclusion of an investigation:

- 1) The Investigator will provide a final report within **fifteen (15) Business Days** after the conclusion of the investigation on the findings of the investigation to the Human Resources Department and Title IX and Age Discrimination Act Coordinator or 504 Coordinator, if appropriate.
- 2) The Title IX and Age Discrimination Act Coordinator, or 504 Coordinator, if appropriate, or Director of Human Resources will hold individual meetings with the Complainant and Respondent to inform them of the outcome of the investigation within **fifteen (15) Business Days** of the investigation's written outcome. The Complainant and Respondent will be provided in writing the outcome of the investigation findings at these individual meetings.
  - a. In cases that are directly related to harassment the Complainant will also be informed of any sanctions placed upon the Respondent, in instances where the sanction directly affects the Complainant.
- 3) If it is deemed that the Respondent was not found responsible for the alleged violation(s) to this policy, the investigation should be closed and all parties will be notified in writing of this determination within **fifteen (15) Business Days** of the investigation's written outcome.
- 4) If the Respondent has violated this policy, the Human Resources Department, Department Head, Dean, or Managing Director will meet with the faculty or staff member and provide them with a written notification within **fifteen (15) Business Days** of the investigation's written outcome.

- 5) If the Respondent or Complainant rejects the findings of the investigation (in whole or in part), they must notify the Title IX and Age Discrimination Act Coordinator (or 504 Coordinator, if appropriate) in writing within **five (5) Business Days** of receiving the written determination. Such ruling shall be subject to appeal as outlined within this policy.

#### iv) Third Party

At the conclusion of the investigation, the Title IX and Age Discrimination Act Coordinator, Section 504 Coordinator, (if appropriate) and Hearing Officer shall determine whether a policy violation has occurred. The following measures must be followed at the conclusion of an investigation where the a) Third Party is the Complainant or b) Third Party is the Respondent. All decisions are subject to appeal as outlined further within this policy below.

- 2) The Investigator will provide a final report within **fifteen (15) Business Days** after the conclusion of the investigation on the findings of the investigation to the Hearing Officer and Title IX and Age Discrimination Act Coordinator and/or Section 504 Coordinator, if appropriate.
- 3) The Hearing Officer, Office of Student Affairs, Human Resources Department, Department Head, Dean, or Managing Director will hold individual meetings with the Complainant and Respondent to review the investigation findings within **fifteen (15) Business Days** of the investigation's written outcome. The Complainant and Respondent will be provided in writing the outcome of the investigation findings at these individual meetings.
  - a. In cases that are directly related to harassment the Complainant will also be informed of any sanctions placed upon the Respondent, in instances where the sanction directly affects the Complainant.
- 4) If the Respondent was not found responsible for the alleged violation(s) to this policy, the investigation should be closed and the Respondent and Complainant will be notified in writing of this determination within **fifteen (15) Business Days** of the investigation's written outcome.
- 5) Where the Respondent has violated this policy, the Hearing Officer, Office of Student Affairs, Human Resources Department, Department Head, Dean, or Managing Director will provide the Respondent with a written notification within **fifteen (15) Business Days** of the investigation's written outcome along with any appropriate sanctions.
- 6) If the Respondent or Complainant rejects the findings of the investigation (in whole or in part), they must notify the Title IX and Age Discrimination Act Coordinator, or

504 Coordinator, if appropriate, in writing within **five (5) Business Days** of receiving the written determination.

- a. Where the Respondent or Complainant has rejected the findings of the investigation (in whole or in part), the Title IX and Age Discrimination Act Coordinator or Section 504 Coordinator, if appropriate, will call a hearing within **twenty-one (21) Business Days** over which the Hearing Officer shall preside. The hearing will provide an equitable resolution via an equitable process, respecting the civil and legal rights of all participants. The Hearing Officer will be charged with making a final ruling following the hearing on the basis of the preponderance of the evidence. Such ruling shall be subject to appeal as outlined within this policy.
  - i. During the hearing, the Hearing Officer will review the findings of the investigation and consider other and/or additional evidence and/or witnesses presented by the parties to the Complaint.
  - ii. If it is determined that the Respondent violated this policy, the Human Resources Department or Office of Student Affairs shall impose appropriate sanctions for the violation.
  - iii. If it is determined that the Respondent did not violate this policy, the Hearing Officer will close the investigation.
  - iv. The Respondent and Complainant will be notified in writing within **fourteen (14) Business Days** of the final determination of the Hearing Officer.

## 6. APPEALS

If a Respondent or Complainant does not accept the findings of the investigation and/or Hearing Officer, those findings can be appealed through the following procedures. Appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal.

Appeals are not intended to be full re-hearings or the basis for a new investigation of the Complaint. The Appeal Officer may accept or modify the original decision and the Appeal Officer's decision to deny appeal requests is final.

Respondents or Complainants must petition in writing for an appeal **within five (5) Business Days** of receiving the written decision. The party requesting an appeal must do so in writing showing error, the ONLY grounds for appeal are as follows:

- 1) The decision reached was not based on substantial evidence, i.e. whether the facts of the case were not sufficient to establish that
  - a) a violation of this policy occurred; and / or
  - b) the accused committed the violation of this policy.
- 2) The procedures were not properly followed as outlined in this policy.

- 3) New evidence is available to alter the original determination.

The procedures governing the hearing of appeals include the following:

- 1) **Student Appeals:** Any party who files an appeal must do so in writing to the Title IX and Age Discrimination Act Coordinator or Section 504 Coordinator, if appropriate. The request for appeal will then be forwarded to an appointed Appeals Officer for review.
- 2) **Faculty / Staff / Third Party Appeals:** Any party who files an appeal must do so in writing to the Vice President of Administration and Shared Services. The Vice President of Administration and Shared Services and/or designee will be the acting Appeals Officer.
- 3) If the Appeals Officer determines that an error (material, procedural, or applicable) occurred, he/she may return the original Complaint to the original Hearing Officer with instructions to reconvene to remedy the error. The results of a reconvened hearing cannot be appealed.
- 4) In rare cases, where the error cannot be remedied by the original Hearing Officer (as in cases of bias), the Appeals Officer may order a new hearing on the Complaint with a new Hearing Officer appointed by the Title IX and Age Discrimination Act Coordinator or Section 504 Coordinator if appropriate. The results of a new hearing with a new Hearing Officer can be appealed, once, on the grounds for appeals listed above.
- 5) The Appeals Officer may at his/her discretion suspend any sanctions imposed by the Hearing Officer.
- 6) The Appeals Officer will render a written decision on the appeal to all parties within **twenty-one (21) Business Days** from request for appeal.

## **7. OTHER SPECIAL PROCEDURES & PROVISIONS**

- 1) Attempted violations

In most circumstances, the CIA will treat attempts to commit any of the violations listed in the *Student Code of Conduct or Employee Handbook* as if those attempts had been completed.

- 2) CIA as Complainant

As necessary, the CIA reserves the right to initiate a complaint, to serve as complainant, and to initiate conduct proceedings without the complainant's formal complaint of misconduct.

### 3) False Reports

The CIA will not tolerate intentional false reporting of incidents. It is a violation of the *Student Code of Conduct or Employee Handbook* to make an intentionally false report of any policy violation, and it may violate state criminal statutes and civil defamation laws. Sanctions for such false reporting may include disciplinary action up to and including termination of employment or dismissal from the College.

### 4) Parental Notification

The CIA reserves the right to notify parents/guardians or other individuals indicated as an emergency contact of students regarding any health or safety risk. The CIA also reserves the right to designate which CIA officials have a need to know about individual conduct complaints pursuant to the Family Educational Rights and Privacy Act (FERPA).

### 5) Notification of Outcomes –

The outcome of a campus hearing is part of the educational record of the accused student, and is protected from release under a federal law, FERPA. However, the CIA observes the legal exceptions as follows:

- a) Complainants in non-consensual sexual contact/intercourse, sexual exploitation, sexual harassment, stalking, and relationship violence incidents have an absolute right to be informed of the outcome, essential findings, and sanctions of the hearing, in writing, without condition or limitation.
- b) The CIA may release publicly the name, nature of the violation and the sanction for any student who is found in violation of a CIA policy that is a “crime of violence,” including but not limited to: arson, burglary, robbery, criminal homicide, sex offenses, assault, destruction/damage/vandalism of property and kidnapping/abduction. The CIA will release this information to the complainant in any of these offenses regardless of the outcome.

### 6) Alternative Testimony Options

- a) Complainant or a witness, will be given alternative testimony options, such as placing a privacy screen in the hearing room, or allowing the complainant or witness to testify outside the physical presence of the accused individual, such as by Skype.

## 8. DEFINITIONS

All definitions listed below are for the sole purpose of this policy only to aid in understanding.

**Appeals Officer:** Appeals Officer is appointed by the CIA's Title IX and Age Discrimination Act Coordinator, or 504 Coordinator, if appropriate, to oversee the appeals process as outlined.

**Business Days:** Business Days defined for the purposes of this policy are the days of operation for the College: i.e., Monday – Friday, where classes are in session and/or administrative offices are open, except for the designated summer break and winter holiday break when campuses are closed.

**Coercion:** Coercion happens when someone is compelled by force to act out of character through, intimidation, or authority, especially without regard for individual desire or volition. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get Consent from another. When someone makes it clear that he/she does not want sex, wants to stop, or does not want to go past a certain point of sexual interaction, continued pressure beyond that point can be considered coercive.

**Complainant:** A Complainant is any student, faculty, staff, visitor, guest, or third party who files a formal report or statement of harassment or discrimination that is in violation of this policy.

**Consent:** Consent can be given by word or action, but non-verbal Consent is not as clear as talking about what a person wants sexually and what they do not. Consent to some form of sexual activity cannot be automatically taken as Consent to any other form of sexual activity. Silence--without actions demonstrating permission--cannot be assumed to show Consent. When alcohol or other drugs are being used, a person will be considered unable to give valid Consent if he/she cannot fully understand the details of a sexual interaction (who, what, when, where, why, or how) because he/she lack the capacity to reasonably understand the situation. Individuals who Consent to sex must be able to understand what they are doing.

**CIA Community:** The CIA Community is considered to be student, staff, and faculty at of The Culinary Institute of America at all campus locations. This shall include vendors and contractors doing business with The Culinary Institute of America.

**Employee:** An Employee is an individual paid by The Culinary Institute of America. All full time, part-time, temporary, and contracted individuals fall under this class.

**Force:** Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats), and Coercion that can overcome an individual's resistance.

**Hearing:** A Hearing is a formal meeting conducted by a Hearing Officer to review the findings of an investigation and opportunity for all parties to be heard.

**Hearing Officer:** The Hearing Officer is appointed by the CIA's Title IX and Age Discrimination Act Coordinator or 504 Coordinator to oversee the hearing of a reported case.



**Investigator:** An Investigator is an individual appointed by the CIA's Title IX and Age Discrimination Act Coordinator or 504 Coordinator to perform and document an inquiry for ascertaining facts through detailed and careful examination of all information presented using various means of information discovery.

**Non-Consensual Sexual Contact:** Non-Consensual Sexual Contact is any intentional sexual touching, however slight, with any object, by a man or a woman upon a man or a woman that is without Consent and/or by force.

**Non-Consensual Sexual Intercourse:** Non-Consensual Sexual Intercourse is any sexual intercourse however slight, with any object, by a man or woman upon a man or a woman that is without consent and/or by force.

**Respondent:** The Respondent is any student, faculty, staff, visitor, guest, or third party who has a formal complaint filed against him/her.

**Retaliatory Harassment:** Retaliatory Harassment is intentional action taken by an accused individual or allied third party, absent legitimate non-discriminatory purposes, that harms an individual as reprisal for filing or participating in a civil rights grievance proceeding.

**Stalking:** Stalking is the act or an instance of pursuing or harassing and threatening another in an aggressive and unwanted and/or illegal manner.

**Student:** A student is an individual who is registered in a credit or degree program at The Culinary Institute of America.

**Sexual Harassment:** Sexual Harassment is unwelcome, gender-based verbal or physical, or conduct of sexual nature that is sufficiently severe, persistent, or pervasive that it has the effect of unreasonably interfering with, limiting, or denying someone the ability to participate in or benefit from the CIA's educational program. The unwelcome behavior may be based on power differentials (quid pro quo), the creation of a hostile environment, or retaliation. Examples include: attempting to coerce an unwilling person into a sexual relationship; repeatedly subject a person to egregious, unwanted sexual attention; punishing a refusal to comply; conditioning a benefit on submitting to sexual advances; engaging in sexual violence; engaging in intimate partner violence, stalking, and gender-based bullying.

**Sexual Exploitation:** Sexual Exploitation occurs when an individual takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

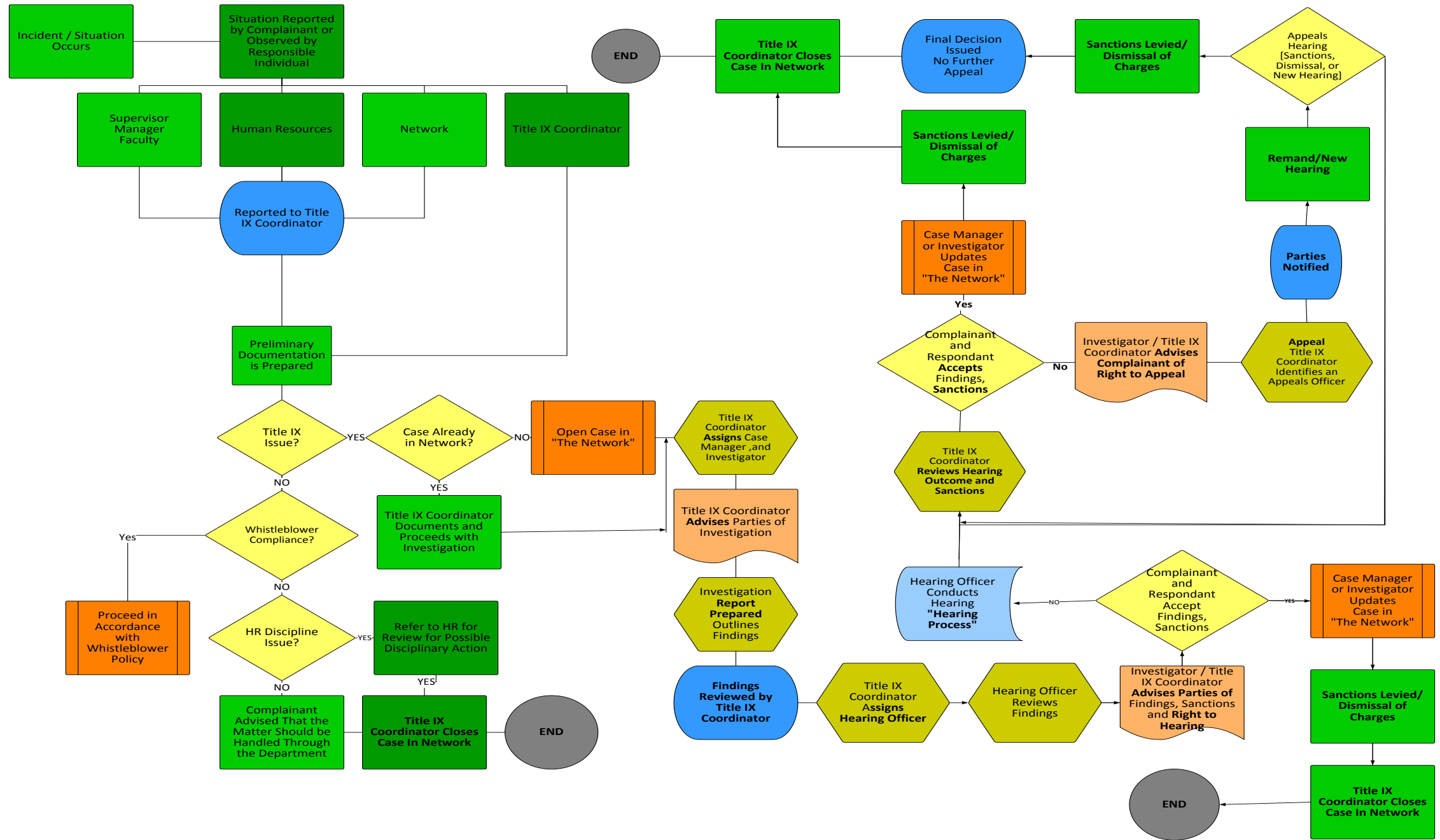
- invasion of sexual privacy
- prostituting another person

- non-consensual taking and/or distributing photography, video, or audio-taping of sexual activity
- allowing third parties to observe sexual activities without Consent
- engaging in voyeurism
- knowingly transmitting an STI or HIV to another student
- exposing one's genitals in non-consensual circumstances; inducing another to expose his/her genitals
- sexually-based stalking and/or bullying may also be forms of sexual exploitation

**Sexual Misconduct:** Sexual misconduct incorporates a range of unwelcome behavior of a sexual nature, including sexual assault, sexual harassment, stalking, and any other conduct of a sexual nature which is nonconsensual, or has the purpose or effect of threatening, intimidating, or coercing a person. It is committed without consent or by force, intimidation, coercion, or manipulation. Sexual misconduct can be committed by a person of any gender, and it can occur between people of the same or different gender.

**Third Party:** Third Party is an individual who is a guest, visitor, contractor, restaurant patron, continuing education student, or any other individual not under the direct employment of the CIA or attending a CIA credit program.

Harassment, Sexual Misconduct, and Discrimination Work-Flow



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