



Harassment, Sexual Misconduct and Discrimination Policy

POLICY INFORMATION

Policy#:

Original Issue Date: 9/30/2014

Current Revision Date: 9/30/2022

Initial Adoption Date: 9/30/2014

RESPONSIBLE OFFICE

Title	Department
Title IX and Age Discrimination Act Coordinator	Finance
Vice President – Finance and Administration	Finance
Associate Vice President and Dean of Students	Student Affairs

(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

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"/> California <input checked="" type="checkbox"/> San Antonio <input checked="" type="checkbox"/> Singapore

Table of Contents

A. Purpose.....	3
B. Policy Statement.....	3
C. Authority.....	5
D. Definitions.....	6
E. Reporting Prohibited Conduct.....	12
F. Title IX DOE Grievance Process.....	16
G. Non-TIX Investigation Procedures.....	30
H. Other Special Procedures and Provisions.....	39
I. Responsible Cabinet Members.....	43
J. Related Materials.....	44
K. Policy History.....	43
Appendix.....	45

NOTE AS TO WHEN THIS POLICY APPLIES:

The Department of Education (“DOE”) has released new Title IX regulations that are effective as of August 1, 2024. HSMD and Title IX Investigations pending before August 1, 2024, will proceed under this 2020 version of the HSMD Policy and procedures. In addition, the 2024 DOE regulations do not apply to new reports of Title IX Sex Discrimination or Sex-Based Harassment if the underlying alleged conduct occurred prior to August 1, 2024. In that instance, this 2020 version of the HSMD Policy and Title IX procedures would also apply.

As of July 11, 2024, two Federal Judges in Texas issued preliminary injunctions blocking enforcement of the Final 2024 Title IX rule while Texas cases proceed through the court system. Until such time as either the injunctions are lifted or the cases reach final determination, HSMD and Title IX reports and investigations that originate in the Texas CIA campus will proceed under this 2020 version of the HSMD Policy and procedures.

All HSMD and Title IX Investigations, not originating in the Texas Campus, with allegations of conduct that occurred on or after August 1, 2024, the new 2024 HSMD Policy and procedures will apply. That Policy is available here at [CIA HSMD Policy \(2020 Title IX Regulations\)](#).

A. PURPOSE

This Policy is intended to provide a comprehensive statement of rules, guidance, procedures, resources, training requirements, roles and responsibilities for The Culinary Institute of America (CIA) Community on the subjects of Harassment, Sexual Misconduct and Discrimination. It is designed to comply with the complex framework defined by federal and state laws and rules, and in the event of a disagreement between the law and this Policy, the law shall govern.

B. POLICY STATEMENT

Nondiscrimination Statement

The Culinary Institute of America (CIA), being committed to respect for diversity and equal opportunity in education and employment, does not discriminate against individuals. The CIA expressly prohibits discrimination against and harassment of individuals on the basis of any protected characteristic, including: race, color, sex, sexual orientation, gender identity and expression, religion, disability, age, genetic information, familial status, marital status, veteran status, ancestry, national or ethnic origin, and any other protected group or classification under the law. In addition, the CIA prohibits Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Sexual Exploitation and Stalking.

This Policy shall apply to conduct that occurs on the CIA’s campus, on CIA technological systems, at CIA-sponsored programs, activities and events, including: admissions, financial aid, academic matters,

career services, counseling, housing, employment policies, scholarship programs, health services, and all other programs and activities available at the CIA. Except as otherwise provided below, this Policy applies to conduct off-campus when a person accused of Prohibited Conduct is a matriculated CIA student or when the alleged conduct has a continuing adverse impact upon the CIA work or school environment.

This Policy applies to all members of the CIA Community, including Students, Employees (faculty and staff), Trustees, Interns, and Non-employee Workers. Each Student shall be responsible for their conduct from the time of enrollment through the awarding of a degree, as well as during periods between terms of actual enrollment, study abroad and leaves of absence or suspension.

Members of the CIA Community who believe that they have been subjected to Discrimination or Harassment are strongly urged to use the resolution procedures described in this Policy. Third Parties visiting CIA facilities (such as guests, visitors and restaurant patrons) have the opportunity to make reports of Prohibited Conduct for the purpose of this policy; however, Third Parties accused of violating this policy are not entitled to the procedural protections set forth below and may be summarily excluded from CIA property, programs, activities, or events.

Compliance Statement

The CIA complies with the applicable federal laws across all campuses, including without limitation: Title IX of the Education Amendments of 1972 (specifically including adopted regulations); Section 504 of the Rehabilitation Act of 1973; Title VI and Title VII of the Civil Rights Act of 1964; the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Age Discrimination Act of 1975; the Violence Against Women Reauthorization Act; and the Campus SaVE Act. The CIA also complies with state laws applying to its New York, California and Texas campuses, including but not limited to: Article 129-B of the New York Education Law; the New York State Human Rights Law; the New York Labor Law; Section 67836 of the California Education Code; Chapter 51 of the Texas Education Code and other federal, state, and local laws governing Harassment, Sexual Misconduct, and Discrimination.

To ensure that it is a safe and equitable place to learn and work, the CIA has established this Policy and training and procedures for reporting, investigating, and adjudicating allegations of violations of this Policy. The information contained in the Definitions and Procedures sections of this Policy is expressly incorporated into this Policy as it provides essential details for the effective implementation of this Policy.

CIA policy as well as federal and state laws prohibit Retaliation against any individual for making a good faith Complaint of Prohibited Conduct or for serving as a witness or otherwise providing information in connection with a Complaint of Prohibited Conduct.

Compliance Coordinators

The CIA has designated and trained personnel to provide support for reporters, Complainants, and Respondents in cases of allegations arising under this Policy. These include, but are not limited to, the Americans with Disabilities/Section 504 Coordinator (the 504 Coordinator) and the Title IX Coordinator/Age Discrimination Act Coordinator.

The Title IX Coordinator and Legal Advisor is designated as the CIA Title IX Coordinator and Age Discrimination Act Coordinator, who is responsible for coordinating compliance with the complex legal and regulatory framework governing Harassment, Sexual Misconduct, and Discrimination (except for disability-based issues). The Title IX/Age Discrimination Act Coordinator's responsibilities include overseeing all complaints of Sexual Misconduct and Discrimination (specifically including issues related to race discrimination), identifying and addressing any patterns or systemic problems. In addition, the CIA has designated a Deputy Title IX/Age Discrimination Act Coordinator. Inquiries and Complaints concerning these issues may be referred to either:

Joanna Smith, J.D.

Title IX and Age Discrimination Act Coordinator and Legal Advisor

The Culinary Institute of America

1946 Campus Drive

Hyde Park, NY 12538

Office: Roth Hall Room W401F

Telephone: 845-451-1614

Email: Joanna.Smith@culinary.edu

Or

Danielle Glendenning, Assistant Director—Faculty Relations

Deputy Title IX and Age Discrimination Act Coordinator

The Culinary Institute of America

1946 Campus Drive

Hyde Park, NY 12538

Office: Roth Hall, Room S324

Telephone: 845-905-4369

E-mail: Danielle.Glendenning@culinary.edu

The Dean of Academic Engagement & Administration is designated as the CIA Section 504 Coordinator, who is responsible for coordinating compliance under Section 504 of the Rehabilitation Act of 1973. This law prohibits discrimination based upon disability and requires the CIA to ensure that Students are not excluded from participation in or denied the benefits of any program or activity of the CIA based on disability. Disability-related complaints and associated requests for accommodation are governed by the CIA's Americans with Disabilities Act/Section 504 Compliance Policy (CMP-023). Any individual who believes they may have been discriminated against in an educational program, activity, or employment situation on the basis of a disability may file a

Complaint with:

**Carolyn Tragni, Dean - Academic Engagement and Administration
Americans with Disabilities/Section 504 Coordinator (504 Coordinator)**

The Culinary Institute of America

1946 Campus Drive

Hyde Park, NY 12538

Office: Roth Hall, Room S319

Telephone: 845-451-1615

E-mail: Carolyn.Tragni@culinary.edu

C. AUTHORITY

President and the President's Cabinet

Age Discrimination Act of 1975

California Education Code, Section 67836

California Fair Employment and Housing Act

Campus Sexual Violence Elimination Act (SaVE Act), incorporated into the VAWA amendments to the Clery Act

Civil Rights Act of 1964, Title VI and Title VII

Education Amendments of 1972, Title IX

Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act)

New York State Education Law, Article 129-B

New York State Human Rights Law

New York State Labor Law

Rehabilitation Act of 1973, Section 504

Texas Education Code, Chapter 51

Texas Labor Code, Chapter 21

Violence Against Women Reauthorization Act (VAWA) amendments to the Clery Act

D. DEFINITIONS

Affirmative Consent ("Consent")

Although the CIA requires affirmative consent on all campuses, the definition of affirmative consent must vary somewhat due to state law requirements in New York and California.

Affirmative Consent (California): Affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them,

should never by itself be assumed to be an indicator of consent.

Affirmative Consent (New York and Texas): Knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

The following principles relating to affirmative consent apply on all campuses:

Consent as a pre-requisite for any sexual engagement is called for by respect for individual autonomy—the right and ability to make decisions for oneself. In order to give Consent, a person must be of the legal age of consent—17 in New York and Texas and 18 in California. Consent must be freely and actively given; it cannot be obtained by coercive use of force, threats or intimidation. Coercion, force, or threat of either invalidates consent. Consent to one form of sexual activity does not imply Consent to other forms of sexual activity, nor does past consent to intimacy imply Consent to future intimacy. Consent to engage in sexual activity with one person does not imply Consent to engage in sexual activity with another. Consent may initially be given but withdrawn at any time. When Consent is withdrawn or can no longer be given, sexual activity must stop.

Individuals must be able to understand what they are doing in order to Consent to a sexual activity. A person who is incapacitated cannot give Consent because they lack the ability to knowingly choose to participate. Incapacitation may be caused by unconsciousness, being asleep, having a cognitive disability, being involuntarily restrained, the consumption of quantities of alcohol, drugs or other intoxicants or a variety of other circumstances. Consent is required regardless of whether a person initiating the act is under the influence of drugs and/or alcohol. Under this policy, “Yes” may not always mean “Yes” and “No” always means “No.” Anything but a clear, knowing and voluntary Consent to any sexual activity is equivalent to a “No.”

In any romantic or sexual relationship between individuals in unequal positions (such as professor and student, supervisor and employee), even with Consent, there are inherent risks. 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 and learning environment for Students and Employees; 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 Employee/Faculty portals.

Appeals Officer: An officer appointed by the CIA’s Title IX and Age Discrimination Act Coordinator or 504 Coordinator to oversee the appeals process as outlined in this Policy.

Business Days: The days of operation for the CIA: 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 to the public.

CIA Community: The Employees, Students, Nonemployee Workers and Third Parties at all CIA campuses. *See also* Third Parties.

Coercion: When someone is compelled, through force, intimidation, or severe emotional manipulation, to act out of character or without regard for their own 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 they do not want sex, want to stop, or do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be considered coercive.

Complainant: Any Employee (Faculty or Staff), Non-employee Worker, Student, or Third Party who is an alleged victim files a formal report or statement alleging conduct that is prohibited by this Policy.

Complaint: A statement including one or more allegations of Prohibited Conduct under this Policy.

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party'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. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

Discrimination: Intentionally or inadvertently treating individuals or groups less favorably because of their protected characteristic(s) as listed in the Policy Statement. Discrimination may occur when an individual acts in a prejudiced or biased manner (including racist or prejudiced comments) in the conduct of their day-to-day CIA activities, such as attending class or working.

Domestic Violence: A felony or misdemeanor crime of violence committed against a victim by: a current or former spouse or intimate partner of the victim; a person with whom the victim shares a child in common; a person who is cohabiting with or has cohabited with the victim as a spouse or intimate partner; a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Education Program or Activity: For purposes of determining whether conduct is within the definition of Sexual Harassment Prohibited by Title IX (as defined by the Department of Education), "education program or activity" includes conduct that occurs:

- On-campus.
- Within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of, the CIA's programs and activities.

Employee: An individual employed by the CIA. All full-time, part-time, or temporary employees fall under this class, including faculty, staff, and student workers.

Faculty: The teaching staff of the CIA, or of one of its departments or divisions, viewed as a body with individual members.

Force: The use of physical violence and/or imposing on someone physically to gain sexual access.

Harassment: Unwelcome and/or offensive behavior, based on one or more of the protected characteristics listed in the Policy Statement, that subjects an individual to inferior terms, conditions or privileges of education or employment. Harassing conduct rises above the level of what a reasonable person with the same protected characteristic would consider petty slights or trivial inconveniences. 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 meets each element of this definition. Harassment includes, but is not limited to:

- Epithets, slurs, or negative stereotyping;
- Threatening, intimidating, or hostile acts; and
- The circulation or display of written or graphic material that belittles or shows hostility or aversion toward an individual or group including through e-mail and other electronic media.

Hearing: A formal meeting conducted by a Hearing Officer to review the findings of an investigation and provide an opportunity for all parties to be heard. It is intended to be a non-adversarial review of the evidence identified in the investigation.

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

Intimidation: Unlawfully placing another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

Investigator: 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 discovery.

Minor: A person under the age of eighteen (18).

Nonemployee Worker: An individual who works on campus but is employed by an entity other than the CIA, such as a vendor or contractor.

Prohibited Conduct: Any or all of the following (*see too* specific definitions): Dating Violence, Discrimination, Domestic Violence, Harassment, Retaliation, Sexual Assault, Sexual Assault-Nonconsensual Sexual Contact, Sexual Assault-Non-consensual Sexual Intercourse, Sexual Exploitation, Sexual Harassment, Sexual Harassment Prohibited by Title IX, Sexual Violence and Stalking.

Quid Pro Quo: Latin phrase meaning “something for something.” In the Sexual Harassment context, it means an exchange of favors, for example, if a manager, faculty member, or other authority figure offers or hints that they will give an individual a benefit (e.g., a better grade, a raise or a promotion) in return for sexual conduct.

Reporter: An individual who makes a formal statement including one or more allegations of Prohibited Conduct under this Policy. A Reporter may be the alleged victim (Complainant) or someone else.

Respondent: Any CIA Student, Employee (Faculty member or staff) or Nonemployee Worker who has a Formal Complaint filed against them; a person accused of Prohibited Conduct.

Retaliation: An intentional action, absent legitimate non-discriminatory purposes, that harms an individual as reprisal for reporting or participating in the investigation or Hearing of an alleged violation of this Policy or civil rights laws or otherwise attempting to interfere with an individual’s ability to assert their rights under this policy. Retaliatory action can include, but not limited to:

- Discharge;
- Demotion;
- Reduction of pay or hours;
- Withholding wages, overtime pay, or promotions;
- Denying benefits or opportunities;
- Not hiring or rehiring the person; and/or
- Intimidating, threatening, coercing, harassing, or otherwise mistreating the individual.

Sexual Assault is divided into the following two categories of behavior:

Sexual Assault–Non-consensual Sexual Contact: Behavior including any intentional touching of a sexual nature, however slight, whether clothed or unclothed, with any object or body part by a person against another person that is without Affirmative Consent and/or by force. Examples include, but are not limited to:

- Intentional contact with the breasts, buttocks, groin, or genitals;
- Intentional touching of another with breasts, buttocks, groin, or genitals;
- Compelling someone to touch another person or oneself in a sexual manner; and
- Any intentional bodily contact in a sexual manner.

Sexual Assault–Non-consensual Sexual Intercourse: Behavior including any sexual intercourse, however slight, with any object or body part by a person against another person that is without Affirmative Consent and/or by force. Examples include, but are not limited to:

- Vaginal penetration by a penis, object, tongue or finger;
- Anal penetration by a penis, object, tongue or finger; and
- Oral copulation (mouth-to-genital contact or genital-to-mouth contact).

Sexual Exploitation: When an individual takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one

being exploited, and the behavior does not otherwise constitute another Sexual Misconduct offense. Examples include, but are not limited to:

- Invasion of sexual privacy;
- Prostituting another person;
- Non-consensual taking and/or distributing photography, video, or audiotaping of sexual activity;
- Allowing others to observe sexual activities without Consent;
- Engaging in voyeurism;
- Knowingly transmitting a sexually transmitted infection or human immunodeficiency virus (HIV) to another person;
- Exposing one's genitals in non-consensual circumstances; and
- Inducing another to expose their genitals.

Sexual Harassment Prohibited by Title IX (as defined by the U.S. Department of Education)¹: The following conduct constitutes Title IX Sexual Harassment when it occurs in the United States in an education program or activity of the CIA:

- an employee of the CIA conditioning the provision of an aid, benefit, or service of the CIA on an individual's participation in unwelcome sexual conduct;
- unwelcome sexual conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; and
- sexual assault, domestic violence, dating violence and/or stalking, as defined above.

Sexual Harassment Prohibited by State and other Federal Laws (Non-Title IX): Unwelcome, verbal or physical conduct that is based on sex/gender or is of a sexual nature and that subjects an individual to inferior terms, conditions or privileges of education or employment. Harassing conduct rises above the level of what a reasonable person of the same sex/gender would consider petty slights or trivial inconveniences. Sexual Harassment includes conduct that interferes with a student's ability to participate in or benefit from the CIA's educational programs or activities and conduct that unreasonably interferes with a person's work performance or creates an intimidating, hostile or offensive work environment. The unwelcome behavior may be based on power differentials (*quid pro quo*) or create a hostile environment. Examples of sexual harassment include, but are not limited to:

- Attempting to coerce an unwilling person into a sexual relationship;
- Repeatedly subjecting a person to egregious, unwanted sexual attention;
- Punishing a refusal to comply with sexual advances;
- Conditioning a benefit on submitting to sexual advances;
- Unnecessary touching, or brushing against a person;
- Unwelcome communications of a sexual nature;
- Humor or jokes about sex including sexual innuendo;
- Sexist comments or jokes; and

¹ The definition of Sexual Harassment Prohibited by Title IX is narrower than the definition of sexual harassment under CIA policy and under other federal and state laws. Accordingly, conduct that does not meet the definition of Sexual Harassment Prohibited by Title IX may still violate this Policy.

- Verbal and/or physical aggression toward another based upon their status as transgender or a perception that the other fails to conform to stereotypical notions of expected characteristics for males or females.

Sexual Misconduct: Unwelcome behavior of a sexual nature, including: Dating Violence, Domestic Violence, Sexual Assault, Sexual Exploitation, Sexual Harassment, Sexual Harassment Prohibited by Title IX and Stalking. Sexual Misconduct can be committed by a person of any gender, and it can occur between people of the same or different gender.

Sexual Violence: A category of behavior including Sexual Assault, Dating Violence, Domestic Violence and Stalking. *See also* specific definitions.

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress. Examples of stalking include, but are not limited to:

- Repeated, unwanted, intrusive, and frightening communications from the perpetrator by phone, mail, and/or email;
- Repeatedly leaving or sending the victim unwanted items, presents, or flowers;
- Following or lying in wait for the victim at places such as home, school, work, or recreation place;
- Making direct or indirect threats to harm the victim, their children, relatives, friends, or pets;
- Damaging or threatening to damage the victim's property;
- Harassing victim through the internet;
- Posting information or spreading rumors about the victim on the internet, in a public place, or by word of mouth; and
- Obtaining personal information about the victim by accessing public records, using internet search services, hiring private investigators, going through the victim's garbage, following the victim, contacting their friends, family, work, or neighbors, etc.

Student: An individual who is registered in a credit or degree program at the CIA.

Third Party: An individual who is a guest, visitor, restaurant patron, continuing education student, or any other individual on campus or participating in activities of the CIA who is not an Employee, Nonemployee Worker or Student as defined in this Policy².

In addition to the above definitions of Sexual Assault, Dating Violence, Domestic Violence and Stalking provided for in this policy, the definitions of these offenses, as well as statutes that contain elements of these offenses for the CIA's three domestic campuses in New York, California and Texas can be found at:

https://www.ciachef.edu/uploadedFiles/Pages/CIA_Policies/local-vawa-crime-definitions.pdf

² A visiting minor shall also be considered a Third Party under this policy and all complaints regarding minors as set forth under the CIA Protection of Minors Policy (SA-001-R-001) shall be handled through these procedures.

E. REPORTING PROHIBITED CONDUCT

1. Reporting and Response

Any member of the CIA Community who believes they have been subjected to Prohibited Conduct in violation of this Policy should use one of the reporting channels outlined below to report their concerns and seek assistance from on-campus and/or off-campus resources. The Title IX and Age Discrimination Act Coordinator or 504 Coordinator as appropriate, will be responsible for ensuring that the appropriate procedures are followed during the investigative process. If allegations are substantiated, the CIA will take steps to prevent further Prohibited Conduct, to correct the effects of such conduct and to impose sanctions as appropriate.

All Reporters may expect:

- To have reports of Prohibited Conduct taken seriously by the CIA;
- To have reports of Prohibited Conduct investigated and properly resolved through appropriate administrative procedures pursuant to this Policy;
- That the Investigator will share information about the matter only as they may deem necessary to ensure an effective and thorough investigation and/or seek resolution; and
- That although the CIA will safeguard the privacy of the Complainant and Respondent to the greatest possible extent, the information collected during the investigative process may be subpoenaed (demanded) in civil or criminal proceedings.

When a student or employee reports to the CIA that the student or employee has been a victim of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off campus, the CIA will provide the student or employee a written explanation of the student's or employee's rights and options. To see the full Complainant Bill of Rights and Respondent Bill of Rights please refer to the [appendix](#) of this policy, or go to <https://www.ciachef.edu/harassment-policy/>.

2. Conflicts of Interest

Both the Complainant and the Respondent have the right to have a fair and impartial investigation, determination and appeal. If either party has any reason to believe that the Investigator, the Title IX and Age Discrimination Act Coordinator, the 504 Coordinator or any of the Hearing or Appeals Officers has a conflict of interest or would otherwise be unable to be fair and impartial, the concerned party should submit a letter explaining the basis for their concern.

- Regarding the Investigator or the Hearing Officer, to the Title IX and Age Discrimination Act Coordinator or 504 Coordinator;
- Regarding the Title IX and Age Discrimination Act Coordinator, to the 504 Coordinator; and
- Regarding the 504 Coordinator, to the Title IX and Age Discrimination Act Coordinator.

The other party will be provided with a copy of the letter and will have an opportunity to respond. Based upon those submissions and any independent inquiry the decision-maker may choose to make, if it is determined that a conflict of interest exists, another individual will be appointed to take on the role of the conflicted person. If it is found that no conflict of interest exists, the individual will continue

in their role. Concerns regarding conflicts of interest should be raised as soon as they are identified and before the allegedly conflicted person renders a determination, for example, prior to the submission of the investigative report, the Hearing Officer's determination, or the appeal decision.

3. Contacting Law Enforcement

Anyone in immediate danger should dial 911 and attempt to get to a safe place.

Anyone not in immediate danger who would like to report an incident to the police can do so by contacting the local or state police: <https://ciamainmenu.culinary.edu/student-services/titleIX/Documents/SART%20and%20Resource%20Contacts.pdf>

4. Scope and Limits of Confidentiality

Individuals are encouraged to carefully review all of their reporting options before deciding whether and to whom to report. It is important to know that some resources are Confidential Resources – i.e., persons who can offer support, advice or other services and who are generally not required to further report, initiate an investigation, or otherwise take action in response to the information you provide – while other resources are not confidential.

4.a. *Confidential Resources – Not Subject to Mandatory Reporting – Does Not Constitute Notice to the CIA*

If a Complainant desires that an allegation be discussed on an entirely private and confidential basis, they may speak with one of the following Confidential Resources, who are not Responsible Employees and therefore not subject to mandatory reporting, unless an exception applies:

- New York campus: Counseling and Psychological Services mental health counselors, and/or Health Services providers
- California campus: mental health counselors/therapists
- Texas campus: Vice President – Strategic Initiatives & Branch Campuses (located on the Hyde Park campus)
- See the full list of SART and Confidential Resources for all campuses at <https://ciamainmenu.culinary.edu/student-services/titleIX/Documents/SART%20and%20Resource%20Contacts.pdf>

or

- Off-campus in all states: rape crisis resources, and/or clergy acting in the capacity of spiritual advisor.

On-campus licensed health services and mental health professionals' licensure requires confidentiality from reporting allegations of sex discrimination and harassment/assault while working in their professional capacities. **Neither the CIA nor the law requires that the private information shared by an individual with those working as Confidential Resources be shared with anyone except in circumstances (a) where there is risk of harm to self or others or (b) involving a minor.**

The on-campus licensed mental health professional shall provide individuals who disclose that they

have been subjected to Prohibited Conduct with information as to how to file a complaint with the Title IX and Age Discrimination Act Coordinator or 504 Coordinator. The professional will put the individual in touch with the appropriate Coordinator upon request.

In cases of disclosures of Prohibited Conduct made to Confidential Resources, the CIA shall not be considered to have actionable knowledge of the incident or situation and therefore the Complainant should have no expectation of the matter being investigated or resolved by College authorities.

4.b. Non-Confidential Reporting to Responsible Employees

Although the CIA will protect the privacy of persons involved in an investigation to the greatest extent possible, once a Complaint has been filed, it is the CIA's responsibility to take appropriate action to resolve the situation. Certain categories of Employees (called Responsible Employees) are mandated reporters under this Policy, meaning that if they have been informed of alleged Prohibited Conduct, they must report it further.

CIA Employees working in the following departments or roles are considered Responsible Employees: Campus Safety, Deans, Directors, Faculty, Human Resources, Managers/Supervisors, Residential Life, and Student Affairs.

Responsible Employees are required to report any allegation of Prohibited Conduct, regardless of the wishes of the Reporter or alleged victim.

Responsible Employees who become aware of an incident of Sexual Misconduct, including Sexual Harassment, and fail to report it to the Title IX Coordinator will be subject to disciplinary action.

Employees who are not classified as Responsible Employees or Confidential Resources are strongly encouraged to report all instances of Prohibited Conduct to enable the CIA to remediate its effects and prevent further misconduct.

5. Reporting Options

Any Third Party who wishes to file a Complaint for violations of this Policy may contact the CIA's Title IX and Age Discrimination Act Coordinator or 504 Coordinator as appropriate.

For members of the CIA community, there are three primary ways to report concerns under this Policy: by telephone hotline, by electronic (Web-based) hotline, and in person.

Important: The telephone hotline and electronic hotline reporting options should *not* be used in case of an emergency because they *cannot* provide an immediate response in *real time*. **An emergency situation (including where an individual is at risk of harm to self or others) must be reported immediately to 911 or to CIA Campus Safety.**

5.a. By Telephone Hotline

Available 365 days/year, 24 hours/day:

Call the Telephone Hotline at (845) 905-4477 at any time and leave a message in the confidential voicemail box. Such messages are relayed electronically to appropriate individuals within the CIA for follow-up. This channel includes an anonymous option (without identifying the Reporter), but the CIA's ability to meaningfully investigate and pursue disciplinary action may be limited as a result.

5.b. By Web-based Hotline Submission

Available 365 days/year, 24 hours/day:

- Internal (within the CIA) option: choose the appropriate feature from the menu at <https://ciamainmenu.culinary.edu/Pages/Reporting.aspx>; or
- Public option: Go to <https://www.ciachef.edu/harassment-policy/> and follow the prompts to make a Complaint. Reports received by these means are relayed electronically to appropriate individuals within the CIA for follow-up. This channel includes an anonymous option (without identifying the Reporter), but the CIA's ability to meaningfully investigate and pursue disciplinary action may be limited as a result.

5.c. In Person

A variety of personnel are available for in-person reporting. See this link for SART information: <https://ciamainmenu.culinary.edu/student-services/titleIX/Documents/SART%20and%20Resource%20Contacts.pdf>

- All Campuses: Contact the Title IX and Age Discrimination Act Coordinator/Deputy Coordinator (see contact information above, Section B), the 504 Coordinator or Human Resources; see also Sexual Assault Response Teams (SART) below
- New York Campus: Contact Office of Student Affairs or Campus Safety
- California Campus: Contact Office of Student Affairs or Campus Safety
- Texas Campus: Contact Education Department
- Singapore Campus: Contact Managing Director

6. Additional Measures

The CIA will also:

- Assist the Complainant in accessing other available victim advocacy, academic support, counseling, disability, and health or mental health services, as appropriate;
- Inform the Complainant of the right to report a crime to campus safety/security or local law enforcement – and provide the Complainant with assistance if requested.

The CIA will not require a Complainant to participate in any investigation or disciplinary proceeding, but the Complainant's lack of participation may compromise the CIA's ability to meaningfully investigate the allegations and pursue disciplinary action.

F. INVESTIGATION AND ADJUDICATION PROCEDURES FOR COMPLAINTS OF SEXUAL HARASSMENT PROHIBITED BY TITLE IX (“Title IX DOE Grievance Process”)

In May 2020, the United States Department of Education (DOE) promulgated new regulations governing Title IX. These regulations, which went into effect on August 14, 2020, mandate that the CIA adopt a specific definition of Title IX Sexual Harassment and a grievance process with respect to such conduct, as specified in the regulations. The definition of Sexual Harassment Prohibited by Title IX is narrower than the definition of sexual harassment under CIA policy and under other federal and state laws. Accordingly, conduct that does not meet the definition of Sexual Harassment Prohibited by Title IX may still violate this Policy.

If a determination is made at any stage of the process that the alleged conduct does not meet the substantive or jurisdictional definition of Sexual Harassment Prohibited by Title IX and the complaint is dismissed from this Title IX procedure, the allegations may be investigated and adjudicated under the “Procedures for Prohibited Conduct Other than Title IX Sexual Harassment” which are set forth below. In cases where allegations involving the same parties may constitute Sexual Harassment Prohibited by Title IX and other types of Prohibited Conduct, the CIA, at its discretion, may investigate and/or adjudicate those matters together under this procedure or separately with the non-Title IX Prohibited Conduct addressed under the procedure for other types of Prohibited Conduct.

Note: HSMD investigations pending before August 14, 2020, will proceed under the prior HSMD Policy and procedures. In addition, the DOE regulations do not apply to new reports of sexual harassment if the underlying conduct occurred prior to August 14, 2020.

1. Supportive Measures

Supportive measures are non-disciplinary and non-punitive services that are intended to provide support and facilitate access to the CIA’s education program and activities. Complainants who report allegations that could constitute Sexual Harassment Prohibited by Title IX are entitled to receive supportive measures from the CIA regardless of whether they choose to file a Formal Complaint. These supportive measures may include, as appropriate:

- counseling
- extensions of deadlines or other course-related adjustments
- modifications of work or class schedules
- campus escort services
- restrictions on contact between the parties (no contact orders)
- changes in work or housing locations
- leaves of absence
- increased security and monitoring of certain areas of the campus

Request for Review and Modification: Student Complainants and Respondents may request review

and modification of any supportive measure(s) that directly impact them, including review of the need for and terms of the measure(s), by submitting a request in writing to the Title IX and Age Discrimination Act Coordinator along with any evidence they wish to present. In the event the measure impacts the other party, they will be given an opportunity to state their position and present evidence as appropriate. The Title IX and Age Discrimination Act Coordinator or designee will review the submissions and make a determination.

Because the CIA is under a continuing obligation to address the issue of Sexual Violence campus-wide, reports of Sexual Violence (including non-identifying reports) will also prompt the CIA to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported sexual violence occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting its policies and practices.

2. Removal of Respondent from the CIA Community

2.a. Emergency Removal of Student-Respondent

The CIA may remove a student-respondent from the CIA’s program or activity on an emergency basis, where the CIA determines, after an individualized analysis, that the individual poses an immediate threat to the physical health or safety of any student or other individual arising out of the allegations of Title IX Sexual Harassment, justifying removal.

If the CIA determines such removal is necessary, the respondent will be provided notice and an opportunity to request review and modification of the decision immediately following the removal, as set forth above.

2.b. Administrative Leave

The CIA may place a non-student employee respondent on administrative leave without pay during the Title IX Grievance Process, subject to the terms and conditions of any applicable Collective Bargaining Agreement.

3. Formal Complaint

For the purposes of this Title IX DOE Grievance Process, “Formal Complaint” means a document or electronic submission that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. The Formal Complaint instead may be signed by the CIA’s Title IX Coordinator, but in that case, the Title IX Coordinator is not a complainant or otherwise a party to the complaint.

To file a Formal Complaint, a complainant must allege sexual harassment against an alleged harasser and request that the CIA investigate the allegation(s). At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the CIA, including as an employee. The Formal Complaint should state the name of the alleged

harasser (if known) and describe with reasonable specificity the incident(s) of alleged harassment, including the date and place of such incident(s). The complaint must be in the Complainant's own words, and may not be authored by others, including family members, advisors, or attorneys. Attached to the complaint should be a list of any sources of information (for example, witnesses, correspondence, records, and the like) that the Complainant believes may be relevant to the investigation. A complaint should not be delayed if such sources of information are unknown or unavailable. **The CIA reserves the right, at its sole discretion to utilize the investigation and adjudication procedures for Prohibited Conduct Other Than Title IX Sexual Harassment, below to address complaints from complainants who are not currently participating or attempting to participate in the educational programs or activities of the CIA.** The Title IX Coordinator may determine a Formal Complaint is necessary even if the complainant chooses not to file the complaint, in which case the CIA 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 pursuant to these procedures. The factors considered when determining whether the Title IX Coordinator will file a Formal Complaint without the cooperation of the Complainant may be found in Appendix I: *“Requests by Student-Complainants Not to Investigate or Take Disciplinary Action in Cases of Sexual Misconduct.”*

4. Assessing Title IX Jurisdiction & Dismissal

4.a. *Mandatory Dismissal*

The Title IX Coordinator or his designee will review the Formal Complaint to determine whether the jurisdiction is appropriate under the Title IX procedure. In so doing, the Title IX Coordinator will assess whether:

- The conduct is alleged to have occurred in the United States;
- The conduct is alleged to have occurred in the CIA's education program or activity; and
- If proven, the alleged conduct would constitute Sexual Harassment Prohibited by Title IX as defined by the Department of Education.

If all of the elements are met, the CIA will investigate the allegations in accordance with the Title IX procedure. If all of the elements are not met, then the Title IX Coordinator must issue a Notice of Dismissal from the Title IX procedure. The Notice of Dismissal will be sent to the Complainant(s) and Respondent(s) either simultaneously with or after the Notice of Allegations.

4.b. *Discretionary Dismissal*

The Title IX Coordinator may dismiss a Formal Complaint or any allegations at any time if:

- The complainant notifies the Title IX Coordinator in writing of a desire to withdraw the allegations;
- The respondent is no longer enrolled as a student or employed by the CIA³;

³ Where the respondent is a student in Texas, the complaint cannot be dismissed because the respondent withdrew while the complaint was pending.

- The institution determines in its discretion that it will be unable to gather evidence sufficient to reach a determination due to specific circumstances outside the control of the parties or the CIA.

Each party will have an opportunity to appeal a dismissal determination in accordance with the procedure listed under Title IX Appeals below.

If a complaint is dismissed from the Title IX procedure, the Title IX Coordinator may refer the complaint to be addressed under the Investigation and Adjudication Procedures for Prohibited Conduct Other than Title IX Sexual Harassment, which are listed below in the policy.

5. Consolidation of Complaints

The Title IX Coordinator or designee may consolidate multiple cases and/or incidents to resolve as a single case through the formal resolution process when the cases arise out of the same set of facts and circumstances, including situations where:

- There are allegations from multiple complainants against the same respondent;
- There are allegations from the same complainant against multiple respondents that arise out of the same set of facts and circumstances;
- The respondent has filed a complaint against the complainant.

6. Notice of Allegations

The Title IX Coordinator will draft and provide the Notice of Allegations to the Complainant(s) and Respondent(s) as soon as practicable after receiving a Formal Complaint of the allegations, absent extenuating circumstances. The notifications will be sent to the parties' institutional email accounts if they are students or employees or by other reasonable means if they are neither students nor employees.

The institution will provide sufficient time for the parties to review the Notice of Allegations and prepare a response before any initial interview.

6.a Contents of Notice

The Notice of Allegations will include the following:

- Notice of the CIA's Title IX Grievance Procedure and a hyperlink to a copy of the process.
- Notice of the allegations potentially constituting covered sexual harassment, including sufficient details known at the time the Notice is issued, such as the identities of the parties involved in the incident, if known, including the complainant; the conduct allegedly constituting Title IX sexual harassment; and the date and location of the alleged incident, if known.

- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
- A statement that before the conclusion of the investigation, the parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the institution does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a party or other source.
- A statement that the CIA prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

6.b Updated Notice

In some instances, additional allegations may arise during the course of the investigation that were not known at the time the Notice of Allegations was issued. In the event that occurs, the CIA may elect to add those allegations to the existing investigation. If so, the institution will notify the parties of the additional allegations using 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.

7. Notice of Meetings and Interviews

The CIA will provide written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with a party expected to attend, with sufficient time for the party to prepare to participate.

8. Advisors of Choice

The Parties may each be accompanied during any meeting, interview, or hearing by a single advisor of their choice, who may be an attorney. Other than at the hearing, advisors may speak privately to their advisee during any such meeting or proceeding but may not present evidence or otherwise participate in the interview or meeting. During a Hearing, the advisor will be permitted to cross-examine witnesses and address the Hearing Officer in connection with that cross-examination but will not otherwise be permitted to address the Hearing Officer. A party may request a brief recess to consult with their advisor, which may be granted at the discretion of the Investigator or Hearing Officer. An advisor who is disruptive and fails to comply with the participation boundaries may be removed from any meeting, interview or hearing and may be barred from future meetings, interviews or hearing in the matter.

Provided that the Advisors act reasonably in providing available dates and work collegially to find

dates and times that meet all schedules, the CIA will engage in best efforts to accommodate the advisors' schedules. The determination of what is reasonable shall be made by the Title IX Coordinator or designee. The CIA will not be obligated to delay a meeting or hearing under this process more than five (5) days due to the unavailability of an Advisor of Choice, and may offer the party the opportunity to obtain a different Advisor of Choice or utilize one provided by the CIA.

9. Voluntary Informal Resolution-Mediation

In certain circumstances, it may be possible for a Formal Complaint to be resolved through informal resolution. The CIA offers a mediated resolution option for parties, in which the Title IX Coordinator will appoint a mediator, who will suggest a resolution to the parties, which they may accept or reject. The CIA reserves the right to determine that informal resolution is not appropriate in any given circumstance. Informal resolution is not available for cases involving an allegation that an employee sexually harassed a student.

Prior to beginning the informal resolution process, the parties must voluntarily provide written consent to participate, acknowledging that: (1) once a resolution is agreed upon, the parties will be precluded from resuming a Formal Complaint arising from the same allegations, absent exceptional circumstances; (2) at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and (3) any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

The CIA will not compel any party to engage in mediation or require the parties to have direct contact with one another. Participation in the informal resolution procedure is voluntary, and either party can request to discontinue the informal resolution process at any time. Once a resolution is mutually agreed upon, the complaint will be deemed resolved.

The Title IX Coordinator will maintain records of all reports and conduct referred for informal resolution. Records relating to informal resolutions may also be placed in the personnel files of employee complainants and respondents. Statements made by either party during the course of the informal resolution process are considered confidential and inadmissible in any investigation or hearing, regardless of the outcome of the informal resolution process.

10. Process Free from Bias or Conflict of Interest

Both the Complainant and the Respondent have the right to have a fair and impartial investigation, determination and appeal. If either party has any reason to believe that the Investigator, the Title IX Coordinator, or any of the Hearing or Appeals Officers has a conflict of interest or would otherwise be unable to be fair and impartial, the concerned party should submit a letter explaining the basis for their concern.

- Regarding the Investigator or the Hearing Officer, to the Title IX Coordinator; and
- Regarding the Title IX Coordinator, to the 504 Coordinator.

The other party will be provided with a copy of the letter and will have an opportunity to respond.

Based upon those submissions and any independent inquiry the decision-maker may choose to make, if it is determined that a conflict of interest exists, another individual will be appointed to take on the role of the conflicted person. If it is found that no conflict of interest exists, the individual will continue in their role. Concerns regarding conflicts of interest should be raised as soon as they are identified and whenever possible before the allegedly conflicted person renders a determination, for example, prior to the submission of the investigative report, the Hearing Officer's determination, or the appeal decision.

11. Investigation

The Title IX Coordinator working with the appropriate CIA office will assign an Investigator or Investigative Team. The Investigator/Investigative Team will direct the investigative process and confer with the Title IX Coordinator as appropriate. The investigation will be prompt, thorough, and impartial.

There will be no Retaliation against any individual for filing a Complaint and/or for assisting, testifying, or participating in the investigation of a Complaint.

All Complaints will be kept private and disclosed only to the extent necessary for a thorough investigation.

Each party will have an equal opportunity 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.

The Investigator will take the following steps:

- Thoroughly review the Complaint and all supporting documentation and evidence.
- Interview both the Complainant(s) and the Respondent(s).
- Give both parties the opportunity to identify witnesses and provide relevant documentary and physical evidence. (This may include, but is not limited to, texts, emails, photos, social media posts, voicemail messages, etc.)
- The Investigator will contact witnesses who may have relevant information and engage in good faith efforts to meet with the witnesses. If a witness is not cooperative, the Investigator will not unreasonably delay the investigation.
- The Investigator has the discretion to identify and interview witnesses who were not identified by any party.
- The Investigator has the discretion not to interview a suggested witness where none of the information the party indicates that the witness can share would be relevant in the Investigator's judgment.
- Exclude from consideration information about the romantic or sexual history of either the Complainant or the Respondent, except as to prove that someone other than the respondent committed the conduct alleged by the complainant or with respect to the parties' shared sexual history when offered to prove consent. If either party offers such information, the other will have the right to respond.
- Exclude from consideration medical records and information, including mental health history

- or treatment, absent a waiver from the individual who is the subject of the medical record.
- Exclude from consideration information protected under a legally recognized privilege such as the attorney-client privilege unless the person holding such privilege has waived the privilege.

11.a. Parties' Review of Investigative Materials

Once the investigation has concluded, the Investigator, in conjunction with the Title IX Coordinator or designee, shall gather all evidence that is directly related to the allegations. Unless otherwise prohibited by law, the Title IX Coordinator or designee shall make electronic copies of the evidence available to the parties and their advisors. Given the confidential nature of the materials and proceeding, the parties and their advisors will be required to sign a non-disclosure agreement not to disseminate any of the evidence subject to inspection and review and not to use the evidence for any purpose other than the Title IX Grievance Process. Any violation of the non-disclosure agreement may result in additional misconduct charges against a party, a report to an attorney's professional licensing board, or other legal action.

The parties may then review the information gathered. Both will have an opportunity to respond in writing to this information within ten [10] business days.

11.b. Investigative Report

The Investigator will consider the parties' responses in completing the final investigative report, which will compile all relevant evidence. The report will be provided to the parties no later than ten business days before any hearing on the formal complaint and before any pre-hearing meeting. The final investigative report will be redacted for information that is irrelevant or privileged. Unless otherwise prohibited by law, the Title IX Coordinator or designee shall make electronic copies of the evidence available to the parties and their advisors. The parties shall have the opportunity to provide any written response to the investigative report to the Title IX Coordinator within five business days of receipt. The parties may request to review the other party's written response statements once they have been submitted.

If at any stage following the submission of the parties' responses new evidence directly related to the allegations is gathered, it will be shared with the parties and their advisors in line with the parameters set forth above. The parties will have an opportunity to submit an additional written response within a time frame determined by the Title IX Coordinator or designee. The parties may request to review the other party's written response statements once they have been submitted, but they will not be permitted to submit any further written response.

11.c. When Parties Decline to Participate

If the Complainant or the Respondent chooses not to cooperate in the investigation, the Investigator will still complete the investigation and prepare a formal report based solely upon the information available. No adverse inference will be made as a result of a Complainant or Respondent's decision not to participate in the investigation.

If the Complainant chooses to withdraw the Complaint prior to the completion of the investigation, the Title IX Coordinator or designee will determine whether to continue to pursue the Complaint considering the factors outlined above under *Requests by Complainants Not to Investigate or Take Disciplinary Action*.

12. Hearing

Prior to taking any disciplinary action with respect to Title IX Sexual Harassment, the CIA will hold a live hearing. The parties cannot waive the right to a live hearing. The live hearing may be conducted with all parties physically present in the same physical location, or, at the Title IX Coordinator's discretion, any or all parties, witnesses, and/or other participants may appear at the live hearing virtually through a remote conferencing platform. This technology will enable participants simultaneously to see and hear each other. In the event of technological difficulties outside the parties' control, the CIA may delay or adjourn a hearing. Any party who wishes to participate remotely may submit such a request to the Title IX Coordinator with an explanation for the request.

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

The hearing will be recorded through audio recording. That recording or transcript will be made available to the parties for inspection and review, provided that they and their advisors have signed a non-disclosure agreement not to disseminate the hearing recording or use it for any purpose other than the Title IX grievance process. Any violation of the non-disclosure agreement may result in additional misconduct charges against a party, a report to an attorney's professional licensing board, or other legal action.

The deliberations of the Hearing Officer will not be recorded.

12.a. Evidence Not Previously Disclosed

As a general rule, no new evidence or witnesses may be submitted during the live hearing.

If a party identifies new evidence or witnesses that were not reasonably available prior to the live hearing and could affect the outcome of the matter, the party may request that such evidence or witnesses be considered at the live hearing.

The Hearing Officer will consider this request and determine (1) whether such evidence or witness testimony was actually unavailable by reasonable effort prior to the hearing and (2) whether such evidence or witness testimony could affect the outcome of the matter. The party offering the newly-discovered evidence or witness has the burden of meeting this burden by the preponderance of the evidence.

If the Hearing Officer determines that this standard is met, then the parties will be granted a

reasonable period of time to review the evidence or prepare for questioning of the witness.

12.b. Who can attend the Hearing?

The Hearing is a private proceeding, and only the following individuals are permitted to participate:

- Complaint(s) and advisor(s)
- Respondent(s) and advisor(s)
- Hearing Officer
- Title IX Coordinator or designee at the Title IX Coordinator's discretion
- Investigator (as a witness, if called)
- Witnesses (only while they are being questioned)
- CIA employees needed to provide technological support/assistance
- Stenographer (if the hearing is being transcribed)

12.c. Hearing Procedures

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

- The Hearing Officer will begin the hearing by establishing the rules and expectations for the hearing.
- Each party will have an opportunity to give an opening statement. The statement will be presented by the party, not the party's advisor.
- The Hearing Officer will ask questions of the Parties.
- After the Hearing Officer questions a party, the other party's advisor will have an opportunity to cross-examine.
- The Hearing Officer will ask questions of each witness.
- After the Hearing Officer questions each witness, the parties' advisors will be given the opportunity to cross-examine that witness. The advisor of the party who suggested the witness will cross-examine that witness last.
- The Hearing Officer will have the authority to stop the proceedings at any time, including to ask additional follow-up questions during cross-examination, to enforce the rules of decorum, or for any other reason.
- Should the Party's Advisor choose not to cross-examine a Party or Witness, the Party shall affirmatively waive cross-examination through a written or oral statement to the Hearing Officer. A Party's waiver of cross-examination does not eliminate the ability of the Hearing Officer to use statements made by the Party.
- The Hearing Officer may consider prior statements made by the parties or witnesses, even if those parties or witnesses do not participate in cross-examination during the hearing or decline to answer a question during the cross-examination process.
- The Hearing Officer may consider statements made by the parties and witnesses during the investigation, in emails or text exchanges between the parties leading up to the alleged sexual harassment, and statements about the alleged sexual harassment that satisfy the regulation's relevance rules, regardless of whether the parties or witnesses submit to cross-examination at the live hearing.
- The Hearing Officer may also consider police reports, Sexual Assault Nurse Examiner

documents, medical reports, and other documents even if those documents contain statements of a party or witness who is not cross-examined at the live hearing.

- The CIA will not threaten, coerce, intimidate or discriminate against any party in an attempt to secure the party's participation.
- Witnesses cannot be compelled to participate in the live hearing and have the right not to participate in the hearing free from retaliation.
- The decision-maker cannot draw an inference about the determination regarding responsibility based solely on a party's absence from the live hearing or refusal to answer cross-examination or other questions.
- Prior to the conclusion of the hearing, the parties may each make an impact statement.

12.d. The Hearing Officer

- The Hearing Officer will be an individual who has received training on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for complainants, and any technology to be used at the hearing.
- The Hearing Officer will not have any bias for or against either party or any other conflict of interest.
- Neither the Title IX Coordinator, the Investigator, nor any parties' advisor can serve as the Hearing Officer.

12.e. Advisor of choice

- The parties have the right to select an advisor of their choice, who may be, but does not have to be, an attorney.
- The parties are not permitted to conduct cross-examination; it must be conducted by the advisor. As a result, if a party does not select an advisor, the institution will select an advisor to serve in this role for the limited purpose of conducting the cross-examination at no fee or charge to the party.
- The advisor is not prohibited from having 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 advisor is not prohibited from being a witness in the matter.
- If a party does not attend the live hearing, the party's advisor may appear and conduct cross-examination on their behalf.
- If neither a party nor their advisor appear at the hearing, the CIA will provide an advisor to appear on behalf of the non-appearing party.

12.f. Live Cross-Examination

Each party's advisor will have an opportunity to conduct live cross-examination of the other party or parties and witnesses, provided that those individuals are present at the hearing. During this live-cross examination the advisor will ask the other party or parties and witnesses relevant questions and follow-up questions, including questions that challenge credibility, directly, orally, and in real time.

Before any cross-examination question is answered, the Hearing Officer will determine if the question is relevant. Cross-examination questions that are duplicative of those already asked, including by Hearing Officer may be deemed irrelevant if they have been asked and answered.

12.g. Review of Hearing Recording

The recording of the hearing will be available for review by the parties within seven [7] business days, unless there are any extenuating circumstances. The recording of the hearing will not be provided to parties or advisors of choice.

12.h. Determination Regarding Responsibility

12.h.1 Standard of Proof

The CIA uses the preponderance of the evidence standard. This means that the Hearing Officer assesses whether it is more likely than not that a violation of the Policy occurred.

12.h.2 General Considerations for Evaluating Testimony and Evidence

While the opportunity for cross-examination is required in all Title IX hearings, determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the Decision-maker.

Decision-makers shall not draw inferences regarding a party or witness's credibility based on the party or witness's status as a complainant, respondent, or witness, nor shall 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 demeanor 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.

The weight given to any evidence will not vary based upon whether it is inculpatory or exculpatory (i.e. tending to prove or disprove the allegations).

A witness's testimony regarding indirect knowledge of the facts at issue will be considered but will generally be accorded less weight than testimony regarding direct knowledge of specific facts that occurred.

Title IX regulations require that the CIA allow parties to call "expert witnesses" for direct and cross examination. The CIA does not provide for expert witnesses in other proceedings. While the expert witness will be allowed to testify and be cross-examined, the Hearing Officer will afford greater weight to the testimony of fact witnesses than to the non-factual testimony of the expert or to the expert's testimony that is not directed to the specific facts of the case.

Where a party or witness's 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

Officer may draw an adverse inference as to that party or witness's credibility.

12.h.3 Sanctions

Once the Hearing Officer makes a determination regarding responsibility with respect to each allegation, the Hearing Officer will notify the appropriate decision-maker who will determine sanctions ("Sanctions Decision-Maker"). The Sanctions Decision-Maker will differ based upon the identity of the respondent, as follows:

For Students – Dean of Student Affairs

For Faculty – Academic School Dean or Branch Campus Academic Director

For Academic Administrators – Vice President of Academic Affairs

For all other Employees – Department Head in consultation with Human Resources.

The Sanctions Decision-Maker will notify the Hearing Officer as to the sanction(s) and the rationale for the sanction(s). The Hearing Officer will include the sanctions and rationale in the hearing determination, as set forth below.

12.h.4 Contents of Hearing Determination

The Hearing Officer will issue a written determination simultaneously to all parties through their institutional email account, or other reasonable means as necessary. Absent extenuating circumstances, the Determination will be issued within ten (10) business days of the completion of the Hearing. The Determination will include:

- A recitation of the allegations potentially constituting Title IX Sexual Harassment;
- 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, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding which section of this policy, if any, the respondent has or has not violated;
- For each allegation:
 - a. A statement of, and rationale for, a determination regarding responsibility; and
 - b. A statement of, and rationale for, any disciplinary sanctions being imposed on the respondent; and
 - c. A statement of, and rationale for, whether remedies designed to restore or preserve equal access to the CIA's education program or activity will be provided to the complainant; and
- The procedures and permitted grounds for the complainant and respondent to appeal (described below in "Appeal").

13. Appeal

If a Respondent or Complainant does not accept the findings of the Hearing Officer, the party may

request an appeal through the following procedures. The request for appeal must be submitted within five (5) Business Days of receipt of the Hearing Officer's decision.

Appeals are not intended to be full re-hearings or the basis for a new investigation of the Complaint. The Appeals Officer may accept or modify the original decision. Appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal. All Appeals shall be heard by an Appeals Officer, except that in New York State, a Student Appeal shall be heard by an Appeals Panel. The Appeal Officer/Panel's decision to deny a requested outcome on appeal is final.

The ONLY grounds for appeal are as follows:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal that could have affected the outcome of the matter; or
- The Title IX Coordinator, Investigator(s), or Hearing Officer 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.

Any party who files an appeal must do so in writing to the Title IX Coordinator. The request for appeal will then be forwarded to an appointed Appeals Officer for review. The Appeals Officer shall be a person not previously involved in the process. The non-appealing party will be given an opportunity to review the written appeal and submit a written response not to exceed ten (10) pages within five (5) Business Days. In cases of alleged Sexual Assault, Domestic Violence, Dating Violence or Stalking involving a Student in New York, the appeal will be reviewed by a panel of three (3) persons. The appeal panel's determination need not be unanimous but, at least two of the panel members must agree on the outcome.

If the Appeals Officer or Panel (in New York State on student cases only) determines that a procedural error occurred, they may return the original Complaint to the Hearing Officer with instructions to reconvene to remedy the error. The results of a reconvened hearing cannot be appealed.

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 with a new Hearing Officer appointed by the Title IX Coordinator as appropriate. The results of a new hearing with a new Hearing Officer can be appealed once on the grounds for appeal listed above.

The Appeals Officer/Panel may in their discretion suspend any sanctions imposed by the Hearing Officer during the pendency of the appeal and/or any new Hearing of the original Complaint.

The Appeals Officer/Panel will render a written decision on the appeal to all parties within twenty-one (21) Business Days from receipt of the request for appeal. The decision on appeal, which will include the rationale for the decision, will be delivered to the parties simultaneously via their institutional email account or other reasonable means.

In cases of Sexual Assault, Domestic Violence, Dating Violence or Stalking, if neither party submits a

written appeal within five (5) Business Days of receipt of the Hearing Officer’s decisions, the Title IX Coordinator, as appropriate, will provide the parties with written notification that the Hearing Officer’s decision is final. In cases involving all other kinds of alleged Title IX Sexual Harassment, the decision will be deemed final upon expiration of the period of time to appeal and no written notice will be provided.

G. INVESTIGATION AND ADJUDICATION PROCEDURES FOR PROHIBITED CONDUCT OTHER THAN TITLE IX DOE SEXUAL HARASSMENT

1. Resolution Procedures and Safeguards

1.a. Informal Resolution Process

In certain circumstances, when it is acceptable to both parties, it may be possible for a Complainant to resolve a concern through an informal resolution procedure. The CIA offers a mediated resolution option for parties, in which the Title IX and Age Discrimination Act Coordinator will appoint a mediator, who will suggest a resolution to the parties, which they may accept or reject.

In resolving any problem or issue as outlined above, the CIA does not require either party to communicate directly with the other.

1.b. Formal Resolution Process

All Complainants should take the following steps when formally reporting an incident of Prohibited Conduct:

- Submit a formal Complaint using any of the reporting channels outlined above including: the Complainant’s name and contact information; a 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 alleged incident (who, what, when, where, why, and how).
- Provide, if possible, any supporting documentation and evidence of the allegations that are immediately available. These items should be referenced within the body of the formal Complaint.
- Submit any additional supporting materials as quickly as is possible.

If the Complainant reports the incident orally (by speaking) rather than in writing, the Title IX and Age Discrimination Act Coordinator or the 504 Coordinator, as appropriate, or designee, shall prepare a written statement outlining the alleged incident and the nature of the Prohibited Conduct, which shall form the basis of the Complaint and subsequent investigation. The Complainant will be asked to review and sign the written statement.

1.c. Interim Protective Measures

After reviewing the Complaint, the Title IX Coordinator and Age Discrimination Act Coordinator, 504 Coordinator, or the lead Investigator in consultation with the Title IX Coordinator, may take interim protective measures to protect the safety and well-being of the individuals involved and the CIA Community.

The CIA determines which measures are appropriate on a case-by-case basis. Not all of the measures listed below will be necessary in every case to keep a Complainant safe and ensure their equal access to CIA programs and activities. If the Complainant identifies an interim measure that is not already provided, the CIA will consider whether the request can be granted. The CIA is obligated to comply with a Student's reasonable request for a living or academic change following an alleged incident of Sexual Violence. These changes can happen regardless of a formal Complaint, investigation, or campus or criminal charges. In those instances where interim measures affect both the Complainant and the Respondent, the CIA will minimize the burden on the Complainant wherever appropriate.

Interim protective action is temporary and only in effect until the investigative process is complete and a decision is rendered. Available interim protective measures include, but are not limited to:

- An order directing the parties not to contact one another;
- Changes in housing accommodations;
- Temporary loss of housing privileges;
- Changes in academic schedule or other academic accommodations;
- Changes in CIA work schedule, location or reporting line;
- Changes in transportation arrangements;
- Campus restrictions;
- An escort; and/or
- Interim suspension.

These actions may be instituted at any point during the investigative process. Complainants and Respondents are encouraged to request interim protective measures when needed.

The CIA may place a non-student employee respondent on administrative leave without pay during this Grievance Process, subject to the terms and conditions of any applicable Collective Bargaining Agreement.

Protective measures will be kept confidential to the extent possible. Only those individuals who need to be informed in order to effectuate the measures will be informed. For instance, if a party requests a change in work schedule, their supervisor(s) will need to be informed in order to effectuate the change.

Student Complainants and Respondents may request review and modification of any interim protective measure(s) that directly impact them, including review of the need for and terms of the protective measure(s), by submitting a request in writing to the Title IX and Age Discrimination Act

Coordinator along with any evidence they wish to present. In the event the measure impacts the other party, they will be given an opportunity to state their position and present evidence as appropriate. The Title IX and Age Discrimination Act Coordinator or designee will review the submissions and make a determination.

Depending upon the circumstances, some or all of the protective measures may be lifted once the process is complete and a decision is rendered, or they may be continued to assist the Complainant after a determination has been made, even if it is determined that some or all of the allegations have not been substantiated. Failure to comply with a directive relating to a protective measure may lead to further disciplinary action.

In addition to the measures that the CIA may take, law enforcement may be able to assist in obtaining additional protections, such as a restraining order or order of protection. The CIA can assist students in contacting law enforcement and legal services organizations to learn about additional remedies that may be available.

1.d. Retaliation Prohibited

CIA policy as well as federal and state laws prohibit Retaliation against any individual for making a good faith Complaint of Prohibited Conduct or for serving as a witness or otherwise providing information in connection with a Complaint of Prohibited Conduct. Incidents of Retaliation will be treated as separate violations of CIA policy and will be thoroughly investigated. Those persons found to have engaged in Retaliation will be subject to disciplinary action.

2. Conflicts of Interest

Both the Complainant and the Respondent have the right to have a fair and impartial investigation, determination and appeal. If either party has any reason to believe that the Investigator, the Title IX and Age Discrimination Act Coordinator, the 504 Coordinator or any of the Hearing or Appeals Officers has a conflict of interest or would otherwise be unable to be fair and impartial, the concerned party should submit a letter explaining the basis for their concern.

- Regarding the Investigator or the Hearing Officer, to the Title IX and Age Discrimination Act Coordinator or 504 Coordinator;
- Regarding the Title IX and Age Discrimination Act Coordinator, to the 504 Coordinator; and
- Regarding the 504 Coordinator, to the Title IX and Age Discrimination Act Coordinator.

The other party will be provided with a copy of the letter and will have an opportunity to respond. Based upon those submissions and any independent inquiry the decision-maker may choose to make, if it is determined that a conflict of interest exists, another individual will be appointed to take on the role of the conflicted person. If it is found that no conflict of interest exists, the individual will continue in their role. Concerns regarding conflicts of interest should be raised as soon as they are identified and before the allegedly conflicted person renders a determination, for example, prior to the submission of the investigative report, the Hearing Officer's determination, or the appeal decision.

3. Investigative and Disciplinary Procedures

For the purposes of this Policy, the following protocol will be applied to all Complaints of Prohibited Conduct, unless indicated otherwise herein. Elements of the protocol are organized as follows: Investigative Process; Investigative Findings; Sanctions; Hearings; and Appeals.

3.a. *Investigative Process*

The following process shall apply to all investigations conducted under this policy.

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 investigative process and confer with the Title IX and Age Discrimination Act Coordinator and/or 504 Coordinator as appropriate on interim protective measures and/or other necessary 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 a Complaint.

All Complaints will be kept private and disclosed only to the extent necessary for a thorough investigation.

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

An initial meeting with the Respondent will be held by the Title IX and Age Discrimination Act Coordinator, 504 Coordinator, or designee to inform them that a formal complaint has been filed against them and to explain the nature of the allegations.

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 may be granted at the discretion of the Investigator or Hearing Officer conducting the meeting or proceeding. Advisors may not present evidence, present witnesses, or otherwise participate in any meeting or proceeding. The advisor may be an attorney in cases involving allegations of Sexual Violence only.

A formal investigation will be commenced, usually within ten (10) Business Days after the Complaint is made. The Investigator will take the following steps:

- Thoroughly review the Complaint and all supporting documentation and evidence.
- Confirm the identity and contact information of the Complainant.
- Meet with the Complainant.
- In coordination with the Title IX and Age Discrimination Act Coordinator, or 504 Coordinator if appropriate, initiate any necessary interim protective measures.
- Commence a thorough, reliable and impartial investigation, which may include developing an

investigative plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the Respondent.

- Give both the Complainant and the Respondent the opportunity to identify witnesses and provide relevant documentary and physical evidence. (This may include, but is not limited to, texts, emails, photos, social media posts, voicemail messages, etc.) The Investigator will have sole discretion as to whether to interview suggested witnesses.
- Where the Complainant is a Third Party, the Investigator will make a good faith effort to contact and interview them and/or obtain a written statement along with any materials that may support the Investigation.
- Contact or request meeting(s) with other person who may be able to provide additional relevant information.
- Exclude from consideration information about the romantic or sexual history of either the Complainant or the Respondent, except as provided by the Complainant or Respondent relating to their shared history. If either party offers such information, the other will have the right to respond.
- Consider objections raised by either party exercising their right to object to the Investigator's consideration of their own mental health history or treatment. In the event such an objection is raised, the Investigator will neither gather nor consider information regarding mental health diagnosis or treatment.
- Exclude information about prior alleged misconduct, if the Respondent is a student.
- Make a finding, based on a preponderance of the evidence, whether a policy violation is more likely than not to have occurred.

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 as appropriate.

In their discretion, the Investigator may set behavioral guidelines for or remove a disruptive person from a meeting being held under their authority, and/or may bar such person from future meetings in the matter.

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 as appropriate.

The formal report, and any additional supporting documentation, is to be shared with the Title IX and Age Discrimination Act Coordinator or 504 Coordinator, as appropriate, who may share its contents with appropriate CIA administrative personnel and/or legal counsel as needed. Except in cases of Sexual Violence, as described below, 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 CIA.

If the Complainant or the student Respondent chooses not to cooperate in the investigation, the Investigator will still complete the investigation and prepare a formal report based solely upon the information available. No adverse inference will be made as a result of a Complainant or Student Respondent's decision not to participate in the investigation. Employee Respondents who refuse to cooperate in the investigation may be subject to disciplinary action, up to and including dismissal. A Nonemployee Worker Respondent's refusal to cooperate in the investigation will result in appropriate action, up to and including removal from campus and/or termination of the individual's relationship with the CIA.

If the Complainant chooses to withdraw the Complaint prior to the completion of the investigation, the Title IX and Age Discrimination Act Coordinator or 504 Coordinator will determine whether to continue to pursue the Complaint considering the factors outlined above under *Requests by Complainants Not to Investigate or Take Disciplinary Action*.

3.b. Investigative Findings

The following procedures will be used at the conclusion of an investigation.

Within fifteen (15) Business Days of the conclusion of the investigation the Investigator will provide a final report of their findings to the Title IX and Age Discrimination Act Coordinator or 504 Coordinator, as appropriate, for review and consideration.

Within fifteen (15) Business Days of receipt of the final report, the Title IX and Age Discrimination Act Coordinator or 504 Coordinator as appropriate will provide the Complainant and Respondent with written notice of the findings of the investigation. In cases of Sexual Violence, the parties will be provided with written notice of the date, time, location and factual allegations concerning the violation as well as the possible sanctions.

The Title IX and Age Discrimination Act Coordinator or 504 Coordinator or a designee may also hold individual meetings with the Complainant and Respondent as necessary to review the investigative findings. In cases of alleged Sexual Violence, the parties will each have an opportunity to review the investigative report but will not be provided with a copy of the report and will not be permitted to take photographs or make a copy of it.

3.c. Sanctions

If both parties accept the findings and there is found to be no violation, the matter will be closed.

If both parties accept the findings and a violation has been found to have occurred, the appropriate office (depending on the identity of the Respondent, as set forth below) will impose sanctions in writing for the violation, after consultation with the Title IX and Age Discrimination Act Coordinator, or 504 Coordinator, if appropriate. The following offices shall be responsible for recommending and/or imposing disciplinary sanctions:

For Students – Dean of Student Affairs

For Faculty – Academic School Dean or Branch Campus Academic Director

For Academic Administrators – Vice President of Academic Affairs

For all other Employees – Department Head in consultation with Human Resources.

Nonemployee Workers who are found responsible for violating the policy will not be permitted to continue to provide services at the CIA.

Nothing herein shall prevent the Title IX Coordinator from consulting with Human Resources regarding possible sanctions in any matter involving any CIA employee.

In cases of Sexual Violence where the Complainant is a Student, the parties may submit an impact statement describing how the matter and/or possible sanctions affect them. The impact statement must be submitted within five (5) Business Days of receiving notification that the parties have accepted the findings and prior to a sanctions determination being made.

In cases of Sexual Harassment or Sexual Exploitation, the Complainant will be informed of any sanctions placed upon the Respondent that directly affect the Complainant. In cases of Sexual Violence, the Complainant will be informed of all sanctions imposed upon the Respondent.

If either or both the Respondent or Complainant reject 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 notification of the investigative outcome. Nonemployee Workers do not have the right to reject the findings of the investigation or request a hearing or appeal.

3.d. Hearing

Where the Respondent or Complainant has rejected the findings of the investigation (in whole or in part), a Hearing Officer⁴ will be appointed by the Title IX and Age Discrimination Act Coordinator or 504 Coordinator as appropriate. 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.

Within twenty-one (21) Business Days of a party's rejection of the investigative findings, the Hearing will be held. The purpose of this hearing will be to provide an equitable process, respecting the civil and legal rights of all participants, for resolution. The Hearing does not include a review of any interim protective measures or proposed sanctions. The Hearing Officer will be charged only with considering the Investigator's findings in light of any additional evidence presented by the parties.

Except in cases of Sexual Violence, the Hearing Officer will meet with each party separately, and the parties will not be present at any meeting that the Hearing Officer elects to have with a witness. In cases of Sexual Violence only, the parties will have the opportunity to be present (either in person or via telephone) when the Hearing Officer questions the other party or witnesses. If the parties are not comfortable being in the same room together, appropriate arrangements will be made. At no time

⁴ Or Hearing Panel, as appropriate in California.

will a party be permitted to question another party or witness.

Through the hearing process, the parties will be provided:

- The opportunity to meet with the Hearing Officer to address the Investigator's findings and to speak and present evidence on their own behalf;
- The opportunity to be accompanied by an advisor or support person. In cases of Sexual Violence, the advisor can be an attorney; in all other cases, Employees (faculty and staff) are limited to advisors from the CIA Community;
- The opportunity to identify witnesses to the Hearing Officer who can speak about the alleged conduct at issue⁵; and
- The opportunity to raise issues and/or questions for the Hearing Officer to consider and/or to review with the Investigators, the Complainant, or other witnesses.
- The opportunity to present an impact statement.

The Hearing Officer will provide a final report to the Title IX and Age Discrimination Act Coordinator or 504 Coordinator as appropriate. This final report shall include specific findings of fact and a determination whether the Respondent violated this Policy.

If it is determined that the Respondent violated this policy, the Title IX and Age Discrimination Act Coordinator or 504 Coordinator shall refer the matter to the appropriate office (depending upon the status of the party), which will determine sanctions in consultation with the Title IX and Age Discrimination Act Coordinator, or 504 Coordinator, as appropriate.

All parties will be notified in writing within fourteen (14) Business Days of the final determination of the Hearing Officer. In cases of Sexual Harassment or Sexual Exploitation, the Complainant will also be informed of any sanctions placed upon the Respondent that directly affect the Complainant. In cases of Sexual Violence, the Complainant will be informed of all sanctions imposed upon the Respondent.

4. Appeals

If a Respondent or Complainant does not accept the findings of the Hearing Officer, the party may request an appeal through the following procedures. The request for appeal must be submitted within five (5) Business Days of receipt of the Hearing Officer's decision.

Appeals are not intended to be full re-hearings or the basis for a new investigation of the Complaint. The Appeals Officer may accept or modify the original decision. Appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal. The Appeal Officer's decision to deny a requested outcome on appeal is final.

⁵ In California Only: Prior to the hearing, the parties will have an opportunity to suggest witnesses and propose questions. During the hearing, the parties will have a further opportunity to submit additional questions based upon the testimony given by the witness at the hearing. The parties are not, however, permitted to question each other or any other witnesses directly. The panel has the discretion to determine which witnesses to call and to revise and/or decide not to ask proposed questions. The panel will not ask any questions that it deems harassing, abusive, outside the scope of the relevant inquiry or otherwise impermissible under the policy. The panel will not hear character testimony.

The ONLY grounds for appeal are as follows:

- There was a procedural error that had a material impact on the outcome; and/or
- New evidence has come to light that was not previously available and that would alter the original determination.

Any party who files an appeal must do so in writing to the Title IX and Age Discrimination Act Coordinator or 504 Coordinator, as appropriate. The request for appeal will then be forwarded to an appointed Appeals Officer for review. The non-appealing party will be given an opportunity to review the written appeal and submit a written response not to exceed ten (10) pages within five (5) business days. In cases of alleged Sexual Violence involving a Student in New York, the appeal will be reviewed by a panel of three (3) persons. The appeal panel's determination need not be unanimous but, at least two of the panel members must agree on the outcome.

If the Appeals Officer determines that a procedural error occurred, they may return the original Complaint to the Hearing Officer with instructions to reconvene to remedy the error. The results of a reconvened hearing cannot be appealed.

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 with a new Hearing Officer appointed by the Title IX and Age Discrimination Act Coordinator or 504 Coordinator as appropriate. The results of a new hearing with a new Hearing Officer can be appealed once on the grounds for appeal listed above.

The Appeals Officer may in their discretion suspend any sanctions imposed by the Hearing Officer during the pendency of the appeal and/or any new Hearing of the original Complaint.

The Appeals Officer will render a written decision on the appeal to all parties within twenty-one (21) Business Days from receipt of the request for appeal.

In cases of Sexual Violence, if neither party submits a written appeal within five (5) Business Days of receipt of the Hearing Officer's decisions, the Title IX and Age Discrimination Act Coordinator or 504 Coordinator, as appropriate, will provide the parties with written notification that the Hearing Officer's decision is final. In cases involving all other kinds of alleged Prohibited Conduct, the decision will be deemed final upon expiration of the period of time to appeal and no written notice will be provided.

Nonemployee Workers do not have the right to appeal.

H. OTHER SPECIAL PROCEDURES AND PROVISIONS

1. Attempted Violations

In most circumstances, the CIA will treat attempts to commit any of the violations listed prohibited by this Policy as if those attempts had been completed.

2. The 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 Prohibited Conduct.

3. False Reports

The CIA will not tolerate intentional false reporting of alleged Prohibited Conduct. 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/or civil defamation laws. Sanctions for false reporting may include disciplinary action up to and including termination of employment, affiliation, or dismissal from the CIA.

4. Notification of Outcomes

The outcome of a Hearing is part of the educational record of a Student Respondent and is protected from release under FERPA. However, the CIA observes the following legal exceptions:

- Complainants bringing allegations of Sexual Violence have an absolute right to be informed of the outcome, essential findings, and sanctions of the Hearing, in writing, without condition or limitation.
- 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.

5. Roles and Duties

While this Policy indicates specific Employees, who will typically perform certain roles and duties, the CIA reserves the right to assign other Employees or engage outside individuals to perform any roles or duties as described in this policy.

6. Sanctions

The CIA reserves the right to take measures deemed necessary in response to a substantiated violation of this Policy in order to protect the rights and personal safety of Students, Employees, Nonemployee Workers and Third Parties. When a Student, Employee, Nonemployee Worker or Third Party is found to have violated this policy, serious sanctions may be imposed 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. The CIA reserves the right to impose different sanctions ranging from written warning to dismissal, depending on the severity of the offense.

6.a. *Sanctions for Students*

When an investigation finds that a Student did not violate this Policy, but did violate the Student Code of Conduct, the case will be adjudicated through the process outlined in the Student Code of Conduct. In these cases, a Student is subject to the disciplinary and appeal process outlined in the Student Code of Conduct.

When an investigation finds that a Student violated this Policy and the Student Code of Conduct, the sanctions outlined below will be used. Such a Student is subject to the disciplinary and appeal process outlined in this Policy for substantiated violations of this Policy. The following sanctions may be imposed upon any Student found to have violated this Policy, singly or in any combination for one or more violations.

- a. **Verbal Warning:** A verbal warning may occasionally be given to allow a Student to correct a violation in a timely manner.
- b. **Written Warning:** A notice in writing informing a Student that the Student is violating or has violated college regulations, and warning that repeat violations will result in more severe disciplinary sanctions.
- c. **Demerits:** One to twelve (12) demerits may be assessed for verified violations of [the Student Code of Conduct]. A Student is subject to suspension or expulsion from the CIA for an accumulation of 12 demerits within a twelve-month period. Demerits may disqualify a Student from becoming a resident assistant, participating in the Manager-in-Training (MIT) program, living in specific residence halls, participating in intercollegiate athletics, or holding certain student offices.
- d. **Probation:** Probation for a designated time may be assigned. Probation may include specific directives that the Student is instructed to follow, a warning that additional sanctions may be assigned for further violations, and a signed behavioral contract agreement. An accumulation of nine (9) demerits will result in a period of probation.
- e. **Loss of Privileges:** There may be a denial of specified privileges for a designated period of time. This includes, but is not limited to, any and all privileges pertaining to campus housing, operating and parking motor vehicles, campus visitation, student employment, or use of any campus facility or service.
- f. **Fines:** Fines may be assessed. The amount will reflect the degree of seriousness of the violation. All fines are considered legitimate debts to the CIA, and non-payment may result in any of the stated penalties, discontinuation of classes, and/or not attending the commencement ceremony, not receiving the diploma, and/or not receiving copies of student transcripts and records.
- g. **Restitution:** Compensation for loss, damage, or injury may be required. This may take the form of appropriate service and/or monetary payment or material replacement.
- h. **Community Restitution:** Work assignments for a specified number of hours may be given to provide a useful service to the college or local community.
- i. **Residence Hall Suspension:** There may be a separation of the Student from the residence halls for a defined period of time. Students with serious disciplinary records are not permitted to reside in or visit residence halls as deemed appropriate.
- j. **Loss of Housing:** Permanent separation of the Student from the residence halls may occur. Students expelled from the residence halls are not allowed to visit the residence halls or the grounds adjacent to them.

- k. **Completion of an Alcohol Education or Rehabilitation Program:** Successful completion of an approved alcohol or substance abuse rehabilitation or educational program may be required as a condition for continued matriculation if the violation(s) involves alcohol, illegal drugs, or the abuse or misuse of any legal drugs. The CIA may require drug testing by a treatment facility.
- l. **Required Assessment or Educational Sessions:** A completed assessment or educational session by a licensed counselor or medical doctor may be required for Students exhibiting behavioral concerns that compromise the safety of oneself or others.
- m. **Involuntary Separation:** Significant concerns regarding health and wellness may require the college to place a Student on an involuntary withdrawal or leave of absence, per college policy, until said concern is addressed.
- n. **Suspension:** Suspension from the CIA is often for fifteen (15) weeks to one year but may be for lesser or greater periods of time. Suspension may take effect immediately and includes suspension from classes, residence halls, and all campus visitations, unless specifically authorized. Any Student arrested by the civil authorities and charged with a felony may be immediately suspended from classes, pending further decision by the CIA. Suspension may result in the same loss of privileges as listed under [Article III, Section B \(1\)\(c\): "Demerits"](#) of the Student Code of Conduct.
- o. **Expulsion:** Permanent separation of the Student from the CIA. Note: prior to June 1, 2016, disciplinary "Dismissal" is equivalent to "Expulsion."
- p. **No Contact Orders:** No Contact Orders (NCOs) are temporary directives issued by a conduct officer prohibiting communication between or among designated Students when, in the judgment of the CIA, there is reason to believe that such an order would be in the best interest of all parties. NCOs prohibit all forms of communication between Students: direct or indirect, written, electronic, or through a third party. NCOs are not similar to court-imposed orders of protection and do not guarantee that designated parties will avoid sightings or interactions in class, on the campus, or in the local community. In some circumstances, an NCO may restrict a Student from parts of the campus where the Student would not have to engage in required academic activities. Measures may be enacted to prevent or limit contact between designated Students.
- q. **No Trespass or Persona Non Grata Order:** An official notification that an individual is not permitted on the CIA property or campus. This directive includes all campus buildings, grounds, parking lots, and roads. If violated, law enforcement will be notified, and the individual may face charges of criminal trespass pursuant to state law. This notice shall remain in effect for a specific time period at the discretion of the conduct officer.
- r. **Registration Hold:** A restriction placed on a Student's account that prevents future registration for classes until other sanctions or requirements are met.

6.b. *Transcript Notations*

6.b.1 *New York State*

Any Student who is found responsible for Sexual Violence or any other crime of violence as described in the Clery Act and suspended will have a notation on their transcript indicating, "suspended after a finding of responsibility for a policy violation."

Any Student who is found responsible for Sexual Violence or any other crime of violence as described in the Clery Act and expelled will have a notation on their transcript indicating, "expelled after a

finding of responsibility for a policy violation.”

Any Student who withdraws from the CIA while a complaint of Sexual Violence is pending against them and declines to complete the investigative and disciplinary process will have a notation on their transcript indicating, “withdrew with conduct charges pending.” If a finding of responsibility is vacated for any reason, the transcript notation will be removed.

Students shall have the right to seek the removal of a notation of suspension after one year has elapsed since the end of the suspension. Students wishing to request removal should submit a letter to the Title IX and Age Discrimination Act Coordinator setting forth the justification for removal. Notations of expulsion cannot be removed.

6.b.2 Texas State

If a student is ineligible to reenroll at the CIA for a reason other than an academic or financial reason, the CIA shall include on the student’s transcript a notation stating that the student is ineligible to reenroll in the institution for a reason other than an academic or financial reason.

Students shall have the right to request that the notation be removed in the event the student is later deemed eligible to reenroll at the CIA or where other similar good cause exists to remove the notation.

6.c. Employees

When the investigation finds that an Employee violated this Policy, the Employee will be made aware of all the potential sanctions. Sanctions may include, but not be limited to, written discipline, suspension and/or termination as appropriate to the findings and as set forth more fully in the CIA Employee Handbook. More serious findings of Sexual Violence will likely result in termination of employment if appropriate. Employees will be subject to the disciplinary and appeal process outlined in this Policy for substantiated violations of this Policy.

6.d. Nonemployee Workers

Nonemployee Workers who are found responsible for violating this policy will not be permitted to continue to provide services at the CIA and may be banned from campus.

I. RESPONSIBLE CABINET MEMBERS

Vice President – Academic Affairs

Vice President – Finance and Administration

Associate Vice President and Dean, Student Affairs

J. RELATED MATERIALS

Bystander Intervention; Evidence Preservation; Risk Reduction and Sexual Assault Prevention, Education and Training information at: <https://www.ciachef.edu/harassment-policy/>
The CIA Americans with Disabilities Act/504 Compliance Policy
The CIA Computer and Network Usage Policy
The CIA Employee Handbook
The CIA Fraternalization Policy
The CIA Protection of Minors Policy
The CIA Student Code of Conduct
The CIA Transcript Notation Policy
The CIA Whistleblower Policy

K. POLICY HISTORY

Policy Editorial Committee & Responsible Cabinet Member Approval to Proceed: 10/23/2018; 9/26/19 (Date)

Policy Advisory Committee (PAG) Approval to Proceed: 7/12/2019; 9/12/2019 (nonsubstantive revisions); 9/26/19 (Texas update) 9/3/20 (Federal TIX regulation update)

Board Approval to Proceed (if required), Date

Cabinet Approval to Proceed: 8/1/2019; 9/26/19; 9/29/20; 11/10/21

Policy Revision Dates: 11/3/2015; 11/15/2016; 6/18/2018. Previous Addendum: 10/8/15; 6/9/2016; 9/23/2016. Further revised: 9/12/2019 (minor changes not requiring Cabinet approval). 9/29/20 (Federal Title IX Update); 11/10/21 (Federal Title IX Update); 1/28/22 (minor change not requiring Cabinet approval); 09/30/2022 (minor change not requiring Cabinet approval).

Scheduled Review Date: upon change in legislation requiring updates.

Appendix I

Additional Resources and Procedures relating to Incidents of Sexual Misconduct

I. *Sexual Assault Response Team (SART)*

A Sexual Assault Response Team (SART) is available at each CIA campus. SART Advisors are trained Employees who are first responders to complaints of Sexual Misconduct. They provide the Complainant with support and assistance, access to resources both on campus and off campus, as well as information about Sexual Assault, Dating Violence, Domestic Violence, and Stalking. For current campus-specific SART contact information, see:

<https://ciamainmenu.culinary.edu/student-services/titleIX/Documents/SART%20and%20Resource%20Contacts.pdf>.

SART Advisors use a survivor-centered approach by providing the Complainant key information and letting them make decisions based on what feels comfortable. Upon initial contact, SART Advisors will:

- Provide information on immediate steps victims of sexual assault should take (https://www.ciachef.edu/uploadedFiles/Pages/CIA_Policies/immediate-steps.pdf);
- Offer information about resources the Complainant might use to address personal, medical, psychological, safety, and academic concerns related to the incident;
- Provide guidance on procedures to be followed and names to be contacted for gaining rapid access to these resources;
- Offer to make initial contacts with resource providers and to introduce the Complainant to appropriate contact people, both on and off campus;
- Clarify distinctions between campus, civil, and criminal adjudication procedures and offer to help the Complainant make initial contacts with appropriate offices on campus;
- Serve as a liaison with other members of SART who may share more extensive knowledge of particular resources that the Complainant is interested in pursuing; and
- Remain in close contact with the Title IX Coordinator to ensure a coordinated, timely and appropriate support system for the Complainant.

Acts of Sexual Violence are against the law. If an individual would like someone to assist them in contacting the police or to go with them to the police department, any of the following individuals at the CIA can help:

- Campus Safety/Security officials
- Title IX and Age Discrimination Act Coordinator or Deputy Coordinator
- Student Affairs staff members
- Human Resources representatives

Victims may report an incident to law enforcement regardless of whether they choose to report the incident to the CIA. Conversely, reporting an incident to the CIA does not require the Complainant to report the incident to law enforcement. The CIA reserves the right to report any crime to law enforcement, but as a general rule, will not alert law enforcement to an incident of sexual misconduct

without the Complainant's permission, except where there is a serious and immediate threat to the campus community, when a minor is involved, or as otherwise required by law.

In addition to the protective measures that the CIA may take, law enforcement may be able to assist in obtaining additional protections, such as an order of protection or restraining order. The CIA can assist Students in contacting law enforcement and legal services organizations to learn about additional remedies that may be available.

The CIA maintains a Memorandum of Understanding ("MOU") with local law enforcement at each of its domestic campuses to ensure cooperation between local law enforcement, Campus Safety, and the Title IX Coordinator during the course of an investigation.

The CIA will investigate an alleged violation of this Policy regardless of whether a criminal investigation is being conducted. In the event a criminal investigation is conducted into events that are the subject of an investigation under this Policy, the CIA will not delay its investigation unless specifically requested by law enforcement. Even then, the investigation will not be delayed more than ten (10) days, absent extraordinary circumstances.

II. Requests by Student-Complainants Not to Investigate or Take Disciplinary Action in Cases of Sexual Misconduct

The CIA has an obligation to provide a safe, non-discriminatory environment for all members of the CIA community. Responsible Employees must report incidents of Sexual Violence of which they become aware to the Title IX Coordinator, regardless of the wishes of accusing persons or reporting parties.

If a person reports an alleged incident of Sexual Violence to a Responsible Employee but requests that their identity remain confidential or that no investigation be conducted or no disciplinary action be taken, only the Title IX Coordinator or designee, in consultation with an appropriate senior administrator, has the authority to grant or deny such a request. If the CIA honors the request not to disclose the identity of a victim, its ability to meaningfully investigate the allegation may be limited. When weighing a Complainant's request not to disclose their identity or that no investigation or disciplinary action be pursued, the Title IX Coordinator will consider a range of factors, including the following:

- The increased risk that the Respondent will commit additional alleged acts of sexual or other violence;
- Whether there have been other Sexual Misconduct complaints about the same Respondent;
- Whether the Respondent has a history of arrests or records from a prior school indicating a history of violence;
- Whether the Respondent allegedly threatened further Sexual Violence or other violence against the Complainant or others;
- Whether the Sexual Violence was committed by multiple Respondents;
- Whether the Sexual Violence was allegedly perpetrated with a weapon;
- Whether the Complainant is a minor;

- Whether the CIA possesses other means to obtain relevant evidence of the alleged Sexual Violence (for example, security camera recordings or personnel’s testimony, physical evidence);
- Whether the Complainant’s report reveals a pattern of alleged Prohibited Conduct at a given location or by a particular group; and
- The seriousness of the conduct.

The presence of one or more of these factors could lead the CIA to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the CIA will likely respect the Complainant’s request. If the CIA determines that it cannot honor the request, the CIA will inform the Complainant before starting an investigation and will, to the extent possible, share information only with people responsible for handling the CIA’s response. The CIA will remain attentive to the Complainant’s well-being, will take ongoing steps to protect them from Retaliation or harm, and will work with the Complainant to create a safety plan. Retaliation against the Complainant, whether by Students, Employees, Nonemployee Workers or Third Parties, will not be tolerated.

Pursuant to law, the CIA cannot honor an employee or non-employee worker’s request not to investigate an allegation of sexual misconduct in the workplace.

III. Student Amnesty from Drug, Alcohol and Other Conduct Policies

New York and California

The health and safety of every student at the CIA Community is of utmost importance. The CIA recognizes that students who have been drinking and/or using drugs (whether such use is voluntarily or involuntarily) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault, occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The CIA strongly encourages Students to report domestic violence, dating violence, stalking, or sexual assault to CIA officials. A Student bystander acting in good faith or a reporting Student acting in good faith who discloses any incident of domestic violence, dating violence, stalking, or sexual assault to CIA officials or law enforcement will not be subject to the CIA’s Student Code of Conduct for violations of alcohol and/or drug use policies occurring at or near the time of the domestic violence, dating violence, stalking, or sexual assault.

In addition to amnesty (forgiveness) for alcohol and drug violations, a Student who participates in good faith as a Complainant, a witness in an investigation or a bystander in relation to an alleged incident of Sexual Violence will not be subject to disciplinary sanctions for any violation of the CIA’s Student Conduct policies at or near the time of the alleged incident, unless the CIA determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

Texas

The CIA will not take disciplinary action against a student enrolled at the CIA who in good faith reports to the CIA being the victim of, or a witness to, an incident of sexual harassment, sexual assault, dating violence, or stalking for a violation by the student of the CIA’s code of conduct occurring at or near the time of the incident, regardless of the location at which the incident occurred or the outcome of

the institution's disciplinary process regarding the incident of sexual harassment, sexual assault, dating violence, or stalking, if any.

This does not apply to students who report their own commission or assistance in the commission of sexual harassment, sexual assault, dating violence, or stalking.

IV. Parental Notification

Generally, the CIA will not disclose a report of Sexual Violence to a Student's parent(s) without the Student's permission. However, the CIA reserves the right to notify parents/guardians or other individuals indicated as emergency contacts 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 Student Conduct complaints pursuant to the Family Educational Rights and Privacy Act (FERPA).

V. Bill of Rights in Cases of Sexual Misconduct

For all campuses, the following rights will be afforded:

Complainant Statement of Rights:

As a Complainant alleging Sexual Misconduct you have a right to:

- Privacy, including in accordance with the Family Educational Rights and Privacy Act (FERPA) (for Students only), subject to the CIA's legal obligation to investigate, remedy and address Sexual Misconduct on campus. The CIA will make all reasonable efforts to ensure the preservation of privacy, restricting information to those with a legitimate need to know;
- A prompt and thorough investigation and appropriate resolution of all credible complaints of sexual misconduct;
- Be treated with dignity and respect throughout the process;
- Receive in writing information regarding how to access available resources, such as counseling, advocates, support, mental health and medical treatment, legal assistance, visa and immigration assistance, academic support and/or accommodations, changes in work schedules or on campus living arrangements, and student financial aid;
- Choose to contact off-campus law enforcement and/or have campus authorities, including campus safety, assist you in contacting law enforcement;
- Receive timely written notice of all alleged violations within the Complaint, including the nature of the alleged violation and possible sanctions;
- An advisor of your choice through the investigative, adjudicative and/or appeal process;
- An outcome based solely on evidence presented during the investigative/adjudicative process. Such evidence shall be credible, relevant, based in fact, and without prejudice;
- Be notified simultaneously with the Respondent, in writing, of the outcome, including the outcome of any appeal;
- Be fully informed of the Harassment, Sexual Misconduct, and Discrimination Policy including procedures for reporting, investigation, and resolution of a Complaint, as well as possible sanctions;

- Receive timely information regarding the status of the process, including notice of any significant delay and the reason for such delay;
- Receive assistance by the CIA/Campus Safety to obtain transportation and or escort Students to and from classes, vehicles, residence halls, medical appointments, counseling sessions, legal advising sessions, etc.;
- Appeal the outcome and/or sanction(s) in accordance with the process outlined in this Policy;
- Know that a determination as to whether a violation of this Policy occurred will be based on the preponderance of evidence standard (more likely than not);
- Not have any personally identifiable information be contained in any publicly available reports or disclosures required pursuant to the Clery Act including, but not limited to the daily crime log;
- Not experience Retaliation;
- Disclose, if the Respondent is an Employee of the CIA, the incident to the CIA's Human Resources authority; and to request that another Employee assist you privately in reporting to Human Resources;
- Receive assistance from appropriate CIA representatives in initiating legal proceedings in family court or civil court;
- Withdraw a Complaint or involvement from the CIA process at any time;
- Be given a copy of these rights when you make a Complaint.

Respondent Statement of Rights

As an individual accused of Sexual Misconduct you have a right to:

- Privacy, including in accordance with the Family Educational Rights and Privacy Act (FERPA) (for Students only), subject to the CIA's legal obligation to investigate, remedy and address Sexual Misconduct on campus. Additionally, the CIA will make reasonable efforts to ensure the preservation of privacy, restricting information to those with a legitimate need to know;
- A prompt and thorough investigation and appropriate resolution of all credible Complaints of Sexual Misconduct;
- Be treated with dignity and respect throughout the process;
- Receive timely information in writing regarding how to access available resources such as counseling, advocates, support, mental health and medical treatment on and off campus;
- Receive timely written notice of all alleged violations within the Complaint, including the nature of the alleged violation and possible sanctions;
- An advisor of your choice through the investigative, adjudicative and/or appeal process;
- An outcome based solely on evidence presented during the investigative/adjudicative process. Such evidence shall be credible, relevant, based in fact, and without prejudice;
- Be notified simultaneously with the Complainant, in writing, of the outcome, including the outcome to any appeal and any sanctions that apply;
- Receive timely information regarding the status of the investigation/hearing, including notice of any significant delay and the reason for such delay;
- Be fully informed of the Harassment, Sexual Misconduct, and Discrimination Policy including procedures for reporting, investigation, and resolution of a Complaint, as well as possible sanctions;
- Know in advance, if possible, of any public release of personal identifiable information;

- Appeal the outcome and/or sanction(s) in accordance with the process outlined in this Policy;
- Know that a determination as to whether a violation of this Policy occurred will be based on the preponderance of evidence standard (more likely than not);
- Be given a copy of these rights when you are notified of the complaint.

VI. For New York State Only

A. Student Bill of Rights - New York State Education Law Article 129-B

Under New York State law, all Students to have the right to:

- Make a report to local law enforcement and/or state police;
- Have disclosures of Domestic Violence, Dating Violence, Stalking, and Sexual Assault treated seriously;
- Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;
- Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
- Be treated with dignity and to receive from the institution courteous, fair and respectful health care and counseling services, where available;
- Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
- Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
- Be protected from Retaliation by the institution, any Student, the accused person and/or the Respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
- Access to at least one level of appeal of a determination;
- Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or Respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and
- Exercise civil rights and practice of religion without interferences by the investigative, criminal justice, or judicial or conduct process of the institution.

VII. Special Provisions for CIA Employees and Nonemployee Workers in New York State Pursuant to the New York State Human Rights Law

New York State law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace from sexual harassment in the workplace. Local laws may apply as well.

A perpetrator of workplace harassment can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, visitor, or student. In addition to being prohibited by this Policy, sexual harassment is against the law, and individuals who engage in harassing behavior may be subject to personal liability in a civil lawsuit.

The CIA is committed to responding quickly and effectively to any internal report of sexual harassment and encourages Employees and Nonemployee Workers to come forward and allow us to pursue an internal investigation of the matter. In addition to the CIA's internal complaint procedure, an individual may also choose to pursue legal remedies with the following governmental entities at any time.

New York State Division of Human Rights

<https://dhr.ny.gov/contact-us>

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with DHR or in New York State Supreme Court.

Complaints with DHR may be filed any time **within one year** of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, **within three years** of the alleged discrimination. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to the CIA does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that discrimination has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If discrimination is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458, (718) 741-8400, www.dhr.ny.gov Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint

form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

U.S. Equal Employment Opportunity Commission

<https://www.eeoc.gov/contact-eeoc>

The EEOC enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred.

If an employee believes that he/she has been discriminated against at work, he/she can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (1-800-669-6820 (TTY)), visiting their website at www.eeoc.gov or via email at info@eeoc.gov

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.