

Policy on Sexual Misconduct, Sex-Based Discrimination and Retaliation Under Title IX

Section 1. Introduction & Purpose

The Cleveland Institute of Art seeks to provide a learning, working, and living environment free from discrimination on the basis of sex, as required by Title IX of the Education Amendments of 1972 and as set forth in this Policy. The Institute's commitment prohibition of sexual misconduct, sex-based discrimination, and retaliation, and the belief that respect for the rights and dignity of all people must be protected, is reflected in the administration of its policies and procedures.

The purpose of this Policy is to help ensure that The Cleveland Institute of Art provides an environment free from Sexual Misconduct, Sex-Based Discrimination and Retaliation for all members of the community. The policy defines the various forms Sexual Misconduct, Sex-Based Discrimination and Retaliation, which are subject to resolution using the Institute Procedures for Responding to Reports of Title IX Sexual Harassment.

Section 2. Title IX Notice of Non-Discrimination

Title IX of the Education Amendments of 1972 protects individuals from discrimination based on sex and/or gender in any educational program or activity operated by recipients of federal financial assistance. Sexual misconduct, or sexual harassment, which includes particular acts of sexual and interpersonal violence, is a form of sex discrimination prohibited by Title IX, as well as Title VII of the Civil Rights Act of 1964, as amended.

The Cleveland Institute of Art prohibits discrimination on the basis of sex in employment, admission, or in educational programs and activities that it operates. This policy prohibits sexual misconduct, sexual harassment, and discrimination based on gender, pregnancy, parental status, sex stereotypes (such as treating persons differently because they do not conform to sex-role expectations or because they are attracted to or are in relationships with persons of the same sex), gender identity, and transgender status. This prohibition applies to all students, employees, contractors, visitors, and volunteers.

Allegations of violations of this policy are subject to resolution using the Institute Procedures for Responding to Reports of Title IX Sexual Harassment.

Section 3. Scope & Jurisdiction.

This Policy applies to all: enrolled students (whether full-time or part-time); employees (including all faculty and staff members); vendors; visitors; and volunteers, whether the behavior(s) took place on Institute property, online, or at off-campus Institute-related programs, activities or events.

This Policy also applies to any off-campus conduct and to actions online wherein the Institute exercises substantial control over both the Respondent and the context in which the sexual misconduct occurs, and also includes any building owned or controlled by a student organization officially recognized by the Institute. The Title IX Coordinator—in consultation with other Institute offices as appropriate—will determine on a case-by-case basis whether conduct or actions affect a substantial Institute interest, based on pertinent factors.

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

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

Section 4. Responsibilities and Reporting

The Cleveland Institute of Art has appointed a Title IX Coordinator to oversee The Institute's Title IX compliance measures, which include: developing and publishing notices of The Institute's policies and grievance procedures; responding to reports of Sexual Misconduct, Discrimination and Retaliation in a timely fashion; offering supportive measures; facilitating resolution of Formal Complaints; developing training and education programs/materials for faculty, staff and students; taking reasonable action in an effort to prevent incidents of Sexual Misconduct, Discrimination and Retaliation; ensuring ongoing training to Title IX and process administrators; providing reporting mechanisms for the CIA community including an anonymous reporting option; and overseeing retention of records and monitoring trends and effectiveness of The Institute's Title IX educational efforts.

Questions regarding The Institute's compliance with Title IX should be referred to:

April L. Woodward, Director of Title IX Compliance, Title IX Coordinator
11610 Euclid Ave, JMC102
Cleveland, OH 44106
(216) 421-7476
TitleIX@cia.edu or alwoodward@cia.edu

Anonymous Reporting: [Title IX Discrimination, Harassment and/or Sexual Misconduct Report](#)

Additional information and questions regarding Title IX also may be referred to the U.S. Department of Education's Office for Civil Rights by contacting:

U.S. Department of Education
Office for Civil Rights
Assistant Secretary for Civil Rights
Lyndon Baines Johnson (LBJ) Department of Education
Building 400 Maryland Ave, SW
Washington, DC 20202
1-800-421-3481
OCR@ed.gov

Mandatory Reporting: CIA has designated all of its employees (with the exception of any designated confidential resources, such as mental health counselors and medical professionals) as mandatory reporters of Sexual Misconduct and Discrimination within the CIA campus community. Mandatory reporters are required to contact with Title IX Coordinator and report instances of Sexual Misconduct and Discrimination in a timely manner. Any mandatory reporter who is consulted about, observes, and/or witnesses behavior involving a potential violation of this Policy has the responsibility to report it to the Title IX Coordinator. In addition, to the extent possible, members of the CIA community should also encourage those directly involved to promptly make a

report to the Institute's Title IX Coordinator, April Woodward, who can be reached at 216.421.7476 or alwoodward@cia.edu.

Section 5. Compliance/Enforcement

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

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

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

Respondents will be presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Institute Process for Responding to Reports of Title IX Sexual Harassment.

In resolving complaints that include allegations falling within the purview of this Policy as well as related allegations falling under other Institute policies, the Title IX Coordinator, in consultation with other appropriate Institute officials, has the discretion to investigate and/or resolve the entire complaint under the Institute Procedures for Responding to Reports of Title IX Sexual Harassment.

A violation of this policy may result in the imposition of sanctions. Sanctions imposed by the Institute may include, but are not limited to the following: mandatory attendance at relevant awareness and prevention training or other educational programs, oral reprimand and warning, student probation; suspension or expulsion; employment disciplinary action up to and including termination; educational sanctions; restitution; and prohibition of entering the CIA campus or attending CIA events. Sanctions will be based on the severity of the infraction.

Section 6. Definitions

- A. **Actual Knowledge:** notice of Sexual Misconduct or Sex Discrimination, or allegations of such, to The Institute's Title IX Coordinator, or any other official of The Institute who has authority to institute corrective measures on behalf of The Institute.
- B. **Complainant:** an individual who is alleged to be the victim of conduct that could constitute Sexual Misconduct and/or Sex Discrimination.
- C. **Consent, Incapacitation, and Coercion** – Consent is the equal approval, given freely, willingly, and knowingly, of each participant to desired sexual involvement. Consent is an affirmative, conscious decision – indicated or expressed clearly by words or actions – to engage in mutually accepted sexual contact. Engagement in sexual contact by force, threat of force, or coercion is not consensual. Lack of mutual consent is the crucial factor in any sexual misconduct. Consent to some form of sexual activity does not necessarily constitute consent to another form of sexual activity. Similarly, consent to one sexual act does not necessarily constitute consent to any subsequent sexual acts. Silence without demonstrating permission does not constitute consent.

Consent can only be accurately gauged through direct communication about the decision to engage in sexual activity. Presumptions based upon contextual factors (such as clothing,

alcohol consumption, flirtation, or dancing) are unwarranted, and should not be considered as evidence of consent. Although consent does not need to be verbal, verbal communication is the most reliable form of asking for and gauging consent. Talking with sexual partners about desires and limits may seem awkward but serves as the basis for positive sexual experiences shaped by mutual willingness and respect. ***Please note that consent can be withdrawn at any time.***

Incapacitation - An individual may be incapable of giving consent due to incapacitation, substantial impairment, or coercion. Incapacitation is a state in which someone cannot make rational, reasonable decisions because the person lacks the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction). ***An individual who is not incapacitated, but is substantially impaired, may be incapable of giving consent.***

Examples of incapacitation and substantial impairment include, but are not limited to:

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

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

Faculty and staff members and other persons of authority should be sensitive to questions about mutuality of consent that may be raised and to the conflicts of interest that are inherent in personal relationships that result from professional and educational interactions. Sexual harassment is particularly damaging when it exploits the educational dependence and trust between students and faculty/staff. When the authority and power inherent in faculty/staff relationships with students, whether overtly, implicitly, or through misinterpretation, is abused in any way, there is potentially great damage to the individual student, to the respondent individual, and to the climate of the institution.

- D. **Formal Complaint:** a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that The Institute investigate the allegation of Sexual Harassment. Such a Formal Complaint does not need to contain a detailed statement of facts.
- E. **Mandatory Reporter:** Under this Policy, all Institute employees, except those identified as confidential resources, are designated as “mandatory reporters” and have a duty to report incidents of possible Sexual Misconduct, Sex-Based Discrimination or Retaliation to the Title IX Coordinator.

When a party informs a Mandatory Reporter employee about an incident involving Sexual Misconduct, Sex-Based Discrimination or Retaliation, the employee is required to report all relevant details about the incident to the Institute's Title IX Coordinator or designee. This includes the names of the Complainant(s), alleged Respondent(s), witnesses and any other relevant facts, including the date, time and specific location (if known).

- F. **Report:** a disclosure by any person to the Title IX Coordinator (or an Institute mandatory reporter) that is sufficient to provide Actual Knowledge of Sexual Misconduct, Sex-Based Discrimination or Retaliation; such a disclosure does not need to contain the information required of a Formal Complaint in order to constitute a Report.
- G. **Respondent:** an individual who has been reported to be the perpetrator of conduct that could constitute Sexual Misconduct, Sex Discrimination or Retaliation.
- H. **Retaliation:** No person or group, including Institute officials or the institution as an entity, may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this Policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy.
- I. **Sex-Based Discrimination** – conduct on the basis of sex, occurring within the Institute's education program or activity, that has the purpose or effect of substantially or unreasonably interfering with a person's participation in educational programs or activities, including employment or academics, or otherwise adversely affects an individual's employment or educational opportunities. Discrimination may occur when an individual or individuals are treated differently specifically because of his/her/their gender, sexual orientation, or pregnancy. Discrimination and harassing behaviors can include: derogatory comments, name-calling, physical conduct or other expressive behavior directed at an individual or group on the basis of gender/gender identity, sexual orientation or pregnancy.
- J. **Sexual Misconduct (or Title IX Sexual Harassment):** conduct on the basis of sex, occurring within the Institute's education program or activity, that satisfies one or more of the following:
 - 1. **Sexual Harassment:**
 - a. **Quid Pro Quo-** An employee of the Institute conditioning the provision of an aid, benefit, or service of the Institute on an individual's participation in unwelcome sexual conduct.
 - b. **Hostile Environment-** Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an educational program or activity of the Institute
 - 2. **Sexual Assault** - defined in 20 U.S.C. 1092(f)(6)(A)(v) as “an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.” This includes rape, sodomy, sexual assault with an object, fondling, and incest. The Policy applies the following definitions of these sex offenses:

- a. **Rape:** the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without consent, including instances where the Complainant is incapable of giving consent due to age, or a temporary or permanent mental or physical incapacity.
 - b. **Sodomy:** oral or anal sexual intercourse with another person with another person without consent, including instances where the Complainant is incapable of giving consent due to age, or a temporary or permanent mental or physical incapacity.
 - c. **Sexual Assault with an Object:** the use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person without consent, including instances where the Complainant is incapable of giving consent due to age, or a temporary or permanent mental or physical incapacity.
 - d. **Fondling:** the touching of the private body parts of another person for the purpose of sexual gratification without consent, including instances where the Complainant is incapable of giving consent due to age, or a temporary or permanent mental or physical incapacity.
 - e. **Incest:** nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - f. **Statutory Rape:** nonforcible sexual intercourse with a person who is under the statutory age of consent. In Ohio, the statutory age of consent is 16 years of age.
2. **Dating Violence**, defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; and (iii) The frequency of interaction between the persons involved in the relationship.
3. **Domestic Violence**, defined as violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Ohio, or by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Ohio.
4. **Stalking**, defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress. For the purposes of this definition—
 - a. Course of conduct means: two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
 - a. Reasonable person means: a reasonable person under similar circumstances and with similar identities to the Complainant.
 - b. Substantial emotional distress means: significant mental suffering or anguish that may, but does not necessarily require medical or other

professional treatment or counseling.

K. Third-Party Reporter: any person who was not the recipient of the behavior and reports an incident of Sexual Misconduct, Sex-Based Discrimination, or Retaliation. This term can apply to witnesses or other employees who report allegations of Sexual Misconduct, Sex-Based Discrimination, or Retaliation.