



## INTRODUCTION

Ringling College of Art and Design (“Ringling” or “the College”) is committed to creating and maintaining a community in which students, faculty, and staff can work together in an atmosphere free from all forms of discrimination. Specifically, every member of the College community should be aware that Ringling College is opposed to discrimination on the basis of sex, gender, gender expression, gender identity, and sexual orientation, and that such behavior is prohibited by College policy. Such discrimination includes harassment on the basis of these traits, as well as sexual harassment, sexual assault, dating violence, domestic violence, and stalking.

Title IX of the Educational Amendments of 1972 (Title IX) is a Federal law which prohibits discrimination on the basis of sex in education, programs or activities. It provides that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any educational program or activity provided through the College. This is not only the policy of the College, it is also the mandate under applicable federal and state laws and applies with regard to the College’s employment, admissions, academic programs, scholarship and loan programs, and other College administered programs.

While it is often thought of as a law that applies to athletics programs, Title IX is much broader than athletics and applies to all programs at Ringling College. While compliance with the law is everyone’s responsibility at Ringling College, the College has a designated Title IX Coordinator and Deputy Title IX Coordinator to oversee its response to all reports of Prohibited Conduct as defined by this Policy, and coordinate compliance with the mandates of Title IX. The Title IX Coordinator and Deputy Title IX Coordinator are knowledgeable and trained in the College’s policies and procedures, State and Federal laws that apply to sexual misconduct and harassment, and the dynamics of sexual misconduct and harassment.

Any individual may report Prohibited Conduct under this Policy, regardless of whether the person reporting is the person that is reported to have experienced the Prohibited Conduct. The Title IX Coordinator and Deputy Title IX Coordinator are available to meet with any individual to discuss the options for resolving a report under this policy. The College will respond promptly in a manner that is not deliberately indifferent when the College has actual knowledge of Prohibited Conduct in an educational program or activity of the College. Where a report is made regarding Prohibited Conduct, the Title IX Coordinator will promptly respond to such reports by offering supportive measures, follow the fair and equitable grievance process outlined in this Policy to resolve allegations of Prohibited Conduct where a Formal Complaint is filed, ensure that appropriate discipline is issued when Prohibited Conduct is determined to have occurred, and take remedial action to restore or preserve equal access to the College’s education and activities.

The College’s programs and activities are conducted in compliance with Section 504 of the Rehabilitation Act of 1973, as amended, with the Americans with Disabilities Act of 1990, as

amended, and with Title IX of the Education Amendments of 1972 and its implementing regulations as amended. Sexual harassment is also prohibited under Title VII of the Civil Rights Act of 1964 and other applicable statutes.

This Policy implements the mandates of the [Non-Discrimination Policy](#) with regard to sex discrimination, sexual harassment, and other sex-related prohibited conduct as defined below.

### **SCOPE OF POLICY**

The Policy applies to students, faculty, staff, visitors, vendors, independent contractors, volunteers, and others who either conduct business with the College or conduct business on College owned or controlled property.

The Policy applies to Prohibited Conduct that:

- Occurs on campus;
- Occurs in connection to any College educational program or activity, including employment and admissions, regardless of where the conduct occurred; or
- Has continuing adverse effects on campus or on any member of the College community.

The purpose of this Policy is to:

- Define the forms of Prohibited Conduct that violate this Policy;
- Identify resources and support for members of the Ringling College community who may have experienced or been accused of Prohibited Conduct;
- Identify the Title IX Coordinators and their responsibilities related to the Policy;
- Provide information as to how an individual may make a report or Formal Complaint; and
- Provide information on how a Formal Complaint will be resolved, which may include informal resolution or a formal investigation and adjudication.

### **NOTICE OF NONDISCRIMINATION AND DESIGNATION OF TITLE IX COORDINATOR**

Ringling College of Art and Design does not discriminate on the basis of sex, age, gender, color, race, national or ethnic origin, religion, marital status, sexual orientation, gender identity or expression, disability, veteran status, genetic information, or any other basis prohibited by law, in its programs or activities. The College is an equal opportunity educational institution.

Title IX prohibits the College from discrimination on the basis of sex in the education programs or activities that it operates. This prohibition extends to admission and employment. This Policy provides for the prompt and equitable resolution of complaints alleging any action prohibited by Title IX, and explains the process that the College will use for doing so.

The Title IX Coordinator and Deputy Title IX Coordinator have been designated and authorized to implement the Title IX program at Ringling College. The Title IX Coordinator has been designated and authorized to coordinate the College's efforts to address concerns relating to discrimination and harassment on the basis of sex. Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person who experienced the conduct that could constitute sex discrimination or sexual harassment), at any time including non-business hours (941-359-7500) by contacting the Title IX Coordinator as follows:

**Title IX Coordinator (Faculty and Staff):**

Christine DeGeorge – Vice President for Human and Organizational Development  
Office location: Verman Kimbrough Bldg, First Floor  
Mail: 2700 N. Tamiami Trail, Sarasota, FL 34234  
(941) 359-7619 [ccarnegi@ringling.edu](mailto:ccarnegi@ringling.edu)

**Deputy Title IX Coordinator (Students):**

Dr. Tammy S. Walsh - Vice President for Student Life and Dean of Students  
Office location: Ulla Searing Student Center, Second Floor  
Mail: 2700 N. Tamiami Trail, Sarasota, FL 34234  
(941) 359-7510 [twalsh@ringling.edu](mailto:twalsh@ringling.edu)

Inquiries about Title IX may also be directed to the U.S. Department of Education's Office for Civil Rights by contacting 1-800-421-3481 or emailing [ocr@ed.gov](mailto:ocr@ed.gov).

The Coordinator oversees the administration of grievance procedures for faculty and staff, and coordinates training, education and communication of all College non-discrimination and non-harassment policies. The Deputy Title IX Coordinator oversees the administration of the grievance procedures for students and coordinates training, education and communication to students. Additional policies that work in conjunction with this Policy include the *Non-Harassment Policy*, *Student Code of Conduct*, and *Non-Discrimination Policy*.

The Title IX Coordinator and Deputy Title IX Coordinator are knowledgeable and trained in the College's policies and procedures, state and federal laws, that apply to Sexual Misconduct and Harassment, and the dynamics of Sexual Misconduct and Harassment. The Title IX Coordinator and Deputy Title IX Coordinator are available to meet with any individual to discuss the options for resolving a report under this policy.

In addition to addressing complaints against a particular party, the Title IX Coordinator also facilitates the handling of reports raised that the College's policies or practices may discriminate on the basis of sex. The Title IX Coordinator conducts an assessment of such concerns and, using procedures the Title IX Coordinator determines to be appropriate given the circumstances, works with the College to ensure that its policies and practices are compliant.

Any duties or discretion assigned to the Title IX Coordinator or Deputy Title IX Coordinator by this Policy may be assigned to a designee.

## GLOSSARY OF TERMS

**Acts of Violence:** Acts of violence may include, but are not limited to:

- Recklessly causing bodily injury;
- Attempts to cause bodily injury; and
- Causing fear of immediate, physical harm through threat of force.

**Actual Knowledge:** The College has actual knowledge of allegations of Sexual Harassment – Title IX when notice of such allegations is provided to a Title IX Coordinator or any of the following College officials who have the authority to institute corrective measures on behalf of the College: President, Vice President for Human Organizational Development, Vice President for Student Life and Dean of Students, and the Vice President for Finance and Administration. The actual knowledge standard is not met when the only official of the College with actual knowledge is the respondent.

**Bias:** Bias means the tendency of an individual to share the perspective of one party over another party in a way that is unfair and not dependent on evidence. The following will not be considered evidence of bias, as indicated in the U.S. Department of Education’s commentary to the Title IX regulations:

- The Title IX Coordinator’s initiation of a formal complaint;
- An individual’s decision that allegations warrant an investigation;
- An individual’s current job title, professional qualifications, past experience, identity, or sex/gender;
- Use of trauma-informed practices when such practices do not rely on sex stereotypes, apply generalizations to allegations in specific cases, cause loss of impartiality, and result in prejudgment of the facts at issue.

The College will apply an objective (whether a reasonable person would believe bias exists), common sense approach to evaluating whether a particular person serving in a Title IX role is biased, and will exercise caution not to apply generalizations that might unreasonably conclude that bias exists.

**Complainant:** A Complainant is defined as an individual who is reported to have experience Prohibited Conduct.

**Consent:** Affirmative consent is a clear, unambiguous, knowing, informed, and voluntary agreement between all participants to engage in sexual activity. Consent is active, not passive. Silence or lack of resistance cannot be interpreted as consent. Seeking and receiving consent is the responsibility of the person(s) initiating each specific sexual act, regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent to any sexual act or prior consensual activity between parties does not constitute consent to any other sexual act. The definition of consent does not vary based upon a participant’s sex, sexual orientation, gender identity, or gender expression. Consent may be initially given but may withdrawn at any

time by outwardly demonstrating such withdrawal by words or actions that clearly indicate a desire to end sexual activity. When consent is withdrawn or cannot be given, sexual activity must stop. Consent cannot be given when a person is incapacitated. Consent cannot be given when it is the result of force. Consent cannot be given by someone under the legal age to consent.

**Education Program or Activity:** Includes all of the College's operations, including locations, events, or circumstances over which the College exercises substantial control over both the Respondent and the context in which the conduct occurs; and any building owned or controlled by a student organization that is officially recognized by the College.

**Force:** Force is the use of physical violence or physical imposition to engage in sexual activity with another person.

Force also includes the use of threat, intimidation, or coercion to overcome a person's free will or resistance to freely giving consent. Threat, intimidation and coercion include:

1. Actual or implied declarations to inflict physical or psychological harm, to cause damages or to commit other hostile actions to obtain sexual activity from an unwilling participant, and
2. Applying unreasonable pressure to obtain sexual activity from an unwilling participant. Unreasonable pressure shall be assessed by factors such as the frequency, intensity, degree of isolation and/or duration of the pressure and must include a real or perceived attack on safety, character, values or morals.

**Formal Complaint:** A document filed in writing by a Complainant, or signed by the Title IX Coordinator, that alleges Prohibited Conduct against a Respondent and requests that the College officially investigate and resolve the allegation.

**Human Rights Committee:** A fact-finding committee whose purpose is to respond to and resolve harassment complaints that are not eligible for a hearing under this Policy, nor do they involve a student respondent (in which case they are handled through the Student Conduct process). The Committee is a standing committee appointed by the President and comprised of three faculty members, two staff members, and two students. The student members of the Committee will participate only in those cases where other students are involved as the complainant. The Title IX Coordinator shall assist the Committee in coordinating its responsibilities under this Policy, but shall not participate in deliberations except as needed to answer questions about the Policy or the investigation process. If a member of the Human Rights Committee is unable to carry out their responsibilities in an impartial, unbiased manner, the Title IX Coordinator will designate an alternate official to serve on the Committee.

**Incapacitation:** Incapacitation occurs when an individual lacks the ability to knowingly consent to sexual activity. Incapacitation includes impairment due to drugs or alcohol (whether such use is voluntary or involuntary), lack of consciousness, intermittent consciousness, being asleep, being involuntarily restrained, physical helplessness, or from temporary or permanent

mental impairment. A person is incapacitated when the person's perception or judgment is so impaired that the person lacks the cognitive ability to make, understand or act on considered decisions.

Incapacitation is not the same as an alcohol-induced "blackout." An alcohol-induced blackout is defined as a lack of memory for events occurring after consuming alcohol without a loss of consciousness. A blackout is memory loss during a period of impairment without the loss of other skills.

Factors that a person may use to determine incapacitation include, but are not limited to:

- Slurred speech
- Lack of motor skills or balance
- Inability to focus
- Confusion
- Vomiting
- Emotional volatility or reactivity
- Unusual behavior
- Bloodshot eyes
- Smell of alcohol on breath

A person who is incapacitated is unable to give Consent to participate in sexual activity. To engage in sexual activity with a person whom one knows or should know is incapacitated constitutes Prohibited Conduct and violates this Policy. Under this Policy, determinations as to whether a person should have known that another person was incapacitated shall be objectively based on what a reasonable sober person would have known about the condition of the incapacitated person in the same situation. Whether a person knew or should have known of another's incapacitation requires assessment of how alcohol is affecting the other person's:

- Ability to make decisions and exercise judgment;
- Awareness of surroundings and consequences of actions;
- Ability to appreciate the nature of any sexual acts and circumstances surrounding the acts

A party's own intoxication or impairment by alcohol or other drugs does not excuse Prohibited Conduct or remove a responsibility to obtain consent for all sexual acts.

***Preponderance of the Evidence:*** A determination based on facts that are more likely true than not true. Using this standard, where the evidence in a case is in equipoise, the preponderance of the evidence standard results in a finding that the respondent is not responsible. The College applies this standard of evidence for Formal Complaints against all respondents regardless of status, and applies the same standard of evidence to all formal complaints of Prohibited Conduct under this Policy.

***Respondent:*** A Respondent is defined as an individual who is reported to have committed Prohibited Conduct.

**Supportive Measures:** Non-disciplinary, non-punitive individualized services offered to complainants and respondents as appropriate, reasonably available, and without fee or charge. This term also includes protective measures as referred to in the Clery Act.

## PROHIBITED CONDUCT

This policy addresses a broad spectrum of behavior, all of which fall under the broad definition of Prohibited Conduct. The term Prohibited Conduct includes: sexual harassment – Title IX; sexual harassment – Non-Title IX; sex discrimination; harassment on the basis of sex, gender, or sexual orientation; sexual exploitation; retaliation; and false complaints and statements. Prohibited Conduct also includes means actual, attempted or alleged criminal sexual abuse as defined by the State of Florida.

Instructional material that is reported to form the basis for Prohibited Conduct shall not be deemed Prohibited Conduct unless the material is irrelevant to the subject of the course or the cumulative presentation of specific material is unbalanced to the degree that it rises to the level of Prohibited Conduct under this Policy.

**Sexual Harassment - Title IX** means conduct on the basis of sex that satisfies the definition of one or more of the following: *quid pro quo* by an employee to a student; unwelcome conduct; sexual assault; dating violence; domestic violence; or stalking.

### 1. **Quid Pro Quo Sexual Harassment**

*Quid pro quo* sexual harassment occurs when a College employee conditions the provision of aid, benefit, or service of the College on participation in unwelcome sexual conduct.

### 2. **Unwelcome Conduct**

Conduct on the basis of sex that is unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's educational program or activity.

### 3. **Sexual Assault**

Sexual assault is a forcible or non-forcible sex offense as classified under the Uniform Crime Reporting system of the FBI, to include:

- a. **Penetrative Sexual Assault** – penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity. Attempts to commit penetrative sexual assault are also included within this definition.

- b. *Fondling* – Kissing, touching of the private body parts of another person, causing another to touch one’s private body parts, or disrobing of another for the purpose of sexual gratification without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
- c. *Incest* – Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- d. *Statutory Rape* – Sexual intercourse with a person who is under the statutory age of consent.

#### 4. **Dating Violence**

Dating Violence means an act of violence committed by a person who is or has been in a romantic or intimate relationship with the complainant. The existence of such a romantic or intimate relationship is determined by the length of the relationship, the type of relationship, and the frequency of interactions between the individuals involved in the relationship.

#### 5. **Domestic Violence**

The term Domestic Violence includes felony or misdemeanor crimes of violence committed on the basis of sex by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, 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.

#### 6. **Stalking**

Stalking is engaging in a course of conduct on the basis of sex directed at a specific person that would cause a reasonable person with similar characteristics under similar circumstances to:

- Fear for the person’s safety or the safety of others; or
- Suffer substantial emotional distress.

A course of conduct includes two or more acts, including but not limited to, those in which the alleged perpetrator directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about the complainant, or interferes with the complainant’s property. The course of conduct must be committed on the basis of the victim’s sex.

### **Sexual Harassment – Non-Title IX**

Sexual Harassment – Non-Title IX is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Submission to or rejection of such conduct is an explicit or implicit condition of an individual's employment, evaluation of academic work, or participation in any aspect of a College education program or activity; or
2. Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting the individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, i.e. it is sufficiently severe, pervasive, or persistent as to create an intimidating, hostile, humiliating, or sexually offensive working, academic, residential, or social environment under both a subjective and an objective standard.

Sexual Harassment – Non-Title IX does not refer to occasional compliments of a socially acceptable nature or to welcome conduct.

### **Stalking – Non-Title IX**

Stalking – Non-Title IX is defined as stalking that meets the definition above under "Sexual Harassment – Title IX," but that does not occur on the basis of sex.

### **Domestic Violence – Non-Title IX**

Domestic Violence – Non-Title IX is defined as domestic violence that meets the definition above under "Sexual Harassment – Title IX" but that does not occur on the basis of sex.

### **Sex Discrimination**

Discrimination that occurs when conduct or a policy has the purpose or effect of restricting or denying access to opportunities, programs, or resources in relation to sex in a manner that interferes with an individual's ability to participate in any academic, extracurricular, research, occupational training, or other College education program or activity. Sex discrimination is prohibited in connection with housing, classes, counseling, financial assistance, employment, health and insurance benefits and services, and with regard to marital or parental status.

Sex discrimination does not include behavior that differentiates between sex/gender and is explicitly permitted by federal regulations, including single-gender housing and hiring when sex/gender is a bona fide occupational qualification reasonably necessary to the normal operation of the College.

### **Harassment on the Basis of Sex, Gender, or Sexual Orientation**

Harassment on the basis of sex, gender, or sexual orientation is defined as unwelcome verbal or physical conduct on the basis of one's sex, gender, gender identity, gender expression, or sexual orientation when:

1. Submission to or rejection of such conduct is an explicit or implicit condition of an individual's employment, evaluation of academic work, or participation in any aspect of a College education program or activity; or
2. Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting the individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, i.e. it is sufficiently severe, pervasive, or persistent as to create an intimidating, hostile, humiliating, or sexually offensive working, academic, residential, or social environment under both a subjective and an objective standard.

### **Sexual Exploitation**

Sexual Exploitation is when an individual takes non-consensual or abusive sexual advantage of another, for their own benefit; or to benefit anyone other than the one being exploited; and that behavior does not otherwise constitute one of the other prohibited conduct offenses.

Examples of sexual exploitation include, but are not limited to:

- Prostituting another person (i.e. personally gaining money, privilege, or power from the sexual activities of another person)
- Non-consensual video, photography, audiotaping, or any other form of recording, of sexual activity;
- Non-consensual sharing or streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved;
- Allowing others to observe a personal act of consensual sex without knowledge or consent of the partner;
- Engaging in voyeurism (being a "peeping tom");
- Knowingly or recklessly transmitting an STD or HIV to another person.

### **Retaliation**

Retaliation consists of words or actions taken in response to reporting of a policy violation or participation in the College's complaint process or the follow up to a complaint. Neither the College nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by 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 the regulations

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve Prohibited Conduct, but arise out of the same facts or

circumstances as a report or complaint of Prohibited Conduct for the purpose of interfering with any right or privilege secured by Title IX or the regulations, constitutes retaliation. Complaints alleging retaliation may be filed according to the grievance procedures under this Policy.

Charging an individual with a code of conduct violation for making a materially false complaint or statement in bad faith in the course of a grievance proceeding under the regulations does not constitute retaliation, as described above, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false complaint or statement in bad faith.

### **False Complaints and Statements**

An individual found to have made a false complaint or to have knowingly and willingly given false statements during an investigation will be subject to disciplinary action. Submitting a good faith complaint, concern or report of harassment will not affect the complainant's employment, grades, academic standing, or work assignments.

### **A SPECIAL NOTE TO FACULTY, TEACHING ASSISTANTS, STAFF, AND OTHER PERSONS IN POSITIONS OF POWER**

Either type of sexual harassment may occur when a person who is in a position of trust or authority engages in behaviors or creates conditions that are inappropriate, unwanted, and/or non-reciprocal. This is especially true in instances of sexual harassment when an unwelcome personal element is introduced into what should be a sex neutral situation. Because of the difference in power between faculty and students, and between supervisors and employees, a faculty member or supervisor cannot be certain that a personal relationship is truly welcome or consensual. Moreover, other individuals may be affected by such relationships. Those who abuse, or appear to abuse, their power violate their responsibility to the community. The College expects the faculty and staff to be aware of the potential for problems and conflicts of interest.

### **REPORTING PROHIBITED CONDUCT AND ACCESSING SUPPORTIVE MEASURES**

Any individual who believes they have experienced Prohibited Conduct has several options for addressing Prohibited Conduct, including reporting to the Title IX Coordinator, reporting to law enforcement, seeking confidential resources, or any combination of these. These options, as well as information regarding the privacy of such reports and amnesty offered for violations of other policies, are outlined here. This section also details the supportive measures that are available to individuals who report Prohibited Conduct to the Title IX Coordinator, as well as the options for emergency removal and administrative leave.

#### **A. Reporting to the Title IX Coordinator**

The College encourages all individuals to report information about any type of Prohibited Conduct to the Title IX Coordinator. Reports may be made **online** using the Ringling **Reporting Form**. Reports may also be submitted to the Title IX Coordinator by email, mail, telephone, or in person using the contact information listed above, or by any other means that results in the

Title IX Coordinator receiving a verbal or written report. Such a report may be made at any time, including during non-business hours. Individuals may choose to make an anonymous report, however if an individual wishes to remain anonymous, it may limit the College's ability to respond.

Faculty and staff (except for College Counseling staff and the Campus Chaplain since they are confidential resources) **are required** to report information to a Title IX Coordinator about any type of Prohibited Conduct. Such mandatory reports cannot be anonymous and must include the name of the employee filing the report, as well as all known information relating to the report. Additionally, as required by Florida law, upon notification of known or suspected sexual abuse, abandonment or neglect of a child under age 18, employees, students and volunteers must report as described in the Ringling College of Art and Design [Child Protection Policy](#). This policy can be found in the student and employee handbooks.

Reports may also be made 24 hours a day, 7 days a week by calling Public Safety (941-359-7500). A complainant or third party can request a campus safety officer to respond and take a report.

The College's goal is that all students report all incidents of Prohibited Conduct so that those affected can receive the support and resources needed. To encourage reporting, the College offers **amnesty**. This means that personal drug and alcohol use be exempt from disciplinary action in situations where Prohibited Conduct also occurs. However, the College may require educational programs about the use of alcohol or drugs and their impact.

Complainants may choose to put respondents "on notice" that their behavior was unwelcome, but doing so is not a prerequisite to initiating a report or Formal Complaint.

Upon receipt of a report, the Title IX Coordinator will provide the complainant with a copy of or link to this Policy, offer an opportunity to discuss supportive measures, and provide information to the complainant of their rights as follows:

- (1) The right to contact or decline to contact law enforcement to pursue criminal charges, which may be done concurrently with, before, or after filing a Formal Complaint under this Policy. More information on law enforcement is below.
- (2) The right to access supportive measures under this Policy, regardless of whether the complainant chooses to file a Formal Complaint or report to law enforcement.
- (3) The right to file a civil action against the respondent, such as to request a protective order.
- (4) The right to file a complaint with the U.S. Department of Education, the U.S. Equal Employment Opportunity Commission, and other relevant legal authorities as may be applicable under the circumstances.
- (5) With regard to reports alleging sexual assault, dating violence, domestic violence, or stalking:

- a. The right to receive information about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for those who have experienced these types of Prohibited Conduct, including resources within the College and in the community;
- b. The right to receive information about options for, available assistance in, and how to request changes to academic, living, transportation, working situations, and other supportive measures;
- c. The right to receive information about the procedures used to address reports and Formal Complaints as explained by this Policy, including disciplinary procedures.

The Colleges' response to reports may be limited if the respondent is no longer on campus or is unknown. Nevertheless, resources and assistance may still be available and the complainant is encouraged to report the Prohibited Conduct to explore those options.

#### **B. Reporting to Law Enforcement**

When Prohibited Conduct may also constitute criminal conduct, individuals may file a report with the Sarasota Police Department or other law enforcement agency with jurisdiction, depending on the location of the incident.

If a complainant wishes to file a report with the Sarasota Police Department, a Ringling College staff member is available to assist. The College will not file a police report about the incident on the complainant's behalf unless compelling circumstances, as outlined in the statement of privacy and confidentiality section, exist. The College's response to a report is not impacted by the complainant's decision to file a criminal complaint or the outcome of the criminal investigation.

Notifying the Sarasota Police Department will generally result in the complainant and, in some cases the respondent, being contacted by a police officer. The police department determines if a criminal investigation will occur and if the case will be referred for prosecution.

Under Florida state law, sexual misconduct may constitute a criminal act. However, the College conducts investigations and hearings and renders sanctions in an educational, non-criminal context. An act not criminally prosecuted may still violate College policy. Because the goals and objectives of the Policy differ from those of the civil and criminal justice systems, proceedings under the Policy are independent of civil and criminal processes and may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus. On-campus adjudication does not preclude, limit or require a student's or employee's access to the state and federal justice system. A case not referred for criminal prosecution will still receive a College response.

To the extent permitted or required by law, the College will cooperate with law enforcement investigations. However, outside law enforcement agencies do not respond to Title IX violations, and respond only to allegations of criminal behavior. As a result, the College encourages reporting Prohibited Conduct to both the College and to local law enforcement, if the alleged sexual misconduct may also be a crime.

For those reporting to law enforcement, the Sarasota County Sheriff's Office Victim Assistant Unit may be a helpful resource. The Unit may be contacted at (941) 861-4942 or [victimassistance@scgov.net](mailto:victimassistance@scgov.net). The Sarasota County Sheriff's Office Victim Assistance Unit provides services to any victim of any crime, including secondary victims and witnesses to crime. In addition, they provide short-term crisis support for persons experiencing traumatic situations that are not crime related (such as suicides). Services include crisis intervention, accompaniment through medical, legal, and judicial appointments related to the victimization, assistance with filing Injunctions for Protection (restraining orders), assistance in applying for Crime Victim Compensation where applicable, practical assistance, exploration of options, and community information and referral.

### C. Privacy and Confidentiality

Under this Policy, the concepts of privacy and confidentiality are distinct concepts.

Privacy means that the information will be shared only with other individuals who have a "need to know" such information to implement this Policy, including to provide supportive measures. The College shall protect the privacy of individuals involved in a report of Prohibit Conduct to the extent allows by law and College Policy. The College is committed to protecting the privacy of all individuals involved in a report of Prohibited Conduct, and will balance individual privacy with its obligation to conduct a thorough review of allegations to protect the parties and the broader community and maintain an environment free from Prohibited Conduct.

The College will respect, to the greatest extent possible, the privacy of individuals who choose to report to non-confidential employees of the College, including the Title IX Coordinator and Deputy Title IX Coordinator. Except for the confidential resources identified in this policy, all other College staff and faculty who receive a report of Prohibited Conduct are required to report information regarding Prohibited Conduct to the Title IX Coordinator or the Deputy Title IX Coordinator for response. Under Florida law, the College is also mandated to report any abuse of a minor (under the age of 18) to the Florida Abuse Hotline at 1-(800) 962-2873.

Confidentiality governs the information held by certain individuals who learn of such information in the context of a privileged relationship, such as a counselor-patient relationship or in the context of confidential communications with clergy. Information that is subject to confidentiality shall not be shared except in certain situations, such as where the information indicates imminent threat to the health and safety of others, or where the individual is obligated to report child abuse or neglect. Note that limitations of confidentiality may exist for individuals under the age of 18.

Faculty, staff and students wishing to obtain confidential assistance without making a report to the College may do so by speaking with a confidential resource listed below. When an individual seeks medical treatment for sexual assault, medical personnel are required to report to the police, but such individuals are not required to file formal charges unless desired.

Where the College has received a report of Prohibited Conduct but the complainant requests that he or she remain unidentified, and/or requests that the College not pursue an investigation, the College must balance this request with its responsibility to provide a safe and non-discriminatory environment for all members of the community. The College is required to take all reasonable steps to respond to a report, but its ability to do so may be limited by the complainant's request. However, under compelling circumstances - including evidence of a pattern of repetitive behavior, the use of force or threat of force, or the use of a weapon by the respondent - the College may pursue additional information regarding the report, file a Formal Complaint, or take other appropriate measures without the complainant's consent. If the College is unable to take action consistent with the wishes of the complainant, the Title IX Coordinator will inform the complainant about the chosen course of action.

If a report of misconduct poses an immediate threat to the community when timely notice must be given to protect the health or safety of the community, the College may not be able to maintain the same level of privacy. Immediate threatening circumstances include, but are not limited to, reported incidents of misconduct that include the use of force, a weapon, or other circumstances that represent a serious and ongoing threat to the community.

All actions to address reports of Prohibited Conduct (including Formal Complaints, if filed) are conducted in compliance with the requirements of FERPA, the Clery Act, Title IX, the Violence Against Women Act (VAWA) and College policy. The College will take great care with confidentiality of the victim including publicly available record-keeping (i.e. Clery Reporting) that excludes personally-identifiable information on the victims to the extent permissible by law. No information shall be released from these proceedings except as required or permitted by law and College policy.

D. Confidential Resources

Individuals may seek confidential resources, in addition to or instead of making reports to the College and/or law enforcement. Such confidential resources may be helpful in assisting an individual in determining whether and how to make such reports. Examples of available confidential resources include:

Campus Chaplain (confidential)  
Office Location: Ulla Searing Student Center, Second Floor  
(941) 309-0200

Peterson Counseling Center (confidential)  
Office Location: Health Center  
(941) 893-2855

Health Center (confidential except must report sexual assaults to police)

Office Location: Health Center

(941) 309-4000

Other Resources

Employee Assistance Program

(877) 240-6863

SPARCC (Safe Place and Rape Crisis Center)

2139 Main Street

Sarasota, Florida 34237

(941) 365-0208

You can also reach SPARCC through the Florida Coalition Against Domestic Violence

Hotline 1-800-500-1119.

HOPE Family Services

[www.hopefamilyservice.org](http://www.hopefamilyservice.org)

24 Hour Help-line: 941-755-6805

Outreach Office: 941-747-8499

Manatee Glens Rape Crisis Services

[www.manateeglens.org](http://www.manateeglens.org)

Rape Crisis Hotline: 941-708-6059

Main number: 941-782-4100

Legal Aid Manasota

[Legalaiddofmanasota.org](http://Legalaiddofmanasota.org)

Legal Hotline: (800) 625-2257

Florida Council Against Sexual Violence

[Fcasv.org](http://Fcasv.org)

Statewide Hotline: (888) 956-7273

National Hotlines:

- National Domestic Violence Hotline, 24-hours: (800) 799-SAFE (7233)
- National Teen and Young Adult Dating Abuse Hotline, 24-hours: (866) 331-9474
- National Suicide Prevention Lifeline, 24-hours: (800) 273-8255
- National Sexual Assault Hotline, 24-hours: (800) 656-HOPE (4673)
- Trans Lifeline, 10:00-4:00: (877) 565-8860
- Crisis Text Line: text HOME to 741741

Medical Attention: Individuals who experience sexual assault should consider seeking medical attention through a local hospital or health care provider to address injuries,

test for sexually transmitted infections, discuss emergency contraception options, and to preserve evidence in case the individual should choose to file formal criminal charges through law enforcement. The individual should not wash, shower, urinate, defecate, change clothes or douche prior to such medical assistance, even though that may be the immediate reaction, so as to best preserve evidence. Medical providers are required to report sexual assaults to police, and any information reported to any police official is public information and is available to the local media. It is, however, the general practice of journalists not to release names of victims of sex offenses. Sarasota Memorial Hospital provides Sexual Assault Nurse Examinations through its Emergency Department to provide specialized care and services to individuals who have experienced sexual assault.

#### E. Supportive Measures

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or to deter Prohibited Conduct.

Supportive measures may include counseling, extensions of deadline or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

After a report is received, the Title IX Coordinator will offer to confer with the complainant about supportive measures. All individuals are required to report instances of another individual's failure to abide by any restrictions imposed by supportive measures, such as the violation of a mutual no-contact order. The College will take appropriate action to enforce a previously implemented interim measure, which may include a warning to the party or discipline.

Either party may access counseling services through the Peterson Counseling Center as part of Health Services or Employee Assistance Program, or through a referral to off campus agencies. Information regarding these and other confidential resources is listed above.

#### F. Emergency Removal and Administrative Leave

If, after receipt of a report or Formal Complaint and an individualized safety and risk assessment, the College determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of prohibited conduct justifies removal of a respondent, the College may remove the respondent on an emergency basis. Threats must pose more than a generalized, hypothetical, or speculative risk to health and safety for emergency

removal to be appropriate. The College will take steps to continue providing the removed respondent as much access to their educational activities as possible when the individual facts and circumstances of the removal are considered.

When a respondent is removed from campus through emergency removal, the Title IX Coordinator shall provide the respondent with written notice of the individual who will hear any challenge of the removal. The respondent may file a written challenge with such individual in writing within two (2) business days of the removal, and the challenge must include supporting documentation or evidence that the respondent does not pose, or no longer poses, an immediate threat to physical health or safety of any student or other individual arising from the allegations of Prohibited Conduct. The individual hearing the challenge shall be trained, impartial, and unbiased, and shall render their decision to the respondent and Title IX Coordinator within two (2) business days of receipt of the challenge.

This section does not preclude the College from placing a non-student employee respondent on administrative leave during the pendency of a Formal Complaint. Administrative leave is not subject to the challenge procedures applicable to emergency removals.

## **GRIEVANCE PROCESS**

### **A. Formal Complaint**

A Formal Complaint is a document filed in writing by a Complainant, or signed by the Title IX Coordinator, that alleges Prohibited Conduct against a Respondent and requests that the College officially investigate and resolve the allegation. The Formal Complaint may be filed with the Title IX Coordinator in person, by mail, by electronic mail, by in-person delivery, or through the online reporting form and must contain the Complainant's physical or digital signature.

In addition to the Complainant, a Title IX Coordinator can file a Formal Complaint. In the instances when the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or a party during a Formal Resolution, and must comply with requirements for any person involved in the response and/or resolution to be free from conflicts and bias.

A Formal Complaint may be withdrawn if the Complainant informs the Title IX Coordinator in writing that they want to withdraw the complaint or the allegations. The Title IX Coordinator may choose to withdraw a Formal Complaint if a Respondent is no longer participating in or attempting to participate in the College's education or program activity, the Complainant submits a written request to withdraw the complaint, or specific circumstances prevent the College from gathering evidence sufficient to reach a determination. Such a dismissal does not preclude the College from taking action under another college policy. No matter the reason for the withdrawal of a complaint, the parties will be notified simultaneously in writing of the decision to dismiss, including the reasoning.

The College will not restrict the ability of any party to discuss the allegations under investigation or to gather and present relevant evidence, exception where such discussions constitute Prohibited Conduct (for example, because they constitute retaliation as defined by this Policy).

**B. Title IX Coordinator's Initial Review of the Formal Complaint.**

A Formal Complaint may be resolved through either an Informal Resolution or a Formal Resolution. Informal Resolution for Prohibited Conduct may only be offered after a Formal Complaint has been filed, so that the parties understand what the Formal Resolution entails and can decide whether to voluntarily attempt informal resolution as an alternative. The Informal Resolution process is outlined in Section IV.

The Title IX Coordinator may consolidate Formal Complaints as to allegations of Prohibited Conduct against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Prohibited Conduct arise out of the same facts or circumstances. The same facts and circumstances means that the multiple Complainants' allegations are so intertwined that their allegations directly relate to all parties. Where multiple complainants or respondents are involved in the same investigation, the parties will only be provided with the appropriate portion(s) of the investigative documents that relate to the complaint(s) in which they are a party.

**C. Investigation**

The parties will receive written notice that a formal investigation has been initiated. The notice of investigation will include:

- the identities of the parties involved;
- the specific section/s of the policy allegedly violated;
- the precise conduct alleged to constitute the potential violation/s;
- the approximate date, time, and location of the alleged incident;
- a statement indicating that the respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process;
- a statement that the determination of responsibility will be made at the conclusion of a Formal Resolution;
- a notice that parties have the right to an advisor of their choice, who may be an attorney;
- the result of an initial assessment to determine whether the allegations suggest a potential violation of Sexual Harassment – Title IX with an indication that this decision will be reviewed again when the investigators prepare their report;
- the name of the investigators and the ability to challenge their participation for conflict of interest or actual bias;
- the appropriate policy language prohibiting a party from knowingly making false statements or knowingly submitting false information; and
- a notice that Retaliation is prohibited.

The notice shall be provided reasonably in advance of any interview with the investigators, with sufficient time for meaningful preparation. The Title IX Coordinator, in consultation with the

investigators, may amend the charges as part of the investigative process. The Title IX Coordinator will, if appropriate, issue amended charges in writing to both parties.

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

A party's advisor is permitted to attend any meeting or proceeding relating to the Formal Complaint. The advisor's role is to provide support and assistance during the process but not to speak on behalf of their party, unless required as part of the Hearing Resolution Process. If an advisor refuses to comply with these restrictions, or is disruptive to the process, the College may require the party to use a different advisor.

**1. Investigator roles and participants' responsibilities.**

The Title IX Coordinator will designate a trained investigator to conduct an adequate, reliable, and impartial investigation. The investigator may be an employee or an external contractor. In complex situations, the Title IX Coordinator may engage additional trained investigators to assist in gathering the information for the primary investigator. If a party has concerns that an investigator has a conflict of interest or bias, the party should follow the process for addressing these concerns outlined in the notice of investigation. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the College and not the parties.

The investigator will offer each party the opportunity to be interviewed. The parties will have an equal opportunity to present witnesses, including expert witnesses, and to submit evidence. The investigator will also gather any available physical evidence, including documents, communications between the parties, and other electronic records as relevant, appropriate, and available. The parties may submit questions to be asked of parties and witnesses. The investigator will review submitted questions and, in their discretion, may choose which questions are necessary and appropriate to the investigation and conduct any follow-up, as they deem relevant.

**2. Use of treatment records with written permission of the parties.**

A person's medical, counseling/psychological, and similar treatment records are privileged and confidential documents that a party will not be required to disclose. Where a party provides their written permission to share medical, counseling/psychological, and similar treatment records as part of the investigation, only the portion of the records directly related to the allegations raised in the formal complaint will be included in the case file for review by the other party and for use in the investigative process.

**3. Use of Complainant's prior sexual history and prior conduct of the parties.**

Evidence related to the prior sexual history of the complainant is generally not relevant to the determination of a policy violation and will only be considered in very limited circumstances, for example, to prove that someone other than the respondent committed the alleged conduct. Where the existence of consent is at issue, the sexual history between the parties may be relevant to help understand the manner and nature of communications between the parties and the context of the relationship. However, even in the context of a relationship, consent to one sexual act does not, by itself, constitute consent to another sexual act, and consent on one occasion does not, by itself, constitute consent on a subsequent occasion.

Information regarding other acts by a party will be permitted as relevant where the nature and means of those other acts may affect credibility of the assertions in the current case. It is not required that the party have been found responsible for policy violations related to those other acts for them to be included in the current case.

Any party seeking to introduce information about prior sexual history or other acts by a party should bring this information to the attention of the investigators at the earliest opportunity. While the investigators may explore relevant areas of inquiry, the Title IX Coordinator has the discretion to make the final determination whether evidence of prior sexual history or other misconduct is relevant and should be included in the report.

**4. Anticipated timeframe for completing investigation and process for requesting extension of time.**

The College will seek to complete the investigation in a reasonable timeframe from the notice of investigation, typically within sixty (60) business days. This time frame may be extended for good cause with written notice to the parties of the delay and the reason for the delay. Good cause may be based on delays occasioned by the complexity of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening school break or vacation, or other circumstances, all of which will likely extend the length of time it takes to complete the investigation. The Title IX Coordinator will provide regular updates to all parties regarding the progress of the investigation.

**5. Parties' review of evidence collected during investigation**

The evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint will be made available to the parties and their advisors for review and inspection, including the evidence upon which the College may not rely in reaching a determination regarding responsibility, as well as inculpatory or exculpatory evidence. The parties will have 10 calendar days to review the evidence. The parties will be offered the opportunity to review the evidence and provide a written response that will be submitted to the investigator for consideration in their completion of the Investigation Report.

Due to the privacy of all those involved, evidence shared in an electronic format will not be printable, downloadable or electronically shareable by the parties or their advisors. Exceptions may be made in compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans

with Disabilities Act. Individuals who share evidence in violation of this prohibition may be subject to discipline or, if advisors, to removal from participation in the process.

#### **6. Investigators will complete an investigative report.**

Once the parties have reviewed the evidence and have submitted responses, or the time period to submit such responses has passed, the investigators will complete any follow up they deem necessary, and write the investigation report. The investigation report will include, but is not limited to, the following sections:

- overview of the complaint made and summary of the investigative methodology;
- summary of relevant information gathered, including:
  - timeline of incident being investigated;
  - complainant's account of events;
  - respondent's account of events;
  - witness accounts;
  - evidence gathered;
- areas of agreement;
- areas of disagreement;
- assessment of whether or not the complaint meets one or more of the required elements of the definition of sexual harassment under Title IX, including rationale; and
- an appendix containing all of the collected evidence.

The investigation report will not include:

- Information about the complainant's sexual predisposition or prior sexual behavior, unless:
  - The information is to prove that someone other than the respondent committed the alleged conduct; or
  - The information concerns specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent
- Information that is protected by a legally recognized privilege unless the person holding such privilege has waived the privilege; and
- A party's medical, counseling/psychological, and similar treatment records unless the party (or, in the case of a minor, the party's parent/guardian) has given voluntary, written consent.

#### **7. Dismissal from Hearing Procedure**

The investigators will consider whether the conduct alleged, if demonstrated by a preponderance of the evidence, would constitute Sexual Harassment – Title IX within the Scope of the Policy in light of the evidence gathered during the investigation, and make a recommendation to the Title IX Coordinator regarding the same. If Sexual Harassment – Title IX is properly alleged, the investigators will further determine whether those allegations meet all three of the following jurisdictional requirements:

- The Formal Complaint was filed when the complainant was participating in or attempting to participate in the education program or activity of the College;
- The reported Sexual Harassment – Title IX occurred against a person in the United States; and
- The reported Sexual Harassment – Title IX occurred in the College’s education program or activity.

The Title IX Coordinator will review the recommendation of the investigators and make the final determination as to whether the conduct alleged, if demonstrated by a preponderance of the evidence, would constitute Prohibited Conduct within the Scope of the Policy and whether all three of the above jurisdictional factors are met. This determination is consequential because only cases alleging Sexual Harassment – Title IX shall be eligible for the hearing process.

The Title IX Coordinator will notify the parties, in writing, of the final assessment and whether or not the complaint will proceed to a hearing or be transitioned for adjudication under another College Policy. This decision may be appealed by either party. Instructions and grounds for the appeal will be shared by the Title IX Coordinator in the cover letter for the investigation report. Parties have 3 business days after receipt of the investigative report to submit in writing an appeal of the transition to another policy or the failure to transition to another policy, and the other party will be provided with 3 business days in which to respond to such appeal.

Cases that are eligible for hearing will continue using the Hearing Resolution Process outlined in this Policy. All other cases shall be handled as follows:

- Where the Respondent is a student, the investigative report shall be referred to the Office of Student Life, which will utilize the student disciplinary process for Non-Academic Conduct in the *Student Handbook* to adjudicate the case. Appeals shall be handled pursuant to that process.
- Where the Respondent is not a student, the matter shall be referred to the Human Rights Committee, which shall review the investigative report and make a determination based on the preponderance of the evidence as to whether Prohibited Conduct occurred. A designated member of the Human Rights Committee will prepare a report containing the Committee’s findings and conclusions. Sanctions will be determined by an appropriate Vice President according to the list of potential sanctions in this Policy. The parties will receive copies of the report and notification of any sanctions that are issued. Appeals shall be handled as indicated in this Policy, except that an Appeals Panel consisting of three Vice Presidents selected by the Title IX Coordinator shall be used in lieu of a single Appeals Officer.

Where a case is not eligible for hearing but involves sexual assault, dating violence, domestic violence, or stalking allegations, the following procedural protections will be available to both parties through the Student Conduct or Human Rights Committee procedures outlined above:

- Continued access to informal resolution procedures until a determination is reached as to whether a Policy violation occurred;

- Continued access to supportive measures;
- Procedures are conducted by officials that receive annual training on issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of the victims and promotes accountability;
- Continued ability to bring an advisor of choice to any related meeting or proceeding;
- Both parties receive simultaneous written notice of the result of the disciplinary proceeding, the procedures for appeal, any changes to the result, and when such results become final.

### **8. Responses to Investigative Report**

The parties have 10 calendar days beginning at the conclusion of the 3-day appeal window, if no appeal is filed, or beginning at the receipt of the appeal decision if an appeal is filed, to submit their written response to the Investigation Report. The response may include an assertion that evidence not summarized in the report, but present in the case file, should be considered as relevant.

## **II. Hearing Resolution Process**

A Hearing Resolution will be used to resolve cases that include charges of Sexual Harassment – Title IX and meet the jurisdictional requirements listed in the section above regarding “Dismissal from the Hearing Process.” If such cases also include other charges, all the charges in that case will be handled at the same time through the Hearing Resolution process. A Hearing Resolution includes a pre-hearing conference, a live hearing, decisions about responsibility and sanctioning by the Decision-maker, and an optional appeal process.

A single Decision-maker will typically conduct the live hearing. The Title IX Coordinator chooses a trained, impartial decision-maker, who may be but is not required to be an employee. The Decision-maker cannot be the Title IX Coordinator or the investigator(s) who investigated the case.

The Hearing Resolution Process typically concludes in thirty business days from receipt of the parties’ responses to the investigative report. This time frame may be extended for good cause with written notice to the parties of the delay and the reason for the delay. Good cause may be based on delays occasioned by the complexity of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening school break or vacation, or other circumstances, all of which will likely extend the length of time it takes to complete the Hearing Resolution Process.

Each party must have an advisor at the hearing. If a party does not have an advisor present at the live hearing, the College will provide without fee or charge to that party, an advisor of the

College's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.

### **1. Pre-Hearing Conference**

Each party will have their own Pre-Hearing Conference. The Title IX Coordinator will communicate to the parties, their advisors, and the Decision-maker, the date, time, and format for their Pre-Hearing Conference. The Title IX Coordinator, the Decision-maker, and the advisor must be in attendance. While the parties are encouraged to attend, they are not required to do so.

During the Pre-Hearing Conference, the advisors must share with the Decision-maker their list of witnesses to appear at the hearing, the identity of any requested witnesses that were not questioned during the investigation, the request for any new evidence to be considered that was not submitted previously to the investigators, and the availability of the advisor and the party for hearing dates.

Evidence and witnesses may only be presented at the hearing if they were submitted to the investigators and made available to the parties for review, unless they were unavailable at the time of the investigation or the relevance was unknown until the investigative report was submitted. The Decision-maker will address any requests at the Pre-Hearing Conference to present new evidence and new witnesses.

The advisor is strongly encouraged to discuss lines of questioning with the Decision-maker at the Pre-Hearing Conference to obtain guidance from the Decision-maker on relevancy prior to the hearing. The Decision-maker will discuss the expectations and guidelines for appropriate behavior and decorum during the hearing.

After reviewing each party's witness list, the Decision-maker may, in their discretion, add names of other witnesses contained in the report for the purpose of appearing at the hearing and submitting to cross examination.

After the conclusion of the Pre-Hearing Conferences, the Title IX Coordinator will provide each party and their advisor with written notice of the date, time, and manner for the hearing, which will typically occur no less than 5 business days after the conclusion of the final pre-hearing conference.

### **2. Live Hearing**

The live hearing may be conducted with all parties physically present in the same geographic location or, at the College's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually. Regardless of format, the hearing will be recorded or transcribed, and the recording or transcript will be Ringling's property, and will be made available to the parties for review and inspection upon their request during the pendency of the process.

Those persons present during the entirety or at designated portions of the hearing include: Complainant; Complainant's advisor; Respondent; Respondent's advisor; Decision-maker; Title IX Coordinator; witnesses; other appropriate individuals at the discretion of the Title IX Coordinator (for example, an interpreter or someone needed to provide reasonable accommodations due to a disability).

The Decision-maker will provide an introduction detailing the purpose of the hearing, have those present identify themselves and their role, remind all parties of the expectation to be candid and honest in their response, and provide a brief overview of the procedure and the anticipated order of the hearing.

All evidence subject to the parties' inspection and review during the investigation will be available at the hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

The advisors will be responsible for orally asking relevant questions, including those questions which challenge credibility, to the other party or parties and any witnesses directly, in real-time and in a manner that, in the Decision-maker's sole discretion, is not inappropriate, harassing, intimidating, irrelevant, or redundant. Cross-examination will never be conducted by a party personally. Only relevant questions may be asked of a party or witness. Relevant questions are those tending to prove or disprove a fact at issue. The Decision-maker may ask questions and elicit information from parties and witnesses on the Decision-maker's own initiative to aid the Decision-maker in obtaining relevant evidence.

Questions that are not relevant include:

- Repetition of the same question;
- Questions related to information about the complainant's sexual predisposition or prior sexual behavior, unless:
  - The information is to prove that someone other than the respondent committed the alleged conduct; or
  - The information concerns specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent;
- Questions related to information that is protected by a legally recognized privilege; and
- Questions related to a party's medical, counseling/psychological, and similar treatment records unless the party has given voluntary, written consent.

The Decision-maker will objectively evaluate all evidence, including inculpatory and exculpatory evidence, to determine its relevance, materiality, weight and reliability. Credibility determinations will not be based on an individual's status as a complainant, respondent, or witness.

Before a party or witness answers a question by an advisor, the Decision-maker will first determine whether the question is relevant and briefly explain any decision to exclude a question as not relevant, or request rephrasing of the question. The Decision-maker is not required to give a lengthy or complicated explanation of a relevancy determination during the hearing. The

Decision-maker may later send to the parties any revisions to the explanation of relevance that was provided during the hearing.

If a party or witness does not submit to cross-examination at the live hearing, the Decision-maker must not rely on any statement of that party or witness in reaching a determination regarding responsibility. The Decision-maker cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions. However, video evidence showing the conduct alleged within a complaint may be considered, even if the party does not submit to cross-examination. Further, a respondent's verbal or written conduct that is alleged to constitute the sexual harassment at issue is not considered to be the respondent's "statement" and thus, information about or evidence of such conduct may be admitted even if the respondent does not submit to cross-examination.

**3. The Decision-maker will issue a written determination of responsibility.**

After the hearing, the Decision-maker will issue a written determination of responsibility. The determination of responsibility will be based on a preponderance of the evidence and will include:

- Identification of the allegations potentially constituting 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, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the Policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions Ringling imposes on the Respondent, and whether remedies will be provided by Ringling to the Complainant, and;
- Ringling's procedures and permissible bases for the Complainant and Respondent to appeal.

The determination will lay out the evidentiary basis for conclusions reached in the case. The determination will be provided to the parties simultaneously. The determination becomes final only after the time period for appeal has expired or, if a party does file an appeal, after the appeal decision has been sent to the parties.

If an appeal is filed, the determination becomes final on the date that the College provides the parties with the written determination of the result of the appeal. If an appeal is not filed, the determination becomes final on the date on which an appeal would no longer be considered timely. The Title IX Coordinator may determine whether it is appropriate to stay the sanctions pending the determination becoming final, taking into account the safety of the complainant and

the campus community, the severity of the behavior, and the effect on the College's ability to address the behavior if the sanctions are stayed.

### **III. Appeals**

Complainants and Respondents may appeal the Decision-maker's determination regarding responsibility, or Ringling's dismissal of a Formal Complaint or any allegations therein to the Title IX Coordinator who will initiate the appeal process. Ringling will notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties. Both parties will have a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome. The Appeal Officer, who is the decision-maker for the appeal, will issue a written decision describing the result of the appeal and the rationale for the result and provide the written decision simultaneously to both parties.

Grounds for appeal include:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter, and;
- The Title IX Coordinator, investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

All grounds for appeal will be available to all parties.

The Title IX Coordinator shall appoint a trained, impartial Appeals Officer, who shall be a Vice President of the College or shall be external to the College, depending on availability and circumstances.

When the typical or alternate Appeal Officer is unable to serve, or is not otherwise designated in this policy, the Title IX Coordinator will select a trained individual to be the Appeal Officer with notice to the parties. The Appeal Officer cannot be the same person as the Decision-maker for the hearing, the investigator, or the Title IX Coordinator.

The Appeal Officer must be a neutral and impartial decision-maker. The parties will be informed, in writing, of the specific Appeals Officer. Within 1 business day of receiving the notice of the designated Appeals Officer, the complainant and the respondent may submit a written request to the Title IX Coordinator to replace the named Appeals Officer if there are reasonable articulable grounds to establish bias, conflict of interest or an inability to be fair and impartial.

The designated Appeals Officer will only be replaced if the Title IX Coordinator determines their bias precludes impartiality or constitutes conflict. Additionally, an Appeals Officer who has reason to believe they cannot make an objective determination must recuse themselves from the process.

A complainant or respondent must submit a written appeal to the Title IX Coordinator and within 5 business days of receipt of the Notice of Outcome. The written appeal must include the specific basis for the appeal and any information or argument in support of the appeal. Upon receipt of the appeal, the Title IX Coordinator will provide the other party notice of the appeal and the opportunity to respond in writing to the appeal. Any response to the appeal must be submitted to the Title IX Coordinator within 3 business days from the other party's receipt of the appeal. Appeal responses are shared with the other parties but no reply is permitted.

The Appeals Officer will make a decision regarding the written appeal and, within 10 business days of receipt of all appeal documents, notify the complainant and the respondent of the outcome. The Appeal Officer may affirm the finding(s); alter the finding(s); alter the sanctions; or request that additional steps be taken.

Appeal decisions are final. All appeal deadlines may be extended for good cause by the Title IX Coordinator. Any extension will be communicated to the parties.

#### **IV. Informal Resolution Process**

Informal resolution permits the parties to seek resolution of Formal Complaints of Prohibited Conduct. Ringling does not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, the waiver of the right to an investigation and adjudication of Prohibited Conduct under Ringling's grievance process. Similarly, Ringling will never require the parties in a Prohibited Conduct allegation to participate in an informal resolution process, as described below.

After the report of Prohibited Conduct or after the filing of a Formal Complaint of Title IX Sexual Harassment, if all parties voluntarily consent in writing, Ringling will assist the parties in an informal resolution process. An informal resolution process is available at any time prior to reaching a determination regarding responsibility in the grievance process, except in the cases of a report that an employee engaged in Sexual Harassment – Title IX against a student.

Before initiating an informal resolution, Ringling will: (1) provide the parties a written notice; and (2) obtain the parties' voluntary, written consent to the informal resolution process. The written notice that Ringling will provide to the parties will disclose the allegations, the requirements of the informal resolution process, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

Ringling's informal resolution process enables that, at any time prior to agreeing to a resolution, any party has a right to withdraw from the informal resolution process and resume the grievance process with respect to the report or Formal Complaint. The Title IX Coordinator will appoint a trained, impartial informal resolution officer to facilitate the informal resolution process.

Upon initiation of the informal process as described above, the informal resolution officer will attempt to resolve the dispute through meetings with the parties. Although an in-person or a restorative justice conference may be suggested, parties will never be required to meet directly with one another as part of the informal resolution process unless they mutually agree to do so.

When sexual harassment allegations can be resolved through alternate resolution by mutual consent of the parties and on a basis that is acceptable to the informal resolution facilitator in consultation with the Title IX Coordinator, the resolution process shall be considered finally decided and there will be no subsequent process or appeal.

## **V. Sanctions and Remedies**

Where a respondent is determined to have engaged in Prohibited Conduct, the Decision-maker shall determine appropriate sanctions, in consultation with an appropriate administrator based on the status of the respondent (student, employee, or other). The Title IX Coordinator will determine an appropriate administrator for consultation based on the circumstances.

Students determined to have engaged in Prohibited Conduct are subject to disciplinary action in accordance with the provisions of the *Code of Conduct* as contained in the Ringling College of Art and Design *Student Handbook*, whether or not formal criminal charges are filed by the victim.

A student found in violation of this Policy may be sanctioned with the following, or any combination thereof: disciplinary warning, reprimand, educational interventions, assessment by the counseling staff, community restitution, denial of privileges, work projects, restitution, fines, disciplinary probation, final disciplinary probation, behavioral agreement, no contact orders, suspension, expulsion, termination of employment, and other restrictions as to access and use of College facilities, property, or activities.

Employees determined to have engaged in Prohibited Conduct are subject to disciplinary action. Such employees may be sanctioned with the following, or any combination thereof: a warning, reprimand, educational interventions, counseling, no contact orders, probation, suspension, transfer, demotion or immediate termination of an employee in accordance with the policies and procedures outlined in the Faculty or Staff *Handbook*, as well as other restrictions as to access and use of College facilities, property, or activities.

Respondents who are neither students nor employees are also subject to disciplinary action, including but not limited to the following, depending on the amount of control exercised by the College over the Respondent: warning, reprimand, educational interventions, restitution, no contact orders, termination of contract(s), and restrictions as to access and use of College facilities, property, or activities.

Ringling will provide remedies to a Complainant designed to restore or preserve equal access to Ringling's education program or activity. Such remedies may include the same individualized services provided as supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent where the Respondent has been found to have engaged in Prohibited Conduct.

The Title IX Coordinator is responsible for effective implementation of remedies. Where the final determination has indicated that remedies will be provided, the Complainant can then

communicate separately with the Title IX Coordinator or their designee to discuss what remedies are appropriately designed to preserve or restore the Complainant's equal access to education. Remedies for a Complainant which do not affect the Respondent must not be disclosed to the Respondent.

## **TRAINING**

The College will ensure the Title IX Coordinators, investigator(s), decision-makers, appeals officers, and any person who facilitates an informal resolution process receive training on the definition of Sexual Harassment – Title IX, the scope of the recipient's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Additionally, these individuals must receive annual training on issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

The College will ensure that decision-makers receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.

The College will ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Any materials used to train Title IX Coordinators, investigators, decision-makers, appeals officers, and any person who facilitates an informal resolution process must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

Training materials shall be posted on the College's website in compliance with the Title IX regulations.

## **MAINTENANCE OF RECORDS**

The College shall maintain all records and documentation for each case for seven (7) years from the date a report is received. With regard to Records of Sexual Harassment – Title IX, the records will include:

- Each investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the recipient's education program or activity;
- Any appeal and the result therefrom;
- Any informal resolution and the result therefrom;

- All materials used to train Title IX Coordinators, investigators, decision-makers, appeals officers, and any person who facilitates an informal resolution process;
- Documentation of any supportive measures taken in response to a report or formal complaint of Sexual Harassment – Title IX, including documentation regarding the basis for any conclusion that the College’s response was not deliberately indifferent;
- Documentation of why a complainant alleging Sexual Harassment – Title IX was not provided with supportive measures, including the reasons why such response was not clearly unreasonable in light of the known circumstances.

Approved by President Larry R. Thompson, August 14, 2020