

## **Institute for Advanced Study**

### **Title IX Procedures**

#### **Introduction**

Title IX of the Education Amendments of 1972 (“Title IX”) is a comprehensive federal law that prohibits discrimination on the basis of gender in any federally funded education program or activity. Title IX applies, with a few specific exceptions, to all aspects of federally funded education programs or activities. In addition to traditional educational institutions such as colleges, universities, and elementary and secondary schools, Title IX also applies to any education or training program operated by a recipient of federal financial assistance. Title IX and its implementing federal regulations prohibit discrimination on the basis of gender in the Institute’s programs and activities.

The Institute for Advanced Study is committed to maintaining an educational, working, and living environment free from discrimination and harassment, and fostering an environment where all individuals may pursue their studies, work, careers and social interactions without being subjected to sexual misconduct. “Sexual misconduct” refers to a broad range of inappropriate sexual behaviors, including but not limited to, sexual harassment and sexual assault, which not only are prohibited by state and federal law but also are a violation of the ethical vision that informs the mission of the Institute.

The Institute regards acts of sexual misconduct as serious offenses, and as unacceptable conduct. Sexual misconduct of any kind is not acceptable behavior. The Institute will take such action as it deems appropriate to prevent, correct, and if necessary, discipline behavior constituting sexual misconduct. Sanctions that may be applied include, but are not limited to, warning, probation, suspension (with or without pay for Staff, Faculty and/or Members) and dismissal. In addition, sexual misconduct by a vendor, contractor, or other third-party having an agreement or contract with the Institute may be grounds for the abrogation of such agreement or contract.

In adopting these procedures, the Institute seeks to ensure that all members of its community, including guests and visitors, have the right to learn and work in the safest possible environment, and to be free from all forms of gender-based misconduct, including gender discrimination, sexual harassment, hostile work environment, sexual violence, and gender-based harassment. In order to provide recourse for allegations of inappropriate treatment involving gender-based misconduct, the following procedures will be used. The purpose of this Title IX procedure is to provide clear guidance regarding the Institute’s internal formal system of reporting, processing, and adjudicating complaints of gender-based misconduct.

A detailed listing of definitions to clarify key terminology as used throughout the Title IX Procedures, as well as additional information about these procedures, can be found in [Appendix A](#).

## **Complaints of Sexual Assault**

If you are the victim of rape or sexual assault, call 911 immediately to report the crime and to obtain medical attention. In addition, the following steps will help protect you and assist in prosecuting any crime that may have taken place:

Get to a safe place as soon as you can and contact a close friend who can be with you as long as you need her/him. Your friend can accompany you to a medical exam, the police department or counseling services.

- Try to preserve all physical evidence: Do not bathe, douche, use the toilet (you can save a urine sample in a jar with a lid on it), brush your teeth, drink (especially soda or alcohol), wash your sheets or couch cushions, or change clothing (you can put your clothing in separate paper bags).
- Get medical attention as soon as possible. Go to a local emergency room. A full physical exam will help assure that any injuries will be identified and treated, and concerns about possible pregnancy and/or sexually transmitted infections will be addressed. Forensic evidence can also be collected for potential use in criminal cases.
- While victims of sexual assault are encouraged to report their assaults to the police, requests for adjudication through the Institute's policies are not dependent on whether or not a police report is filed. The Title IX Coordinator can provide information and guidance regarding any or all of these options, and can assist in making decisions about what course of action a victim might take.

Notwithstanding the remedies this policy may provide, if you have been sexually assaulted the Institute urges you to seek help and report the incident to the police immediately. Your ability to prosecute a claim of sexual assault may be significantly hindered by the passage of time.

## **The Institute for Advanced Study's Title IX Coordinator and Other Reporting Outlets**

Jennifer Richardson, the Institute's Chief Human Resources Officer, is responsible for coordinating the Institute's compliance with Title IX of the Education Amendments of 1972, and serves as the Institute's Title IX Coordinator.

The responsibilities of the Title IX Coordinator include (but are not limited to) the following:

- Communicating with all members of the Institute community regarding Title IX, and providing information about how individuals may access their rights;
- Reviewing applicable Institute policies to ensure institutional compliance with Title IX;

- Monitoring the Institute's administration of its own applicable policies, including record keeping, timeframes, and other procedural requirements;
- Responding to any complaint or report regarding conduct that violates this policy.

Contact information for the IAS's Title IX Coordinator is:

Jennifer Richardson

Chief Human Resources Officer/Title IX Coordinator

Human Resources

Fuld Hall, Room 101

(609) 734-8245

Email: [jrichardson@ias.edu](mailto:jrichardson@ias.edu)

Questions may also be directed to:

William Spain

Administrative Services Assistant/Deputy Title IX Coordinator

Fuld Hall, Lower Level

(609) 951-4550

Email: [wspain@ias.edu](mailto:wspain@ias.edu)

Contact information for other reporting outlets include:

Princeton Police Department

Nicholas Sutter, Chief

1 Valley Road

Princeton New Jersey 08540

Emergency: 911

Non-emergency: 609-921-2100

Institute Public Safety

Campus #: 734-8241 Cell Phone #:609-947-5940

Inquiries may be made externally to:

Office for Civil Rights

U.S. Department of Education

400 Maryland Avenue, SW

Washington, DC 20202-1100

Customer Service Hotline #: (800) 421-3481

Facsimile: (202) 453-6012

TDD#: (877) 521-2172

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

Web: <http://www.ed.gov/ocr>

Equal Employment Opportunity Commission

Contact: <http://www.eeoc.gov/contact/>

### **Misconduct Panel**

The Misconduct Panel (“Panel”), from which hearing committees are drawn to handle complaints filed under this procedure and which performs related functions described below, is appointed by the Institute’s Associate Director for Finance and Administration, in consultation with the Title IX Coordinator and Deputy Title IX Coordinator. Members of the Panel are appointed every three years, on staggered terms.

Members of the Panel typically include the following, although the composition of the Panel may be modified at the sole discretion of the Associate Director for Finance and Administration:

- Two Co-chairs: one representative from the Administrative Staff and one member of the Faculty; one of who will serve as a presiding member of the Hearing Committee.

Professor Nicola Di Cosmo, School of Historical Studies

Mary Mazza, Chief Fiscal Officer

- At least two School Administrative Officers

Nicole Maldonado, School of Mathematics

Michelle Sage, School of Natural Sciences

- At least two employees of the exempt Institute Staff

Jeffrey Berliner, Chief Information Officer

Jonathan Peele, IT Manager, Information Technology Group

- At least two employees of the non-exempt Institute Staff

Sharon Tozzi, Facilities Housing Specialist

Yuchao Wang, Human Resources Benefits Administrator

- At least one active Member

Elizabeth Tolman, Member, School of Natural Sciences

Panel members are trained in all aspects of the grievance process, and can serve in any of the following roles, at the direction and delegation of the Title IX Coordinator:

- To serve in a mediation role in conflict resolution
- To act as advisors to those involved in grievances
- To serve on hearing committees for grievances

### **Submission of a Complaint**

Any member of the Institute community may file a complaint concerning gender-based misconduct in the treatment of other members of the Institute community or third parties. A complaint may also concern retaliation for filing a complaint or participating in an investigation relating to such gender-based misconduct. The Institute expects that all complaints will be filed in good faith.

#### *How to File a Complaint*

If you choose to file a complaint through the Institute, a Complainant may file a complaint by first contacting the Title IX Coordinator for an appointment to discuss the complaint. During this meeting, the Complainant should be prepared to discuss all factual circumstances and information upon which the complaint is based. In the alternative, a complaint may be filed by submitting a written statement to the Title IX Coordinator. If the Complainant needs assistance in writing a complaint, they may also request such assistance from the Title IX Coordinator. The Complainant may submit additional documents with her/his complaint (*e.g.*, police report, e-mails), but is not required to do so. Reports of discrimination by the Title IX Coordinator should be reported to either the Institute's Director or its Associate Director for Finance and Administration.

### *Timing of a Complaint*

The Institute strongly encourages those that believe they have been subjected to acts of others that violate this Title IX Policy to report such acts promptly. As long as the individual being accused is a current member of the Institute community, this policy can apply and the Institute may investigate and take necessary action, if warranted. While the Institute will take all complaints of violations of this policy seriously, its ability to pursue the complaint to conclusion may be significantly hindered by the passage of time. Accordingly, prompt reporting of a claim of sexual misconduct is crucial to help ensure that the Institute can fully investigate complaints. A delay in reporting can adversely affect both the Mediation and Misconduct Panel procedures outlined below. In addition, in the event of sexual assault, a delay in reporting the incident to the police can significantly impact the ability to prosecute a crime. Therefore, victims of sexual misconduct are strongly encouraged to report the misconduct as soon as possible.

### *Privacy and Confidentiality*

All activities under this policy will be conducted with due regard for any legitimate privacy and reputational interests of those involved. It is expected that any materials and information prepared or acquired under this policy will be shared only with those who have a legitimate need to know. Disclosure of such information may also be made if it is permitted by law and the Title IX Coordinator determines in his or her judgment: (1) that such disclosure is necessary to protect the health, safety, or well-being of members of the Institute's community; or (2) that such disclosure advances the interests of those involved in the process and/or the Institute and outweighs the interest in confidentiality. While the individual who is handling a claim under this policy will take into account any requests made by a Complainant for confidentiality or that a grievance not be investigated, said individual must take appropriate steps to respond to the grievance consistent with the requirements of Title IX and the law. Accordingly, while the Institute will take all reasonable steps to protect anonymity and confidentiality, it cannot, and does not, guarantee that all claims and details of such claims will be kept completely confidential.

### *Choice of Procedures*

After a complaint is filed, the choice as to the manner in which to proceed under this Title IX procedure is at the discretion of the Complainant. The procedures offer different remedies and pathways to relief. Because the circumstances of every claim are unique, the Institute believes that, in most instances, the Complainant is in the best position to decide what procedure works best for her or him. Prior to proceeding under any given policy, the Complainant may consult with the Title IX Coordinator, who will be available to assist the Complainant in making this decision.

Individuals making reports of discrimination or sexual misconduct will be informed about options for resolving potential violations of this policy which prohibit discrimination or sexual

misconduct. These options include mediation dispute resolution and/or formal investigation and hearing processes.

### Mediation Resolution

Mediation Resolution includes, but is not limited to, options that involve separation of the parties, referral of the parties to counseling programs, or conducting targeted educational and training programs. Some reports of discrimination or sexual misconduct may not be appropriate for Mediation Resolution, but may require a formal investigation at the discretion of the Title IX Coordinator. Furthermore, although the Institute welcomes Mediation Resolution of grievances when appropriate, it will not use mediation between a complainant and alleged perpetrator or any other Mediation Resolution mechanism to resolve grievances pertaining to non-consensual sexual contact or non-consensual sexual penetration.

The Institute encourages Mediation Resolution options when the parties desire to resolve the situation cooperatively, or when the complained of behavior does not rise to the level of violation of the Institute's policies, but nonetheless is adversely affecting the workplace or educational environment. Mediation Resolution may include an inquiry into the facts, but may not always rise to the level of an investigation.

### Procedures for Mediation Resolution

Any member of the Institute community who believes that he or she is the victim of sexual misconduct by another member of the Institute community is encouraged, but not obligated, to discuss the matter with the Title IX Coordinator, who is available to provide the Complainant with information, answer questions and, if so requested, to attempt a resolution of the matter through mediation discussion with the parties involved. The Title IX Coordinator will not serve as an advocate for any party to the matter, but will instead serve in an impartial role to assist the parties in reaching a mutually acceptable resolution of the situation. Any discussion between an individual bringing a complaint and the Title IX Coordinator will be treated with the maximum possible degree of confidentiality, although the Institute reserves the right to disclose or act upon information it receives when, in its judgment, it is necessary to do so to protect the safety or well-being of an individual or the Institute, or as required by law.

Should a Complainant seek the assistance of the Title IX Coordinator to resolve a complaint, the Coordinator will offer the Complainant the choice of two-types of assistance:

- Provide advice to the parties in such a way that the identity of the Complainant is not made known to the Respondent (the individual against whom the complaint

has been made), and try to craft a solution that will resolve the claim anonymously; or

- Provide mediation between the parties, who will be identified to each other.

The Complainant, in consultation with the Title IX Coordinator, will determine which type of assistance the Coordinator will offer. Once the course of action is determined, the Coordinator will take the steps that he or she deems necessary to resolve the complaint. If the situation is resolved through Mediation Resolution, the terms of resolution will be documented, and will usually be subject to follow-up after a period of time to assure that resolution has been implemented effectively.

When a complaint is resolved by way of Mediation Resolution, or when efforts at a resolution are in the judgment of the Title IX Coordinator concluded, the Coordinator will prepare a brief written report of the resolution, in which both the complainant and the respondent will be identified. The written report will then be filed by the Title IX Coordinator, who will maintain the report as part of the permanent records of the Institute.

#### *Misconduct Panel Resolution*

An individual, preferably after consultation with the Title IX Coordinator, may file a formal complaint pursuant to the Hearing Committee Grievance Procedure outlined below against a member of the Institute community alleging a violation of the Title IX Policy. A Complainant may proceed directly with filing a formal complaint regardless of whether she/he utilizes or has been using the Mediation Resolution procedure set forth above.

Under the Hearing Committee Grievance Procedure, the Complainant must deliver to the Title IX Coordinator a written complaint outlining the alleged incident(s) of sexual misconduct. If requested to do so by the Complainant, the Title IX Coordinator may assist the Complainant in preparing the written complaint. The written complaint should set forth with specificity the circumstances and nature of the alleged sexual misconduct. It is important that the complaint be as specific and detailed as possible under the circumstances, as it will constitute the grounds upon which a subsequent investigation and hearing will be conducted.

Once the written complaint is delivered to the Coordinator, the following steps will ensue. The Coordinator may increase any of the deadlines which follow due to the timing of the complaint in the academic year or for other good cause. *A detailed description of the full Hearing Committee Grievance Procedure is summarized below and is included as Appendix B.*

1. A written complaint is filed by the Complainant with the Title IX Coordinator.

2. Within five (5) days after receiving the complaint, the Title IX Coordinator will advise the Respondent that a proceeding against them has been commenced and will also provide the Respondent with a copy of the complaint.
3. Within seven (7) days of receipt of the written complaint, the Respondent may provide a written response to the Title IX Coordinator. In the event that the Respondent provides the Title IX Coordinator with a written response, the Title IX Coordinator will, within five (5) days of its receipt, provide a copy of the response to the Complainant.
4. Within seven (7) days of filing of the written complaint, the Title IX Coordinator will appoint from the Panel the three members of the Committee that will hear the matter.
5. Within five (5) days of the appointment of the Committee, the Title IX Coordinator will provide the Complainant and the Respondent with the names of the persons serving on the Committee.
6. Within five (5) days of receipt of notice of the composition of the Committee, the Complainant and/or the Respondent may file a written objection with the Title IX Coordinator regarding the service of any Committee member.
7. The Title IX Coordinator will use his or her best efforts to investigate the complaint and submit a written report containing his or her factual findings to the Committee within twenty-one (21) days of the Title IX Coordinator's receipt of the written complaint.
8. The Committee will use its best efforts to schedule a hearing in connection with the complaint within fourteen (14) days after the Title IX Coordinator has submitted his or her investigative report and supporting documentation to the Committee.
9. If any party decides to retain legal counsel to assist it in connection with the hearing, he or she will notify the Title IX Coordinator of this fact prior to the hearing date.
10. Within fourteen (14) days of the conclusion of the hearing, the Committee will issue the Hearing Report.
11. Within two (2) days of issuance of the Hearing Report, the Committee will deliver a copy of the Hearing Report to the Complainant and to the Respondent.
12. After receiving the Hearing Report, the parties will have seven (7) days to give the presiding member of the Committee written notice that they do or do not accept the Committee's recommendations.
13. Within ten (10) days of the date of issuance of the Hearing Report, the presiding member of the Committee will present the Hearing Report, together with the Complainant's and the Respondent's written responses to the Hearing Report, to the Director.
14. Within fourteen (14) days of the date of delivery of the Hearing Report to him or her, the Director will communicate his or her decision to the Complainant, the Respondent, the presiding member of the Committee that heard the complaint, and the Title IX Coordinator.



## ***APPENDIX A – Definitions and Key Terminology***

Amendments - The Title IX Coordinator may, from time to time, recommend to the Director of the Institute amendments to this Title IX policy. To the extent authorized by the Board of Trustees, the Director may then either approve the recommended amendments and put them into effect or reject them. In the alternative, the Director may refer them to the Board for disposition. The Board of Trustees reserves to itself the right, on its own initiative, to repeal, amend, or replace this policy if in its judgment the interests of the Institute so require.

Notwithstanding the foregoing, the Title IX Coordinator may make minor modifications to procedure that does not materially change this policy or jeopardize the fairness owed to any party under this policy. In addition, if necessary the Title IX Coordinator may also vary procedures materially with notice upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure.

Complainant – The Staff, Faculty, Members, family members, vendors and Visitors or third party who suffers gender discrimination, sexual harassment, sexual violence, sexual exploitation, gender-based harassment, or stalking by the conduct of another, and pursues a charge or charges against Respondent under this Policy.

Consent – Consent is clear, knowing, and voluntary. Consent is active, not passive; silence, in and of itself, cannot be interpreted as Consent. Consent to any one form of sexual activity, a previous relationship, and/or prior Consent does not imply Consent to any other form or instance of sexual activity.

Constituencies – For the purpose of this policy, the four constituencies (“Constituencies”) of the Institute community are: (1) the Faculty, (2) the Members and Visitors, (3) the exempt administrative and professional/technical Staff, and (4) the nonexempt Staff.

Force – The use of physical violence and/or otherwise physically imposing on another person to gain sexual access. Also includes threats, intimidation, implied threats, and coercion that overcome resistance or produce Consent.

Gender-based Harassment – Gender-based harassment is a form of sexual harassment. Gender-based harassment includes acts of a verbal or nonverbal nature or physical aggression, intimidation, or hostility based upon gender or gender-stereotyping (even if those acts do not involve conduct of a sexual nature) that are sufficiently serious to limit or deny the ability to participate in or benefit from the Institute’s programs and activities or the terms and conditions of employment.

Gender-Based/Sexual Misconduct– Refers to a broad range of inappropriate sexual behaviors, including but not limited to, sexual harassment and sexual assault, which not only are prohibited

by state and federal law but also are a violation of the ethical vision that informs the mission of the Institute.

Gender Discrimination – Treating a person differently because of his/her gender in the terms and conditions of educational programs, activities, and/or employment.

Indemnification - Members of the Institute community who hold formal responsibilities for the enforcement of this policy will, to the extent permitted by law, be defended legally and be reimbursed for all associated costs by the Institute for all actions taken by them in good faith, even if mistaken, in seeking to enforce this policy.

Interim Measures - The Institute reserves the absolute right to take measures in advance of an investigation or resolution it deems necessary to protect the rights and personal safety of its community members. Such measures include, but are not limited to, providing individuals with security escorts, no-contact orders, modification of work or living arrangements, and interim suspension from campus pending a hearing.

The Institute believes it is important to be proactive in taking reasonable steps to identify and prevent sexual misconduct. If an individual in a supervisory capacity has direct knowledge of an incident of sexual misconduct on the part of a member of the Institute community, that supervisor should bring the matter to the attention of the Title IX Coordinator. If after such notice is given it appears to the Title IX Coordinator that a potential violation of this sexual misconduct policy exists, that individual may serve as the Complainant in such matter and pursue the matter through the policies set forth herein.

In an emergency, where the health or well-being of a member of the Institute community or the well-being of the Institute as an institution is threatened, any individual with knowledge of a situation involving sexual misconduct should promptly inform the Director of the Institute or the Associate Director of that circumstance. The Director, or someone designated to act on the Director's behalf, is authorized to take any immediate steps as may be necessary and appropriate under the circumstances to ensure the well-being of the Institute community and the Institute as an institution.

An accusation of sexual misconduct that is unreasonably made also constitutes sexual misconduct under this policy, and any such claim is subject to the provisions set forth herein.

Multiple Complaints - The Title IX Coordinator will keep a record of any and all complaints received under this policy. Upon the receipt of a new complaint, the Title IX Coordinator will review the record of filed complaints to determine if there are any previous complaints under this policy that have been filed against the Respondent. In the event that there has been one or more previous complaints filed against the Respondent, the Title IX Coordinator will immediately refer the matter to the Director for review. In this circumstance, and notwithstanding this policy, the Respondent may be subject to immediate disciplinary action if, in the sole discretion of the

Director, such discipline is warranted. In addition, the Director will also have the option, in his or her sole discretion, to permit the new complaint to proceed under the policy without taking further action, or to instruct the Title IX Coordinator to commence an action directly against the Respondent pursuant to either, or both, of the procedures outlined below.

Record Keeping - The permanent records of the Title IX Coordinator and the Panel will be maintained by Title IX Coordinator for a minimum period of seven years, and will include, without limitation, all documents related to the investigation and /or resolution of a particular claim. These records may be kept in paper or digital form, in the sole discretion of the Title IX Coordinator.

Relation to Other Policies, Rules, etc. – If a conflict should arise between the provisions of this procedure and other Institute procedures, policies, rules, regulations, or terms or conditions of employment, the provisions of this procedure will govern and control in cases of sexual discrimination, sexual harassment and/or sexual misconduct, unless those other procedures, rules, regulations, or terms or conditions of employment will specifically provide to the contrary.

Respondent – The alleged offender/accused individual; a person alleged to have engaged in any of the conduct prohibited by the Title IX Policy.

Retaliation – Taking any adverse or hostile act, engaging in harassment and/or making an adverse employment/academic decision because an employee/student/third party has utilized this policy or has testified, assisted, or participated in an investigation, proceeding, or hearing arising under the Title IX Policy.

Retaliation against any person in the Institute community, either for alleging discrimination prohibited by Title IX or for cooperating with IAS policies, is strictly prohibited. Any person who is found to have retaliated against another for making a complaint under Title IX, being a witness for purposes of any such investigation, or being otherwise involved in the complaint and/or investigative process, will be subject to discipline, up to and including termination or expulsion, depending on the circumstances, even if no responsibility is found for the alleged gender-based misconduct. Retaliation should be reported immediately to the Institute's Title IX Coordinator.

Sanctions - Factors considered when determining a sanction/responsive action may include, without limitation:

- The nature, and severity of, and circumstances surrounding the violation
- An individual's disciplinary history
- Previous grievances or allegations involving similar conduct
- Any other information deemed relevant by the Title IX Coordinator and/or Panel
- The need for sanctions/responsive actions to bring an end to the offending conduct

- The need for sanctions/responsive actions to prevent the future recurrence of the offending conduct
- The need to remedy the effects of the discrimination, harassment and/or retaliation on the victim and the Institute community

Not all forms of gender-based misconduct will be deemed to be equally serious offenses, and the Institute reserves the right to impose different sanctions depending, without limitation, on the severity of the offense and/or offender history. Accordingly, sanctions may, and will, vary depending on the specific circumstances related to the claim at issue, and will include, without limitation, warning, probation, suspension, expulsion, and termination of employment. The Institute reserves the right to impose any sanction at any time, and is not required to impose a lesser sanction before proceeding to a more severe one.

Sexual Assault - Sexual assault is a crime punishable by both civil and criminal legal action and is a serious violation of the Institute's policies. Sexual assault is any type of sexual contact without Consent or permission. It can include touching of private body parts over or under the clothing or any form of penetration.

Sexual assault occurs when the act is intentional and is committed either by: (a) physical force, violence, threat, or intimidation; (b) ignoring the objections of another person; (c) causing another's intoxication or impairment through the use of drugs or alcohol; or (d) taking advantage of another person's incapacitation (including voluntary incapacitation caused by the use of drugs or alcohol), state of intimidation, helplessness, or other inability to Consent.

Conduct will be deemed sexual assault whether obtained by Force or threat of Force, and whether completed or attempted. Sexual exploitation (taking non-consensual or abusive sexual advantage of another for your own benefit) may also be considered a form of sexual assault, depending on the circumstances

Forced intercourse or other unwanted sexual contact may be rape or sexual assault whether the assailant is a stranger or an acquaintance of the Complainant. The Institute also recognizes that while most victims are female and most assailants are male, a perpetrator or victim can be of either gender.

These are only a few examples of possible sexual assault scenarios. Individuals who are not sure if their case meets the definition of sexual assault are strongly encouraged to promptly contact either a Designated Individual or the local police department by dialing 911.

Sexual Harassment – Unwelcome, verbal, or physical conduct of a sexual nature (such as sexual advances or requests for sexual favors) sufficiently serious that it unreasonably interferes with or limits a person's ability to participate in or benefit from the Institute's educational programs, activities, and/or employment. Sexual harassment may be based on a power differential, the creation of a hostile environment, or retaliation.

Sexual harassment can take many forms, occurs in a variety of circumstances and may be directed at an individual or group of individuals. It is not the intention of the harasser but the conduct itself and the impact on the recipient which determines what constitutes harassment. The impact of harassment can result in the recipient feeling discomfort or humiliation and/or may adversely affect the recipient's academic or job performance, undermine academic or job security or prospects, or create a threatening or intimidating work or study environment. It can also provoke aggressive, retaliatory attitudes and actions. Certain behavior will be unwelcome even on a single occasion.

Social interaction involving mutually acceptable behavior should be distinguished from harassment. However, it should be borne in mind that what is initially acceptable to some may be offensive to others, and what is acceptable between persons A and B may not be acceptable to person C. The key element to sexual harassment is that it is conduct that is unwanted, unreasonable and offensive to the recipient. Where harassment is unintended, but still has the effect of violating the dignity or creating a hostile environment for the recipient, the conduct would be considered as harassment only after consideration of all the circumstances, which will include the perception of the recipient.

Examples of sexual harassment include, but are not limited to, lewd or sexually suggestive comments; off-color language or jokes of a sexual nature; slurs, verbal or graphic expressions, or physical conduct relating to an individual's gender; inappropriate or off-color email communication; or any public or unwelcome private display of sexually explicit pictures, greeting cards, articles, books, magazines, photographs, devices, toys or cartoons in the absence of a valid educational purpose. However, verbal expression or physical conduct need not be overtly sexual to constitute sexual harassment.

Sexual harassment also includes harassment of a sexual nature directed at gay or lesbian persons that is sufficiently serious to limit or deny the ability to participate in or benefit from the Institute's educational and employment programs. Likewise, sexual harassment can occur where Complainant and Respondent are members of the same gender.

Stalking – Repetitive and/or menacing pursuit, following, harassment, and/or interference with the peace and/or safety of a member of the Institute community and/or any immediate family of members of the community. Stalking may be accomplished by physical act or electronic means, such as computer or cell phone. Stalking is a form of sexual harassment.

Standard of Evidence - The Institute's review of allegations of discrimination under this policy will be made by applying a preponderance of the evidence standard.

## ***Appendix B - Hearing Committee Grievance Procedure***

Under the Hearing Committee Grievance Procedure, the Complainant must deliver to the Title IX Coordinator a written complaint outlining the alleged incident(s) of sexual misconduct. If requested to do so by the Complainant, the Title IX Coordinator may assist the Complainant in preparing the written complaint. The written complaint should set forth with specificity the circumstances and nature of the alleged sexual misconduct. It is important that the complaint be as specific and detailed as possible under the circumstances, as it will constitute the grounds upon which a subsequent investigation and hearing will be conducted.

Once the written complaint is delivered to the Coordinator, the following steps will ensue. The Coordinator may increase any of the deadlines which follow due to the timing of the complaint in the academic year or for other good cause.

1. Within five (5) days of receipt of the written complaint from the Complainant, the Title IX Coordinator will advise the Respondent that a proceeding against him or her pursuant to the Hearing Committee Procedure has been commenced. At that time, the Title IX Coordinator will also provide the Respondent with a copy of the complaint.
2. Within seven (7) days of receipt of the written complaint from the Title IX Coordinator, the Respondent may provide a written response to the Title IX Coordinator. The Respondent may ask an advisor for assistance in preparing this response. The Respondent is not required to provide the Title IX Coordinator with a written response to the complaint. In the event that a written response is provided, however, the Title IX Coordinator will, within five (5) days of its receipt, provide a copy of the response to the Complainant.
3. Within seven (7) days of receipt of the written complaint from the Complainant, the Title IX Coordinator will appoint from the Panel a presiding member and two additional members to constitute a Hearing Committee (“Committee”) to hear the matter. If possible, the Title IX Coordinator will appoint to the Committee one member from each Constituency to which the Complainant and the Respondent belong. If the Complainant and the Respondent belong to the same Constituency, the Title IX Coordinator may, but need not, appoint two Panel members from such Constituency. If no Panel member is able to serve from the Constituency of the Complainant or the Respondent, the Title IX Coordinator may appoint such other Panel member or members as the Title IX Coordinator deems appropriate to serve on the Committee. The presiding member of the Committee will be chosen by the Title IX Coordinator and may be from any Constituency. If a conflict of interest or other valid reason prevents a Panel member from serving on the Committee impartially, the Title IX Coordinator will select a substitute from the Panel.
4. Within five (5) days of the appointment of the Committee, the Title IX Coordinator will provide the Complainant and the Respondent with written notification of the names of the persons serving on the Committee.

5. Within five (5) days of receipt of notice of the composition of the Committee, the Complainant and/or the Respondent may file a written objection with the Title IX Coordinator regarding the service of any Committee member. Any such objection must set forth the specific reason(s) that the objection is being made. After reviewing such objection, the Title IX Coordinator may or may not, at his or her sole discretion, replace any member of the Committee with another member of the Panel. If the Title IX Coordinator does replace a member, steps 4 and 5 will be repeated.
6. Following receipt of the written complaint and any response that might be submitted, the Title IX Coordinator will conduct an investigation of the allegations that have been made and will gather information to be used by the Committee during the hearing procedure. In the course of investigating the allegations and gathering information, the Title IX Coordinator will interview the Complainant and the Respondent, and will review the permanent file of the Panel to determine if there are any previous complaints under this policy that have been filed against the Respondent. In addition, the Title IX Coordinator may interview any other person whom the Title IX Coordinator believes might be in possession of relevant information; may consult Institute records bearing on the matter; and may gather such other statements, documents, or material as he or she may deem appropriate. The Title IX Coordinator will make every effort to complete this investigation and to submit a written report containing his or her factual findings to the Committee within twenty-one (21) days of the Title IX Coordinator's receipt of the written complaint from the Complainant.

The Complainant and the Respondent are expected to cooperate with the Title IX Coordinator in this investigation to the extent of answering pertinent questions and supplying or authorizing the release of relevant information when so requested. When this cooperation is denied, the Title IX Coordinator will so inform the Committee, providing where possible his or her understanding of the reasons therefor. Furthermore, should either the Complainant or the Respondent refuse to participate and/or cooperate with the Title IX Coordinator's investigation, the Committee will have the right, in its sole discretion, to bar that party from presenting testimony or evidence at the hearing.

7. Every effort will be made to have the Committee schedule a hearing in connection with the matter within fourteen (14) days after the Title IX Coordinator has submitted his or her investigative report and supporting documentation to the Committee.
8. At the hearing, the Complainant and the Respondent will present their respective positions without reference to any prior proceeding, including, without limitation, any prior proceedings related to this complaint under this policy, and no reference to the discussions, findings, or recommendations related to any prior proceeding related to the current matter will be introduced to the Committee.
9. In conducting the hearing, the Committee is not required to adhere strictly to the rules of evidence. The Committee will receive and review the complaint, the response, the report

of the Title IX Coordinator, and other pertinent statements and documents. The Committee will also interview the Complainant, the Respondent, as well as any other witnesses it deems relevant and necessary. The parties will be afforded an opportunity to respond to one another's statements and to present witnesses and evidence on their own behalf.

**Separation of Complainant and Respondent** – The Complainant and the Respondent will not be required to give their statements in the physical presence of each other, and will not be required to appear together at the hearing.

**Right to Hear Proceedings** – Both the Complainant and the Respondent have the right to listen to all testimony provided during the hearing from a separate location. The Institute will provide the parties with sufficient facilities to listen to such proceedings via electronic means including, without limitation, telephone, speaker phone, internet broadcast or any other means that the Hearing Committee, in its sole discretion, deems reasonable.

10. The Complainant and the Respondent are expected to cooperate with the Committee in conducting the hearing. Such cooperation will include, without limitation, appearing before the Committee to give testimony and answer questions that the Committee might have. When this cooperation is not forthcoming, the Committee will have the right, in its sole discretion, to disregard the written statements of the party that has refused to cooperate with the Committee in reaching its conclusions in connection with the claim.
11. The Complainant and the Respondent may each be accompanied by a personal adviser, other than a family member, selected from among the members of the Institute community. The Hearing Committee Procedure is designed with the intent that legal counsel need not be involved with the hearing. Should any party decide to retain legal counsel for this purpose, however, he or she will notify the Title IX Coordinator before the hearing so that the other party may take this fact into account when making his or her plans. Legal counsel at the hearing may confer with their clients but will not be permitted to address the Committee or others.
12. When, in the sole judgment of the Committee, the Complainant and the Respondent have been fully heard, the parties and witnesses will be excused and the Committee will deliberate and reach a conclusion by majority vote. In determining whether or not a complaint of sexual misconduct has been sustained, the Committee will look at the totality of the circumstances, including the nature of the action and the context in which the alleged misconduct occurred. The determination of a suitable penalty will be made on a case-by-case basis in light of all relevant facts and circumstances, which may include, without limitation, any prior history of complaints against the Respondent. The Committee may consult with the following relevant Institute officials when devising an appropriate sanction, penalty or resolution: Associate Director for Finance and Administration or the Chief Development Officer.

13. Within fourteen (14) days of the conclusion of the hearing, the Committee will issue a written report of the hearing, consisting of the Committee's findings of fact, conclusions, and recommended disposition based on the record ("Hearing Report"). In determining its recommended disposition, the Committee will consider, by way of example and not limitation, the facts of the particular claim, any prior history of complaints against the Respondent, pertinent Institute policies, regulations, and procedures, and applicable law. Once issued, the Hearing Report will be maintained by the Panel in its permanent records.
14. Within two (2) days of issuance of the Hearing Report, the Committee will deliver a copy of the Hearing Report to the Complainant and to the Respondent. The parties will then have seven (7) days to give the presiding member of the Committee written notice that they do or do not accept the Committee's recommendations.
15. Within ten (10) days of the date of issuance of the Hearing Report, the presiding member of the Committee will present the Hearing Report, together with the Complainant's and the Respondent's written responses, if any, to the Director.
16. If neither the Complainant nor the Respondent has filed written responses to the Hearing Report, the Director will render a final and binding decision in writing implementing the recommendations of the Hearing Committee contained in the Hearing Report.
17. If either the Complainant or the Respondent has filed a timely written response to the Hearing Report, upon receipt of all materials from the presiding member of the Committee the Director will review the Hearing Report, as well as any written responses to the report provided by the parties. During this review, the Director, in his or her sole discretion, may also consult with the Title IX Coordinator and/or the presiding member of the Committee regarding the claim.

The Director's review will be limited to two areas of consideration. First, the Director will review the Hearing Report to determine if the Committee exhibited bias against one of the parties during the hearing, or if the procedures established by this policy were violated in any material respect during the hearing. In the event that the Director finds bias or a violation of the procedures established in this policy, the Director may, in his sole discretion, vacate the Committee's recommendations and either (i) remand the case to the Committee for further proceedings, or (ii) order a new hearing before a new Committee. Second, the Director will also review any recommended sanction or penalty that might be contained in the Hearing Report in the context of any special circumstances raised by either party that the Director believes are relevant to the recommended penalty that the Committee has included in the Hearing Report.

The purpose of the Director's review of the Hearing Report is not to initiate a rehearing of substantive issues of fact or a new determination of guilt or innocence. Rather, the Director's review will be limited to the issues of bias and procedure as set forth above. Furthermore, the Director will have the authority to reduce any sanction or penalty

recommended by the Committee, but will not have the authority to increase any recommended penalty.

After the Director has completed this review process, the Director will render a final and binding decision in writing in connection with the complaint. This decision will be based upon the Director's review of the record; the recommendations, findings, and conclusions of the Committee; the responses of the Complainant and the Respondent; any prior history of complaints against the Respondent; pertinent Institute policies, regulations, and procedures; and applicable law.

18. Within fourteen (14) days of the date of the delivery of the Hearing Report to him or her, the Director will communicate his or her final and binding decision to the Complainant, the Respondent, the presiding member of the Committee that heard the complaint, and the Title IX Coordinator. This decision will also be placed in the permanent records of the Title IX Coordinator and a reference to the decision will be placed in the file of both the Complainant and Respondent.