

**THE NEW YORK
CONSERVATORY FOR
DRAMATIC ARTS**

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Annual Safety and Security Report
Annual Fire Safety Report
Publication Date: September 30, 2019
Including Clery Act Campus Safety Policies
and Crime Statistics (Calendar Years 2016-2018)

To maintain compliance with Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act (“Clery Act”) requirements contained in the Higher Education Act (“HEA”), and related statutes and regulations, colleges and universities are required by the Federal government to publish and distribute an Annual Safety and Security Report by October 1 of each year containing campus security policies and procedures as well as campus crime statistics for the prior three calendar years. NYCDA prepares an Annual Safety and Security Report (“the Report”) as mandated by the U.S. Department of Education which is provided to prospective and current students, prospective and current faculty and staff, and to the public by October 1 of each year.

The most recent version of NYCDA’s Report, is available on NYCDA’s main website, the Student Portal, from the Kim Sosa, Student Services Associate at 646-216-2872, ksosa@nycda.edu, and in Student Services upon request, and will provide upon request all campus crime statistics as reported to the U.S. Department of Education. The U.S. Department of Education’s website address for campus crime statistics is <https://ope.ed.gov/campussafety/#/>. Any questions about this Report should be directed to Ms. Sosa.

I. Completion and Dissemination of the Report

Prior to October 1 of each year, NYCDA compiles this Report based on crime, arrest and referral information obtained from local law enforcement agencies and as reported to NYCDA’s designated Campus Security Authorities (“CSA”) (listed in chart below) by any person. The Annual Security Report is published every year by October 1 and contains the prior three calendar years’ campus crime statistics as well as required campus security policy statements. All crime statistics contained in this Report are for Clery Act reportable crimes occurring on Clery Geography, as defined by 34 C.F.R. § 668.46(a), including buildings and property that are part of the campus, on noncampus public property (including noncampus buildings and property including thoroughfares, streets, sidewalks, and parking facilities), or public property within the campus or immediately adjacent to or accessible from the campus), and in the on-campus student housing facilities. The Report includes NYCDA’s current policies required pursuant to the Clery Act, as amended by the Violence Against Women Reauthorization Act of 2013 (VAWA), Pub. Law 113-4.

NYCDA administrators prepared this Report which includes reported campus crime, arrest and referral statistics provided to NYCDA by local law enforcement agencies and CSAs. Additionally, NYCDA reviews crime reports from local law enforcement agencies whenever published and maintains incident reports. Both sources of information are utilized in the review process regarding this Report and this documentation is maintained by the Program Director for the Musical Theater Performance Program and the Academic Affairs Liaison.

NYCDA distributes this Report to all enrolled students and current employees via a Notice of Availability sent by electronic mail that the current version of the Report has been posted to NYCDA’s website at <https://www.nycda.edu/safety-security-report> and that a paper copy of the Report will be provided upon request by Kim Sosa, Student Services Associate at 646-216-2872, ksosa@nycda.edu,. The Student Catalog provides a written Notice of Availability to all prospective students prior to enrollment regarding the availability and location of the Report and that a paper copy of the Report is available upon request. The CFO provides all prospective

employees with a Notice of Availability regarding the location of the Report and can also provide the prospective employee with a paper copy of the Report upon request. Additionally, a copy of the current Report is made available to the public on NYCDA’s website. The crime statistics contained in this Report, as reported annually to the U.S. Secretary of Education, can also be viewed by searching NYCDA’s name at <http://nces.ed.gov/collegenavigator/>.

II. Polices for Reporting and Responding to Crime and Emergencies

Reporting Emergencies

“Emergency” includes any dangerous situation involving immediate threat to the health or safety of students, faculty, staff or guests occurring on or near the campus, including fire. **Upon observing or involvement in any type of emergency, students, faculty, staff and guests should immediately call 911.**

If possible, information about the emergency should also be communicated immediately to the Campus Security Authority, Lisa Hildebrand, Program Director for the Musical Theater Performance Program (contact information available below), or other available CSAs or NYCDA employees for purposes of expediting NYCDA’s activation of its Emergency Response and Evaluation Procedures as set forth below.

Reporting Crimes

Students, faculty, and staff are strongly encouraged to report all crimes to local law enforcement by dialing **911** (emergencies only). Any suspicious activity or person seen in the campus, parking lots or loitering around vehicles or inside the building should be reported to the local law enforcement agency.

Local Law Enforcement Agency	Local Phone Number	Emergency Number
New York Police Department, 9th Precinct 321 East 5th Street New York, NY 10003 (near residence hall)	(212) 477-7811	911
New York Police Department, 10th Precinct 230 West 20th Street New York, NY 10011 (near campus)	(212) 741-8211	911

In addition, crimes that should be reported to a Campus Security Authority (CSA) by students, faculty and staff include actual or suspected: criminal homicide, murder and non-negligent manslaughter, manslaughter by negligence, rape, fondling, incest, statutory rape, dating violence, domestic violence, stalking, robbery, aggravated assault, burglary, motor vehicle theft, arson, drug and alcohol violations, and illegal weapons possession. Where there is any question about whether an incident is a crime, a report should be made to a CSA for assistance in determining the nature of the incident. Witnesses or victims of crimes may report crimes on a confidential basis for inclusion in NYCDA’s annual crime statistics reporting.

Upon observing or involvement in any type of crime on campus or on public property, including thoroughfares, streets, sidewalks, and parking facilities, within the campus or immediately adjacent to or accessible from the campus:

- *A student should immediately notify the Program Director for the Musical Theater Performance Program, other CSA, or the nearest available NYCDA employee. All NYCDA employees are trained to notify the Program Director for the Musical Theater Performance Program or her on-site designee, or CSA immediately of all crimes reported to them by students.*
- *Faculty and staff should immediately notify the Program Director for the Musical Theater Performance Program, or her on-site designee, or other CSA.*

Campus Security Authorities:

CSA	Title	Phone Number	Email
Lisa Hildebrand 39 West 19th Street New York, NY 10011	Primary CSA Program Director for the Musical Theater Performance Program	212-812-4041	lhildebrand@nycda.edu
Steve Porcini 39 West 19th Street New York, NY 10011	Residence Director/Title IX Coordinator	212-812-4045	sporcini@nycda.edu
Becky London 39 West 19th Street New York, NY 10011	Academic Affairs Liaison/Faculty	646-216-2885	blondon@nycda.edu

Timely reporting of criminal activity enables NYCDA to respond in a timely manner and potentially reduce the recurrence of that crime. Timely manner shall be defined to mean immediately or as immediately as possible under the circumstances. NYCDA strongly encourages individuals to report all crimes in an accurate and timely manner to local law enforcement agencies in addition to a CSA. Upon written request, NYCDA will disclose to the alleged victim of a crime of violence (as that term is defined in section 16 of title 18, United States Code), or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by NYCDA against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim.

NYCDA works cooperatively with local law enforcement agencies when necessary; however, there are no written memoranda of understanding agreements between NYCDA and local law enforcement agencies to investigate alleged crimes. NYCDA does, in good faith effort, contact local law enforcement agencies to obtain data on Clery Act crimes that occurred on or near the campus and residential housing. Not all agencies respond to our requests for data.

Response to Reports of Crime or Emergency

Upon receipt of a report of a crime or emergency, the Program Director for the Musical Theater Performance Program will:

- Immediately assess, based on her own judgment or after consultation with other NYCDA employees, whether the situation warrants contacting 911 and/or following the emergency response and evacuation procedures contained below.
- Immediately assess, based on her own judgment and/or after consultation with other NYCDA employees or the local police, whether a “timely warning” to the campus community should be issued pursuant to the Timely Warning policy below.
- With regard to a reported incident that is or may be a sex offense, immediately contact NYCDA’s Title IX Coordinator who has authority to evaluate and respond to the reported sex offense in accordance with NYCDA’s Title IX and Sexual Violence Prevention and Response Policies contained in this Report.
- For all reported crimes, the Program Director for the Musical Theater Performance Program will provide all available and relevant information including the date, time, location, and description of the incident.
- The Program Director for the Musical Theater Performance Program will cooperate to investigate and gather any additional information necessary to determine whether the incident must be reported in the crime statistics contained in this Report.

Timely Warning of Reported Crime

In the event that a situation arises, either on or off campus, which may constitute an ongoing or continuing threat to students and employees, including with regard to any crime reportable pursuant to the Clery Act, the Program Director for the Musical Theater Performance Program will consult with the Artistic Director and the Director of Operations, and make a determination if a campus wide “timely warning” will issued. Depending on the particular circumstances of the crime, especially in all situations that could pose an immediate threat to the students and employees, NYCDA will post a warning via one or more of the following means of communication: email or text message and/or other verbal or written notice.

The intent of a timely warning is to provide adequate information necessary to enable the campus community to protect themselves when a significant emergency or dangerous situation

occurs. The content of the timely warning will not disclose information that may compromise law enforcement efforts. Anyone with information that warrants a timely warning should report the circumstances immediately to the Program Director for the Musical Theater Performance Program in person or by phone (contact information listed above).

NYCDA will, without delay, and taking into account the safety of the students, faculty and staff, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the professional judgment of the Program Director for the Musical Theater Performance Program or other responsible authority, compromise efforts to assist victims or to contain, respond to or otherwise mitigate the emergency.

The Program Director for the Musical Theater Performance Program will create the notification and the IT Department will be responsible for notifying students/employees. Notification may include spoken, verbal, text message or email announcement or any combination of methods determined to be necessary. If deemed necessary, the front desk personnel and the Program Director for the Musical Theater Performance Program or her trained designee will notify the local police, fire, public health agency or other appropriate first responder to assist with the emergency. Local authorities will determine when and if necessary to notify the surrounding community. NYCDA's administrative staff will contact parents, guardians, spouses and those listed as emergency contacts by the student via phone if the situation warrants. Other staff and faculty members may be designated as back-ups and to assist with assigned tasks.

Emergency Response and Evacuation Procedures

Emergencies are unexpected events which must be dealt with urgently to protect the health and safety of others. In the event the building needs to be evacuated or locked down for any reason, maps of the evacuation route have been posted in each office, common areas and classrooms.

NYCDA maintains emergency response and evacuation procedures regarding the actions staff, faculty, and students must take to protect their mutual health and safety.

Evacuations to safe locations will be implemented when necessary and proceed in an organized manner per policy and procedure. All students are required to comply with the plan and the directions given to them by campus safety staff, faculty, or public emergency response teams or law enforcement agencies during actual emergencies and drills for their personal safety. At no time during an actual campus emergency or drill shall students be permitted to leave the campus unless directed to do so.

NYCDA tests its emergency response and evacuation procedures at least once annually on an announced or unannounced basis. All present students, faculty and staff are required to participate and conduct themselves appropriately. When tests are conducted, NYCDA publicizes its emergency response and evacuation procedures to students, faculty, and staff, including making available a copy of this policy. NYCDA maintains documentation of each test exercise including date and time performed and whether it was announced or unannounced. The plan, including any updates, is reviewed with new students and employees during orientation, at a

number of faculty meetings during the year and on days when the emergency response and evacuation procedures are tested.

Students and employees are encouraged to be responsible for their own security and the security of others. Employees and students are expected to follow safe practices while on campus property. Following safe practices will reduce the possibility of accidental emergencies, and increase the effectiveness of the campus response to unforeseen emergencies.

The campus community should report all unsafe activities, potential and real emergencies, and/or criminal activities to the Program Director for the Musical Theater Performance Program or other CSA as soon as possible.

If there is an immediate threat to the health or safety of students or employees occurring on campus necessitating activation of emergency notification procedures, NYCDA is not required to issue a timely warning based on the same circumstances; however, the NYCDA will provide adequate follow-up information to the community as needed.

III. Non-Emergency School Closures or Delays

Upon decision by the Artistic Director, after consultation with other NYCDA officials as appropriate, to close a campus or delay opening for any reason, including for weather related reasons; NYCDA will notify students and staff using text message, email, social media, TV and/or radio. Notification for closure or delays will be sent separately based on student schedules.

IV. Policy Statement Addressing Counselors and Counseling Services

There are no Pastoral or Professional Counselors on campus. Crisis, mental health and victim resource hotline numbers are available from the Student Services department. The Title IX and Sexual Violence Prevention and Response Policies within this Report address NYCDA's policies with respect to support services and confidentiality for victims of sexual misconduct.

NYCDA provides referrals to students and employees for counseling and treatment services.

V. Access Policy, Security of Campus Facilities and Security Considerations Used in the Maintenance of Campus Facilities

The campus facilities are open during Monday through Friday from 9:00 am to 9:00 pm, and Saturday from 9:00 am to 4:30 pm. Facilities are accessible to students, employees, contractors, and guests. The campus is secured during non-business hours by locking doors and setting alarms and only accessible by issued key and alarm pass code. Maintenance personnel enter the facilities during the evening or early morning non-business hours by issued key and alarm pass code.

Facilities and landscaping are maintained in a manner that minimizes hazardous conditions. The Director of Operations regularly reviews the campus and reports malfunctioning lights and other unsafe physical conditions to NYCDA's Operations Department for correction.

On-Campus Student Housing Facilities

All NYCDA-managed residence halls have a 24-hour security guard posted in the building. No one is allowed into the residence hall unless he/she is a resident, guest or otherwise authorized visitor. All entrants, including staff and faculty are checked for proper identification. Guests in residence halls must be signed-in by a resident and be accompanied in and out of the building by the resident. Residents must respond to the lobby to accept deliveries.

NYCDA has no officially recognized student organizations with non-campus locations.

Property Identification Program

NYCDA encourages its students, staff, and faculty to mark their personal property to make illegal sale harder and recovery of valuables easier.

Classrooms

NYCDA staff is stationed at the entrance to all of its classroom facilities to monitor entrants.

VI. Campus Law Enforcement and Related Policies

NYCDA does not employ campus police. NYCDA employees do not have the authority to arrest or detain any individual. NYCDA will assist in notifying appropriate law enforcement authorities if a student requests assistance in contacting police. Students, faculty, and staff are encouraged to accurately and promptly report all crimes and public safety related incidents to NYCDA, as set forth in the “Reporting Crimes” section of this Report and to notify local police.

If you are a victim of or witness to a crime and do not want to pursue action through NYCDA’s procedures or the criminal justice system, NYCDA encourages you to consider reporting the incident to the Program Director for the Musical Theater Performance Program, or other CSA for the limited purpose of permitting NYCDA to include the incident in its crime statistic reporting without revealing your identity. With such information, NYCDA can keep an accurate record of the number of similar incidents, determine where there is a pattern of crime with regard to a particular location, method, or assailant, and alert the campus community to potential danger. NYCDA will make best efforts, to the extent permitted by law, to maintain the privacy of that information and to comply with the Family Educational Rights and Privacy Act of 1974 (FERPA). Police reports are public records under state law, NYCDA may not be permitted to hold reports of crime obtained from police records in confidence. Policies with respect to victims of sexual misconduct are contained in the Title IX and Sexual Violence Prevention and Response Policies section of this Report.

VII. Security Awareness and Crime Prevention Programs

Safety and security awareness programs are in place for students, faculty and employees. The common theme of awareness and crime prevention programs are to encourage all members of the NYCDA community to be aware of their responsibility for their own security and the security of others. During annual new student and new employee (faculty and staff) Orientations, individuals are informed of NYCDA’s current security and crime prevention policies and

practices as well as the protection of personal safety and prevention of crime. Students also receive packets of information including safety tips; lists of police and fire department telephone numbers; maps of local transportation; and information on the risks of alcohol and drug use. Orientations include a PowerPoint presentation and review of the policies contained in this Report and the student catalog/employee handbook. The presentations include training required by Title IX of the Higher Education Act regarding preventing and responding to sexual misconduct, bystander interventions, and other topics discussed below in the Title IX and Sexual Violence Prevention and Response Policies section. Additionally, visual emergency exiting layouts are posted at the entrances of all campus rooms.

NYCDA faculty and staff are trained in providing a safe and secure environment in which its students can learn. This training includes first aid, emergency procedures, property loss prevention, public relations, knowledge of the campus, alarm system updates, sexual harassment, ethics and conduct, dangerous drugs, non-violent intervention, and workplace violence.

NYCDA works closely with the New York City Police Department to provide informational services to its students at orientations as well as intervention in circumstances that require its presence. A retired New York City Police officer provides safety training at orientation. NYCDA has alarm systems in place to detect unlawful entry onto its premises that is connected to a central monitoring station which contacts key operations staff when an alarm is activated.

NYCDA provides 24/7 door security at its residence hall buildings as well as regular monitoring of residence hall common areas.

NYCDA abides by Orders of Protection (Restraining Orders). Orders of Protection are issued by a Domestic Relations or a Municipal Court to protect a person or entity, and the general public, in a situation involving alleged assault, domestic violence, harassment, stalking or sexual assault. In the State of New York, forms and additional information can be obtained by visiting: <https://www.nycourts.gov/faq/orderofprotection.shtml>

Procedures

- Students, staff and faculty must notify the Program Director for the Musical Theater Performance Program, Student Services Associate and Title IX Coordinator, or other CSA if they have an Order of Protection.
- The front desk person must be provided a copy of the Order of Protection with a picture of the suspect.
- The Program Director for the Musical Theater Performance Program, Student Services Associate, Title IX Coordinator and faculty, staff and students that are involved with the Order of Protection will be informed of expected actions and security measures.
- If anyone sees the suspect, call 911 immediately.

- In the event of eminent danger or immediate emergency, information is released through the emergency notification system.

VIII. Policy on Possession, Use and Sale of Alcoholic Beverages and Illegal Drugs and the Drug and Alcohol Abuse Prevention Program

NYCDA is committed to maintaining a drug-free school and workplace. NYCDA is committed to full compliance with the Drug Free Workplace Act and the Drug-Free Schools and Communities Act regulations as contained in 34 C.F.R. Part 86. New students, faculty and staff are provided this information during Orientation. Annually, students and employees are provided this information by means of NYCDA's publication of its Policies on Substance Abuse and Alcoholic Beverages on the school website under Student Resources at <https://www.nycda.edu/student-resources>, as well as in material posted on campus. In accordance with federal regulations, NYCDA conducts reviews at least biennially to determine the effectiveness of this policy to ensure consistent enforcement of applicable drug and alcohol related statutes, ordinances, and institutional policies against students and employees found to be in violation. Annual Review reports and supporting documents will be maintained by NYCDA and made available upon request. Students or employees with any questions concerning this policy should contact the Academic Affairs Liaison (contact information listed above).

All Students and employees are prohibited from the unlawful manufacture, distribution, possession, or use or sale of illicit drugs and alcohol on NYCDA's property or as part of any of any NYCDA officially sponsored off-campus activities. Students are also prohibited from being under the influence of alcohol, illegal drugs or any other substance that could adversely affect the health, safety or welfare of students and staff on NYCDA property or at any of its officially sponsored activities. This includes all forms of marijuana, regardless of the state legality of the substance. NYCDA policy prohibits the possession, use and sale of alcoholic beverages in violation of State underage drinking laws. NYCDA enforces state underage drinking laws as well as federal and state drug laws.

Information regarding NYCDA's drug and alcohol abuse education programs is available in its [Substance Abuse and Alcoholic Beverages Policy](#) on the school website under Student Resources at <https://www.nycda.edu/student-resources>

IX. Violence Against Women Act (VAWA)

The Violence Against Women Reauthorization Act of 2013 (VAWA) requires publication of the state law definitions for "dating violence," "domestic violence," "sexual assault," "stalking," and "consent."

Consent/Lack of Consent – Lack of consent results from: forcible compulsion; or incapacity to consent; or where the offense charged is sexual abuse or forcible touching, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct.

Where the offense charged is rape in the third degree, a criminal sexual act in the third degree, or forcible compulsion in circumstances under which, at the time of the act of intercourse, oral

sexual conduct or anal sexual conduct, the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor's situation would have understood such person's words and acts as an expression of lack of consent to such act under all the circumstances.

A person is incapable of consent when he or she is: less than 17 years old; or mentally disabled; or mentally incapacitated; or physically helpless; or committed to the care and custody of the state department of correctional services, a hospital, the office of children and family services and is in residential care, or the other person is a resident or inpatient of a residential facility operated by the office of mental health, the office for people with development disabilities, or the office of alcoholism and substance abuse services, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such department or hospital.

Affirmative consent Under the NYS "Enough is Enough" law under 129B/section 6441, the definition for affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

Dating Violence – NYS does not specifically define dating violence. However, in NYS, "family offenses" are certain violations of the penal code, including but not limited to harassment, sexual abuse, 18 stalking, and menacing, committed by a family member or intimate partner that have created a substantial risk of physical or emotional harm to a person or a person's child. Under NYS penal code, stalking is an intentional course of conduct, directed at a specific person, that causes fear for their health, safety or property, or the health, safety or property of their family or acquaintances; harm to the mental or emotional health of that person; or fear that their employment, business or career is threatened.

Domestic Violence – An act which would constitute a violation of the penal law, including, but not limited to acts constituting disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, kidnapping, assault, attempted murder, criminal obstruction or breaching or blood circulation, or strangulation; and such acts have created a substantial risk of physical or emotional harm to a person or a person's child. Such acts are alleged to have been committed by a family member. The victim can be anyone over the age of sixteen, any married person or any parent accompanied by his or her minor child or children in situations in which such person or such person's child is a victim of the act.

Sexual assault –New York State ("NYS") does not specifically define sexual assault. However, sexual offenses (including rape and sexual abuse) are criminal offenses under New York State law. Under NY penal code, lack of consent to a sex act results from (a) forcible compulsion, (b) incapacity to consent, (c) no express or implied acquiescence, where the offense charged is sexual abuse or forcible touching, or (d) clear expression of non-consent, where the offense charged is rape. NYS state law states that a person is incapable of consent when he or she is (a)

under the age of 17, (b) mentally disabled, (c) mentally incapacitated, (d) physically helpless, or (e) committed to the care of the state.. According to the Federal Regulations, sexual assault includes offenses that meet the definitions of rape, fondling, incest, or statutory rape as used in the FBI's UCR program.

Stalking – Stalking in the Fourth Degree: Section 120.45 NYS Penal Law. When a person intentionally, and for not legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct (1) is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or (2) causes material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning or initiating communication or contact with such person, a member of such person's immediate family or a third party with whom such person is acquainted, and the actor was 12 previously clearly informed to cease that conduct; or (3) is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct.

Stalking in the Third Degree: Section 120.50 NYS Penal Law. When a person (1) Commits the crime of stalking in the fourth degree against any person in three or more separate transactions, for which the actor has not been previously convicted; or (2) commits the crime of stalking in the fourth degree against any person, and has previously been convicted, within the preceding ten years of a specified predicate crime and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or (3) with an intent to harass, annoy or alarm a specific person, intentionally engages in a course of conduct directed at such person which is likely to cause such person to reasonably fear physical injury or serious physical injury, the commission of a sex offense against, or the kidnapping, unlawful imprisonment or death of such person or a member of such person's immediate family; or (4) commits the crime or stalking in the fourth degree and has previously been convicted within the preceding ten years of stalking in the fourth degree.

Stalking in the Second Degree: Section 120.55 NYS Penal Law. When a person: (1) Commits the crime of stalking in the third degree and in the course of and furtherance of the commission of such offense: (a) displays, or possesses and threatens the use of, a firearm, pistol, revolver, rifle, sword, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, chuka stick, sand bag, sandclub, slingshot, slungshot, shirken, "Kung Fu Star," dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, dangerous instrument, deadly instrument or deadly weapons; or (b) displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or (2) commits the crime of stalking in the third against any person, and has previously been convicted, within the preceding five years, of a specified predicate crime, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or (3) commits the crime of stalking in the fourth degree and has previously been convicted of stalking in the third degree; or (4) being 21 years of age or older, repeatedly follows a person under the age of fourteen or engages in a course of conduct or repeatedly commits acts over a period of time intentionally placing or attempting to place such person who is under the age of fourteen in reasonable fear of physical injury, serious physical injury or death; or (5)

commits the crime of stalking in the third degree, against ten or more persons, in ten or more separate transactions, for which the actor has not been previously convicted.

Stalking in the First Degree: Section 120.60 NYS Penal Law. When a person commits the crime of stalking in the third degree or stalking in the second degree and, in the course and furtherance thereof, he or she intentionally or recklessly causes physical injury to the victim of such crime.

X. Policy Regarding Title IX and Sexual Violence Prevention and Response Policies

The New York Conservatory for Dramatic Arts complies with Federal and New York State policies regulations surrounding Title IX and sexual violence prevention.

INTRODUCTION

NYCDA is committed to providing a work and school environment free of unlawful harassment, sexual violence or discrimination. NYCDA policy prohibits harassment or discrimination based on race, religion, creed, color, national origin, ancestry, sex, military or veteran status, physical or mental disability, medical condition, age, sexual orientation, gender, gender identity or expression, genetic information or any other basis protected by the federal, state or local law. In accordance with Title IX of the Education Amendments of 1972 and New York state law, NYCDA prohibits sexual misconduct discrimination based on sex, which includes non-consensual or forced sexual contact/activity, sexual coercion, sexual exploitation, sexual harassment, sex/gender discrimination, stalking, and relationship violence (see the Key Terms and Definitions section of this policy) and NYCDA has jurisdiction over Title IX complaints.

In furtherance of this commitment, all students and employees are required to undergo mandatory Title IX training. Upon starting with NYCDA, students are provided Title IX training during new student orientation and generally every year thereafter. New employees are provided with Title IX training upon hire and generally every year thereafter. The Title IX Coordinator receives annual training on the issues related to sexual misconduct (including 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.

This policy applies to all persons involved in the operation of NYCDA, and prohibits sexual misconduct by any employee, as well as students, customers, vendors or anyone who does business with NYCDA. It prohibits sexual misconduct against all students and employees. Any employee, student or contract worker who violates this policy will be subject to disciplinary action. To the extent a customer, vendor or other person with whom NYCDA does business engages in sexual misconduct, NYCDA will take appropriate corrective action.

This policy shall be disseminated to the NYCDA community through publication(s), the NYCDA website, new employee orientations, new student orientations, and other appropriate channels of communication. NYCDA will respond quickly to reported violations and will take appropriate action to prevent, to correct, and if necessary, to discipline individuals who violate this policy.

If you believe that you have experienced or witnessed harassment or discrimination on the basis of a protected category other than sex, please follow the procedure outlined in the Non-Discrimination/Anti-Harassment policy located in the Catalog.

SECTION I: DEFINITION OF AFFIRMATIVE CONSENT

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

- Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Consent may be initially given but withdrawn at any time.
- Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- When consent is withdrawn or can no longer be given, sexual activity must stop.

SECTION II: POLICY FOR ALCOHOL AND/OR DRUG AMNESTY IN SEXUAL AND INTERPERSONAL VIOLENCE CASES

The health and safety of every student at the New York Conservatory for Dramatic Arts is of utmost importance. NYCDA recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. However, NYCDA strongly encourages students to report incidents of domestic violence, dating violence, stalking, or sexual assault to school officials. A bystander acting in good faith or a reporting individual acting in good faith who discloses any incident of domestic violence, dating violence, stalking, or sexual assault to NYCDA officials or law enforcement will not be subject to NYCDA's code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

SECTION III: CAMPUS CLIMATE ASSESSMENT POLICY

NYCDA will conduct Campus Climate assessments in order to better understand the experience of its student body, and to make informed decisions when it comes to providing a safe educational environment. Every other year, NYCDA will conduct a Campus Climate survey that

ascertains student experience with, and knowledge of, reporting and NYCDA investigation and response processes for sexual misconduct.

The survey will address student knowledge about:

- The Title IX Coordinator's role;
- Campus policies and procedures addressing sexual assault;
- How and where to report sexual violence as a victim/survivor or witness;
- The availability of resources on and off campus, such as counseling, health and academic assistance;
- The prevalence of victimization and perpetration of sexual assault, domestic violence, dating violence, and stalking on and off campus during the two years of their attendance at the school;
- Bystander attitudes and behavior;
- Whether victims/survivors reported to NYCDA and/or police, and reasons why they did or did not report;
- The general awareness of the difference between the NYCDA's policies and the penal law; and
- The general awareness of the definition of affirmative consent.

NYCDA will take steps to ensure that answers remain anonymous and that no individual is identified. Results will be published on the campus website providing no personally identifiable information shall be shared.

SECTION IV: STUDENTS' BILL OF RIGHTS

You have the right to make a report to local law enforcement, and/or State Police or choose not to report; to report the incident to NYCDA; to be protected by NYCDA from retaliation for reporting an incident; and to receive assistance and resources from NYCDA.

NYCDA strictly prohibits the offenses of domestic violence, dating violence, sexual assault, and stalking.

NYCDA is committed to providing options, support, and assistance to victims/survivors of sexual assault, domestic violence, dating violence, and/or stalking to ensure that they can continue to participate in NYCDA programs, activities, and employment. All victims/survivors of these crimes and violations, regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction, have the following rights:

All students have the right to:

1. Make a report to local law enforcement and/or state police.
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously.
3. Make a decision about whether or not to disclose a crime or violation and participate in the NYCDA conduct process and/or criminal justice process free from pressure from NYCDA.

4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard.
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful references to health care and counseling services.
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations.
7. Describe the incident to as few institutional representatives as practicable and not to be required to unnecessarily repeat a description of the incident.
8. Be protected from retaliation by NYCDA, any student, the accused and/or the respondent, and/or their friends, family, and acquaintances within NYCDA's jurisdiction.
9. Access to at least one level of appeal of a determination.
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the conduct process including during all meetings and hearings related to such process.
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or conduct process of NYCDA.

Options in Brief:

Victims/survivors have many options that can be pursued simultaneously, including one or more of the following:

- Receive references to resources, such as counseling and medical attention.
- Confidentially or anonymously disclose a crime or violation (for detailed information on confidentiality and privacy see the Options for Confidentially Disclosing Sexual Violence section of this policy.)
- Make a report to:
 - o An employee with the authority to address complaints, including the Title IX Coordinator.
 - o Local law enforcement and/or;
 - o Family Court or Civil Court
- NYCDA will provide written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the institution and in the community;
- NYCDA will provide written notification to victims about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures. The institution must make such accommodations or provide such protective measures if the victim requests them and if they are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement.

Copies of this Students' Bill of Rights will be distributed annually to students, made available on the NYCDA website under Student Resources at <https://www.nycda.edu/student-resources/> and posted on the NYCDA campus and in the NYCDA residence halls.

SECTION V: SEXUAL VIOLENCE RESPONSE POLICY

In this description, NYCDA advises reporting individuals (that is, anyone who is a victim, survivor, complainant, bystander, witness, etc., who brings a report of a violation) of their right to the following:

- notify proper law enforcement authorities, including local or state police.
- be assisted by NYCDA in notifying law enforcement authorities if the victim so chooses.
- decline to notify such authorities.

In accordance with the Students' Bill of Rights, reporting individuals shall have the right to pursue more than one of the options below at the same time, or to choose not to participate in any of the options below:

A. REPORTING

Reporting individuals have the following rights:

- To disclose confidentially the incident to a hotline; New York State service is available at the following: <http://www.opdv.ny.gov/help/dvhotlines.html>

Additional disclosure and assistance options are catalogued by the Office for the Prevention of Domestic Violence and presented in several languages: <http://www.opdv.ny.gov/help/index.html> (or by calling 1-800-942-6906)

See Resources below for further listing of resources and hotlines.

- To disclose the incident to the NYCDA officials listed below, who can offer privacy and can provide information about remedies, accommodations, evidence preservation, and how to obtain resources. (For a description of the difference between confidentiality and privacy, see the Options for Confidentially Disclosing Sexual Violence section of this policy.)
- These officials will also provide the information contained in the Students' Bill of Rights, including the right to choose when and where to report, to be protected by NYCDA from retaliation, and to receive assistance and resources from NYCDA.
- These officials will disclose that they are private and not confidential resources, and they may be required by law and NYCDA policy to inform one or more NYCDA officials about the incident, including but not limited to the Title IX Coordinator. They will notify reporting individuals that the criminal justice process uses different standards of proof and evidence than internal procedures, and questions about the penal law or the criminal process should be directed to law enforcement or a district attorney. Also see the Plain Language Explanation of Distinctions between the New York State Penal Law and the College Disciplinary Processes section of this policy.

Title IX Coordinator,
Residence Director, Steve Porcelli
sporcelli@nycda.edu
39 West 19th Street, 2nd floor

New York, NY 10011
(212)812-4045

An online reporting form can be found here: <https://tinyurl.com/TitleIXComplaintForm>

Title IX Deputies

Student Services Associate, Kim Sosa
ksosa@nycda.edu
39 West 19th Street, 2nd floor
New York, NY 10011
(212) 812-4099

Resident Advisor on Duty
81 East 3rd Street
New York, NY 10003
(646) 866-1370

To file a criminal complaint with local law enforcement and/or state police:
New York Police Department, 9th Precinct
321 East 5th Street New York, NY 10003
(212) 477-7811
(near residence hall)

New York Police Department, 10th Precinct
230 West 20th Street
New York, NY 10011
(212) 741-8211
(near school)

New York Police Department Special Victims Division 24-hour hotline: 646-610-7272.

State police 24-hour hotline to report sexual assault in New York: 1-844-845-7269.

- To receive assistance from NYCDA in finding resources to help with initiating legal proceedings in family court or civil court.
- To file a Title IX report (including sexual assault, domestic violence, dating violence, and/or stalking) and the right to talk to the Title IX Coordinator for information and assistance. Reports will be investigated in accordance with NYCDA policy and the reporting individual's identity shall remain private at all times if said reporting individual wishes to maintain privacy. If a reporting individual wishes to keep his/her identity anonymous, he or she may call a listed hotline anonymously to discuss the situation and available options.

When the accused is an employee, a reporting individual may also report to the Title IX Coordinator. Disciplinary proceedings will be conducted in accordance with applicable employee guidelines. When the accused is an employee of an affiliated entity or vendor of NYCDA, NYCDA officials will, at the request of the reporting individual, assist in

reporting to the appropriate office of the vendor or affiliated entity and, if the response of the vendor or affiliated entity is not sufficient, assist in obtaining a persona non grata letter, subject to legal requirements and NYCDA policy.

- The reporting individual may withdraw their complaint or involvement from the NYCDA process at any time.
- Every NYCDA representative shall ensure that, at a minimum, at the first instance of disclosure by a reporting individual to a NYCDA representative, the following information shall be presented to the reporting individual: “You have the right to make a report to local law enforcement, and/or State Police or choose not to report; to report the incident to your institution; to be protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from your institution.”

B. RESOURCES

Confidential assistance can be obtained through the following. (For the definition of confidentiality versus privacy see Options for Confidentially Disclosing Sexual Violence below.)

Confidential hotlines and referrals:

- NYSCASA: <http://nyscasa.org>
- NYSCADV: <http://www.nyscadv.org>.
- RAINN: <https://www.rainn.org/get-help>.
- Safe Horizons: <http://www.safehorizon.org> 1-800-621-4673
- New York State Department of Health Rape Crisis and Sexual Violence Prevention Program: https://www.health.ny.gov/prevention/sexual_violence
- New York State Domestic Violence 24 Hour Hotline: 1-800-942-6906
- National Domestic Violence 24 Hour Hotline 1-800-799-7233
- National Sexual Assault Hotline: 800-656-4673

Sexual Violence Helplines:

- Report sexual assault on a New York college campus to the New York State Police: 1-844-845-7269
- Office of Victim Services: <https://ovs.ny.gov>
- New York City: 1-800-621-HOPE (4673) or 311.
- New York-Presbyterian/Weill Cornell Medical Center hotline: 212-746-9414

Legal Assistance:

- SurvJustice: <http://survjustice.org> – (fee required)
- Legal Momentum: <https://www.legalmomentum.org/> - (for referrals)

(Note that these hotlines are for crisis intervention, resources, and referrals, and are not reporting mechanisms, meaning that disclosure on a call to a hotline does not provide any information to NYCDA. Reporting individuals are encouraged to additionally contact an NYCDA resource so that the school can take appropriate action in these cases).

Within 96 hours of an assault, you can get a Sexual Assault Forensic Examination (commonly referred to as a rape kit) at a hospital. While there should be no charge for a rape kit, there may be a charge for medical or counseling services off campus and, in some cases, insurance may be billed for services. You are encouraged to let hospital personnel know if you do not want your

insurance policyholder to be notified about your access to these services. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency funds. For more information call 1-800-247-8035. Options are explained here: <http://www.ovs.ny.gov>

To best preserve evidence, victims/survivors should avoid showering, washing, changing clothes, combing hair, drinking, eating, or doing anything to alter physical appearance until after a physical exam has been completed.

Sexual contact can transmit Sexually Transmitted Infections (STI) and may result in pregnancy.

For a forensic examination, victims should go to:

Mount Sinai Beth Israel Emergency Department

1st Avenue at 16th Street

New York, NY 10003

(212) 420-2840

Confidentiality, assistance and resources, including free testing for STI's and emergency contraception are available from:

Heidi Ross, LCSW

Patrick Walsh, LCSW

Terceira Monlar, LCSW

Chauntel Gerdes, LCSW

Mount Sinai Beth Israel Campus Sexual Assault Prevention and Response Team

212 420 4516

Mount Sinai Beth Israel

317 East 17th Street

New York, NY 10003

At Mount Sinai you can:

- Have an advocate/social worker present
- Have a medical exam
- Receive treatment for HIV, STIs, and the morning after pill (there is a fee for these services which can be billed through insurance)
- Have photos taken of any injuries
- Have a Sexual Assault Forensic Examination (SAFE) including evidence collection (The New York State Office of Victim Services (OVS) covers the cost of a rape exam following a sexual assault. Please contact OVS if you have any financial concerns. OVS contact information is listed above.)
- Have a drug facilitated Sexual Assault evidence collection (DFSA) kit
- Have Emergency Department staff contact NYPD to make a police report

Other services:

- Crisis intervention
- Information, referrals and advocacy

- Individual short-term psychotherapy
- Volunteers on call to accompany victims and assist them through the process.

Other confidential resources:

Manuel Moscoso, Clinician

St. Mark's Place Institute for Mental Health

57 St. Mark's Place

New York, NY 10003

mmoscoso@unitas-nyc.org

Psychiatry and psychotherapy (There is a fee for services at this facility.)

C. PROTECTION AND ACCOMMODATIONS

Reporting individuals have the following rights:

- When the accused is a student, to have NYCDA issue a "No Contact Order", consistent with NYCDA policy and procedure, meaning that continuing to contact the protected individual is a violation of NYCDA policy subject to additional conduct charges; if the accused and a protected person observe each other in a public place, it is the responsibility of the accused to leave the area immediately and without directly contacting the protected person. Both the accused/respondent and reporting individual may request a prompt review of the need for and terms of a No Contact Order, consistent with NYCDA policy. Parties may submit evidence in support of their request
- To have assistance from NYCDA in finding resources to initiate legal proceedings in family court or civil court, including but not limited to obtaining an Order of Protection.
- To receive a copy of the Order of Protection and have an opportunity to meet or speak with an NYCDA official who can find resources to explain the Order and answer questions about it, including information from the Order about the accused's responsibility to stay away from the protected person(s); that burden does not rest on the protected person(s).
- To an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension.
- To have assistance from NYCDA to call on and assist local law enforcement in effecting an arrest for violating such an order.
- When the accused is a student and presents a continuing threat to the health and safety of the community, to subject the accused to interim suspension pending the outcome of a conduct process. Both the accused and the reporting individual may request a prompt review, reasonable under the circumstances, of the need for and terms of an interim suspension, including potential modification, and will be allowed to submit evidence in support of the request.
- When the accused is not a student but is a member of the NYCDA community and presents a continuing threat to the health and safety of the community, to subject the accused to interim measures in accordance with the Employee Handbook, and NYCDA policies and rules.

- When the accused is not a member of the NYCDA community, to have assistance from NYCDA officials in obtaining a persona non grata letter, subject to legal requirements and NYCDA policy.
- To obtain reasonable and available interim measures and accommodations that effect a change in academic, housing, employment, transportation, or other applicable arrangements in order to ensure safety, prevent retaliation, and avoid an ongoing hostile environment. Both the accused and the reporting individual may request a prompt review of the need for and terms of any interim measures and accommodations that directly affect them. While reporting individuals may request accommodations through anyone referenced in this policy, the following points of contact can serve to assist with these measures:

Title IX Coordinator, Steve Porcelli
 sporcelli@nycda.edu
 39 West 19th Street, 2nd floor
 New York, NY 10011
 (212)812-4045

Artistic Director, Richard Omar
 romar@nycda.edu
 39 West 19th Street, 2nd floor
 New York, NY 10011
 (646) 216-2863

Student Services Associate, Kim Sosa
 ksosa@nycda.edu
 39 West 19th Street, 2nd floor
 New York, NY 10011
 (212) 812-4099

D. INVESTIGATIVE CONDUCT PROCESS

Reporting individuals have the following rights:

- To request that harassment or student conduct charges be filed against the accused. Conduct proceedings are governed by the procedures set forth in the NYCDA Code of Student Conduct or Employee Guidelines as well as federal and New York State law, including the due process provisions of the United States and New York State Constitutions.

Throughout conduct proceedings, the respondent and the reporting individual will have:

The same opportunity to be accompanied by an advisor of their choice who may assist and advise the parties throughout the conduct process and any related hearings or meetings. Participation of the advisor in any proceeding is governed by federal law and the Code of Student Conduct, available on the NYCDA website under Student Resources at

<https://www.nycda.edu/student-resources/> or Employee Guidelines at <https://www.nycda.edu/employee-guidelines/>

- The right to a prompt response to any complaint and to have their complaint investigated and adjudicated in an impartial, timely, and thorough manner by individuals who receive annual training in conducting investigations of sexual misconduct, sexual violence, the effects of trauma, impartiality, the rights of the respondent, including the right to a presumption that the respondent is “not responsible” until a finding of responsibility is made according to the provisions of Education Law Article 129B and NYCDA conduct procedures and other issues related to sexual assault, domestic violence, dating violence, and stalking.
- The right to an investigation and process conducted in a manner that recognizes the legal and policy requirements of due process (including fairness, impartiality, and a meaningful opportunity to be heard) and is not conducted by individuals with a conflict of interest.
- The right to receive advance written or electronic notice of the date, time, and location of any meeting or hearing they are required to or are eligible to attend. Accused individuals will also be told the factual allegations concerning the violation, a reference to the specific code of conduct provisions alleged to have been violated, and possible sanctions. At the imposition of sanctions, the disciplinary hearing chair will provide a written statement detailing the factual findings supporting the determination and the rationale for the sanction imposed.
- The right to have a conduct process run concurrently with a criminal justice investigation and proceeding, except for temporary delays as requested by New York City and New York State while law enforcement gathers evidence. Temporary delays should not last more than 10 days except when law enforcement specifically requests and justifies a longer delay.
- The right to offer evidence during an investigation and to review available relevant evidence in the case file held by NYCDA.
- The right to present evidence and testimony at a hearing, where appropriate.
- The right to a range of options for providing testimony via alternative arrangements, including telephone/videoconferencing or testifying with a room partition.
- The right to exclude their own prior sexual history with persons other than the other party in the conduct process or their own mental health diagnosis or treatment from admittance in NYCDA disciplinary stage that determines responsibility. Past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanction.
- The right to ask questions of the decision maker(s) and via the decision makers, indirectly request responses from other parties and any other witnesses present.
- The right to make an impact statement during the point of the proceeding where the decision maker(s) is/are deliberating on appropriate sanctions.
- The right to simultaneous (among the parties) written or electronic notification of the outcome of a conduct proceeding, including the decision, any sanctions, and the rationale for the decision and any sanctions.

- The right to written or electronic notice about the sanction(s) that may be imposed on the accused based upon the outcome of the conduct proceeding. For students found responsible for sexual assault, the available sanctions may include suspension with additional requirements and expulsion/dismissal.
- Access to at least one level of appeal of a determination before a panel that is fair and impartial and does not include individuals with a conflict of interest.
- In order to effectuate an appeal, a respondent and reporting individual in such cases shall receive written notice of the findings of fact, the decision and the sanction, if any, as well as the rationale for the decision and sanction. In such cases, any rights provided to a reporting individual must be similarly provided to a respondent and any rights provided to a respondent must be similarly provided to a reporting individual.
- The right to have access to a full and fair record of a conduct hearing, which shall be preserved and maintained for at least five years by:
Registrar's Office
39 West 19th Street, 2nd floor
New York, NY 10011
(212) 812-4070
- The right to choose whether to disclose or discuss the outcome of a conduct hearing.
- The right to have all information obtained during the course of the conduct or judicial process be protected from public release until the appeals panel makes a final determination unless otherwise required by law.

Complaints of Sexual Misconduct

The New York Conservatory for Dramatic Arts takes all allegations of sexual misconduct seriously and is committed to providing information, resources, and clear direction to members of the NYCDA community so that together we can help prevent and address this conduct. The NYCDA will always respond to complaints, reports, allegations, and information about sexual misconduct in order to stop prohibited conduct, prevent its recurrence, and address any lingering effects on campus.

NYCDA is committed to ensuring that students have all the resources necessary to help themselves or someone they know who has been impacted by sexual misconduct, including sexual violence. Student Services can help to identify or provide assistance in the following ways:

- Offer academic support, by facilitating discussions with faculty members or rescheduling exams.
- Help a student if they want assistance in changing living or travel arrangements, or class schedules.
- Refer student to a local clinic, crisis center, or mental health services, and, if timely, will encourage the student to go to the emergency room, and accompany them.
- Refer student to long-term mental health, victim advocacy, legal assistance services, and other available community resources.
- Offer information about the school's sexual assault policy.

- Remind the student that they may file criminal charges, and support the student in filing a police report, and taking further action, if desired.
- Accompany the student to any appointment

If you believe that you have experienced or witnessed sexual misconduct, NYCDA urges you notify the Title IX Coordinator as soon as possible after the incident. Do not allow an inappropriate situation to continue by not reporting it, regardless of who is creating the situation.

There is no specific time frame for individuals who have experienced sexual misconduct to file a complaint pursuant to this Policy. Individuals are, however, encouraged to make a report soon after the incident to order to maximize NYCDA's ability to investigate and reach a finding. Students and employees may contact the Title IX Coordinator. In order to facilitate the investigation, your complaint should include details of the incident or incidents, names of the individuals involved and names of any witnesses. Individuals may make an anonymous report concerning an instance of sexual misconduct. Depending on the extent of information available about the incident or the individuals involved; NYCDA's ability to respond to an anonymous report may be limited.

NYCDA ensures that its employee(s) designated to serve as Title IX Coordinator(s) have annual training on what constitutes sexual misconduct, they understand how this policy operates, and understand how to conduct an investigation that protects the safety of victims and promotes accountability. Because reports can also be filed with an employee's supervisor these employees also receive training on NYCDA's procedures and any other procedures used for investigating reports of sexual misconduct.

A report may be made to either or both the police and the Title IX Coordinator. In order to ensure availability of witnesses and fresh memories of the alleged sexual misconduct, all reports should be made as promptly as possible after the alleged conduct. Where there is any question about whether an incident of sexual misconduct occurred, a report should be made to the Title IX Coordinator for assistance in determining the nature of the incident.

The Title IX Coordinator oversees all Title IX complaints and is also responsible for identifying and addressing any patterns or systemic problems that arise during the review of such complaints.

The Title IX Coordinator will conduct investigations into complaints and, for students, make a report to NYCDA's disciplinary hearing board, made up of administrators, staff, and faculty. NYCDA will reach a prompt and equitable resolution through a reliable and impartial investigation of complaints. The Title IX Coordinator will communicate with both the reporting party and responding party. Both parties will receive equal opportunity to provide information, witness statements, evidence, and other information that may be necessary. Both the reporting party and the responding party will be afforded equitable rights and access during the investigative process.

Students should refer to the Student Conduct Process in the Code of Student Conduct, and employees should refer to the Employee Guidelines for detailed information regarding

investigations and disciplinary hearings. Generally, this investigation will consist of the Title IX Coordinator conducting interviews with the reporting party, the responding party, and any witnesses. The Title IX Coordinator will, barring any extenuating circumstance, complete the investigation and make a determination regarding whether sexual misconduct has occurred.

If such a determination is made, for students, the matter will be referred to the disciplinary hearing board and a disciplinary hearing will be held. The disciplinary hearing board will decide on the necessary discipline of the responding party and remedies to reporting party within approximately sixty (60) days of the date that the report is first received by the Title IX Coordinator. For employees, the Title IX Coordinator will conduct an investigation into the complaint and make a determination as to whether sexual misconduct has occurred within sixty (60) days of the date on which he received the report. Timelines may vary based on the complexity of the case, number of witnesses and the nature of the academic calendar. Each party will be presented with the results of the investigation before any disciplinary action is finalized—giving the parties the opportunity to respond to the investigative report in writing in advance of a decision. In the event of a delay, the Title IX Coordinator will provide written notice to the reporting party and the responding party explaining the reason for the delay. If there is a conflict of interest between the Title IX Coordinator and the reporting party/responding party, an alternative trained individual will conduct the investigation. The “preponderance of the evidence” standard will apply to investigations, meaning NYCDA will evaluate whether it is more likely than not that the alleged conduct occurred.

NYCDA’s sanctions for students found responsible for dating violence, domestic violence, sexual assault, or stalking, include educational projects and community service, disciplinary warning, disciplinary probation, loss of eligibility for employment by the school, loss of privileges, restitution, loss of scholarship, relocation or removal from housing, final probation, suspension and/or expulsion/dismissal. Sanctions for employees are training, probation, suspension without pay or termination. More than one of the listed sanctions may be imposed for any single violation.

In the event that a student is under active investigation following a police report, he/she may be suspended until completion of the investigation. In cases where an incident is not reported to police or other authorities, both students are generally allowed to remain enrolled in the program, with necessary accommodations.

NYCDA will examine all facets of sexual misconduct reports on a case-by-case basis to finalize their decisions. The reporting party and the responding party will receive simultaneous notification in writing of any decision and the process for appeal. NYCDA is committed to protecting all students and employees, and therefore also takes false accusations of sexual violence seriously. A good-faith complaint that results in a finding of not responsible is not considered a false or fabricated accusation of sexual misconduct. However, when a reporting party or third-party witness is found to have fabricated allegations or given false information with malicious intent or in bad faith, that individual may be subject to disciplinary action.

In compliance with Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act (“Clery Act”), all incidents involving criminal homicide, murder and non-negligent

manslaughter, manslaughter by negligence, rape, fondling, incest, statutory rape, dating violence, domestic violence, stalking, hate crimes, robbery, aggravated assault, burglary, motor vehicle theft, arson, drug and alcohol violations, and illegal weapons possession must be included in a crime statistics report each academic year. The Title IX Coordinator has primary responsibility for receiving, evaluating, and investigating sexual misconduct reports and for maintaining accurate Clery Act crime statistics.

SECTION VI: OPTIONS FOR CONFIDENTIALLY DISCLOSING SEXUAL VIOLENCE

NYCDA wants you to get the information and support you need, regardless of whether you would like to move forward with a report of sexual misconduct, including sexual violence to campus officials or to police. You may want to talk with someone about something you observed or experienced, even if you are not sure that the behavior constitutes sexual misconduct, including sexual violence. A conversation where questions can be answered is far superior to keeping something to yourself.

Reports about sexual misconduct do not have to be formal signed complaints. NYCDA is committed to protecting the confidentiality of victims and will work closely with individuals who wish to obtain confidential assistance regarding an incident of sexual misconduct, including sexual violence, and will maintain the privacy of information to the extent permitted, even if the victim does not specifically request confidentiality. A victim's personally identifying information will not be included in any publicly available recordkeeping, including Clery Act reporting and disclosures such as this Annual Security Report. Memoranda describing any formal reprimand or disciplinary action for violating this policy will be placed in a student's permanent academic file and an employee's permanent personnel file. These documents are maintained in a locked filing cabinet that only applicable administrative staff has access to. Reporting party(s) should be aware that in an investigation, due process generally requires that the identity of the charging party and the substance of the complaint be revealed to the person charged with the alleged sexual misconduct. Once NYCDA decides to open an investigation that may lead to disciplinary action against the responding party, NYCDA will provide written notice to the responding party of the allegations constituting the potential violation, and the date and location of the alleged incident.

In some cases, NYCDA may need to disclose some information about a victim to a third party to provide necessary accommodations or protective measures. The Title IX Coordinator will meet to weigh the victim's confidentiality against the impact on NYCDA being able to provide these necessary accommodations or protective measures. Should it be deemed necessary, they will determine what information about the victim needs to be disclosed and to whom it needs to be disclosed. The victim will be notified regarding which information will be shared, with whom it will be shared and why prior to NYCDA sharing the information. NYCDA will strive to share as limited information as possible in an effort to protect the victim's identity.

Confidentiality varies, and this section is aimed at helping you understand how confidentiality applies to different resources that may be available to you.

Confidentiality versus Privacy:

Confidentiality is a guarantee that no information will be shared with third parties without the reporter's permission. Individuals who are confidential resources are not required by law to report incidents of sexual assaults or other crimes to NYCDA officials without students' permission in a manner consistent with state and federal law, except for extreme circumstances, such as a health and/or safety emergency. Examples of resources who are legally permitted to offer confidentiality are pastoral counselors, physicians, licensed medical professionals or supervised interns when they are engaged in physician/patient relationship, licensed mental health counselors, confidential victim advocates and rape or domestic violence crisis counselors. Note that these external resources do not provide any information to NYCDA. NYCDA faculty, staff and employees cannot legally provide confidentiality.

Privacy; the resource may be obligated to report known names and facts to the Title IX Coordinator. NYCDA may take action. NYCDA faculty, staff and employees, who cannot guarantee confidentiality, will maintain students' privacy to the greatest extent possible. The information a student provides to a nonconfidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution. NYCDA will limit the disclosure as much as possible, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

Confidential and Private Resources:

To disclose confidentially the incident to a hotline or other New York State service available at the following: <http://www.opdv.ny.gov/help/dvhotlines.html>.

Additional disclosure and assistance options are catalogued by the Office for the Prevention of Domestic Violence and presented in several languages: <http://www.opdv.ny.gov/help/index.html> (or by calling 1-800-942-6906)

Off-campus counselors and advocates: Crisis services offices will generally maintain confidentiality unless you request disclosure and sign a consent or waiver form. More information on an agency's policies on confidentiality may be obtained directly from the agency. Check <http://nyscasa.org/> for more information on other crisis services.

Off-campus healthcare providers: Note that medical office and insurance billing practices may reveal information to the insurance policyholder, including medication and/or examinations paid for or administered. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency compensation. (See OVS contact information above.)

• More information may be found here:

http://www1.nyc.gov/assets/nypd/downloads/pdf/collaborative_policing/ovsovsrightsofcvbooklet.pdf or by calling 1-800-247-8035.

• Options are explained here: <https://ovs.ny.gov/help-crime-victims>

Even individuals who can typically maintain confidentiality are subject to exceptions under the law, including when an individual is a threat to him or herself or others and the mandatory reporting of child abuse.

Even NYCDA faculty, staff and employees, who cannot guarantee confidentiality, will maintain your *privacy* to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution. NYCDA will limit the disclosure as much as possible, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

Requesting Confidentiality: How NYCDA Will Weigh the Request and Respond:

If you disclose an incident to an NYCDA employee who is responsible for responding to or reporting sexual misconduct, but wish to maintain confidentiality or do not consent to the institution's request to initiate an investigation, the Title IX coordinator must weigh your request against our obligation to provide a safe, nondiscriminatory environment for all members of our community, including you.

NYCDA will assist you with academic, housing, transportation, employment, and other reasonable and available accommodations regardless of your reporting choices. The Title IX Coordinator can serve as a primary point of contact to assist with these measures:

Title IX Coordinator, Steve Porcelli
sporcelli@nycda.edu
39 West 19th Street, 2nd floor
New York, NY 10011
(212)812-4045

We also may take proactive steps, such as training or awareness efforts, to combat sexual misconduct, including sexual violence in a general way that does not identify you or the situation you disclosed.

NYCDA may seek consent from you prior to conducting an investigation. You may decline to consent to an investigation, and that determination will be honored unless NYCDA's failure to act does not adequately mitigate the risk of harm to you or other members of the NYCDA community. Honoring your request may limit our ability to meaningfully investigate and pursue conduct action against an accused individual. If NYCDA determines that an investigation is required, NYCDA will notify you and take immediate action as necessary to protect and assist you.

When you disclose an incident to someone who is responsible for responding to or reporting sexual misconduct, but wish to maintain confidentiality, NYCDA will consider many factors to determine whether to proceed despite that request. These factors include, but are not limited to:

- Whether the accused has a history of violent behavior or is a repeat offender;

- Whether the incident represents escalation in unlawful conduct on behalf of the accused from previously noted behavior, such as a situation that previously involved sustained stalking;
- The increased risk that the accused will commit additional acts of violence;
- Whether the accused used a weapon or force;
- Whether the reporting individual is a minor; and
- Whether NYCDA possesses other means to obtain evidence such as security footage, and whether the report reveals a pattern of perpetration at a given location or by a particular group.

If NYCDA determines that it must move forward with an investigation, the reporting individual or victim/survivor will be notified and NYCDA will take immediate action as necessary to protect and assist them.

Anonymous Disclosure:

For an anonymous reporting resource, you may call the New York State Hotline for Sexual Assault and Domestic Violence, 1 (800) 942-6906. The Hotline is for crisis intervention, resources, and referrals and is not a reporting mechanism to NYCDA or law enforcement.

Institutional Crime Reporting:

Reports of certain crimes occurring in certain geographic locations will be included in the NYCDA Clery Act Annual Security Report in an anonymized manner that neither identifies the specifics of the crime or the identity of a reporting individual.

NYCDA is obligated to issue timely warnings of Clery Act crimes occurring within relevant geography that represent a serious or continuing threat to students and employees (subject to exceptions when potentially compromising law enforcement efforts and when the warning itself could potentially identify the reporting individual or victim/survivor). A reporting individual will never be identified in a timely warning. NYCDA will make every effort to ensure that a reporting individual's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger. NYCDA reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, or a change in student status.

The Family Educational Rights and Privacy Act allows institutions to share information with parents when (1) there is a health or safety emergency, or (2) when the student is a dependent on either parent's prior year federal income tax return. Generally, NYCDA will not share information about a report of domestic violence, dating violence, stalking, or sexual assault with parents without the permission of the reporting individual.

Additional Information

Students and employees may contact the Title IX Coordinator with any questions related to this policy. In addition, the U.S. Department of Education Office for Civil Rights ("OCR") investigates complaints of unlawful harassment of students in educational programs or activities.

This agency may serve as a neutral fact finder and will attempt to facilitate the voluntary resolution of disputes with the parties. For more information, visit the OCR website at: <http://www.hhs.gov/ocr/>. To the extent that an employee or contract worker is not satisfied with NYCDA's handling of a complaint, he or she may also contact the appropriate state or federal enforcement agency for legal relief.

SECTION VII: TRANSCRIPT NOTATION AND APPEALS POLICY FOR SEXUAL VIOLENCE OFFENSES

Transcript Notation

For crimes of violence, including but not limited to sexual violence, after due investigation and process, NYCDA will make a notation on the transcript of the student found responsible that they were “suspended after a finding of responsibility for a code of conduct violation” or “expelled after a finding of responsibility for code of conduct violation.” If the student withdraws while the charges are pending, and declines to complete the disciplinary process, NYCDA will make a notation on the transcript of the student saying they “withdrew with conduct charges pending.”

Transcript Notation Appeal Process

Transcript notations for a student suspended because of a code of conduct violation may be removed after no less than one year's time following the completion of suspension. A student may request to have the transcript notation removed by submitting a Transcript Notification Appeal Form to the Registrar's Office. Such students may appeal to the Academic Leadership Team to have the notation removed. Appeals may be granted provided that:

1. One year has passed since the conclusion of the suspension;
2. The term of suspension has been completed and any conditions thereof; and
3. The Academic Leadership Team has determined that the student is once again “in good standing” with all applicable academic and non-academic standards.

Transcript notations for a student expelled because of code of conduct violation will not be removed and are not eligible for appeal.

If a finding of responsibility is removed for any reason, any such transcript notation shall be removed.

SECTION VIII: KEY TERMS AND DEFINITIONS

Sexual misconduct can take a wide range of forms and have a wide range of effects. At NYCDA, we use the following terms:

Sexual Intercourse - vaginal penetration by a penis, object, tongue or finger; anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth-to-genital or genital-to-mouth contact), no matter how slight the contact.

Non-Consensual Sexual Intercourse - any sexual intercourse, however slight, by any person and upon any person, with any object, without effective consent and/or by force.

Sexual Contact - non-accidental contact with the breasts, buttock, groin, or genitals; and/or touching another with any of these body parts; and/or making another touch you or themselves with or on any of these body parts. It also includes any non-accidental bodily contact in a sexual manner, even if not involving contact with/of/by breasts, buttock, groin, genitals, mouth, or other orifice.

Non-Consensual Sexual Contact - any non-accidental sexual touching, however slight, by any person and upon any person, with any object, without effective consent.

Sexual Harassment - unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment is conduct that explicitly or implicitly affects a person's education or employment or interferes with a person's educational or work performance or creates an environment such that a reasonable person would find the conduct intimidating, hostile or offensive. A hostile environment is created when the alleged conduct is sufficiently serious to deny or limit a student or employee's ability to participate in or benefit from the recipient's education program, activities, or employment.

Sexual harassment is conduct based on sex, whether directed towards a person of the opposite or same sex, and may include explicit sexual propositions, sexual innuendo, suggestive comments, sexually oriented "kidding" or "teasing", practical jokes, jokes about or displays of obscene printed or visual material, questions about sexual fantasies, preferences or history, and physical contact such as patting, pinching, or intentionally brushing against another person's body. Gender-based harassment, including acts of verbal, nonverbal or physical aggression, intimidation, or hostility based on sex or sex stereotyping are strictly prohibited, even if those acts do not involve conduct of a sexual nature.

A hostile environment can be created by persistent or pervasive conduct or by a single severe episode. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment. Sexual violence, including rape, sexual assault, and domestic and dating violence, is a form of sexual harassment.

Quid pro quo sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal, or physical conduct of a sexual nature when submission to such conduct is made either explicitly or implicitly, a term or condition of an individual's employment or educational benefits or services, or submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting the individual.

Dating Violence - defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons

involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

Domestic Violence - any violent felony or misdemeanor crime committed by a current or former spouse or intimate partner of the victim, a person sharing a child with the victim or a person cohabitating with the victim as a spouse or intimate partner.

Sexual Violence - physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse and sexual coercion.

Sexual Coercion - the use or attempted use of pressure and/or oppressive behavior with the goal of causing the person who is the object of the pressure and/or behavior to engage in unwelcome sexual activity. Coercion can be physical, verbal, and/or emotional. It can take the form of threats, intimidation, or the use of physical force, either expressed or implied, which places a person in fear of immediate harm or physical injury. Coercion can also take the form of threatening to "out" someone based on sexual orientation or gender identity or pressuring someone to consume alcohol or other drugs prior to engaging in a sexual act.

Sexual Exploitation - occurs when an individual takes non-consensual or abusive sexual advantage of another for one's own advantage or benefit, or to benefit or advantage anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to: prostituting another person; going beyond the boundaries of consent (e.g. surreptitiously observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved); 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; exposing one's genitals or inducing another to expose their own genitals in nonconsensual circumstances; knowingly exposing another individual to a sexually transmitted disease or virus without their knowledge; sexually-based stalking and/or bullying; and inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

Sexual Assault – occurs when a physical sexual activity is engaged in without the consent of the other person or when the other person is unable to consent to the activity. The activity or conduct may include physical force, violence, threat, or intimidation, ignoring the objections of the other person, causing the other person's intoxication or incapacitation through the use of drugs or alcohol, and taking advantage of the other person's incapacitation (including voluntary intoxication). Non-stranger sexual assaults, someone known to the victim, are much more common than stranger sexual assaults. Nonstranger sexual assaults are no less a crime than those committed by strangers. The same definition and policies herein applies regardless of whether the responding party is a stranger or a non-stranger.

Rape - defined as sexual intercourse with a person:

- a) that is forced, manipulated or coerced through use of verbal coercion, intimidation (emotional and/or physical), threats, physical restraint and/or physical violence; and/or

b) where affirmative consent was not given.

Stalking - defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress.

Incapacitation - a state where an individual cannot make an informed and rational decision to engage in sexual activity because they lack conscious knowledge of the nature of the act (e.g., to understand the who, what, when, where, why or how of the sexual interaction) and/or are physically helpless. An individual is incapacitated, and therefore unable to give consent, if they are asleep, unconscious, or otherwise unaware that sexual activity is occurring. Incapacitation may result from the use of alcohol and/or drugs. Consumption of alcohol or other drugs alone is insufficient to establish incapacitation. The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs impact an individual's: decision-making ability; awareness of consequences; ability to make informed judgments; or capacity to appreciate the nature and the quality of the act. Evaluating incapacitation also requires an assessment of whether a Respondent knew or should have known, that the Complainant was incapacitated.

Retaliation - seeking or attempting to seek retribution against anyone involved in an allegation of sexual misconduct. It is a violation of NYCDA policy to retaliate in any way against an individual because s/he raised allegations of sexual misconduct, sexual harassment, sexual violence, sexual exploitation, stalking, or intimate partner violence. NYCDA recognizes that retaliation can take many forms, may be committed by or against an individual or a group, and that a Complainant, Respondent or third party may commit or be the subject of retaliation. NYCDA will take immediate and responsive action to any report of retaliation and will pursue disciplinary action as appropriate. An individual reporting sexual harassment or misconduct is entitled to protection from any form of retaliation following a report that is made in good faith, even if the report is later not proven.

SECTION IX: NYCDA STUDENT ONBOARDING AND ONGOING EDUCATION REGARDING SEXUAL VIOLENCE PREVENTION

NYCDA is committed to educating all new and current students using a variety of best practices aimed at educating the entire community in a way that decreases violence and maintains a culture where sexual assault and acts of violence are not tolerated.

All new students are required to attend Orientation. At this onboarding event, students will receive training on the following topics:

- NYCDA prohibits sexual misconduct, including sexual harassment, gender/sex discrimination, sexual violence, domestic violence, dating violence, stalking, other violence or threats of violence, and will offer resources to any victims/survivors of such violence while taking administrative and conduct action regarding any accused individual within NYCDA's jurisdiction.
- Relevant definitions including, but not limited to, the definitions of sexual assault, domestic violence, dating violence, stalking, confidentiality, privacy, and consent.

- Policies apply equally to all students regardless of sexual orientation, gender identity, or gender expression.
- The role of the Title IX Coordinator and other NYCDA staff and faculty members who address sexual misconduct, including domestic violence, dating violence, stalking, and sexual assault prevention and response.
- Awareness of violence, its impact on victims/survivors and their friends and family, and its long-term impact.
- The Students' Bill of Rights and Sexual Violence Prevention and Response Policy, including:
 - o How to report sexual violence and other crimes confidentially to NYCDA officials and/or local law enforcement.
 - o How to obtain services and support.
 - o Bystander Intervention and the importance of taking action, when one can safely do so, to prevent harm or intervene when there is a risk of sexual misconduct (including dating violence, domestic violence, sexual assault, or stalking).
 - o The protections of the Policy for Alcohol and/or Drug Use Amnesty in Sexual and Interpersonal Violence Cases
 - o Risk assessment and reduction including, but not limited to, steps that potential victims/survivors and potential assailants and bystanders to violence can take to lower the incidence of violations, which may contain information about the dangers of drug and alcohol use, including underage drinking and binge drinking, involuntary consumption of incapacitating drugs and the danger of mislabeled drugs and alcohol, the importance of communication with trusted friends and family whether on campus or off campus, and the availability of NYCDA officials who can answer general or specific questions about risk reduction.
 - o Consequences and sanctions for individuals who commit these crimes and Code of Student Conduct violations.
- NYCDA provides training that increase audience knowledge and share information to prevent violence, promote safety and reduce perpetration. Students and employees will be offered ongoing training and education in sexual violence prevention through the following methods:
 - o Artistic Director's welcome messaging;
 - o Training sessions with Mount Sinai Beth Israel;
 - o Safety training by former members of the NYPD
 - o School-wide seminars on sexual health;
 - o Posters, bulletin boards, and other targeted print and email materials.
- NYCDA will share information on domestic violence, dating violence, stalking and sexual assault prevention with parents of enrolling students.
- NYCDA will offer to all students both general and specific training in domestic violence, dating violence, stalking and sexual assault prevention and will conduct a campaign that complies with the Violence Against Women Act, 20 U.S.C. 1092(f), to educate the student population. NYCDA's training will include international students and students that are also employees. The youth of NYCDA's student body and the fact that many of them are new to New York City create a population that can be described as high risk. NYCDA offers specific training, particularly in self-protection, to every student.

- NYCDA regularly assesses its programs and policies to determine their effectiveness and relevance for its students.

SECTION X: A PLAIN LANGUAGE EXPLANATION OF DISTINCTIONS BETWEEN THE NEW YORK STATE PENAL LAW AND THE COLLEGE DISCIPLINARY PROCESSES

	Criminal Justice System	College Disciplinary System
Goals.	Public safety, deterrence, and punishment.	Education; safety; safe and supportive campus environment.
Governing Law.	New York State Penal Code; New York State Rules of Criminal Procedure (or another state’s rules if the crime took place there), Federal Criminal Law, and Rules of Evidence.	Title IX; The Clery Act as amended by the Violence Against Women Act; NYS Education Law sections 129-A and 129-B. More specific rules govern particular colleges and universities.
How to report and whether there must be action once a report is made.	Crimes involving sexual violence may be reported to campus police (if the campus has police officers), the local police agency, or to the New York State Police. Certain crimes may also be reported to federal law enforcement agents. Once a report is made, the decision whether to investigate is made by the police/law enforcement agency, often in consultation with a District Attorney or other prosecuting agency. An investigation may be conducted without the consent or participation of a reporting individual. The ultimate decision of whether to initiate a criminal prosecution is initially made by a prosecutor. In cases involving felony charges, the final charging decision is made by a Grand Jury.	Victims may disclose sexual violence to various college employees who are designated confidential resources or to others who will try to ensure privacy to the extent consistent with the institution’s obligation to provide a safe educational environment. Disclosures made to a confidential resource will not trigger an investigation. When a report is made to the Title IX Coordinator (TIXC) or another Non-Confidential resource, the TIXC will determine whether an investigation is necessary by weighing a request for confidentiality by the reporting individual against the continuing safety of that person and the safety and best interests of the campus community.
Who investigates?	Police or other law enforcement officials.	Investigators employed or retained by the college or university; these individuals may work for different departments within the institution, including, but not limited to, the police/public safety department, student affairs and academic affairs.
Procedures	See Governing Law. Procedures established by police departments, prosecutors’ offices, etc.	College/University policies and Bylaws, which generally incorporate requirements of Governing Law. Collective bargaining agreements may impact some procedures.
Standard of Evidence.	Crimes must be proven “Beyond a Reasonable Doubt”	A violation of disciplinary rules must be found by a “Preponderance of the Evidence” (more likely than not)
Confidentiality.	Law enforcement agencies offer some confidential assistance, but a criminal charge and trial must be public.	Colleges and universities offer confidential resources, but a disciplinary proceeding requires that relevant information be shared with those involved.
Privacy.	Criminal trials must be public.	Disciplinary proceedings are kept as private as possible, but information must be shared with certain individuals within the college, the parties, and pursuant to law.

	Criminal Justice System	College Disciplinary System
Who are the parties?	The prosecution and defendant. The victim/survivor is <u>not</u> a party, but often the critical witness for the prosecution.	Varies by school—some consider the institution and the respondent to be parties, and confer on the reporting individual certain rights to participate, as the law provides. Otherwise, reporting individual and accused/respondent.
Participation in the process	In limited circumstances, a criminal prosecution can proceed without the participation or cooperation of the reporting individual, but without a reporting individual’s participation, it is generally more difficult to prove a crime beyond a reasonable doubt.	Reporting students cannot be required to participate in the college process. However, a college will be limited in its ability to respond if a reporting individual does not participate.
Who initiates the proceedings?	A prosecutor, acting on behalf of the state (or the United States in federal cases).	The college or university initiates proceedings. While rules vary from school to school, they most provide an active role for the reporting individual.
Testimony	In a court, testimony is generally public. Other parties are, through counsel, entitled to cross-examine witnesses.	The rules are established by individual colleges and universities, but some institutions provide for alternative approaches that permit students to testify without having other parties in the room and/or to ask cross-examination questions only through the disciplinary panel, investigator, or representative of the reporting individual and/or respondent.
Role of attorneys	Both the state and the defendant are represented by counsel; counsel may question witnesses.	Varies by school. Many permit the parties to be advised by attorneys but some limit the attorney's’ roles to quietly speaking with their clients or passing notes.
Mental Health and Sexual History	In New York, a reporting individual’s prior sexual and mental health history is generally, but not always, inadmissible in a criminal case. There are limited circumstances under which directly relevant evidence of that kind may be admitted.	Generally not admissible, but subject to quite limited exceptions. Education Law 129-b permits parties to exclude information about their prior sexual history with persons other than the other party and also to exclude evidence of their own mental health history in the fact finding phase of the disciplinary process.
Possible Results	If a prosecution takes place, the defendant may <ul style="list-style-type: none"> • plead guilty or “no contest” • have the case dismissed by the judge (on legal grounds) • be found “guilty” or “not guilty” by a judge or jury 	In cases that do not involve sexual assault, some schools permit mediation or similar procedures if parties agree. If there is a formal proceeding, the respondent may be found “responsible” or “not responsible” for violations of the institution’s rules. Respondents may also accept responsibility before a finding by an adjudicator.
Sanctions	An individual found guilty may be fined, imprisoned, or both. In some courts, alternative sanctions are sometimes used.	An individual found responsible for violating college policy may be given a range of sanctions (depending on the severity of the conduct and other factors, such as prior judicial history), ranging from a warning to suspension or expulsion from the institution.

XI. Policy Statement Addressing Sex Offender Registration Information

NYCDA is required to inform students and employees about where law enforcement information provided by a State concerning registered sex offenders may be obtained. The law also requires sex offenders already required to register in a State to provide notice of each institution of higher education in that State at which the person is employed, carries a vocation, or is a student. In New York, information about convicted sex offenders is available at <https://www.criminaljustice.ny.gov/nsor/>.

The National Registry of Sex Offenders is available via Internet at the following web address: <http://www.nationalsexoffenderregistry.com>

XII. Missing Student Notification Policy

Purpose:

This policy establishes a framework for cooperation among members of the Conservatory community aimed at locating and assisting students who are reported missing. To this end, and in compliance with the Missing Student Notification Policy and Procedures (Section 488 of the Higher Education Opportunity Act of 2008), the following policy has been developed in order to assist in locating NYCDA students, who, based on the facts and circumstances known to the Conservatory, are determined to be missing. A student shall be deemed missing when he or she is absent from the Conservatory for more than 24 hours without any known reason, and if there is reasonable cause for concern about the whereabouts of the student.

Each student will be notified of the missing student policy and procedures in the event that they are reported missing. If a member of the Conservatory community has reason to believe that a student is missing, all efforts will be made immediately to locate the student and determine his or her state of health and well-being. All students shall have the opportunity to choose an individual to be contacted by NYCDA in case a student is determined to be missing. If a missing student is under the age of 18 years old, NYCDA is required to notify the parent or guardian of the missing student no later than 24 hours after the determination that the student is missing.

Notification Procedures:

This policy authorizes use of the Rave Alert and Student Email for immediate alerts and notifications to the NYCDA community, prior to and during a potentially catastrophic life-threatening emergency. It was developed to furnish information and direction so that NYCDA members may immediately protect themselves in an emergency situation.

1. Reports of a student missing for 24 hours should be made to any or all of the below listed persons:

Artistic Director, Richard Omar
romar@nycda.edu
39 West 19th Street, 2nd floor
New York, NY 10011
(646) 216-2863

Director of Education, Jay Goldenberg
jgoldenberg@nycda.edu
39 West 19th Street,
New York, NY 10011
(646) 216-2862

Residence Director/Title IX Coordinator, Steve Porcelli
81 East 3rd Street
New York, NY 10003
sporcelli@nycda.edu
(212) 812-4045

Student Services Associate
ksosa@nycda.edu
39 West 19th Street,
New York, NY 10011
(212) 812-4099

Resident Advisors
81 East 3rd Street
New York, NY 10003
(646) 866-1370

Registrar's Office
39 West 19th Street, 2nd floor
New York, NY 10011
(212) 812-4070

2. The following resources or persons should be contacted immediately to try and determine any points of contact with the Conservatory:

- Call missing student's cell phone and send a text message
- Contact individuals who live and interact with the student daily
- Check with faculty members and/or attendance log to see when the student was in class or if they have had contact with faculty.
- Review the use of the Student's NYCDA and/or Residence Hall ID's to assist in ascertaining the location of the missing student

3. If, after an investigation by NYCDA, the student is determined to be missing, the Artistic Director, Residence Director/Title IX Coordinator, Student Services Associate or Registrar will contact the student's parent or designated emergency contact person.

4. After parental notification, if student is under 18, law enforcement will be called to report the person as missing. A description and picture along with any other information will be provided to law enforcement agency.

5. If circumstances warrant a faster implementation of the notification procedures, the Artistic Director, Student Services Associate and/or Title IX Coordinator will notify the New York City Police Department immediately, to begin an investigation in accordance with their policy and procedures.

Information for Students*

- You have the option to register a confidential contact person you want to be notified in the case that you are reported missing. Only authorized NYCDA officials and law enforcement officers in furtherance of a missing person investigation may have access to this information.
- The local law enforcement will be notified that you are reported missing, even if you have not registered a contact person, no later than 24 hours after reported missing.
- If you are under 18 years of age, and not an emancipated individual, NYCDA is required to notify your parent or guardian no later than 24 hours after reported missing.
- In all cases of a missing student, law enforcement provides information to the media that is designed to obtain public assistance in the search for any missing student.

**These requirements do not prevent implementing these procedures in less than 24 hours if circumstances warrant faster implementation.*

XIII. Clery Act Crime Report Statistics

OFFENSE	PROPERTY	2016	2017	2018
Murder/ Non-Negligent Manslaughter	On-Campus Property	0	0	0
	On-Campus Student Housing Facilities	0	0	0
	Public Property	0	0	0
Manslaughter By Negligence	On-Campus Property	0	0	0
	On-Campus Student Housing Facilities	0	0	0
	Public Property	0	0	0

OFFENSE	PROPERTY	2016	2017	2018
Rape	On-Campus Property	0	0	0
	On-Campus Student Housing Facilities	0	0	0
	Public Property	0	0	0
Fondling	On-Campus Property	0	0	0
	On-Campus Student Housing Facilities	0	0	0
	Public Property	0	0	0
Incest	On-Campus Property	0	0	0
	On-Campus Student Housing Facilities	0	0	0
	Public Property	0	0	0
Statutory Rape	On-Campus Property	0	0	0
	On-Campus Student Housing Facilities	0	0	0
	Public Property	0	0	0
Robbery	On-Campus Property	0	0	0
	On-Campus Student Housing Facilities	0	0	0
	Public Property	0	0	2
Aggravated Assault	On-Campus Property	0	0	0
	On-Campus Student Housing Facilities	0	0	0
	Public Property	0	0	0
Burglary	On-Campus Property	0	0	0
	On-Campus Student Housing Facilities	0	0	0
	Public Property	0	0	0
Motor Vehicle Theft	On-Campus Property	0	0	0

OFFENSE	PROPERTY	2016	2017	2018
	On-Campus Student Housing Facilities	0	0	0
	Public Property	0	0	0
Arson	On-Campus Property	0	0	0
	On-Campus Student Housing Facilities	0	0	0
	Public Property	0	0	0
VAWA Offenses: Domestic Violence	On-Campus Property	0	0	0
	On-Campus Student Housing Facilities	0	0	0
	Public Property	0	0	0
VAWA Offenses: Dating Violence	On-Campus Property	0	0	0
	On-Campus Student Housing Facilities	0	0	2
	Public Property	0	0	0
VAWA Offenses: Stalking	On-Campus Property	0	0	0
	On-Campus Student Housing Facilities	0	0	0
	Public Property	0	0	0
Hate Crimes: Related to any of the above listed crimes, and Hate Crimes involving simple assault, larceny-theft, intimidation, or destruction/damage/vandalism of property	On-Campus Property	0	0	0
	On-Campus Student Housing Facilities	0	0	0
	Public Property	0	0	0
Arrests: Weapons: Carrying, Possessing, etc.	On-Campus Property	0	0	0
	On-Campus Student Housing Facilities	0	0	0
	Public Property	0	0	0
Disciplinary Referrals: Weapons: Carrying, Possessing, etc.	On-Campus Property	0	0	0
	On-Campus Student Housing Facilities	0	0	0

OFFENSE	PROPERTY	2016	2017	2018
	Public Property	0	0	0
Arrests: Drug Abuse Violations	On-Campus Property	0	0	0
	On-Campus Student Housing Facilities	0	0	0
	Public Property	0	0	0
Disciplinary Referrals: Drug Abuse Violations	On-Campus Property	3	1	0
	On-Campus Student Housing Facilities	3	1	6
	Public Property	0	0	0
Arrests: Liquor Law Violations	On-Campus Property	0	0	0
	On-Campus Student Housing Facilities	0	0	0
	Public Property	0	0	0
Disciplinary Referrals: Liquor Law Violations	On-Campus Property	2	2	0
	On-Campus Student Housing Facilities	2	2	2
	Public Property	0	0	0
Unfounded Crimes	On-Campus Property	0	0	0
	On-Campus Student Housing Facilities	0	0	0
	Public Property	0	0	0

XIX. Annual Fire Safety Report

On-Campus Housing Facility: Number of Fires in 2018:

81 East 3rd Street
New York, NY 10033

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