

**THE NEW YORK  
CONSERVATORY FOR  
DRAMATIC ARTS**  
FILM + TELEVISION + THEATER

## TITLE IX POLICY

The New York Conservatory for Dramatic Arts (NYCDA) is committed to providing a work and educational environment free of unlawful harassment, discrimination and retaliation. In accordance with Title IX of the Education Amendments of 1972, NYCDA does not discriminate on the basis of sex in its education programs or activities, which extends to admission and employment. NYCDA also prohibits Sexual Harassment (as defined below) committed against persons in the United States as part of its education programs or activities.

If you believe that you have experienced or witnessed other incidents of sexual misconduct or discrimination, please follow the procedures outlined in NYCDA's Code of Student Conduct under Student Resources at <https://www.nycda.edu/student-resources/>, or Employee Handbook, available by logging into <https://workforcenow.adp.com/> and looking under Resources.

NYCDA reserves the right to make changes to this policy as necessary, and once those changes are posted online, they are in effect. If government laws, regulations or court decisions change requirements in a way that affects this policy, the policy will be construed to comply with the most recent government regulations or holdings.

In accordance with federal and New York state requirements, NYCDA maintains this federal Title IX policy as well as a state Sexual Violence Prevention and Response policy. Individuals who wish to file a complaint of discrimination on the basis of sex should do so with the Title IX Coordinator. NYCDA will apply both policies when receiving such complaints.

#### Statement of Non-Discrimination

NYCDA does not discriminate in its employment practices or in its educational programs or activities on the basis of sex. NYCDA also prohibits retaliation against any person opposing discrimination or participating in any discrimination investigation or complaint process internally or externally. Reports of misconduct, questions regarding Title IX, and concerns about noncompliance should be directed to the Title IX Coordinator. For a complete copy of the policy or for more information, please contact the Title IX Coordinator or the Assistant Secretary of Education within the Office for Civil Rights (OCR) <https://www2.ed.gov/about/offices/list/ocr/contactus2.html>.

#### Title IX Coordinator

The Title IX Coordinator coordinates NYCDA's efforts to comply with its Title IX responsibilities.

#### **Title IX Coordinators:**

Title IX Coordinator/Associate Director of Financial Aid, Dr. Melissa Vargas

O: 646-216-2869

C: 631-532-7737

[mvargas@nycda.edu](mailto:mvargas@nycda.edu)

[mvargas212@yahoo.com](mailto:mvargas212@yahoo.com)

Deputy Title IX Coordinator /Student Services Manager, Kim Sosa

O: 646-216-2872

C: 631-532-7620

[ksosa@nycda.edu](mailto:ksosa@nycda.edu)

The Title IX Coordinator is responsible for implementing NYCDA's Title IX policy, intaking reports and Formal Complaints of Sexual Harassment, providing supportive measures and maintaining accurate Clery Act crime statistics.

Any person can report sex discrimination, including Sexual Harassment (whether or not the person reporting is the alleged victim) in person, by mail, telephone, or e-mail, using the contact information listed above for the Title IX Coordinator. A report can be made at any time, including during non-business hours. However, responses to reports made outside of business hours, including during weekends and holidays, may be delayed.

### Key Definitions

**Sexual Harassment:** Conduct on the basis of sex that satisfies one or more of the following:

1. A NYCDA employee conditioning educational benefits or participation on an individual's participation in unwelcome sexual conduct (i.e. quid pro quo);
2. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to NYCDA's education Program or Activity; or
3. Sexual Assault (as defined in the Clery Act), or Dating Violence, Domestic Violence or Stalking as defined in the Violence Against Women Act (VAWA) (collectively referred to as "Sexual Violence")\*:
  - **Sexual Assault:** As defined in 20 U.S.C. 1092(f)(6)(A)(v), means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.
  - **Dating Violence:** As defined in 34 U.S.C. 12291(a)(10), means violence committed by a person (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship; the type of relationship; and, the frequency of interaction between the persons involved in the relationship.
  - **Domestic Violence:** As defined in 34 U.S.C. 12291(a)(8), includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

- **Stalking:** As defined in 34 U.S.C. 12291(a)(30), means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.

\* Please note: In accordance with the Violence Against Women Reauthorization Act of 2013 (“VAWA”), state definitions for Sexual Assault, Dating Violence, Domestic Violence, Stalking and Consent are contained in NYCDA’s Annual Safety and Security/Fire Safety Report (“ASR”). VAWA crime statistics are reported in the ASR based on the definitions above.

**Complainant:** An individual who is alleged to be the victim of conduct that could constitute Sexual Harassment, regardless of whether a Formal Complaint has been filed. A Complainant must be the alleged victim unless a parent or legal guardian has a legal right to act on the alleged victim’s behalf.

**Respondent:** An individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.

**Parties:** include the Complainant(s) and Respondent(s) collectively.

**Advisor:** An individual chosen by a party to accompany the party to meetings related to the resolution process, to advise the party on that process and to conduct cross-examination for the party at any hearing, if any. If a party does not have an Advisor at the hearing portion of the Grievance Process, NYCDA will appoint an advisor.

**Formal Complaint:** A document (hardcopy or electronic) filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that NYCDA investigate. A Formal Complaint must be signed (physical or digital) by the Complainant, the Title IX Coordinator, or otherwise indicate that the Complainant is the person filing the Formal Complaint. At the time of filing a Formal Complaint, the Complainant must be participating in or attempting to participate in NYCDA’s education Program or Activity with which the Formal Complaint is filed.

**Program or Activity:** On or off campus locations, events, or circumstances over which NYCDA exercises substantial control over both the Respondent and the context in which the Sexual Harassment occurred.

**Clery Act:** Meaning the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act (20 U.S.C. Section 1092(f); 34 C.F.R. Part 668.46). In accordance with the Clery Act, NYCDA publishes required crime statistics and policy statements in its Annual Safety and Security Report (ASR) on or before October 1<sup>st</sup> of each year.

**Clery Geography:** As defined in the Clery Act, includes (A) buildings and property that are part of NYCDA’s campus; (B) NYCDA’s noncampus buildings and property; and (C) public property within or immediately adjacent to and accessible from the campus.

**VAWA:** Meaning the Violence Against Women Reauthorization Act of 2013 (34 CFR Part 668).

### Procedure for Reporting

If you believe that you have experienced or witnessed Sexual Harassment (including Sexual Violence), discrimination or retaliation, NYCDA encourages you to notify the Title IX Coordinator as soon as possible after the incident. A report may be made to either or both the police and the Title IX Coordinator. The criminal process is separate from NYCDA's Title IX Grievance Process.

A report of Sexual Violence may be made to either or both the police and the Title IX Coordinator. The criminal process is separate from NYCDA's process. It is NYCDA's policy not to notify local law enforcement when Sexual Violence occurs, unless a Complainant wishes or there is an emergency threat to health or safety. Complainants have the option to notify law enforcement directly or be assisted in doing so. If requested, NYCDA will assist a victim of Sexual Violence in contacting the police. A Complainant is not required to contact the police in order to pursue NYCDA's grievance process.

NYCDA does not issue orders of protection. Orders of protection, restraining orders, injunctions or similar lawful orders may be obtained through the court system and can be enforced by NYCDA. Individuals who have obtained an order of protection is encouraged to provide a copy to the Title IX Coordinator as soon as possible. Although NYCDA does not issue orders of protection, information on how to obtain a protective order is located in the ASR.

### Reporting Considerations

In order to make informed choices, it is important to be aware of confidentiality and reporting requirements when consulting NYCDA resources. NYCDA employees can provide privacy but not confidentiality

An individual who seeks completely confidential assistance may do so by speaking with professionals who have legally protected confidentiality. NYCDA does not have confidential reporting resources, such as pastoral or professional counselors on campus. Crisis, mental health and victim resource hotline information is available.

## **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 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.

Confidential assistance can be obtained through the following.

### 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](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**

1<sup>st</sup> Avenue at 16<sup>th</sup> 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 17<sup>th</sup> 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.)

Information shared with confidential resources will not be shared with NYCDA (including the Title IX Coordinator) or anyone else without express, written permission of the individual seeking services unless required by law or court order.

NYCDA will keep confidential the identity of the Complainant, Respondent, and witnesses, except as may be permitted by FERPA, as required by law, or as necessary to carry out the Title IX Grievance Process.

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to NYCDA's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible. Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

### Supportive Measures

The Title IX Coordinator will provide Supportive Measures as necessary. Supportive Measures are individualized services reasonably available to ensure equal educational access, protect safety or deter prohibited conduct. Supportive Measures are available, as appropriate, to either or both the Complainant and Respondent and are non-punitive, non-disciplinary and not unreasonably burdensome to the other party. Examples include counseling, extensions of time or other course-related adjustments, modifications to work or class schedules, campus escort services, restrictions on contact between the Parties, leave of absence, increased security and monitoring of certain areas on campus, and other similar accommodation. The Supportive Measures needed by the Complainant and/or Respondent may change over time, and the Title IX Coordinator will communicate with each party to ensure that any Supportive Measures are necessary and effective based on evolving needs.



Victims of Sexual Violence will also be provided with written notification about existing counseling, health and/or mental health services, victim advocacy, legal assistance, visa and immigration assistance, safety planning, timely warnings, student financial aid and other services available to victims within NYCDA and in the community.

Once the Title IX Coordinator receives a report, the Title IX Coordinator will promptly contact the Complainant confidentially to discuss the availability of Supportive Measures (available with or without filing a Formal Complaint) and explain the process for filing a Formal Complaint and provide a copy of this policy. The Title IX Coordinator will consider the Complainant's wishes with respect to Supportive Measures.

NYCDA will keep confidential the identity of the victim of Sexual Violence and any accommodations or Supportive Measures provided, to the extent that maintaining such confidentiality will not impair NYCDA's ability to provide the accommodations or Supportive Measures.

#### Dismissal of a Formal Complaint

Dismissal of a Formal Complaint may occur under several circumstances. NYCDA must dismiss a Formal Complaint if the allegations do not meet the definition of Sexual Harassment, did not occur in NYCDA's education Program or Activity, or did not occur against a person in the United States.

NYCDA may dismiss a Formal Complaint if the Complainant informs the Title IX Coordinator, in writing, that he, she, or they withdraw the Formal Complaint or allegations therein; the Respondent is no longer enrolled or employed by NYCDA ; or if specific circumstances prevent NYCDA from gathering sufficient evidence to reach a determination.

If a Formal Complaint is dismissed, the Parties will be provided written notice of the dismissal outlining the reason(s) for dismissal. A dismissal does not preclude action by NYCDA under the Code of Student Conduct or Employee Complaint Procedures for Title IX/Sexual Misconduct complaints as described in the Employee Handbook.

#### Grievance Process

NYCDA utilizes a prompt, equitable and impartial Grievance Process to evaluate Formal Complaints. Title IX personnel (Title IX Coordinator, Investigators, Decision-Makers, individuals who facilitate Informal Resolution process) will be free from conflicts of interest or bias for or against Complainants or Respondents. Title IX personnel will objectively evaluate all relevant evidence and avoid credibility determinations based on a person's status as a Complainant, Respondent or witness.

Both Parties will receive equal opportunity to provide information, witness statements, evidence, and other information that may be necessary to fully evaluate the alleged offense. Both Parties will be afforded equitable rights and access during the Grievance Process. The Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Grievance Process.

Generally, the Grievance Process consists of a Formal Complaint, investigation, Live Hearing, determination, Disciplinary Actions, Remedies and appeal (if applicable). The Grievance Process, barring extenuating circumstance, will conclude within 90 days from the date a Formal Complaint is filed.

### *Advisor*

A party may be accompanied by an Advisor of their choice during the Grievance Process. The Parties may choose Advisors from inside or outside the NYCDA community. If the Complainant or Respondent does not have an Advisor present at the Live Hearing, NYCDA will select and provide an Advisor, without fee or charge, to conduct cross-examination of witnesses on behalf of that party. A party may reject an appointed Advisor and choose their own Advisor, but they may not proceed without an Advisor. The Complainant and Respondent may not conduct cross-examination.

Choosing an Advisor who is a witness in the Grievance Process creates potential for bias and conflict of interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Decision-Maker.

The Parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the Grievance Process. Advisors are expected to advise without disrupting proceedings. For example, advisors should not address NYCDA officials in a meeting or interview unless invited to. An Advisor may not make a presentation during any meeting or proceeding and may not speak on behalf of the party to the investigation or other Decision-Maker except during a Live Hearing, during cross-examination. If an Advisor is disruptive or otherwise fails to respect the limits of the Advisor role, the meeting or interview may be ended.

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third Parties, disclosed publicly, or used for purposes not explicitly authorized by NYCDA. NYCDA may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by NYCDA's privacy expectations.

### *Investigation of Formal Complaints*

NYCDA will investigate Sexual Harassment (including Sexual Violence) allegations in a Formal Complaint filed by a Complainant or signed by the Title IX Coordinator. The Title IX Coordinator will respect the Complainant's wishes as to whether NYCDA investigates an allegation of Sexual Harassment, unless the Title IX Coordinator determines that not investigating would be deliberately indifferent or harmful to the NYCDA community. NYCDA may consolidate Formal Complaints where the allegations arise out of the same facts.

Upon receipt of a Formal Complaint, written notice will be sent to the Parties. The Notice of Investigation will include: details of the allegations (including identities of the Parties involved, specific section of the policy alleged to have been violated, the conduct that would be considered Sexual Harassment, the date of the incident(s) and the location of the incident(s)); a statement that the Respondent is presumed to be not responsible for the alleged conduct until a determination is made according to NYCDA's Grievance Process; a statement that the Parties may have an Advisor of their choice; and a reminder of the expectation of truthfulness including consequences for submitting false information. The Parties will also be provided with separate written notice of any investigative interview, meeting or hearing. Interview/meeting notices will include the date, time, location, participants and purpose of the investigative interview or meeting.

Formal Complaints involving employees will also be referred to ADP, NYCDA's human resources provider ("Human Resources"), and simultaneously evaluated under employee conduct policies and procedures.

During the investigation, the Title IX Coordinator or his/her designee (“Investigator”) will conduct interviews and gather evidence. No unauthorized audio or video recording of any kind is permitted during investigation interviews/meetings. The Parties will be provided an equal opportunity to present fact and expert witnesses or other evidence. The Parties (and their Advisors) will be provided with evidence directly related to the allegations, in electronic format or hardcopy, with at least 10 days for the Parties to inspect, review, and respond to the evidence. The Investigator will consider the responses received from the Parties before issuing the investigative report.

Once the investigation has concluded, the Investigator will draft an investigative report (hardcopy or electronic) that fairly summarizes relevant evidence. The investigative report will be sent to the Parties (and their Advisors) at least 10 days prior to a Live Hearing. The Parties may provide a written response to the investigative report.

### *Informal Resolution*

If the Complainant and Respondent voluntarily consent in writing, Formal Complaints can be resolved through Informal Resolution, such as mediation. The Title IX Coordinator will facilitate an appropriate Informal Resolution process depending on the nature of the allegations, the Parties involved, and the overall circumstances. Informal Resolution will be conducted by a facilitator, who may or may not be the Title IX Coordinator. It is not necessary to pursue Informal Resolution first in order to pursue NYCDA’s Grievance Process. At any time prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution process and resume the Grievance Process. Informal Resolution is unavailable to resolve allegations that an employee sexually harassed a student.

### *Live Hearing*

If a Formal Complaint is not or cannot be resolved through Informal Resolution, NYCDA will conduct a Live Hearing. Live Hearings are facilitated by designated Decision-Maker, separate from the Title IX Coordinator or Investigator. The Decision Maker will be selected by the Title IX Coordinator.

Cross-examination during a Live Hearing will be conducted directly, orally, and in real time by the party’s Advisor and not by a party personally. The Decision-Maker will permit each party’s Advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Only relevant cross-examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Decision-Maker must first determine whether the question is relevant and explain to the party’s Advisor asking cross-examination questions any decision to exclude a question as not relevant.

Rape shield protections are applied to Complainants, deeming irrelevant questions and evidence about a Complainant’s prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged Sexual Harassment or offered to prove consent.

If a party or witness does not submit to cross-examination at the Live Hearing, the Decision-Maker will not rely on any statement of that party or witness in reaching a determination regarding responsibility. The Decision-Maker will not draw an inference about the determination regarding responsibility based solely on a party’s or witness’s absence from the Live Hearing or refusal to answer cross-examination or other questions.

At the request of either party, NYCDA will provide for the entire Live Hearing (including cross-examination) to occur with the Parties located in separate rooms with technology enabling the Parties to see and hear each other. Live Hearings may be conducted with all Parties physically present in the same geographic location or, at NYCDA's discretion, any or all Parties, witnesses, and other participants may appear at the Live Hearing virtually. An audio or audiovisual recording, or transcript, of any Live Hearing will be created and maintained for seven (7) years.

During the Grievance Process, NYCDA will not use, rely on or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. NYCDA will not access or use a party's medical, psychological, and similar treatment records unless the party provides voluntary, written consent.

#### *Standard of Evidence*

For all Formal Complaints of Sexual Harassment (including where employees are Respondents), NYCDA utilizes the preponderance of evidence standard.

#### *Disciplinary Actions and Remedies*

Disciplinary Actions against the Respondent will not be imposed before completion of NYCDA's Grievance Process. Following a determination of responsibility, appropriate corrective action will be taken, and NYCDA will take steps to prevent recurrence. Disciplinary Actions taken will be determined on a case-by-case basis. Factors considered when determining Disciplinary Action may include but are not limited to: Nature, severity of, and circumstances surrounding the violations(s); Respondent's disciplinary history; Previous allegations or allegations involving similar conduct; Need for disciplinary action to bring an end/prevent future reoccurrence of the violation; Need for disciplinary action to remedy the effects on the Complainant and the NYCDA community; Impact on the parties; Any other information deemed relevant by the Decision-Maker.

Disciplinary Action for student-related claims may include, but are not limited to, additional training, a restriction on contact, warning, suspension, or termination. Disciplinary Action will be placed in a student's permanent academic file. Any employee determined by NYCDA to be responsible for an act of Sexual Harassment will be subject to appropriate Disciplinary Action, up to and including termination. Disciplinary Action will be placed in an employee's permanent personnel file. Employees are also subject to processes and discipline determined by Human Resources. The Human Resources process is separate and apart from the Title IX process and not constrained by the outcome of the Title IX process.

Failure to abide by imposed Disciplinary Actions (whether by refusal, neglect or any other reason), may result in additional Disciplinary Action, including suspension or termination.

Remedies are provided to a Complainant whenever a Respondent is found responsible. Remedies are implemented by the Title IX Coordinator and may be disciplinary and punitive. Student Remedies are designed to maintain the Complainant's equal access to education. Remedies will be determined on a case-by-case basis and may include supportive measures.

Individuals who make a materially false statement in bad faith in the course of a Title IX Grievance Process will be subject to NYCDA's Code of Student Conduct or Employee Complaint Procedures for Title IX/Sexual Misconduct complaints as described in the Employee Handbook.

### *Written Determination*

The Decision-Maker will issue a Written Determination regarding responsibility with findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, a description of the procedure from Formal Complaint through the Live Hearing, Disciplinary Actions imposed on the Respondent and whether Remedies will be provided to the Complainant. The determination will be sent simultaneously to the Parties along with information on how to file an appeal.

### *Appeal*

Both Parties have the right to appeal a determination regarding responsibility, NYCDA's dismissal of a Formal Complaint or any allegations therein if: (1) procedural irregularity affected the outcome of the matter; (2) there is newly discovered evidence that could affect the outcome of the matter; and/or (3) Title IX personnel had a conflict of interest or bias, that affected the outcome of the matter.

An appeal must be submitted in writing to the Title IX Coordinator within (5) days of the delivery of the Written Determination.

### Retaliation Prohibited

Both Title IX and the Clery Act provide protections for individuals who bring allegations of non-compliance with the Clery Act and/or Title IX to the attention of appropriate campus administrators. Retaliation (including intimidation, threats, coercion or discrimination) against an individual for raising an allegation of Sexual Harassment, for cooperating in the Grievance Process is prohibited.

NYCDA does not retaliate against those who raise concerns of non-compliance. Any concerns should be brought to the immediate attention of the Title IX Coordinator.

### Training

NYCDA ensures that its Title IX personnel have adequate Title IX training, including annual training on issues related to Sexual Assault, Dating Violence, Domestic Violence and Stalking. The Title IX Coordinator and Investigators are trained on the definition of Sexual Harassment, the scope of NYCDA's education Program or Activity, how to conduct an investigation, NYCDA's Grievance Process (including Live Hearings, appeals, and Informal Resolution processes, as applicable) and how to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Decision-Makers are trained on the definition of Sexual Harassment, the Live Hearing process, technology to be used in Live Hearings, and issues of relevance (including how to apply the rape shield protections provided for Complainants). Informal Resolution facilitators are trained on the Informal Resolution process.

Materials used to train Title IX personnel are posted on NYCDA's website under Student Resources at <https://www.nycda.edu/student-resources/>

### Bias/Conflict of Interest

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the Artistic Director:

Artistic Director, Richard Omar

romar@nycda.edu  
39 West 19<sup>th</sup> Street, 2<sup>nd</sup> floor  
New York, NY 10011  
(646) 216-2863

Concerns of bias or potential conflict of interest by any other Title IX personnel should be raised with the Title IX Coordinator.

#### Clery Act Reporting

NYCDA administrators will issue timely warnings for incidents reported that pose a substantial threat of bodily harm or danger to other members of the campus community. NYCDA will make every effort to ensure that a victim'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.

Personally identifiable information for victims of Sexual Assault, Dating Violence, Domestic Violence and Stalking will not be included in any publicly available recordkeeping, including Clery Act Reporting and disclosures such as the ASR.

#### Emergency Removal

NYCDA can remove a Respondent entirely or partially from the Education Program or Activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical or safety of any student or other individual justifies removal. The risk analysis is performed by the Title IX Coordinator in conjunction with the Academic Leadership Team.

In cases in which an emergency removal is imposed, the Respondent will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified. This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested in a timely manner, objections to the emergency removal will be deemed waived.

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion or termination.

NYCDA will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: temporarily re-assigning an employee, restricting a student's or employee's access to the campus, allowing a student to withdraw or take grades of incomplete without financial penalty, and authorizing an administrative leave.

#### 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.

### Sexual Violence- Immediate Care and Preservation of Evidence

If you experience Sexual Violence, some or all of these safety suggestions may guide you after an incident has occurred:

1. Go to a safe place. If there is any immediate danger call 911. You can also contact Kim Sosa, Student Services Manager, if you are on campus.

Student Services Manager, Kim Sosa  
ksosa@nycda.edu  
39 West 19<sup>th</sup> Street, 2nd floor  
New York, NY 10011  
(646) 216-2872

2. Consider securing immediate professional support (e.g., counseling, victim advocacy, medical services, etc.) to assist you. NYCDA does not have a confidential counselor but local resources are available that can provide confidential assistance as listed above.

3. For your safety and well-being, immediate medical attention is encouraged. Further, being examined (through a forensic examination) as soon as possible, ideally within 120 hours, is important in the case of rape or Sexual Assault. Completing a forensic examination does not require someone to file a police report. To find a location near you that performs free forensic examinations, call the National Sexual Assault Hotline at (800) 656-4673. Resources are also available through the Rape Abuse & Incest National Network (RAINN); [www.RAINN.org](http://www.RAINN.org).

- To preserve evidence, it is recommended that you do not bathe, shower, douche, eat, drink, smoke, brush your teeth, urinate, defecate, or change clothes before receiving medical attention. Even if you have already taken any of these actions, you are still encouraged to have prompt medical care, and evidence may still be recoverable.
- Typically, if police are involved or will be involved, they will obtain evidence from the scene, and it is best to leave things undisturbed until their arrival. They will gather bedding, linens or unlaundered clothing, and any other pertinent items that may be used for evidence. It is best to allow police to secure items in evidence containers, but if you are involved in transmission of items of evidence, such as to the hospital, secure them in a clean paper bag or clean bedsheet to avoid contamination.
- If you have physical injuries, photograph or have them photographed, with a date stamp on the photo.
- Record the names of any witnesses and their contact information. This information may be helpful as proof of a crime, to obtain an order of protection, or to offer proof of a NYCDA policy violation.

- Try to memorize details (e.g., physical description, names, license plate number, car description, etc.), or even better, write notes to remind you of details, if you have time and the ability to do so.

### Prevention and Education

In accordance with the Clery Act and VAWA, NYCDA offers a range of campaigns, strategies, and initiatives to promote awareness, education, risk reduction, and prevention in an effort to reduce the frequency of sex or gender-based discrimination, harassment, and violence amongst members of the campus community.

NYCDA offers programming to identify and prevent Sexual Assault, Dating Violence, Domestic Violence (including stranger and known offender assaults), and Stalking each year. Educational programs are offered to raise awareness for all incoming students and employees and are often conducted during new student and new employee orientation.

Programs and other campaigns offered throughout the year to students and employees include information regarding awareness and primary prevention (including normative messaging, environmental management, and bystander intervention), and discuss NYCDA's policies. Programs also offer information on risk reduction that strives to empower individuals who experience these incidents, how to recognize warning signs, and how to avoid potential attacks, and do so without biased approaches.

Bystander engagement is encouraged through safe and positive intervention techniques and by empowering third-party intervention and prevention such as calling for help, using intervention-based apps, identifying allies, and/or creating distractions. Bystander empowerment training highlights the need for those who intervene to ensure their own safety in the intervention techniques they choose and motivates them to intervene as stakeholders in the safety of the NYCDA community when others might choose to be bystanders.

### Recordkeeping and Privacy

NYCDA's records of investigations and resolutions are maintained in privacy for seven years. Information is shared internally between administrators who need to know in order to complete their job duties. When information must be shared to permit the investigation to move forward, the Parties will be informed. Privacy of the records specific to the investigation is maintained in accordance with state law and the federal FERPA statute. Any public release of information needed to comply with the timely warning provisions of the Clery Act will not include the names of Complainant or information that could easily lead to a Complainant's identification. Irrespective of state law or public records access provisions, information about Complainants is maintained privately in accordance with Title IX and FERPA.