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Annual Safety and Security Report  
Annual Fire Safety Report  
Publication Date: October 3, 2022  
Including Clery Act Campus Safety Policies  
and Crime Statistics (Calendar Years 2019-2021)

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 Manager at 646-216-2872, [ksosa@nycda.edu](mailto: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<sup>st</sup>, 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 Theatre 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 Manager at 646-216-2872, [ksosa@nycda.edu](mailto:ksosa@nycda.edu). The NYCDA 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 Theatre 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.

<b>Local Law Enforcement Agency</b>	<b>Local Phone Number</b>	<b>Emergency Number</b>
New York Police Department, 84 <sup>th</sup> Precinct 301 Gold St. Brooklyn, NY (near student residences)	(718) 875-6811	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 Theatre Performance Program, other CSA, or the nearest available NYCDA employee. All NYCDA employees are trained to notify the Program Director for the Musical Theatre 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 Theatre Performance Program, or her on-site designee, or other CSA.*

**Campus Security Authorities:**

<b>CSA</b>	<b>Title</b>	<b>Phone Number</b>	<b>Email</b>
<b>Lisa Hildebrand 39 West 19<sup>th</sup> Street New York, NY 10011</b>	<b>Primary CSA  Program Director for the Musical Theatre Performance Program</b>	<b>212-812-4041</b>	<b>lhildebrand@nycda.edu</b>
<b>Becky London 39 West 19<sup>th</sup> Street New York, NY 10011</b>	<b>Academic Affairs Liaison/Faculty</b>	<b>646-216-2885</b>	<b>blondon@nycda.edu</b>

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 student residences. 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 Theatre 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 Policy and Sexual Violence Prevention and Response Policy contained in this Report.
- For all reported crimes, the Program Director for the Musical Theatre 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 Theatre 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 Theatre 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 members of 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 Theatre 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 Theatre 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 Theatre 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 Theatre 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 all offices, 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 Theatre 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 Sexual Violence Prevention and Response Policy within this Report addresses 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.

## **Student Housing Facilities**

Student residences for NYCDA students are managed and operated by third parties. Security, guest and visitor policies are created and enforced by the third party. Residence halls have 24-hour personnel 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 2<sup>nd</sup> floor lobby entrance to 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 Theatre 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 Policy and Sexual Violence Prevention and Response Policy sections 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 NYCDA 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 Policy and Sexual Violence Prevention and Response Policy sections. 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 are connected to a central monitoring station which contacts key operations staff when an alarm is activated.

Third party providers managing student residences for NYCDA students provide 24/7 door security at residence hall buildings.

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 Theatre Performance Program, Student Services Manager 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 Theatre Performance Program, Student Services Manager, 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 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** – 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.

**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.

**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.

## **X. Sexual Violence Prevention and Response Policy**

### **INTRODUCTION**

NYCDA does not discriminate in its employment practices or in its educational programs or activities on the basis of sex. 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. NYCDA prohibits sexual violence, which includes domestic violence, dating violence, stalking, and sexual assault. NYCDA also prohibits retaliation against any person reporting sexual violence or participating in an investigation or complaint process internally or externally.

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. This policy applies whether the violation occurs on or off campus.

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.

In accordance with federal and New York state requirements, NYCDA maintains a Federal Title IX policy as well as this 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.

### **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 violence.

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:
  - An employee with the authority to address complaints, including the Title IX Coordinator.
  - Local law enforcement and/or;
  - Family Court or Civil Court

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 /Student Services Manager, Kim Sosa

O: 646-216-2872

C: 631-532-7620

ksosa@nycda.edu

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

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

O: 646-216-2869

C: 201-920-8296

mvargas@nycda.edu

mvargas212@yahoo.com

Artistic Director, Sara Buffamanti

sbuffamanti@nycda.edu

39 West 19<sup>th</sup> Street, 2<sup>nd</sup> floor

New York, NY 10011

(646) 216-2863

- To file a criminal complaint with local law enforcement and/or state police:

New York Police Department, 84<sup>th</sup> Precinct

301 Gold St.

Brooklyn, NY

(718) 875-6811

(near student residences)

New York Police Department, 10<sup>th</sup> Precinct  
230 West 20<sup>th</sup> 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 report of 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 ADP, NYCDA's human resources provider. Disciplinary proceedings will be conducted in accordance with applicable employee/faculty 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](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

NYCDA has a Memorandum of Understanding with Mount Sinai Beth Israel hospital to provide services to NYCDA students. 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 (including potential modification), consistent with NYCDA policy. Parties may submit evidence in support of their request. NYCDA may establish an appropriate schedule for the accused and respondents to access applicable institution buildings and property at a time when such buildings and property are not being accessed by the reporting individual. Please note: No contact orders are institutional documents that do not have the legal effect of order of protection, which are obtained through a court.
- 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/respondent is a student and presents a continuing threat to the health and safety of the community, to subject the accused/respondent to interim suspension pending the outcome of a conduct process. Both the accused/respondent 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 /Student Services Manager, Kim Sosa  
ksosa@nycda.edu  
O: 646-216-2872  
C: 631-532-7620

Deputy Title IX Coordinator/Associate Director of Financial Aid, Dr. Melissa Vargas  
mvargas@nycda.edu  
mvargas212@yahoo.com  
O: 646-216-2869  
C: 201-920-8296

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

#### D. STUDENT CONDUCT PROCESS

##### **Reporting individuals have the following rights:**

- To request that student conduct charges be filed against the accused. Conduct proceedings are governed by the procedures set forth in the NYCDA Code of Student Conduct as well as 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/>

- 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 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 date, time, location and 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 student conduct hearing, which shall be preserved and maintained for at least five years by:

Registrar's Office  
39 West 19<sup>th</sup> 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 Violence**

The New York Conservatory for Dramatic Arts takes all allegations of sexual violence 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. NYCDA will always respond to complaints, reports, allegations, and information about sexual violence 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 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 violence, 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 violence 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. An employee may also notify ADP, our HR provider, or any other NYCDA employee.

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 violence. 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 adequate training on what constitutes sexual violence, 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 or ADP, these employees also receive training on NYCDA's procedures and any other procedures used for investigating reports of sexual violence.

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 violence, all reports

should be made as promptly as possible after the alleged conduct. Where there is any question about whether an incident of sexual violence 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 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 individual and respondent. Both parties will receive equal opportunity to provide information, witness statements, evidence, and other information that may be necessary. Both the reporting individual and the respondent will be afforded equitable rights and access during the investigative process.

Refer to the Student Conduct Process in the Code of Student Conduct for detailed information regarding investigations and disciplinary hearings. Generally, this investigation will consist of the Title IX Coordinator conducting interviews with the reporting individual, the accused, and any witnesses. The Title IX Coordinator will, barring any extenuating circumstance, complete the investigation and make a determination regarding whether sexual violence has occurred. If so, 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 respondent and remedies to reporting individual within approximately sixty (60) days of the date that the report is first received by the Title IX Coordinator and/or ADP. 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 individual and the respondent explaining the reason for the delay. If there is a conflict of interest between the Title IX Coordinator and the reporting individual/respondent, 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.

Refer to the Grievance Procedure in the NYCDA Title IX Policy for investigations and hearings of Sexual Harassment including Sexual Assault, Dating Violence, Domestic Violence and Stalking as defined below.

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 the report on a case-by-case basis to finalize their decisions.

NYCDA is committed to protecting all students, 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. However, when a reporting individual 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.

## **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 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 violence. A conversation where questions can be answered is far superior to keeping something to yourself.

Reports about sexual violence 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 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 Safety and 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 individual(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 violence. Once NYCDA decides to open an investigation that may lead to disciplinary action against the accused, NYCDA will provide written notice to the accused/respondent 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 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 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/ovs-ovsrightsofcvbooklet.pdf](http://www1.nyc.gov/assets/nypd/downloads/pdf/collaborative_policing/ovs-ovsrightsofcvbooklet.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 violence, 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 /Student Services Manager, Kim Sosa  
O: 646-216-2872  
C: 631-532-7620  
[ksosa@nycda.edu](mailto:ksosa@nycda.edu)

Deputy Title IX Coordinator/Associate Director of Financial Aid, Dr. Melissa Vargas  
O: 646-216-2869  
C: 201-920-8296  
[mvargas@nycda.edu](mailto:mvargas@nycda.edu)  
[mvargas212@yahoo.com](mailto:mvargas212@yahoo.com)

We also may take proactive steps, such as training or awareness efforts, to combat 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 violence, 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.

### **Public Awareness/Advocacy Events:**

If a student discloses a situation through a public awareness event such as "Take Back the Night," candlelight vigils, protests, or other public event, NYCDA is not obligated to begin an investigation based on that information. NYCDA may use the information provided at such an event to inform the need for additional education and prevention efforts.

### **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 or ADP, as applicable, 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 VIOLENT OFFENSES**

### **Transcript Notation**

For crimes of violence, including but not limited to sexual violence (defined as crimes that meet the reporting requirements pursuant to the federal Clery Act established in 20 U.S.C. 1092(f)(1)(F)(i)(I)-(VIII), 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 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 Committee 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 Committee 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 violence can take a wide range of forms and have a wide range of effects. At NYCDA, we use the following terms.

The following offenses are addressed according to NYCDA's Student Conduct process described above. For details of this procedure, see the NYCDA Code of Student Conduct under Student Resources at <https://www.nycda.edu/student-resources/>

**Accused** - a person accused of a violation who has not yet entered an institution's judicial or conduct process.

**Respondent** - a person accused of a violation who has entered an institution's judicial or conduct process.

**Reporting individual** - encompasses the terms victim, survivor, complainant, claimant or witness with victim status.

**Bystander** - a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation NYCDA rules and policies.

**Sexual Act** - A. contact between the penis and the vulva or the penis and the anus, and contact involving the penis occurs upon penetration, however slight; B. contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; C. the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or D. the intentional touching, not through the clothing, of the genitalia of another person who has not

attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

**Sexual Contact** - the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

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

**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.

**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 violence. It is a violation of NYCDA policy to retaliate in any way against an individual because s/he raised allegations. NYCDA will take immediate and responsive action to any report of retaliation and will pursue disciplinary action as appropriate. An individual reporting sexual violence from any form of retaliation following a report that is made in good faith, even if the report is later not proven.

**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: Sexual Assault, Dating Violence, Domestic Violence and Stalking are collectively referred to as "Sexual Violence":

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

NYCDA maintain a student onboarding and ongoing education campaign to educate members of the NYCDA community about domestic violence, dating violence, staling, and sexual assault in compliance with applicable laws including the Clery Act as amended by the Violence Against Women Act reauthorization of 2010, 20 U.S.C. 1092(f). 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 violence
- 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:
  - How to report sexual violence and other crimes confidentially to NYCDA officials and/or local law enforcement.
  - How to obtain services and support.

- Bystander Intervention and the importance of taking action, when one can safely do so, to prevent violence.
  - The protections of the Policy for Alcohol and/or Drug Use Amnesty in Sexual and Interpersonal Violence Cases
  - 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.
  - Consequences and sanctions for individuals who commit these crimes and Code of Student Conduct violations.
- NYCDA students will be offered ongoing training and education in sexual violence prevention through the following methods :
    - Artistic Director's welcome messaging;
    - Training sessions with Mount Sinai Beth Israel;
    - Safety training by former members of the NYPD
    - 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**

	<b>Criminal Justice System</b>	<b>College Disciplinary System</b>
<b>Goals.</b>	Public safety, deterrence, and punishment.	Education; safety; safe and supportive campus environment.
<b>Governing Law.</b>	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.
<b>How to report and whether there must be action once a report is made.</b>	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.
<b>Who investigates?</b>	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.

	<b>Criminal Justice System</b>	<b>College Disciplinary System</b>
<b>Procedures</b>	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.
<b>Standard of Evidence.</b>	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)
<b>Confidentiality.</b>	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.
<b>Privacy.</b>	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.

<b>Who are the parties?</b>	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.
<b>Participation in the process</b>	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.
<b>Who initiates the proceedings?</b>	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.

	<b>Criminal Justice System</b>	<b>College Disciplinary System</b>
<b>Testimony</b>	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.
<b>Role of attorneys</b>	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.
<b>Mental Health and Sexual History</b>	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.
<b>Possible Results</b>	If a prosecution takes place, the defendant may <ul style="list-style-type: none"> <li>• plead guilty or "no contest"</li> <li>• have the case dismissed by the judge (on legal grounds)</li> <li>• be found "guilty" or "not guilty" by a judge or jury</li> </ul>	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.
<b>Sanctions</b>	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. 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 /Student Services Manager, Kim Sosa  
O: 646-216-2872  
C: 631-532-7620  
[ksosa@nycda.edu](mailto:ksosa@nycda.edu)

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

O: 646-216-2869  
C: 201-920-8296  
mvargas@nycda.edu  
mvargas212@yahoo.com

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"), federal 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 Respondents(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 violation(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 Associate Artistic Director:

Associate Artistic Director, Naima Warden  
nwarden@nycda.edu  
39 West 19<sup>th</sup> Street, 2<sup>nd</sup> floor  
New York, NY 10011  
(212) 812-4033

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 Committee.

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  
(212) 812-4099

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.

## **XII. 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>

## **XIII. 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 Campus Café system 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, Sara Buffamanti  
sbuffamanti@nycda.edu  
39 West 19th Street, 2nd floor  
New York, NY 10011  
(646) 216-2863

Associate Artistic Director, Naima Warden  
nwarden@nycda.edu  
39 West 19<sup>th</sup> Street,  
New York, NY 10011  
(212) 812-4033

Title IX Coordinator /Student Services Manager, Kim Sosa  
O: 646-216-2872  
C: 631-532-7620  
ksosa@nycda.edu

Deputy Title IX Coordinator/Associate Director of Financial Aid, Dr. Melissa Vargas  
O: 646-216-2869  
C: 201-920-8296  
mvargas@nycda.edu  
mvargas212@yahoo.com

Registrar's Office  
registrar@nycda.edu  
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, Title IX Coordinator, Student Services Manager 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 Manager 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.*

#### XIV. Clery Act Crime Report Statistics

OFFENSE	PROPERTY	2019	2020	2021
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
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	1	0
	On-Campus Student Housing Facilities	0	1	0
	Public Property	0	1	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	1	0	0
	On-Campus Student Housing Facilities	1	0	0
	Public Property	0	1	1

<b>OFFENSE</b>	<b>PROPERTY</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Aggravated Assault	On-Campus Property	1	0	0
	On-Campus Student Housing Facilities	1	1	0
	Public Property	0	0	1
Burglary	On-Campus Property	0	2	0
	On-Campus Student Housing Facilities	0	0	0
	Public Property	0	0	0
Motor Vehicle Theft	On-Campus Property	0	0	0
	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	1	0
	On-Campus Student Housing Facilities	0	1	0
	Public Property	0	1	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:	On-Campus Property	0	0	0

<b>OFFENSE</b>	<b>PROPERTY</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
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 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
	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	0	1	0
	On-Campus Student Housing Facilities	0	1	0
	Public Property	0	1	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	1	2	0
	On-Campus Student Housing Facilities	1	2	0
	Public Property	0	2	0
Unfounded Crimes	On-Campus Property	0	0	0

OFFENSE	PROPERTY	2019	2020	2021
	On-Campus Student Housing Facilities	0	0	0
	Public Property	0	0	0

**XIX. Annual Fire Safety Report**

Student Residences:	Number of Fires in 2021:
Found Study 119 Columbia Heights Brooklyn, NY 11201	0
92 <sup>nd</sup> Street Y 1395 Lexington Avenue New York, NY 10128	0