

Sex Discrimination and Sexual Misconduct Policy

Notice of Nondiscrimination

Aveda Institute New York (AINY) does not discriminate on the basis of race, color, creed, national and ethnic origin, sex, age, religion, disability, sexual orientation, gender identity or other legally protected status in its employment policies, education programs and activities, or any other area of the Institute. Harassment based upon an individual's legally protected status is a form of prohibited discrimination.

In accordance with Title IX, this policy addresses the Institute's prohibition of all forms of sex discrimination. Sexual harassment is a form of sex discrimination. Sexual harassment includes a variety of unwelcome behavior of a sexual nature, and in its most severe form includes sexual violence. Examples of sexual violence include, but are not limited to: sexual assault, domestic violence, dating violence, and stalking. This policy discusses "sexual misconduct" when referring to sexual harassment in all forms, including sexual violence.

Questions or concerns about the application of Title IX, sex discrimination, sexual harassment or other forms of sexual misconduct may be directed to the Institute's Title IX Coordinator:

Pamela Trammell
ptrammell@aveda.com
(212) 367-0325
233 Spring St.
New York, NY 10013

The Institute is committed to a safe and healthy environment and as such will not tolerate sexual harassment or sexual violence in any form. Sexual assault is a crime and is a violation of an individual's rights and dignity. Sexual assault is not only an act of disrespect, violence, aggression or coercion against an individual, but also an attack on the Institute community. The Institute is committed to promptly, impartially, and equitably addressing and resolving all reports of discrimination, harassment, or sexual violence. The Institute will promptly respond to complaints of sexual misconduct to stop the conduct, ensure that such actions are not repeated, and address the effects of the misconduct on any individual or the Institute's learning community. Retaliation against an individual who brings a complaint or pursues legal action, or against an individual who serves as a witness in an investigation, is prohibited and will not be tolerated.

Questions or concerns may also be directed to the Office of Civil Rights of the United States Department of Education:

U.S. Department of Education
Office for Civil Rights
32 Old Slip, 26th Floor
New York, NY 10005-2500
Telephone: 646-428-3900
FAX: 646-428-3843
TDD: 800-877-8339
Email: OCR.NewYork@ed.gov

See also <http://www2.ed.gov/about/offices/list/ocr/index.html>.

Scope of Policy

This policy applies to all Institute community members including students, employees, contractors, volunteers, vendors, independent contractors, and all other visitors. This policy also applies regardless of the sexual orientation or gender identity of any of the parties.

Sex discrimination or sexual misconduct committed in connection with any Institute program, whether on or off campus, is prohibited and will not be tolerated. This policy applies to any incident that may adversely impact an employee's work and/or a student's or other person's participation in the Institute's educational, extra-curricular, or other programs and activities. In addition, this policy applies to off-campus conduct that the Institute determines may cause or threaten to cause an unacceptable disruption at the Institute or which may interfere with an individual's right to a non-discriminatory educational environment.

The Institute is committed to addressing sex discrimination and sexual misconduct and encourages individuals to report incidents to appropriate Institute authorities. Individuals found responsible for sex discrimination or sexual misconduct will be subject to disciplinary action deemed appropriate by the Institute. A complete list of possible sanctions is set forth below in the section entitled "Sanctions and Remedies."

Application of Procedures

Procedures for reporting, investigating, and resolving conduct prohibited under this policy are based upon the nature of the parties' relationship to the Institute. In situations where the complainant or respondent is a third party (i.e., visitor or other person not connected to the Institute), the Title IX Coordinator will determine, in his or her discretion, whether the procedures under this Policy or another process is the best way to address the alleged misconduct, consistent with the Institute's commitment to promptly and equitably address and resolve reports of discrimination, harassment, and sexual violence.

Definitions

a. Complainant

The person alleged to have been subjected to conduct that violates this policy.

b. Respondent

The person accused of engaging in conduct that violates this policy.

c. Sex Discrimination

Sex discrimination is conduct based upon an individual's sex that excludes an individual from participation, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual's employment, education, living environment or participation in a program or activity. Sex discrimination encompasses all forms of sexual harassment, sexual misconduct, differential treatment, and gender-based harassment.

d. Sexual Harassment

Sexual harassment includes unwelcome conduct such as sexual advances, requests for sexual favors, sexually motivated physical contact, offensive comments, or other verbal, or nonverbal communication, or physical conduct of a sexual nature, including sexual violence when:

- submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's educational experience or employment, or the individual's submission or rejection of such conduct is used as the basis of an educational program or activity decision or employment decision affecting such individual; or

- such conduct has the purpose or effect of substantially and unreasonably interfering with an individual's education or employment or creating an intimidating, hostile, or offensive educational or work environment.

Actions that can constitute sexual harassment include:

- Unwelcome sexual flirtations, advances, propositions, or requests for sexual favors;
- Verbal abuse of a sexual nature, obscene language, off-color jokes, commentary about an individual's body, sexual innuendo, and gossip about sexual relations
- The display of derogatory or sexually suggestive posters, cartoons, drawings, objects, notes, letters, emails, or text messages
- Unwelcome visual conduct such as leering or making gestures
- Videotaping or taking photographs of a sexual nature without consent
- Cyber harassment, including but not limited to disseminating information, photos, or video of a sexual nature without consent
- Engaging in conduct of a sexual nature which creates an intimidating, hostile, or offensive academic or work environment (e.g., sexually-oriented jokes, offensive physical contact, obscene messages and gestures)
- Punishing or threatening to take adverse action against a subordinate or student for refusing to comply with sexual demands.

Although certain forms of sexual harassment may seem self-evident, recognizing such behavior when it is happening to you or others around you can be difficult. In making such an assessment consider whether the behavior:

- Is offensive, unwanted or both
- Interferes with your (or another's) ability to enjoy the employment or academic environment
- Interferes with job or academic performance
- Causes unnecessary discomfort, humiliation or harm to you or others around you.

If at any time you are able to answer yes to any of the above questions, you should immediately contact the Student Services Manager or Director for students; or the Director of Human Resources for employees; or if you are not certain of whom to contact or not comfortable contacting someone else, you should always feel free to contact the Institute's Title IX Coordinator Pamela Trammell at (212) 367-0325. Employees are reminded to review the Estee Lauder Companies Code of Conduct for other guidance relating to workplace conduct and reporting sexual harassment.

e. Sexual Violence

Sexual Violence is a severe form of sexual harassment and includes sexual assault or other sexual violence, domestic violence, dating violence, and stalking. Many types of sexual violence include nonconsensual sexual contact, but this is not a necessary component.

f. Sexual Assault

Sexual Assault is any sexual contact, including but not limited to sexual penetration, with another person who does not or cannot give consent. This may or may not include force. For purposes of this policy, "sexual contact" shall have the same meaning as it has under New York law, and includes, but is not limited to, any touching of the sexual or other intimate parts of a person for the purpose of gratifying sexual desire of either party. It includes touching directly or through clothing, as well as the emission of ejaculate by one person upon any part of the other person, clothed or unclothed.

Sexual assault includes, but is not limited to:

- Rape (the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of any person, without the consent of the victim);

- Fondling (the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim);
- Incest (sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law);
- Statutory rape (sexual intercourse with a person who is under the statutory age of consent).

g. Consent

Consent is words or overt actions by a person clearly indicating a freely given present agreement to perform a particular sexual act with another, at the time of the act.

Consent can only be given by someone who: acts freely, voluntarily, and with knowledge of the fact and nature of the sexual act involved. Consent is a mutually understood freely given “yes,” not the absence of “no.” Consent can be withdrawn at any time. Although consent does not need to be verbal, verbal communication is the most reliable form of asking for and obtaining consent.

As explained further below consent cannot be given if someone:

- is incapacitated by drugs or alcohol
- is threatened, coerced or intimidated into submission
- is not conscious
- is physically incapacitated
- is mentally incapacitated
- is not of legal age to consent (17 years old in New York)

Consent cannot be inferred from:

- consent to another form of contact or sexual activity
- a prior sexual, romantic or marital relationship
- an existing sexual, romantic or marital relationship
- silence, or an absence of resistance
- prior sexual activity with other individual

h. Coercion

Coercion means the use by the actor of words or circumstances that cause the complainant reasonably to fear that the actor will inflict bodily harm upon the complainant or another, or the use by the actor of confinement, or superior size or strength, against the complainant that causes the complainant to submit to sexual contact against the complainant’s will. Proof of coercion does not require proof of a specific act or threat.

i. Incapacitation

Incapacitation means the inability to understand the fact, nature, or extent of the sexual situation. Incapacitation may result from mental disability, sleep, unconsciousness, involuntary physical restraint, or from the influence of drugs or alcohol. With respect to incapacitation due to consumption of drugs or alcohol, incapacitation requires more than being under the influence of drugs or alcohol; a person is not incapacitated simply because he or she has been drinking or using drugs. Where alcohol and/or drugs are involved, incapacitation is determined based on the facts and circumstances of the particular situation looking at whether the individual was able to understand the fact, nature, or extent of the sexual situation, whether the individual was able to communicate decisions regarding consent, nonconsent or the withdrawal of consent, and whether such condition was known or reasonably should have been known to the accused or a reasonable person in the accused’s position.

Use of drugs or alcohol by the accused is not a defense against allegations of sexual misconduct and does not diminish personal responsibility. It is the responsibility of the person initiating the specific sexual activity to obtain consent for that activity.

j. Dating Violence

Dating violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship will be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

k. Domestic Violence

A pattern of coercive tactics, which can include physical, psychological, sexual, economic and emotional abuse, perpetrated by one person against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim. While not exhaustive, the following are examples of conduct that can constitute felony or misdemeanor crimes of domestic violence: (1) physical harm, bodily injury or assault; (2) the infliction of fear of imminent physical harm, bodily injury, or assault; or (3) terroristic threats, criminal sexual conduct, or interference with an emergency call.

l. Stalking

Stalking means engaging in a course or pattern of unwelcome and unwanted conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or to suffer substantial emotional distress. Stalking can be a form of sexual harassment if based on someone's sex. Stalking behavior includes, but is not limited to:

- Repeated, unwanted, intrusive, and frightening communications by phone, mail, and/or email;
- Repeatedly leaving or sending victim unwanted items, presents, or flowers;
- Following or lying in wait for the victim at places such as home, school, work, or recreation place;
- Making direct or indirect threats to harm the victim, the victim's children, relatives, friends, or pets;
- Damaging or threatening to damage the victim's property;
- Posting information or spreading rumors about the victim on the internet, in a public place, or by word of mouth;
- Unreasonably obtaining personal information about the victim by accessing public records, using internet search services, hiring private investigators, going through the victim's garbage, following the victim, contacting victim's friends, family, work, or neighbors, etc.

m. Retaliation

Retaliation means adverse action taken against an individual for making a good faith report of a violation of this policy, for supporting another person's report, or participating in an investigation or other proceedings based on the report. Retaliation includes, but is not limited to, any form of intimidation, threats, coercion, or harassment.

Title IX Coordinator

The Institute has designated Pamela Trammell as having overall responsibility for coordinating the Institute's efforts to comply with and carry out its responsibilities under Title IX. The Title IX Coordinator will ensure Institute policies and procedures and relevant state and federal laws are followed; ensure appropriate training, prevention, and education efforts take place; oversee the school's response to reports and complaints of sex discrimination and harassment, including monitoring compliance with procedure requirements and timelines outlined in this policy; coordinate the school's efforts to identify and address any patterns or systemic problems revealed by such reports and complaints; and assist in answering any other questions related to these policies and procedures.

Pamela Trammell
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(212) 367-0325

233 Spring St.
New York, NY 10013

The Student Services Manager serves as Deputy Title IX Coordinator for sexual misconduct complaints involving students and assists the Title IX Coordinator with the implementation of the Institute's policy in matters involving students.

Lynn Oderwald
Student Services Manager, Aveda Institute New York
loderwald@aveda.com
(212) 367-0335
233 Spring St.
New York, NY 10013

Jill Gohman, Director of Human Resources for Aveda Corporation, serves as a Deputy Title IX Coordinator for sexual misconduct complaints involving employees and assists the Title IX Coordinator with implementation of the Institute's policy for matters involving employees.

Jill Gohman
Director, Human Resources
jgohman@aveda.com
(763) 951-6916
4000 Pheasant Ridge Dr. N.E.
Blaine, MN 55449

If a complaint involves both a student and an employee, Jill Gohman, Director of Human Resources, will have primary responsibility for implementing the Institute's policy.

In all cases, the Title IX Coordinators will function as a neutral party in implementing this procedure.

Confidentiality

The Institute encourages individuals to report all incidents of sexual misconduct to the Institute so that the Institute can investigate and resolve such incidents. This enables the Institute to provide more resources and assistance to a complainant and to more effectively provide a safe, nondiscriminatory environment. An individual who reports an incident of sexual discrimination or misconduct is not required to initiate or participate in the Institute's complaint procedures or to report to law enforcement. However, under certain circumstances, the Institute may determine that it has a responsibility to move forward with the formal investigation of a complaint (even without the participation of the individual who has alleged the sexual misconduct).

The Institute recognizes that some individuals may wish to keep their concerns confidential. Because of the Institute's obligation to investigate and respond to reports, the Institute cannot provide complete confidentiality. It is important to understand that **Institute employees are not confidential resources, and are therefore obligated to report to the Institute any information they receive about sex discrimination or sexual misconduct.** "Responsible employees" are those who: (1) have the authority to take action to redress harassment, (2) have a duty to report to appropriate Institute officials sexual misconduct or any other misconduct by students or employees, or (3) a student could reasonably believe has this authority or responsibility. The Institute's "Responsible Employees" are listed in the faculty and administration section of the Institute's student catalog.

While only certain Institute employees are considered "responsible employees" for purposes of reporting known or suspected incidents of sexual misconduct, it is the Institute's expectation that all students and employees will report incidents of sexual discrimination and sexual misconduct (including names of the alleged victim and accused) to the Title IX coordinator so that the Institute can investigate the incident and take the appropriate steps to address the situation.

When a report of sexual misconduct is made to the Institute, every effort will be made by the Institute to ensure confidentiality to the extent possible, subject to the Institute's need to investigate and respond to such complaints and to report campus crimes in accordance with applicable federal and state law. While the Institute is obligated to provide the Institute community with general information regarding incidents of sexual assaults and certain other crimes occurring on campus, reports will not include names or other information that may personally identify either the complainant or the respondent.

Requests for confidentiality or non-action

Upon receiving a report of a violation of this policy, the Institute will seek the consent of the complainant to proceed using the procedure(s) set forth herein. The Institute strives to honor any request that a complainant may make to keep any such report confidential or for the Institute not to investigate or respond to such report, but complying with any such request will limit the Institute's ability to meaningfully respond to a report. In deciding whether the complainant's request can be honored, the Institute will weigh the request against the seriousness of the alleged misconduct; the Institute's obligation to maintain a safe and nondiscriminatory learning environment for its students; and the Institute's commitment to addressing and preventing recurrence of misconduct. This determination will be made by the Title IX Coordinator.

If the Institute decides that it has an obligation to investigate and address the alleged policy violation, it will notify the complainant before proceeding. The Institute will maintain confidentiality to the extent reasonably possible, subject to its need to conduct an investigation and respond to the situation in accordance with this policy and applicable federal and state law. In all cases, the individuals investigating and responding to incidents or allegations of misconduct will share information about the incident or allegation, investigation and response within and outside the Institute only on a "need to know" basis. However, complete confidentiality generally will not be possible.

Confidential Community Resources

Confidential communications are those communications which legally cannot be disclosed to another person without the consent of the individual who originally provided the information, except under very limited circumstances, such as allegations involving the physical or sexual abuse of a child or vulnerable adult or an imminent threat to the life of any person. The Institute recognizes that some individuals may wish to keep their concerns confidential, and that the Institute cannot ensure confidentiality. The Institute encourages individuals who have experienced sexual misconduct to talk to someone about what happened. Community resources may be able to provide assistance and support while ensuring confidentiality. Some of these resources include:

- **RAINN** 800-656-HOPE (4673)
- **Day One NY** 212-566-8120
- **Teen Date Rape Crisis Helpline** 800-214-4150
- **Teen Dating Abuse Hotline** 866-331-9474 or 866-331-8453
- **Child Abuse Hotline** 800-422-4453
- **Crime Victims Hotline** 866-689-HELP (4357)
- **Domestic Violence Hotline** 800-621-HOPE (4673)
- **Rape, Sexual Assault and Incest Hotline** 212-227-3000

Non-Participation and Silence

If, at any time during the complaint procedures explained below, a party decides not participate, the Institute will proceed with the applicable complaint process and make a determination based upon the information available. Silence in response to an allegation will not necessarily be viewed as an admission of the allegation, but may leave the complainant's allegations undisputed.

Interim Measures and Ongoing Accommodations

At any time after a report of a potential violation of this policy has been received by the Institute, the Institute will provide interim support and/or ongoing accommodations as appropriate to protect an individual from further harm and to meet its obligations to maintain a safe, nondiscriminatory learning and working environment for students and employees. The Institute may take such steps even when an individual asks that the Institute keep a reported violation of this policy confidential and that it not investigate the matter and regardless of whether an individual chooses to report to Campus Security Authorities or local law enforcement. Such measures will vary based on the particular facts and circumstances, but may include:

- Establishing a “no contact” order between individuals.
- Prohibiting an individual from being on campus or at Institute events.
- Changing a student’s or employee’s status,
- Changing work, class, or other schedules,
- Providing assistance with academic issues.
- Issuing a timely warning of any substantial threat or danger to the community.
- Making information about and providing assistance with respect to orders for protection and harassment restraining orders, including enforcement of such orders.

To request an interim measure or accommodation individuals should contact the Student Services Manager. The Institute will maintain as confidential any accommodations or protective measures provided to an individual, to the extent that maintaining such confidentiality will not impair the ability of the Institute to provide the accommodations or protective measures. The Institute will also solicit feedback as to the effectiveness of the accommodations or protective measures, and adjust the arrangements if necessary to enhance effectiveness.

Waiver of Drug/Alcohol Violations

The Institute strongly encourages reporting instances of violations of this policy, including assault, dating or domestic violence or stalking. Consequently, individuals who report such information, and individuals who participate in an investigation into allegations of violations of this policy, will not be disciplined by the Institute for any violation of its drug and alcohol policies in which they might have engaged in connection with the reported incident.

No Retaliation

The Institute prohibits retaliation against any individual who makes a good faith report of a potential violation of this policy, who supports another person’s report, or who acts as a witness in any investigation into a complaint. Any concerns of retaliation should be reported to the Title IX Coordinator, the Institute Director, or Human Resources. The Institute will take appropriate action against any individual who retaliates against another person in violation of this policy.

Treatment of Parties

The Institute will treat all parties involved in the complaint resolution procedure with dignity and respect. Each party has the right to participate in the process or decline to participate, with the understanding that the Institute will proceed with the process and make a determination based upon the information available. A complainant shall never be treated in a manner that suggests he or she is at fault for sexual assault or sexual violence or that he or she should have done something different to avoid becoming a victim. The Institute will provide nonjudgmental support to all parties who are engaged in the complaint resolution procedure and will assist any party, at his or her request, with preserving information, documents, or other materials relevant to a report or proceeding initiated under this policy. The Institute will respond to complaints of retaliation pursuant to the procedures set forth in this policy.

Conflicts

The Institute’s resolution process will be conducted by officials who do not have a conflict of interest or bias for or against the complainant or respondent. If a complainant or respondent has any concern that any individual acting for the Institute under this policy has a conflict of interest, such concern should be

reported to the Title IX Coordinator. The Title IX Coordinator will review the concerns and take appropriate steps to ensure that no conflicts of interest exist on the part of anyone investigating, adjudicating or otherwise resolving a complaint under this policy. If the Title IX Coordinator has a conflict of interest with respect to a complaint, the Institute's Director or the Director's designee shall appoint an alternate person to oversee adherence to the this policy with respect to the complaint at issue. If the Director is a party to the complaint or has a conflict of interest with respect to a complaint, the Executive Director for the Institute shall ensure that the institution puts in place appropriate safeguards under the circumstances to ensure that the institution promptly and equitably responds to the complaint, including, but not limited to, appointment of alternate individuals to oversee adherence to this policy.

Timelines

Generally, the Institute will complete the investigation and adjudication processes outlined below within sixty (60) calendar days of receiving a complaint under this policy. Some complaints may, however, take longer to investigate and resolve. The Institute is committed to investigating and resolving all matters as promptly as possible and strives to meet the timing requirements set forth in these procedures. However, in some cases, temporary extensions to the timing requirements may be necessary. The Title IX Coordinator may grant reasonable extensions to timing requirements in these procedures when warranted by the circumstances. For example, extensions of timing requirements may be granted if the Institute has been asked to delay its procedures during the evidence gathering stage of a criminal investigation, if the reported allegations are particularly complex (including, without limitation, allegations that involve multiple incidents and/or multiple individuals), or if witnesses are not on campus due to a scheduled break or for another reason. Extensions will be no longer than necessary. The complainant and respondent shall receive written notice of any extensions and the reason for the extension.

Reservation of Flexibility

The procedures set forth below reflect the Institute's desire to respond to complaints in good faith and in a manner that promotes fairness to all parties. The Institute recognizes that each case is unique and that circumstances may arise which require that it reserve some flexibility in responding to the particular circumstances of the matter. In the rare cases where it is not possible or practical to follow this procedure, the Institute reserves the right to modify the procedure or to take other administrative action as appropriate under the circumstances.

Written Notification

In compliance with federal and state law, this policy and its contents provide written notification to students and employees of the following:

- Existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available, both within the Institute and the community, for victims of sexual violence;
- Options for, available assistance in, and how to request changes to academic and working situations, or protective measures, for victims of sexual violence;
- A written explanation of the procedures for the Institute's disciplinary action in cases of alleged sexual violence; and
- A written explanation of the rights and options of a student or employee who is a victim of sexual violence, whether the offense occurred on or off campus;

This policy will be distributed annually to all students and employees of the Institute and will be provided by the Institute to any student or employee who reports to the Institute that the student or employee has been a victim of sexual violence.

Reporting Sex Discrimination or Sexual Misconduct

a. Reports to Law Enforcement

Individuals who believe they have been subjected to criminal sexual misconduct are encouraged to notify local law enforcement authorities and will be assisted by campus authorities in notifying such authorities, if the individual so chooses. Individuals are encouraged to report the incident to the New York Police Department.

If you would like to report sexual misconduct to law enforcement, the New York Police Department can be contacted by calling 911 OR (212) 334-0611. Reporting to law enforcement is not necessary for the Institute to proceed with an investigation.

Protective Orders and No-Contact Orders

An Order for Protection may be obtained in New York Family Court (against a family member by blood or marriage, a current or former spouse, someone with whom he or she has had a child, or someone with whom he or she has had an intimate relationship), New York Supreme Court in connection with a divorce case, and in New York criminal court in connection with a criminal case. Family Court forms are available online at <http://www.nycourts.gov/courthelp/forms.html>. Additional information regarding how and where to file a petition for an Order for Protection in New York courts may be found at <http://www.nycourts.gov/faq/orderofprotection.shtml>. The Institute will fully cooperate with any order for protection issued by a criminal, civil, or tribal court

A non-contact order is an Institute directive that serves as notice to an individual that he or she must not have verbal, electronic, written, third-party or other communications or contact with another individual. To request a no-contact order from the Institute, individuals should contact the Student Services Manager.

b. Reports to the Institute

The institute encourages anyone who has experienced or knows of an incident of sexual discrimination or misconduct to report the incident to the Institute. Report should include as much information as possible to enable the Institute to respond appropriately. Reports can be made by telephone, email, or in person. Upon receipt of a report, the Institute will initiate its response and resolution process as set forth herein.

Reports of sex discrimination or sexual misconduct may be made by or about **students** to the following:

- the Title IX Coordinator,
- the Student Services Manager,
- the Institute Director,
- the Compliance Director,
- a program Team Lead,
- or the Campus Security Guard.

Reports of sex discrimination or sexual misconduct may be made by or about **employees** to the following:

- the Title IX Coordinator
- the Director of Human Resources,
- the Institute Director,
- the Compliance Director,
- a program Team Lead,
- or the Campus Security Guard.

Reports of sex discrimination or sexual misconduct may be made by or about **third parties** to the following:

- Title IX Coordinator,
- the Institute Director,
- the Compliance Director ,
- or the Campus Security Guard.

Contact information for each of the individuals listed above can be found in the Institute student catalog.

c. Anonymous Reports

The Institute accepts anonymous reports by submitting a complaint online at <http://aveda.edu/new-york/report-harassment/> or by submitting a complaint through the internal student complaint procedure. The institute's Title IX Coordinator will receive all online complaints. The Student Services Manager will receive the complaint submitted through the internal complaint procedure and forward to the Title IX Coordinator.

The individual making the report is encouraged to provide as much detailed information as possible to allow the Institute to look into the report and respond as appropriate. The Institute may be limited in its ability to investigate an anonymous report unless sufficient information is furnished to enable the Institute to conduct a meaningful and fair investigation. Additionally, the Institute cannot guarantee complete confidentiality because it may have a legal obligation to respond to an anonymous report. See "Confidentiality" section above for further information related to requests for confidentiality.

INCIDENTS AND COMPLAINTS INVOLVING SEXUAL VIOLENCE

If you have been sexually assaulted, it is important to seek medical care, especially if you have been physically injured. Even if you do not have any visible physical injuries from the assault, there may be physical injuries that you cannot see, and medical and health centers can provide additional services such as testing for sexually transmitted diseases and emergency contraception.

Preservation of Evidence

To preserve evidence, do not change clothes, bathe, douche, or brush your teeth. This is important for the evidence collection process that will occur at the hospital. Individuals should go to one of New York's Sexual Assault Forensic Examiners ("SAFE") Centers of Excellence to obtain a medical exam and preserve evidence that may be necessary for criminal prosecution as soon as possible. If you decide to make a report with the police, it is best for evidence collection to occur within 96 hours of the sexual assault. Keep in mind, though, that evidence collection does not require you to make a police report, it just preserves these options for the future. Additional resources are set forth below in the section entitled, "Resources for any Person Impacted by Sexual Violence."

The Institute will provide complete and prompt assistance, at the direction of law enforcement authorities, in obtaining, securing, and maintaining evidence in connection with incidents of sexual violence, including sexual assault.

Immediate and On-Going Assistance to Survivors of Sexual Violence

The Institute will support any person adversely impacted by sexual violence. Both the Institute and the community provide a variety of resources to assist and support individuals who have experienced sexual violence. These resources, both immediate and ongoing, are available to all persons irrespective of their decision to file a complaint with the Institute or make a report to law enforcement. Support services include, but are not limited to, referring the individual to appropriate, fair, and respectful counseling and support services, making changes to academic, living, and/or working arrangements to protect the individual from contact with the alleged perpetrator, assistance in filing a criminal complaint, providing information about restraining orders, and other measures as set forth above in the section entitled, "Interim Measures and Ongoing Accommodations."

Resources For Any Person Impacted By Sexual Violence

Victims of sexual assault may obtain emergency care at any of New York's Sexual Assault Forensic Examiners ("SAFE") Centers of Excellence. A complete medical evaluation will include a physical examination, treatment, evidence collection, and/or counseling. You will not be made to do anything you do not want to do and may decline any of the elements of this evaluation. Information about SAFE Centers and other resources for sexual assault survivors may be found at <http://www.svfreenc.org/survivors.html>.

SAFE Centers provide sexual assault patients with:

- 1) Sensitive, victim-centered, medical and forensic health care performed by a specially trained Sexual Assault Forensic Examiner (SAFE). A SAFE is a healthcare provider such as a doctor, nurse, physician's assistant or nurse practitioner.
- 2) Care that is timely, compassionate, and patient-centered, in a designated and appropriately equipped private room.
- 3) Assurance about the quality of collection, documentation, preservation and custody of physical evidence by utilizing a trained and New York State Department of Health-certified sexual assault forensic examiner to perform exams. These examiners are available to provide expert testimony if patients choose to report crimes to law enforcement.

4) Psycho-social and legal support by a specially trained Rape Crisis Advocate or Counselor.

5) Reliable referrals to mental and physical health care and follow-up services.

Hospitals in New York City with SAFE Centers:

Manhattan

St. Luke's Hospital (CHP)
Amsterdam Ave & W 113th St

Roosevelt Hospital (CHP)
1000 10th Ave

Beth Israel-Petrie Campus (CHP)
1st Ave & E 16th St

Bellevue Hospital (HHC)
1st Ave & E 27th St

Harlem Hospital (HHC)
506 Lenox Ave

Metropolitan Hospital Center (HHC)
1901 1st Ave

Mount Sinai Medical Center (Mount Sinai)
1 Gustave L Levy Pl

New York Presbyterian Hospital-Columbia (NYP)
622 W 168th St

New York-Presbyterian Hospital- The Allen Pavilion (NYP)
5141 Broadway

New York-Presbyterian Hospital-Weill Cornell (NYP)
525 East 68th Street

Brooklyn

Woodhull Medical and Mental Health Center (HHC)
760 Broadway

Coney Island (HHC)
2601 Ocean Pkwy

Kings County Hospital Center (HHC)
451 Clarkson Ave

Bronx

North Central Bronx (HHC)
E 210th St & Kossuth Ave

Lincoln Medical and Mental Health Center (HHC)
234 E 149th St

Jacobi Hospital (HHC)
Eastchester Rd & Pelham Pkwy S

Queens

Queens Hospital Center (HHC)
82-68 164th St

Elmhurst Hospital (HHC)
79-01 Broadway

Staten Island

Richmond University Medical Center (IN)
355 Bard Ave

Information about SAFE Centers and other resources for sexual assault survivors may be found at <http://www.svfreenyc.org/survivors.html>.

Students who feel they have been the victim of any form of sexual violence may also wish to seek support or confidential counseling from any of the following resources.

Crisis Hotlines

- **RAINN** 800-656-HOPE (4673)
- **Day One NY** 212-566-8120
- **Teen Date Rape Crisis Helpline** 800-214-4150
- **Teen Dating Abuse Hotline** 866-331-9474 or 866-331-8453
- **Child Abuse Hotline** 800-422-4453
- **Crime Victims Hotline** 866-689-HELP (4357)
- **Domestic Violence Hotline** 800-621-HOPE (4673)
- **Rape, Sexual Assault and Incest Hotline** 212-227-3000

Victim Advocacy

- **Safe Horizon** (212) 227-3000

Legal Assistance

- **Day One** (800) 214-4150

Visa and Immigration Assistance

- **Immigration Legal Services - Manhattan (ILSOLI)** (646) 998-8123

Student Financial Aid

- **Maritza Madera, Financial Aid Counselor** (212) 367-0328

The institute does not have professional counselors or pastoral counselors on site.

Initiating a Complaint Involving Sexual Violence

Complaints are generally initiated by individuals who believe that their rights under this policy have been violated, but any individual may initiate the complaint procedure. In addition, circumstances may arise in which the Institute may proceed without a named complainant in order to protect the safety, integrity and welfare of the community as a whole. Generally, the Title IX Coordinator will make a determination of whether a complaint should be initiated in the name of the Institute. When a complaint is made under this policy, the Institute may ask that any report be confirmed in a written and signed complaint form. The Title IX Coordinator or other Institute official is available to assist in the completion of this form. Complaint forms are available from the Title IX Coordinator, the Student Services office, or Human Resources (for employees).

Institute's Resolution Process for Complaint Involving Sexual Violence

The Institute's resolution process will be conducted by officials who receive annual training on issues related to sexual harassment, including sexual assault, dating violence, domestic violence, and stalking, and on how to conduct a resolution process that protects the safety of victims and promotes accountability.

The complainant and respondent shall be given timely notice of meetings at which the complainant or respondent or both will be present.

a. Advisors

The complainant and the respondent have the right to be assisted by an advisor of their choice, including an attorney, as long as the advisor acknowledges in writing the below guidelines for advisors. An advisor who is not a potential witness in the case is recommended.

Guidelines for advisors are:

- The purpose of the advisor is to support a student in the complaint process. Advisors should be chosen for their ability to assist a student with the process.
- Advisors may confer with the student involved, but they may not actively participate in the process. The advisor may accompany the complainant or respondent to all meetings relating to the complaint procedure. The advisor may not appear in lieu of the complainant or respondent or speak on his or her behalf in either in-person or written communications to the Institute. The advisor may not address the investigator, adjudicator, witnesses (other than his or her own advisee), or appeal official, and may not interrupt or otherwise delay the complaint proceeding.
- The investigation file or other information provided to a party in any case may be made available to his or her advisor with the written permission of the involved student who has chosen the advisor, subject to the same limitations as those placed upon the parties and conditioned upon the advisor's agreement to maintain the confidentiality of student education records or other confidential information.
- Violations of confidentiality or other forms of interference with the complaint procedure by the advisor may result in disqualification of an advisor.
- The Institute will provide the parties information regarding the selection of an advisor by another party, including whether the other party's advisory is an attorney.

b. Investigation

Following the submission of a completed complaint form that states a possible violation of this policy which includes allegations of sexual violence, the Institute will complete a thorough, fair, impartial, and prompt investigation.

1. Appointment of Investigator(s)

The Title IX Coordinator, or his or her designee, will appoint one or more investigators. The complainant and the respondent will be notified in writing of the identities of the investigator(s) assigned to their case. Each investigator assigned under this policy will have received, at a minimum, annual training on issues related to sexual violence, including how to conduct an investigation that protects the safety of victims and promotes accountability.

The complainant or respondent may request the removal of an investigator on the grounds of personal bias or other conflict of interest. See "Conflicts" section above. Such requests may be made by submitting a written statement to the Title IX Coordinator setting forth the basis for the challenge no later than two (2) business days after receiving notice of the identity of the investigator(s) assigned to the matter. The Title IX Coordinator will determine whether to accept or deny the challenge. If the request is accepted, a replacement will be appointed and notice will be provided to the complainant and respondent. The decision of the Title IX Coordinator with regard to the challenge is final and is not appealable.

2. Complainant's Account

The investigator(s) shall interview the complainant to obtain the complainant's account of the alleged misconduct or to verify information the complainant has already provided in his or her report or complaint. In addition, the complainant shall be invited to advise the investigator(s) of any witnesses he/she believes should be interviewed, and/or other evidence that he/she believes should be reviewed by the investigator(s). The investigator(s) may also request additional information from the complainant.

The complainant may decide when (or when not) to repeat a description of the alleged misconduct and has the right to decline to participate in the complaint resolution procedure. If at any time the complainant declines to participate in the process, the Institute's ability to meaningfully investigate and resolve a complaint may be limited. In such cases, the Institute will proceed with the complaint resolution procedure, if possible to do so without the complainant's participation, and will make a determination based upon the information available as set forth above in the section entitled, "Non-Participation and Silence."

3. Respondent's Account

In a separate meeting, the investigator(s) shall interview the respondent to obtain the respondent's account of the alleged misconduct. In addition, the respondent shall be invited to advise the investigator(s) of any witnesses he/she believes should be interviewed, and/or other evidence that he/she believes should be reviewed by the investigator(s). The investigator(s) may also request additional information from the respondent.

The respondent has the right to decline to participate in the complaint resolution procedure. In such cases, the Institute will proceed with the complaint process and will make a determination based upon the information available as set forth in the above section entitled, "Non-Participation and Silence."

4. Witness Statements, if applicable

The investigator(s) may interview any witnesses who may have information of relevance to the alleged misconduct. The investigator(s) may exercise discretion in the selection of witnesses to be interviewed. The naming of a witness by either party does not obligate the investigator(s) to interview that proposed

witness. The investigator may conduct additional interviews with witnesses whose names were provided by individuals other than the complainant and the respondent.

5. Other Evidence, if applicable

The investigator(s) may request and review other evidence of relevance to the alleged misconduct, such as video recordings, photographs, text messages, or other artifacts.

6. Investigator's Summary of the Investigation, if applicable

The investigator(s) may prepare a written summary of the findings of the investigation to guide the adjudicator in his or her review of the information gathered during the investigation.

7. Compilation of Investigation File

The investigator(s) shall compile evidence into an investigation file. The investigation file shall consist of any information, documents, recordings, or artifacts that are provided to the adjudicator. Such information may include, as applicable:

- The written complaint;
- The Investigator's Summary of the Investigation.

8. Parties' Review of the Investigation File

The investigation file, and any other information that will be shared with school officials for adjudication of a matter, will be made available for review by the complainant and respondent. Confidential information in the investigation file that cannot be shared with the parties may be redacted from the file in accordance with applicable federal and state law. The investigation file cannot be copied or removed from the location provided by the Institute for review purposes.

Following review of the investigation file, both parties shall have the opportunity to provide a written statement containing any comments or additional information the parties would like the adjudicator(s) to consider. The written statement shall not exceed 2,000 words in length. The written statement must be submitted within ten (10) calendar days after the investigation file is made available to the parties. The parties shall have an opportunity to review the written statement submitted by the other party and may submit a written rebuttal statement not to exceed 1,000 words in length. The rebuttal statement must be submitted within five (5) calendar days after a party's receipt of the other party's initial written statement.

9. Timing of Investigation

The Institute will attempt to complete the investigation process within twenty (20) business days of the initiation of the complaint, but in some cases more time will be required. If a criminal report has been filed, the Institute's procedures, including any investigation, may be temporarily delayed to allow law enforcement to gather evidence. Such delay may only occur at the request of law enforcement and shall not be any longer than necessary for law enforcement to complete the gathering of evidence. In no case will the Institute wait for the conclusion of a criminal investigation or criminal proceeding to begin its own investigation. Any extension of the investigation process will be no longer than necessary and the reason for the extension will be shared with the parties in writing.

c. Adjudication

Upon completion of the investigation, the Institute Director will review the investigation and make a determination as to whether it is more likely than not that a violation of this Policy occurred, and if so, what sanctions are warranted. The Institute reserves the right to appoint additional adjudicators to assist in making a determination. Each adjudicator assigned under this policy will have received, at a minimum, annual training on issues related to sexual violence, including how to conduct an adjudication process

that protects the safety of victims and promotes accountability.

The complainant and the respondent shall receive written notice of the identity of the adjudicator(s) assigned to adjudicate the complaint. The complainant or respondent may request the removal of an adjudicator on the grounds of personal bias or other conflict of interest. See "Conflicts" section above. Such requests may be made by submitting a written statement to the Title IX Coordinator setting forth the basis for the challenge no later than two (2) business days after receiving notice of the identity of the adjudicator(s) assigned to the matter. The Title IX Coordinator will determine whether to accept or deny the challenge. If the request is accepted, a replacement will be appointed and notice will be provided to the complainant and respondent. The decision of the Title IX Coordinator with regard to the challenge is final and is not appealable.

1. Adjudicator's Review of the Investigation File

The investigation file will be made available to and reviewed by the adjudicator(s) following confirmation of his, her, or their appointment. The investigation file shall consist of the following: complaint, investigator's summary of the investigation, and the written statements of the parties. Upon review of the investigation file, the adjudicator(s) may, in their discretion, request additional investigation by the investigator(s), or to review specific evidence or information obtained by the investigator.

The Title IX Coordinator will ensure that the complainant and respondent have been given equivalent opportunities to present relevant information for consideration in the investigation and adjudication process. At any time during the investigation and adjudication phases, the Title IX Coordinator may review the investigation summary, written statements of the parties, and other evidence to determine whether additional investigation is necessary, statements and documents received by the investigator are within the appropriate scope of the investigation, and/or information or other evidence contained in the investigation file should be redacted.

2. Determination

The adjudicator(s) will render a decision based upon the investigation file, written statements provided by the parties, and any other information the adjudicator(s) deem appropriate and which is made available to both the complainant and respondent. The Title IX Coordinator is available for consultation, but the Title IX Coordinator will not participate in making a decision. The adjudicator(s) will use a preponderance of the evidence standard ("more likely than not") in determining whether a violation of the policy has occurred.

The determination of the adjudicator(s) may be appealed as provided below. In the event that no appeal is filed within the time periods prescribed below, the decision will be final.

If the decision is made that there is not sufficient basis to establish that it is more likely than not that a violation of this policy occurred, the parties will be notified of that determination, including the rationale for the result, and the complainant will be informed of other procedures for resolving the complaint and of other resources that may be available to the complainant.

3. Sanction(s) and Remedies

If the decision is made that it is more likely than not that the respondent violated this policy the adjudicator(s) shall determine appropriate sanction(s). The determination will include steps to take to prevent recurrence of any such violations, and as appropriate, remedies for the Complainant.

Students

Sanctions imposed upon students who are determined to have violated this policy may include the following, depending on the seriousness of the violation:

- warning,
- behavioral contract,
- required attendance at educational programs,
- required assessment or counseling,
- restriction of privileges,
- no future admission,
- suspension, and/or expulsion.

Institute Personnel

Sanctions for Institute personnel deemed to have violated this policy may include the following, depending on the seriousness of the violation:

- unpaid suspension,
- suspension of promotion and salary increments,
- suspension or withdrawal of privileges,
- demotion and/or termination of employment,
- no rehire.

Third-Parties

Sanctions for third-parties who have been deemed to have violated this policy may include the following, depending on the seriousness of the violation:

- conditions upon the individual's presence on campus or at Institute events,
- no trespass and no contact orders, or
- other steps deemed necessary to protect the Institute community.

Remedies, accommodations and protective measures for the complainant include those listed in the above section, "Interim Measures and Ongoing Accommodations."

4. Notice of Outcome

The parties shall receive a simultaneous written notice of the outcome of the complaint. The notice shall include the determination of the adjudicator(s); where a violation is deemed to have occurred, the sanctions imposed; the rationales for the determination and sanctions; procedures for appeal and the date by which the result becomes final as provided below; any other steps the Institute has taken to eliminate the conduct and prevent its recurrence; and, in the complainant's notice, remedies offered or provided to the complainant. Normally, the Institute will complete the adjudication process and provide a notice of outcome within twenty-five (25) calendar days of completion of the investigation. In some cases, more time may be required.

d. Appeals

Following the parties' receipt of the Notice of Outcome, the complainant or respondent may request an appeal of the decision. The request for an appeal must be submitted in writing to the Title IX Coordinator within five (5) business days of receiving notice of the outcome. Failure to file a timely appeal constitutes a waiver of any right to an appeal.

The basis for an appeal will be limited to the following:

- (i) New or newly discovered evidence which may substantially affect the outcome of the adjudication; or
- (ii) There was a procedural error which substantially affected the outcome of the adjudication.

Appeals should not be requested frivolously. An appeal represents a procedural safeguard for the parties. The burden of proof is on the appealing party to show by a preponderance of evidence that one or more of the above grounds for appeal are satisfied.

If the Title IX Coordinator or his/her designee determines that the appealing party has demonstrated it is more likely than not that one of the above grounds for appeal is satisfied, the matter will be referred to the Executive Director for review of the investigation file. If the grounds for appeal relate to the investigation, or warrant additional investigation, Executive Director may refer the matter for further investigation before proceeding. Upon review of the matter, the Executive Director shall utilize the same process as required for all adjudications under this policy.

If there is not adequate reason to establish that one or more grounds for appeal have been satisfied, the Title IX Coordinator will dismiss the appeal with written notification to the parties of this decision. This decision is final and is not appealable. If there are adequate grounds for appeal, the Title IX Coordinator or his/her designee will provide simultaneous written notification to the parties to the complaint of his/her determination within 10 business days of the filing of the appeal.

INCIDENTS AND COMPLAINTS OF SEXUAL MISCONDUCT THAT DO NOT INVOLVE SEXUAL VIOLENCE

The Institute's resolution process will be conducted by officials who receive training and/or have to experience handling matters related to sexual harassment and sexual violence, including how conduct a resolution process that protects the safety of victims and promotes accountability.

Initiation of Complaint

Complaints are generally initiated by individuals who believe that their rights under this policy have been violated, but any individual may initiate the complaint procedure. In addition, circumstances may arise in which a complaint may be initiated without a named complainant to protect the safety, integrity and welfare of the community as a whole. Generally, the Title IX Coordinator will make a determination of whether a complaint should be initiated in the name of the Institute. When a complaint is made under this policy, the Institute may ask that the report be confirmed in a written and signed complaint form. The Title IX Coordinator or other Institute official is available to assist in the completion of this form. Complaint forms are available from the Title IX Coordinator, the Student Services office, or Human Resources.

Formal and Informal Resolution Options

There are two avenues for resolution of an alleged policy violation in cases that do not involve sexual violence: formal and informal resolution. If a complaint is processed informally, the complainant, respondent or Institute has the option to move the complaint to the formal process at any time. Informal resolution is never appropriate in cases involving allegations of sexual assault.

The Title IX Coordinator is available to explain the informal and formal resolution procedures. In addition, the Title IX Coordinator may also directly refer the matter to other institutional disciplinary procedures. This referral option will generally be used when: (1) the type of behavior that is alleged to have occurred does not constitute a violation of the sexual misconduct policy or (2) the behavior that is alleged to have occurred is better handled under another disciplinary procedure. Every attempt will be made to determine the appropriate option for resolution within five (5) business days of the submission of the complaint.

a. Informal Process and Resolution

If an informal resolution is pursued, the Title IX Coordinator (or her/his designee) will attempt to facilitate a resolution that is agreeable to all parties. Under the informal process, the Institute will only conduct such fact-finding as is useful to resolve the conflict and as is necessary to protect the interests of the parties, the Institute, and the Institute community.

Any party to the complaint has the option to discontinue the informal process and request a formal investigation. The Institute also always has the discretion to initiate a formal investigation. If at any point during the informal process, the complainant, the respondent, or the Institute wish to cease the informal process and to proceed through the formal procedure, the informal process will stop and the formal process outlined below will be invoked.

Any informal resolution must adequately address the concerns of the complainant, as well as the rights of the respondent and the overall intent of the Institute to stop, remedy, and prevent policy violations. To facilitate such a resolution, the Title IX Coordinator will make a recommended resolution that may include a variety of institutional responses or requirements, including, but not limited to, counseling or education on appropriate behavior, a requirement of behavioral changes, a written warning and/or other disciplinary actions, up to and including termination of employment for employees or suspension or expulsion for students.

If all parties to the complaint and the Institute agree in writing to the terms and conditions of a recommended resolution within five (5) business days, the case will be resolved without further process under this procedure. If all parties to the complaint do not agree in writing to the terms and conditions of

the recommended resolution within five (5) business days, the complaint will be referred to the formal process.

b. Formal Process

If a complaint is not processed through the Informal Process, or is not resolved through the Informal Process outlined above, the complaint shall be processed according to the formal procedure outlined below.

1. Investigation

The Institute will complete a thorough, fair and impartial investigation. The investigation will be conducted by one or more investigators appointed by the Title IX Coordinator. At least one investigator shall be appointed for each case. The complainant and the respondent shall receive written notice of the identity of the investigator(s) assigned to investigate the complaint. Either party may request the removal of an investigator on the grounds of personal bias or other conflict of interest. See "Conflicts" section above. Such requests may be made by submitting a written statement to the Title IX Coordinator setting forth the basis for the challenge no later than two (2) business days after receiving notice of the identity of the adjudicator(s) assigned to the matter. The Title IX Coordinator will determine whether to accept or deny the challenge. If the request is accepted, a replacement will be appointed and notice will be provided to the complainant and respondent. The decision of the Title IX Coordinator with regard to the challenge is final and is not appealable.

The investigator(s) shall interview the complainant, respondent and/or other witnesses and may request additional information from the complainant, respondent or others. In addition, the complainant and respondent shall have an opportunity to advise the investigator(s) of any witnesses they believe should be interviewed, and/or other evidence that they believe should be reviewed by the investigator(s). The investigator may interview witnesses who were not suggested by either party.

Normally, the Institute will complete the investigation process within twenty (20) business days of the initiation of the complaint or the referral from the informal process, but in some cases more time will be required.

2. Adjudication

The Institute will complete a thorough, fair, impartial, and timely adjudication process. The complainant and the respondent shall receive written notice of the identity of the adjudicator(s) assigned to adjudicate the complaint and the Title IX Coordinator reserves the right to appoint additional adjudicators to assist in making a determination. Either party may request the removal of an adjudicator on the grounds of personal bias or other conflict of interest. See "Conflicts" section above. Such requests may be made by submitting a written statement to the Title IX Coordinator setting forth the basis for the challenge no later than two (2) business days after receiving notice of the identity of the adjudicator(s) assigned to the matter. The Title IX Coordinator will determine whether to accept or deny the challenge. If the request is accepted, a replacement will be appointed and notice will be provided to the complainant and respondent. The decision of the Title IX Coordinator with regard to the challenge is final and is not appealable.

The investigation file will be made available to and reviewed by the adjudicator(s) following his, her, or their appointment. Upon review of the investigation file, the adjudicator(s), in consultation with the Title IX Coordinator, may request additional investigation by the investigator(s). The adjudicator(s) will render a decision based upon the investigation file and any other information the adjudicator(s) deems appropriate. While the Title IX Coordinator is available for consultation, the Title IX Coordinator will not participate in making a decision. The adjudicator(s) will use a preponderance of the evidence (or "more likely than not") standard in determining whether a violation of this policy has occurred, and if so, what sanctions are warranted.

If the decision is made that there is not sufficient basis to believe that it is more likely than not that the respondent violated this Policy, the parties will be notified of that determination and informed of other resources that may be available.

If the decision is made that it is more likely than not that the respondent violated this policy, the adjudicator(s) or the adjudicator's designee shall determine appropriate sanction(s). The determination will include steps to take to prevent recurrence of any such violations, and as appropriate, remedies for the complainant. Possible sanctions include counseling or education on appropriate behavior, a requirement of behavioral changes, a written warning and/or other disciplinary actions, up to and including termination of employment for employees or suspension or expulsion for students.

3. Notice of Outcome

The parties shall receive a simultaneous written notice of the outcome of the complaint, to include the determination of the adjudicator(s); where a violation is deemed to have occurred, in the respondent's notice, any imposition of sanctions, and in the complainant's notice, any imposition of sanctions that directly relates to the complainant; any other steps the Institute has taken to eliminate the conduct and prevent its recurrence; and, in the complainant's notice, remedies offered or provided to the complainant. Every attempt will be made to complete the adjudication process and provide a Notice of Outcome within twenty-five (25) business days of the completion of the investigation. In some cases more time may be required.

4. Appeals

Following the parties' receipt of the Notice of Outcome, the complainant or respondent may request an appeal of the decision. The request for an appeal must be submitted in writing to the Title IX Coordinator within five (5) business days of receiving notice of the outcome. Failure to file a timely appeal constitutes a waiver of any right to an appeal.

The basis for an appeal will be limited to the following:

- (i) New or newly discovered evidence which may substantially affect the outcome of the adjudication; or
- (ii) There was a procedural error which substantially affected the outcome of the adjudication.

Appeals should not be requested frivolously. An appeal represents a procedural safeguard for the parties. The burden of proof is on the appealing party to show by a preponderance of evidence that one or more of the above grounds for appeal are satisfied.

If the Title IX Coordinator or his/her designee determines that the appealing party has demonstrated it is more likely than not that one of the above grounds for appeal is satisfied, the matter will be referred to the Executive Director for review of the investigation file. If the grounds for appeal relate to the investigation, or warrant additional investigation, the Executive Director may refer the matter for further investigation before proceeding. Upon review of the matter, the Executive Director shall utilize the same process as required for all adjudications under this policy.

If there is not adequate reason to establish that one or more grounds for appeal have been satisfied, the Title IX Coordinator will dismiss the appeal with written notification to the parties of this decision. This decision is final and is not appealable. If there are adequate grounds for appeal, the Title IX Coordinator or his/her designee will provide simultaneous written notification to the parties to the complaint of his/her determination within 10 business days of the filing of the appeal.

ALTERNATIVE PROCEDURES

Nothing in this policy is intended to interfere with the right of any individual to pursue other avenues of recourse which may include, but is not limited to, filing a complaint with the United States Department of Education's Office for Civil Rights (OCR).

The OCR office for institutions located in New York is:

U.S. Department of Education
Office for Civil Rights
32 Old Slip, 26th Floor
New York, NY 10005-2500
Telephone: 646-428-3900
FAX: 646-428-3843
TDD: 800-877-8339
Email: OCR.NewYork@ed.gov