

Sotheby's INSTITUTE OF ART

SOTHEBY'S INSTITUTE OF ART - NEW YORK

Title:	Sexual Misconduct, Relationship Violence, and Stalking Policy
Effective Date:	August 28, 2023
Supersedes:	Sexual Misconduct Policy Dated August 21, 2019
Issuing Authority:	Senior Counsel, Sotheby's Institute of Art - New York
Responsible Officers:	Director of Student & Academic Services Title IX Coordinator

I. STATEMENT OF POLICY

Sotheby's Institute of Art - New York, including its global sites, and all Institute Affiliates (together, "the Institute") seeks to maintain a safe learning, living, and working environment. To that end, this policy prohibits Sexual Misconduct, which includes Sexual or Gender-Based Harassment, Sexual Assault, and Sexual Exploitation. This policy also prohibits Relationship Violence, Stalking, and Retaliation against an individual for making a good faith report of conduct prohibited under this policy. These prohibited forms of conduct are unlawful and will not be tolerated.

The Institute adopts this policy with a commitment to: (1) preventing Sexual Misconduct, Relationship Violence, Stalking, and Retaliation (together, "Prohibited Conduct"); (2) fostering a community in which such conduct is not tolerated; (3) cultivating a climate where all individuals are well-informed and comfortable in reporting Prohibited Conduct; and (4) identifying the standards by which violations of this policy will be evaluated. This policy defines Prohibited Conduct; outlines available resources and reporting options available to students and employees; and references the applicable investigative and disciplinary procedures. The Institute will take prompt and equitable action to eliminate Prohibited Conduct, prevent its recurrence, and address its effects. The Institute also conducts annual mandated training for students and employees to facilitate the goals of this policy.

The Institute does not discriminate on the basis of sex or gender in its education or employment programs and activities.

This policy is designed to comply with applicable legal requirements including Title IX of the Education Amendments of 1972; relevant provisions of the Violence Against Women Reauthorization Act of 2013; Title VII of the Civil Rights Act of 1964; the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act"); and, in New York State, with the Education Law Article 129-B, as well as State and local human rights laws.

This policy applies to all Prohibited Conduct occurring on or after the effective date of this policy.

II. TO WHOM THE POLICY APPLIES

This policy applies to Sotheby's Institute of Art - New York students ("Students"); Institute employees, including faculty and visiting faculty, professional staff, and administrators ("Employees"); contractors, vendors, or other third parties within the Institute's control ("Third Parties"); and visitors or guests of the Institute (together, "Covered Persons"). This policy pertains to acts of Prohibited Conduct committed by Students, Employees and Third Parties when:

- (1) the conduct occurs on Institute premises;
- (2) the conduct occurs in the context of an Institute employment or education program or activity, including, but not limited to Institute-sponsored study abroad, research, or internship programs;
or
 - (i) the conduct occurs outside the context of an Institute employment or education program or activity, but (i) has continuing adverse effects on Institute premises or in any Institute employment or education program or activity or (ii) occurs in close proximity to Institute premises and is connected to violative conduct on Institute premises.

Other forms of discrimination, including discrimination based on race, religion, and disability, as well as any other form of sex-based discrimination not covered by this policy, are addressed by: (1) the Non-Discrimination and Anti-Harassment Policy and Complaint Procedures for Employees, (2) the Non-Discrimination and Anti-Harassment Policy and Complaint Procedures for Students, and (3) the Compliance Complaint Policy. This policy supersedes any conflicting information contained in those policies with respect to the definitions or procedures relating to Prohibited Conduct. A Covered Person who has a question about which policy applies in a specific instance can contact the Institute's Title IX Coordinator (see section D below (Reporting) for Title IX Coordinator contact information).

This policy and its related procedures may also, at the Institute's discretion, apply to alleged violations by the Respondent of other Institute policies if, in the Institute's judgment, those other allegations are directly related to the reported Prohibited Conduct.

III. APPLICABLE PROCEDURES UNDER THIS POLICY

Reporting

Sotheby's Institute of Art - New York has designated a Title IX Coordinator who is responsible for receiving reports and complaints of sex discrimination & sexual misconduct, including but not limited to sexual harassment, sex assault, stalking, and relationship violence. The Title IX Coordinator accepts reports from both students and employees, as well as from third parties. Individuals have several options for reporting an incident of sexual misconduct – see "Reporting Options" on page 10 of this policy.

Investigation

Upon receiving a formal report of sexual misconduct, the Institute will designate one or more appropriately trained individuals to complete a prompt, impartial, and thorough investigation. The Investigator(s) may be an external party or an Institute employee, at the discretion of the Institute. Prior to commencing any investigation, the Title IX Coordinator will issue written notice to the accused

individual (and simultaneous written notice to the reporting individual, if known) stating the allegations.

Upon completion of the investigation, the investigator(s) will issue to the Title IX Coordinator an investigation report reflecting the facts at hand and a recommendation as to whether any violation of the Institute's sexual misconduct policy has occurred. The Title IX Coordinator will make the ultimate determination as to whether it is appropriate to initiate the Institute's Formal Disciplinary Process against the accused student or employee.

Formal Disciplinary Process

When, after investigation, the Title IX Coordinator determines that a violation of the Institute's sexual misconduct policy has occurred, the Title IX Coordinator will issue a written notification to the accused individual (and the reporting individual, if known) with important information, including but not limited to a brief statement of the allegation at hand, the findings of the investigation, the specific policy provision the alleged conduct violates, and the date, time, & location of a formal disciplinary hearing at which the accused individual (and the reporting individual, if participating) will have an opportunity to testify and present evidence in regard to the alleged policy violation. Either party is entitled to request remote attendance at a hearing via virtual technology; the technology used must enable all hearing participants to see, hear, and speak in real-time.

Hearing Structure

The hearing will be presided over by a panel of decisionmakers designated by the Institute. All parties are entitled to be accompanied throughout hearing proceedings by an advisor of their choice. A designated hearing administrator will present the Institute's case, including a statement of the allegations at hand, the Institute's investigatory findings, the specific policy provision the alleged conduct violates, and any relevant testimony and/or evidence. When the hearing administrator has concluded the case presentation, the accused individual will have the opportunity to present his/her version of events, including their own testimony, testimony by witnesses, and other evidence. If the reporting individual has elected to participate in the disciplinary hearing, the reporting individual will then have the option (but is not required) to present a statement of his/her own, and may present any additional testimony or evidence that has not already been presented by the designated hearing administrator. Once the hearing administrator and the parties have all made their presentations, the parties are entitled to cross-examine each other and/or any witnesses who testified, if desired. Once any cross-examination is complete, the hearing administrator will announce the conclusion of the hearing and dismiss all parties and witnesses. The panel of decisionmakers will subsequently deliberate the matter (either upon conclusion of the hearing or at another reasonably prompt time). The panel of decisionmakers will then issue a written report that speaks to its findings and conclusions regarding whether the accused individual is responsible for a conduct violation, the rationale behind these findings and conclusions, recommended sanctions/consequences (as applicable), and the rationale for such recommendations. This report will be reviewed by Title IX Coordinator, who will make the ultimate decision regarding responsibility and any appropriate sanctions/consequences. The Title IX Coordinator will issue written notice to all parties simultaneously reflecting these determinations, and the rationales therefore. Both the accused individual (and the reporting individual, if participating in the formal disciplinary process) are entitled to appeal a finding of responsibility and/or a sanction imposed (or both), if desired.

Cross-examination

Cross-examination cannot be conducted directly by the parties themselves – it must be conducted by an advisor. Any questions asked during cross-examination must be considered by the hearing panel for relevance before the individual being examined may respond. In the event any party is not accompanied by an advisor for any portion of a hearing that involves cross-examination, the Institute will provide an advisor of the Institute’s choice for the sole purposes of conducting cross-examination.

Advisors

Parties are entitled to be accompanied throughout hearing proceedings by an advisor of their choice – including but not limited to their parents, a faculty member, an attorney, or another trusted individual. Advisors may sit with parties during all portions of hearing proceedings, and parties may confer with their advisor before, during, and after proceedings. Advisors are permitted to directly participate in a hearing only during cross-examination; otherwise, advisors are not allowed to directly participate at any point during the proceedings. Any arguments or evidence presented during a hearing must be presented by the individual himself/herself. All participation by parties and their advisors will be subject to Institute rules for hearing procedures and decorum, as applicable. In the event a party cannot attend a proceeding or a portion thereof, the advisor is not allowed to attend or participate on the individual’s behalf.

Qualifications

All individuals designated by the Institute to implement its Formal Disciplinary Process and/or who are otherwise involved throughout the Formal Disciplinary Process – including but not limited to the Title IX Coordinator, panel of decisionmakers, hearing administrator, and other relevant officials – are appropriately trained in adjudicating sexual misconduct matters and the Institute’s policies & procedures. All such individuals are similarly trained to serve in an impartial manner without bias or conflicts of interest. Any concerns regarding impartiality should be discussed with the Title IX Coordinator (or, alternately, with Senior Counsel of the Institute).

Standard of Evidence

When implementing the Formal Disciplinary Process, the Institute is determining whether an individual is “responsible” or “not responsible” for an alleged violation of Institute conduct policies. When making this determination, the Institute applies the “preponderance of the evidence” standard for both student matters and employee matters when determining whether this policy has been violated. This means that the panel of decisionmakers who preside over a disciplinary hearing will be required to decide in favor of the party that, as a whole, has the stronger evidence that the violation was or was not committed, however slight the edge over the other party’s evidence may be. “Preponderance of evidence” is sometimes described as “more likely than not” or “51% probability”. The evidence should be sufficient to incline a fair and impartial mind to one side of the issue over the other, but it is not necessary for that mind to be completely free from all reasonable doubt. “Preponderance of evidence” is a different and lesser standard of evidence than that use in criminal proceedings; rather, it is the standard of evidence often used in civil court proceedings.

Appeals

Both the accused individual and the reporting individual (if participating in the Formal Disciplinary Process) are entitled to appeal a determination of responsibility and/or sanction imposed. Appeals may be made on the following bases: (i) the occurrence of a procedural irregularity that could have affected the outcome of the hearing; (ii) the availability of new and/or additional evidence which was not reasonably available previously, (ii) the availability of new and/or additional evidence which was not reasonably available previously and which could have potentially affected the outcome of the matter; and/or (iii) the Title IX Coordinator, investigator, or decisionmaker(s) had a conflict of interest that could have affected the outcome of the hearing. If a party wishes to appeal the decision of the hearing panel, the individual must submit a written request for an appeal to the Director of the Institute within five business days of receiving written notification of the panel's decision. The written request for appeal must include a brief statement of whether the individual objects to the determination of responsibility the imposed consequences/sanctions, or both, as well as a brief statement as to why the panel's decision were inappropriate. Upon receiving a request for appeal, the Director will schedule an appeal hearing, to be held in a timely manner at a location and date determined by the Director. Written notice of the location, date, and time will be issued to all parties involved. Appeal hearings will be conducted in a fair, impartial, and thorough manner. The appeal will be presided over by a panel of impartial individuals designated by the Institute. No individual who served on the original hearing panel of a case is allowed to serve on any subsequent appeal panel for that same case. The appeal panel will hear all relevant arguments presented in regard to whether the original hearing panel's decisions were appropriate. After all presentations are complete, the appeal panel will render a written report on the appealed issues and, if appropriate, recommend revised sanctions/consequences. The appeal panel will issue its report to the Director, who will make the ultimate decision regarding the appealed issues and, as applicable, any imposed sanctions/consequences. The Title IX Coordinator will issue written notice to the involved parties simultaneously reflecting these determinations, and the rationales therefore. The Director's decision is final and is not subject to further appeal.

Recordkeeping

The Institute is required to maintain a full, fair, and accurate record of all hearing proceedings and appeal proceedings for a period of seven years. For all hearings, the Institute is required to create either an audio-visual record or a transcript of proceedings. Parties are entitled to inspect and review their hearing records, subject to reasonable limitations by the Institute as to time and nature of access.

Informal Resolution Process

There may be times when a reporting individual wishes to report certain types of sexual misconduct for action by the Institute but does not wish to participate in the Institute's Formal Disciplinary Process (i.e., an investigation and, if appropriate, a hearing) or is not interested in the potential outcomes prescribed under the Formal Disciplinary Process. In these cases, the involved parties have the option of mutually agreeing to instead participate in the Institute's Informal Resolution Process, rather than the Formal Disciplinary Process. The Informal Resolution Process is only appropriate for certain types of misconduct, and the Title IX Coordinator reserves the discretion to deny any request to engage in the Informal Resolution Process as an alternative to the Formal Disciplinary Process; this determination is not subject to appeal. The Informal Resolution Process is never available for the following types of misconduct:

- Any allegation of an Institute employee sexually harassing a student

- Any allegations involving sexual assault
- Any allegation in which there is a grave, ongoing, and/or imminent threat of harm or safety risk to the campus or to any individual
- Any allegation for which the accused individual is a repeat offender
- Any allegation in which the alleged misconduct is sufficiently grave in nature that informal resolution would not be appropriate and/or would not be in accordance with the Institute's Title

IX obligations as determined in the judgment of the Title IX Coordinator

- Any instance in which one or more of the parties involved do not appear to be acting in good faith, as determined in the judgment of the Title IX Coordinator

The involved parties may elect to participate in the Informal Resolution Process at any time, even if they have already moved forward with the Formal Disciplinary Process. Similarly, parties may choose to stop participating at any time up until the process officially concludes. The Title IX Coordinator may likewise determine at any time that the Informal Resolution Process is not an appropriate method for resolving a given matter and may instead require that the matter be resolved through the Institute's Formal Disciplinary Process; this determination is not subject to appeal.

Either party can propose that a matter be resolved through the Informal Resolution Process. No party is ever required to participate. The process is only available if all involved parties voluntarily agree to participate. Each party will be required to provide consent in writing. The informal resolution process will be conducted by an impartial facilitator chosen by the Institute who is appropriately trained to handle sexual misconduct matter and engage in the method of resolution provided.

While informal resolution can take a variety of forms, the Institute offers one option for informal resolution:

- **Administrative Resolution:** If the accused individual chooses to accept responsibility for the alleged misconduct at any time, the Institute will administratively resolve the matter. Upon the admission of responsibility, the Institute will issue written notices to all involved parties simultaneously. Any sanctions and/or other remedies, as appropriate and consistent with Institute policies, will be decided by the Title IX Coordinator after all parties have been provided an opportunity to submit a written statement. Administrative resolutions may not be appealed.

IV. ENFORCEMENT

A Student or Employee determined by the Institute to have committed an act of Prohibited Conduct in violation of this policy is subject to disciplinary action, up to and including separation from the Institute. Third Parties who violate this policy may have their relationship with the Institute terminated and/or their privilege of being on Institute premises withdrawn. Sotheby's Institute of Art - New York reserves the right to take action against a Covered Person who commits an act of Prohibited Conduct outside the scope of this policy.

V. TITLE IX COORDINATOR

Sara Moore, Director of Student & Academic Services, serves as the Institute's Title IX Coordinator and Jane Cho, Director of Administration serves as the Title IX Deputy Coordinator. Both the Coordinator and the Deputy Coordinator are charged with monitoring compliance with Title IX; providing education, training, and notifications; overseeing complaints; and coordinating the Institute's investigation, response, and resolution of all reports under this policy. The Title IX Coordinator is available to meet with any Student, Employee, or Third Party to discuss this policy or the accompanying procedures.

Concerns about the Institute's application of Title IX and its implementing regulations; the Violence Against Women Reauthorization Act of 2013; Title VII of the Civil Rights Act of 1964; the Clery Act; and, in New York, the New York State and City human rights laws under this policy may be addressed to the Institute's Title IX Coordinator or to Senior Counsel, Colleen M. Kearney. Inquiries concerning the Violence Against Women Reauthorization Act of 2013 or the Clery Act may also be referred to the United States

Department of Education, Clery Act Compliance Division, while inquiries concerning the application of Title IX and its implementing regulations may also be referred to the United States Department of Education, Assistant Secretary, Office for Civil Rights, at OCR@ed.gov or (800) 421-3481.

VI. RESOURCES

Sotheby's Institute of Art - New York offers resources for both Students and Employees, whether as Complainants or Respondents, to provide support and guidance throughout the investigation and resolution of a report of Prohibited Conduct. For comprehensive information on emergency assistance; hospitals; Confidential Resources; and available support with academics, housing, and work:

- Students should refer to the Emergency & Non-Emergency Medical Resources section of the Student Handbook.
- Employees should refer to the Employee Handbook or contact HR@cig.com.
- Third Parties should contact a Title IX Coordinator to discuss available campus resources and reasonably available assistance.

A. SUPPORTIVE MEASURES, PROTECTIVE MEASURES, AND ACCOMMODATIONS

Upon receipt of a report involving a Student or Employee Complainant, the Institute will take and/or make available reasonable and appropriate measures to protect the Complainant and the Complainant's access to Institute employment or education programs and activities, prevent retaliation, and avoid an ongoing hostile environment, which may include supportive measures and/or protective measures before the final outcome of an investigation. Such supportive and/or protective measures and accommodations, which may be temporary or permanent, may include separation orders, residence modifications, academic accommodations or assistance, work schedule modifications, transportation assistance, and other reasonable and appropriate measures. Reasonable and appropriate supportive and/or protective measures and accommodations are available for Student and Employee Complainants regardless of whether an investigation under the applicable procedures is pursued. The Institute also will take and/or make available such measures and accommodations for Student and Employee Respondents where reasonable and appropriate under the circumstances. The Institute will maintain the privacy of any accommodations or protective measures provided under this policy to the extent practicable.

For Third Party Complainants, the Institute will provide reasonable protective measures as appropriate and available, based on consideration of the role of the Third Party and the nature of any contractual relationship with the Institute.

Violating the terms of a protective measure, including but not limited to no contact, persona non grata, or other behavior-related directives, is a violation of this policy and will subject the person who violates the protective measure to additional charges and sanctions under this policy. The Title IX Coordinator will determine and identify the appropriate procedures to be followed for such a violation depending on the timing and circumstances of the reported violation.

B. PRIVACY AND CONFIDENTIALITY

Sotheby's Institute of Art - New York is committed to protecting the privacy of Covered Persons involved in a report under this policy. The Institute also is committed to providing assistance to help Covered Persons make informed choices. With any report under this policy, the Institute will make reasonable efforts to protect the privacy interests of Covered Persons involved in a manner consistent with the need for a careful assessment of the allegation and reasonable steps available to eliminate the reported conduct, prevent its recurrence, and address its effects.

Privacy and confidentiality have distinct meanings under this policy.

Privacy: Privacy generally means that information related to a report of misconduct will be shared with a limited circle of individuals who "need to know" in order to assist in the active review, investigation, resolution of the report, and related issues. All Institute employees who are involved in the Institute's Title IX response receive specific training and guidance about safeguarding private information in accordance with applicable laws.

The privacy of Student education records will be protected in accordance with Institute Guidelines for Compliance with the Family Educational Rights and Privacy Act (FERPA). The privacy of an individual's medical and related records generally is protected in the United States by the Health

Insurance Portability and Accountability Act (HIPAA), excepting health records protected by FERPA.

Confidentiality: Confidentiality means that information shared by an individual with designated campus or community professionals cannot be revealed to any other individual without express permission of the individual, or as otherwise permitted by law. Those campus and community professionals include medical providers, mental health providers, counselors in the Center for Sexual Misconduct Support Services, and ordained clergy, all of whom normally have privileged confidentiality that is recognized by New York State law. These individuals are prohibited from breaking confidentiality unless (i) given permission to do so by the person who disclosed the information; (ii) there is an imminent threat of harm to self or others; (iii) the conduct involves suspected abuse of a minor under the age of 18, or (iv) as otherwise required or permitted by law or court order. Laws in other relevant jurisdictions may provide confidentiality protections.

Employee Responsibility to Report Allegations: It is important to understand the different responsibilities of Institute Employees who respond to disclosures of incidents of Prohibited Conduct. There are three general classifications of individuals on campus with whom a Covered Person can discuss an incident of Prohibited Conduct:

- (1) Confidential Resources (individuals with legally-protected confidentiality);
- (2) Reporting Options (designated offices or individuals where a report can be made); and
- (3) Employees designated as Responsible Employees (those Employees in a leadership or supervisory position, or who have significant responsibility for the welfare of Students or Employees).

The respective ability of these categories of individuals to maintain a Complainant's confidentiality differs. Confidential Resources can maintain the confidentiality of a Complainant's disclosures, subject to the exceptions discussed above. While private, Reporting Options and Responsible Employees are required to immediately share all known details of incidents of Prohibited Conduct with Title IX Coordinator. Even University officers and employees who cannot guarantee confidentiality will maintain a Complainant's privacy to the extent reasonably possible. The information provided to a non-confidential resource will be relayed only as necessary for Title IX Coordinator to coordinate an investigation and/or seek a resolution.

Clery Act Reporting: Pursuant to the Clery Act, Sotheby's Institute of Art - New York includes statistics about certain offenses in its annual security report and provides those statistics to the United States Department of Education, but does so in an anonymized manner that does not include the specifics of the crime or any identifying information about persons involved in an incident.

C. CONFIDENTIAL RESOURCES

Confidential Resources for Students include Morgan Buck, LMSW – Victim Intervention Program & Enough is Enough Coordinator (929.637.2149) and Dr. Penni Morganstein (929-275-2145).

Confidential Resources for Employees include Ashley Nixon, Director of Human Resources (anixon@branded-edu.com) and Amanda Bakale, Senior Counsel (abakale@branded-edu.com).

D. REPORTING OPTIONS

Any individual who is subjected to sexual misconduct by or as a member of the Sotheby's Institute of Art – New York community is entitled to report the incident, if they wish. Individuals have several different options for reporting an incident. Formal reports may require the reporting individual to participate in an investigation and a formal hearing, with the potential outcome being some level of disciplinary action taken against the accused individual. In certain cases, the involved parties may mutually agree to resolve the matter through the Institute's Informal Resolution Process instead of utilizing the Institute's Formal Hearing Process.

Because some forms of sexual misconduct constitute crimes of violence, the Institute strongly encourages individuals who are subjected to or who become aware of an incident of sexual misconduct to report the incident to State or local law enforcement. Likewise, the Institute takes seriously all allegations of sexual misconduct, and encourages individuals to report incidents to the Institute by contacting one of the following Institute officials:

- Sara Moore, Title IX Coordinator – s.moore@sia.edu / 212-517-2873
- Jane Cho, Title IX Deputy Coordinator – j.cho@sia.edu / 212-517-2194
- Amanda Bakale, Senior Counsel - abakale@branded-edu.com

Timeliness of reports: There is no time limit on reporting violations of this policy, although the Institute's ability to respond may be limited as evidence may be less available and memories may fade, and Respondents may no longer be affiliated with the Institute.

Anonymous reports: Individuals may choose to report information to the Institute without sharing their name and/or contact information, if they prefer. In these cases, individuals should be aware that the Institute's ability to respond to the incident and/or to communicate updates to the individual may be limited as a result.

Student Amnesty Policy: The health and safety of every student at Sotheby's Institute of Art-New York is of utmost importance. The Institute 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 Relationship Violence, Stalking, or Sexual Assault, occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The Institute strongly encourages Students to report incidents of Prohibited Conduct to the Title IX Coordinator.

A bystander, Complainant, or other individual making a report who discloses any incident of Prohibited Conduct will not be subject to disciplinary action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the Prohibited Conduct.

Bad faith reports: Submitting a false report or providing false or misleading information in bad faith or with a view to personal gain in connection with an incident of Prohibited Conduct is prohibited and subject to disciplinary sanction. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are determined not to be accurate.

Confidential reports: In cases where the reporting individual does not wish to participate in or pursue any action by the Institute, and instead merely wishes to disclose sexual misconduct in order to access supportive services or for other purposes, the reporting individual should speak with the Institute’s Confidential Resources or a third-party resource that is unaffiliated with the Institute. If an individual discloses an incident to an Institute official who constitutes a “Responsible Employee”, the “Responsible Employee” is obligated to refer the information to the Title IX Coordinator for future action. Please refer to this policy’s definitions for “privacy” and “confidentiality” for further information.

VII. PROHIBITED CONDUCT UNDER THIS POLICY

Conduct under this policy is prohibited regardless of the sexual orientation, gender, gender identity, or gender expression of the Complainant or Respondent. Prohibited Sexual Misconduct includes the following specifically defined forms of behavior: Sexual or Gender-Based Harassment, Sexual Assault, and Sexual Exploitation. Also prohibited are Relationship Violence, Stalking, and Retaliation.

Whether a Covered Person has violated this policy is determined based on all of the available facts and circumstances including but not limited to: statements of the Complainant and Respondent; statements by any witnesses to the alleged incident(s); documentary or physical evidence; the presence or absence of corroborating information; and relevant information about pre-and post-incident behavior and/or actions.

A. Sexual or Gender-Based Harassment: Sexual Harassment can take various forms – including but not limited to unwelcome sexual advances, request for sexual favors, or other unwanted conduct of a sexual nature, whether verbal, non-verbal, graphic, physical, or otherwise – and under this policy is deemed to have occurred when one or more of the following conditions are present:

(i) Conduct for which submission thereto or rejection thereof is either an explicit or implicit term, condition, or basis of any individual’s employment or advancement in employment, evaluation of academic work or advancement in an academic program, provision of any Institute service, benefit, or aid, access to or participation in any aspect of any Institute program or activity, or other determinations which impact the individual as a member of the Institute’s campus community (quid pro quo);

(ii) Conduct which constitutes “sexual assault”, “stalking”, “dating violence”, and/or “domestic violence” as defined under federal law and the Institute’s policy; and/or

(iii) Unwelcome conduct that, to a reasonable person, is so severe, pervasive or persistent, and objectively offensive as to effectively deny a person equal access to the Institute’s education programs and/or activities; has the purpose or effect of unreasonably interfering with an individual’s learning, working, or living environment; and/or otherwise creates an intimidating, hostile, or offensive learning, working, or living environment under both an objective standard (i.e., in a reasonable person’s view) and a subjective standard (i.e., in the Complainant’s view (hostile environment)).

Gender-Based Harassment includes harassment based on gender, sexual orientation, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve

conduct of a sexual nature.

Examples of conduct that may constitute Sexual or Gender-Based Harassment include but are not limited to:

- Sexual Assault, Sexual Exploitation, Relationship Violence, or Stalking as defined by this policy;
- Physical conduct, including unwelcome touching or sexual advances within the working, living, or learning environment;
- Verbal conduct, including lewd or sexually suggestive comments, jokes, or innuendoes or unwelcome comments about an individual's sexual orientation or gender identity; or
- Written conduct, including letters, notes, or electronic communications containing comments, words, jokes, or images that are lewd or sexually suggestive or relate in an unwelcome manner to an individual's sexual orientation or gender identity.

B. Sexual Assault: Sexual Assault means Non-Consensual Sexual Intercourse or Non-Consensual Sexual Contact as defined below.

1. **Non-Consensual Sexual Intercourse:** Non-Consensual Sexual Intercourse is having or attempting to have sexual intercourse with another individual (i) by force, threat of force, or coercive conduct; (ii) without affirmative consent; or (iii) where that individual is incapacitated. Sexual intercourse includes anal, oral or vaginal penetration, however slight, with a body part (e.g., penis, finger, hand or tongue) or an object.

Non-Consensual Sexual Contact: Non-Consensual Sexual Contact is having or attempting to have sexual contact with another individual (i) by force, threat of force, or coercive conduct; (ii) without affirmative consent; or (iii) where that individual is incapacitated. Sexual contact includes touching, fondling or other intentional contact with the breasts, buttocks, groin, or genitals (over or under an individual's clothing) for purposes of sexual gratification or when such private body parts are otherwise touched in a sexual manner.

C. Sexual Exploitation: Sexual Exploitation refers to specific forms of Sexual Misconduct that involve non-consensual use of another individual's nudity or sexuality, excluding behavior that constitutes one of the other Sexual Misconduct offenses.

Examples of Sexual Exploitation include but are not limited to:

- Voyeurism (such as watching or taking pictures, videos, or audio recordings of another person engaging in a sexual act, in a state of undress, or in a place and time where such person has a reasonable expectation of privacy, such as a changing room, toilet, bathroom, or shower, each without the affirmative consent of all parties);
- Disseminating, streaming, or posting pictures or video of another in a state of undress or of a sexual nature without the person's affirmative consent;

- Administering alcohol or drugs to another person for the purpose of making that person vulnerable to non-consensual sexual activity;
- Exposing one's genitals to another person without affirmative consent;
- Prostituting another individual; or
- Knowingly exposing another individual to a sexually transmitted infection or virus without the other individual's knowledge.

D. Relationship Violence: Relationship Violence refers to any act of violence or threatened act of violence against a person who is, or has been involved in a sexual, dating, domestic, or other intimate relationship with that person, or who shares a child in common with that person. Relationship Violence commonly involves violence and abuse committed by a person to exert power and control over a current or former intimate partner. Relationship Violence may include acts of Sexual Misconduct, Physical Assault, Sexual Exploitation, or Stalking.

As used here, Physical Assault means threatening or causing physical harm or engaging in other conduct that threatens or endangers the health or safety of any person under circumstances that reflect a direct connection to the intimate relationship in question.

E. Stalking: Stalking occurs when a person engages in a course of conduct toward another person under circumstances that would cause a reasonable person to fear bodily injury or experience substantial emotional distress.

Course of conduct means two or more acts including but not limited to unwelcome acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. Substantial emotional distress means significant mental suffering or anguish.

Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used.

F. Retaliation: Retaliation means any adverse action taken against an individual for making a good faith report of Prohibited Conduct or participating in any investigation or proceeding under this policy. Retaliation includes threatening, intimidating, harassing or any other conduct that would discourage a reasonable person from engaging in activity protected under this policy.

The Title IX Coordinator will determine and identify the appropriate procedures to be followed for an allegation of Retaliation depending on the timing and circumstances of the allegation.

VIII. RELATED DEFINITIONS: CONSENT, FORCE, AND INCAPACITATION:

A. Affirmative Consent: Affirmative Consent is a knowing, voluntary, and mutual decision among all

participants to engage in sexual activity. Affirmative 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 cannot be obtained: (1) through the use of force or coercion; or (2) by taking advantage of the incapacitation of another individual. Consent also cannot be given by someone who is under the legal age to consent in the applicable jurisdiction at the time of an incident.

In evaluating whether affirmative consent was given, consideration will be given to the totality of the facts and circumstances, including but not limited to the extent to which a Complainant affirmatively gives words or actions indicating a willingness to engage in sexual activity; whether a reasonable person in the Respondent's position would have understood such person's words and acts as an expression of consent; and whether there are any circumstances, known or reasonably apparent to the Respondent, demonstrating an incapacity to consent.

Relying solely on nonverbal communication may result in a violation of this policy. It is important not to make assumptions; if confusion or ambiguity arises during a sexual interaction, it is essential that each participant stops and clarifies, verbally, the willingness to continue.

Consent may be initially given but withdrawn at any time. When consent is withdrawn or can no longer be given, sexual activity must cease. Prior consent does not imply current or future consent; consent to any sexual act or prior consensual sexual activity does not necessarily constitute consent to any other sexual act. Even in the context of an ongoing relationship, consent must be freely sought and given for each instance of sexual activity.

- B. Force or Coercion:** Force is the use or threat of physical violence or intimidation to overcome an individual's freedom of will to choose whether or not to participate in sexual activity. There is no requirement that a party resists the sexual advance or request, but resistance will be viewed as a clear demonstration of non-consent.

Coercion is conduct, including intimidation and express or implied threats of physical, emotional, or other harm, that would reasonably place an individual in fear of immediate or future harm and that is employed to overcome the individual's freedom of will and to compel the individual to engage in sexual activity.

Incapacitation: An individual who is incapacitated lacks the ability to knowingly choose to participate in sexual activity or make informed, rational judgments and thus cannot consent to sexual activity. Incapacitation is defined as the inability, temporarily or permanently, to give consent because an individual is mentally and/or physically helpless, being involuntarily restrained, asleep, unconscious, or unaware that sexual activity is occurring. Mentally helpless means a person is rendered temporarily incapable of appraising or controlling one's own conduct. Physically helpless means a person is physically unable to communicate unwillingness to an act.

Where alcohol or other drugs are involved, incapacitation is a state beyond drunkenness or intoxication. The impact of alcohol and other drugs varies from person to person; however, warning

signs that a person may be approaching incapacitation may include slurred or incomprehensible speech, vomiting, unsteady gait, combativeness, or emotional volatility. Evaluating incapacitation also requires an assessment of whether a Respondent knew or should have been aware of the Complainant's incapacitation based on objectively and reasonably apparent indications of impairment when viewed from the perspective of a sober, reasonable person in the Respondent's position. Being intoxicated or impaired by drugs or alcohol is never an excuse for committing Prohibited Conduct and does not diminish one's responsibility to obtain informed and freely given consent. In other words, consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.

IX. VIOLATIONS OF LAW

Behavior that violates this policy also may violate the laws of the local jurisdiction in which the incident occurred and subject a Respondent to criminal prosecution by the presiding authority.

The New York State Penal Code describes prohibited Sex Offenses in [§§ 130.00 to 130.91 and 130.95 to 130.96](#) and prohibited Stalking Offenses in [§§ 120.45 – 120.60](#). Covered Persons studying, working, or engaging in other activities at the Institute's campus, Global Network University sites, or other locations outside of New York State are governed by the applicable laws regarding sexual assault and other criminal offenses implicated by this policy.

Behavior that violates this policy also may subject a Respondent to civil liability. Records of University proceedings under this Policy may be subpoenaed in connection with a criminal prosecution and/or civil litigation.

X. STUDENTS' BILL OF RIGHTS

Under this policy, all students have the right to:

1. Make a report to local law enforcement and/or state police.
2. Have disclosures of Relationship Violence, Stalking, and Sexual Assault treated seriously.
3. Decide about whether or not to disclose a crime or violation and participate in the Institute's disciplinary process and/or the criminal justice process free from pressure by the Institute.
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 Institute courteous, fair, and respectful health care and counseling services, where available.
6. Be free from any suggestion that the Complainant 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 Institute representatives as practicable and not be required to unnecessarily repeat a description of the incident.

8. Be reasonably protected from Retaliation by the Institute, any student, the Respondent, and/or their friends, family and acquaintances within the Institute's jurisdiction.
9. Access to at least one level of appeal of a determination in matters involving Student conduct.
10. Be accompanied by an advisor of choice who may assist and advise a Complainant or Respondent throughout the disciplinary process including during all meetings and hearings related to such process.
11. Exercise civil rights and practice of religion without interference by the investigative or disciplinary process of the Institute.

XI. CONSENSUAL RELATIONSHIPS

The Institute discourages amorous relationships between students as it may jeopardize the integrity of the program experience.

The Institute also discourages amorous relationships between Faculty as it may jeopardize the integrity of the educational experience. All Faculty are prohibited from engaging in romantic and/or sexual relationships with any student of the Institute.

XII. ADDITIONAL POLICY DEFINITIONS

"Complainant" means the Covered Person who presents as the victim of any Prohibited Conduct under the policy, regardless of whether that individual makes a report or seeks action under the policy.

"Confidential Resource" means a resource with statutorily protected confidentiality. This includes medical providers, mental health providers, rape crisis counselors, and ordained clergy.

"the Institute" means Sotheby's Institute of Art, its global sites, and all Institute affiliates.

"Preponderance of the Evidence" means that it is more likely than not that a policy violation occurred.

"Reporting Option" means individuals or departments designated by the Institute to receive reports of Prohibited Conduct.

"Respondent" means the Covered Person(s) who has been accused of violating the policy.

"Responsible Employee" means those Employees in a leadership or supervisory position, or who have significant responsibility for the welfare of Students or Employees. This includes the Title IX Coordinator, the Title IX Deputy Coordinator and staff members of Sotheby's Institute of Art and its affiliates.