



## Title IX Non-Discrimination Grievance Policy and Process

### 1. Policy Statement and Purpose

Title IX of the Education Amendments Act of 1972 prohibits discrimination on the basis of sex in any Education Program or Activity operated by a recipient that receives federal financial assistance. As an educational institution subject to Title IX, Gemological Institute of America, Inc. (“GIA,” the “Institute,” or “our”) has adopted this Title IX Non-Discrimination Grievance Policy and Process. (“Policy”). As set forth in detail herein, GIA:

- 1.1. Does not discriminate on the basis of sex, including in admissions and employment, and is committed to providing an educational and workplace environment that is free from sex-based discrimination, harassment, and retaliation;
- 1.2. Prohibits discrimination on the basis of sex in its educational programs and activities, as required by law;
- 1.3. Is committed to promoting fairness and equity in all aspects of its operations; and
- 1.4. Values and promotes the equal dignity of all community members and is committed to the pursuit of just resolutions with respect to the rights of all parties involved.
- 1.5. This Policy is adopted to prevent discrimination prohibited under Title IX and provide a prompt, fair, and impartial process to address complaints of alleged discrimination based on sex.
- 1.6. Inquiries about this Policy, or the application of Title IX may be referred to GIA’s Title IX Coordinator, the Assistant Secretary of the Department of Education’s Office for Civil Rights, or both.

### 2. Overview of Title IX Policy and Grievance Process: General Provisions

#### 2.1. Responsibilities of the Title IX coordinator

The Title IX Coordinator oversees implementation and enforcement of this Policy, which includes primary responsibility for coordinating GIA’s efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy.

GIA’s Title IX Coordinator is identified below and may be contacted with questions about this Policy, to file a report or Formal Complaint, or to otherwise assist individuals in ensuring equal access to GIA’s educational programs or activities in compliance with Title IX.

Title IX Coordinator: Ms. Vusala Aranjó  
Address: 5345 Armada Drive, Carlsbad, CA, 92008  
Tel.: 760-603-4000 ext. 7776  
Email: [varanjo@gia.edu](mailto:varanjo@gia.edu), [titleixcoordinator@gia.edu](mailto:titleixcoordinator@gia.edu)  
Web: [www.gia.edu](http://www.gia.edu)



## 2.2. U.S. Department of Education's Office for Civil Rights

Individuals may also contact the U.S. Department of Education's Office for Civil Rights ("OCR") with Title IX questions. (Please note that inquiries to OCR alone are not sufficient to allow appropriate responsive action by GIA. To ensure your concern is appropriately addressed under this Policy, please file a report with GIA's Title IX Coordinator).

Office for Civil Rights (OCR)  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1100  
Customer Service Hotline #: (800) 421-3481  
Facsimile: (202) 453-6012  
TDD#: (877) 521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

## 2.3. How to Make a Report or Formal Complaint of an Alleged Title IX Violation

Any person may report alleged sex discrimination, sexual harassment, or retaliation to the Title IX Coordinator, irrespective of whether the reporting person is the alleged victim of such conduct. A report is differentiated from a Formal Complaint ("Complaint"), which is a document filed/signed by the Complainant or signed by the Title IX Coordinator alleging sexual harassment and requesting that GIA investigate the allegation(s) and implement GIA's Grievance Process. A report or complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail at any time (including during non-business hours), using the contact information in the section immediately above or as described below:

### 2.3.1. Title IX Coordinator

Ms. Vusala Aranjó  
Address: 5345 Armada Drive, Carlsbad, CA, 92008  
Tel.: 760-603-4000 ext. 7776  
Email: [varanjo@gia.edu](mailto:varanjo@gia.edu), [titleixcoordinator@gia.edu](mailto:titleixcoordinator@gia.edu)  
Web: [www.gia.edu](http://www.gia.edu)

### 2.3.2. Deputy Title IX Coordinator

Ms. Jennifer Kim  
Address: 50 W. 47th Street, New York, New York 10036  
Tel.: (212) 944-5900 ext. 3662  
Email: [jkim@gia.edu](mailto:jkim@gia.edu)  
Web: [www.gia.edu](http://www.gia.edu)

### 2.3.3. Online via the [Concern Reporting Portal](#)

### 2.3.4. By telephone via GIA harassment/discrimination hotline at 866-295-2625



#### 2.4. After Making a Report or Formal Complaint

Upon receipt of a report or Complaint, the Title IX Coordinator shall undertake an initial assessment to determine appropriate next steps as required under this Policy, including making an initial threat assessment to ensure there is no immediate danger to the Complainant or the campus community and, if there is, to take appropriate action, which may include emergency removal of Respondent as described below.

The Title IX Coordinator shall contact Complainant to discuss the availability of appropriate supportive measures that may be implemented with input from the Complainant irrespective of, and in addition to, any resolution process including the Formal Grievance Process, and will notify Complainant about the right to have an advisor.

If the report has been made without filing a Complaint, the Title IX Coordinator will review the allegations and discuss options with the Complainant, including the option of proceeding with a Complaint. If the Complainant does not want to proceed with a Complaint, the Title IX Coordinator may initiate a Complaint if the Title IX Coordinator determines that a Complaint is warranted.

If the Complainant files a Complaint, or the Title IX Coordinator initiates a Complaint, the matter will proceed as described under the Grievance Process.

After submission of a Complaint and after notifying the Respondent of the Complaint's allegations, the parties will be notified of the availability of informal resolution, as applicable. All parties must voluntarily consent in writing to any informal resolution process. The parties may withdraw such consent at any time and resume the Formal Grievance Process.

At all stages of the process, irrespective of any resolution or grievance process, which may be implemented, responsive and reasonable supportive measures will be implemented to ensure continued access to GIA's educational program or activities.

#### 2.5. Emergency Removal of Respondent

GIA reserves the right to remove a Respondent from its Education Program or Activities on an emergency basis when the Respondent poses an immediate threat to the health or safety of any student or campus community member. GIA will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. If an emergency removal is imposed, the Respondent will be given notice of the removal and the option to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the removal should not be implemented. Emergency removal decisions are not subject to Appeal.

#### 2.6. Administrative Leave of Employee Respondent

Respondents that are GIA employees may be placed on administrative leave during the pendency of a grievance process as determined by GIA and the Title IX Coordinator.



## 2.7. Complainant's Decision to Pursue a Complaint

If a Complainant does not wish to be identified, does not wish for an investigation to take place, or does not want a Complaint to be pursued, the Complainant may make such a request to the Title IX Coordinator, who will evaluate the request in light of the duty to ensure campus safety and compliance with state and federal law. GIA will comply with Complainant's wishes unless the Title IX Coordinator determines that initiating a Complaint is warranted under the circumstances.

If the Title IX Coordinator independently initiates a Complaint, the Complainant may have as much or as little involvement in the process as the Complainant desires. The Complainant retains all rights of a Complainant under this Policy irrespective of participation level. Irrespective of whether a Complaint is filed, GIA shall offer supportive measures to ensure Complainant's continued access to GIA's educational program and activities. If the Complainant elects not to file a Complaint, the Complainant shall retain the right to file a Complaint later.

## 2.8. Complaint Dismissal

### 2.8.1. Mandatory Dismissal

GIA must dismiss a Complaint if, at any time during the investigation or hearing, it is determined that:

- The conduct alleged in the Complaint does not constitute sexual harassment as defined under Title IX; and/or
- The conduct did not occur in an educational program or activity controlled by GIA (including buildings or property controlled by recognized student organizations); and/or
- The conduct did not occur against a person in the United States; and/or
- At the time of filing a Complaint, the Complainant is not participating in or attempting to participate in the education program or activity of GIA.

### 2.8.2. Discretionary Dismissal

GIA may dismiss a Formal Complaint or any allegations therein if at any time during the investigation or hearing:

- A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Complaint or any allegation therein; or
- The Respondent is no longer enrolled in or employed by GIA; or
- Circumstances prevent GIA from gathering evidence sufficient to reach a determination as to the Complaint or allegations therein.

Upon any dismissal, GIA shall promptly send written notice of the dismissal and its rationale simultaneously to the parties. This dismissal decision is appealable by any party under the procedures for appeal below.



Dismissed Complaints may include conduct that could be considered a potential violation of GIA's [Student Code of Conduct](#), [Policy Prohibiting Discrimination Harassment and Retaliation](#), [Workplace and Campus Violence Policy](#) , or other conduct policies and may be addressed through other applicable, non-Title IX conduct policies and procedures accordingly.

#### 2.9. Consolidated Complaints

If multiple Complaints involve one or more Complainant and/or Respondent and allegations arising out of the same set of circumstances, GIA may elect to consolidate Complaints.

#### 2.10. Time Limits on Reporting

There is no time limitation on making a report or Complaint. However, acting on reports or Complaints is significantly impacted by the passage of time and occurrence of other events (including, but not limited to, the rescission or any revision of this Policy, and is at the discretion of the Title IX Coordinator, who may, among other things, document allegations for future reference, offer supportive measures and/or Remedies, and/or engage in informal or formal action, as appropriate. Where an investigation is launched, Complaints will be investigated pursuant to the Policy in place at the time of the reported conduct and pursuant to the procedures in place at the time the Complaint is filed. Where reported conduct occurred prior to August 14, 2020, any investigation would be pursuant to the previous Policy. Additionally, if the Respondent is no longer subject to GIA's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide Remedies may be more limited or impossible.

#### 2.11. Anonymous Report or Complaint

If a Complainant makes a report anonymously, it will be investigated by GIA to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or Remedies can be provided. Anonymous reports typically limit GIA's ability to investigate and respond, depending on what information is shared. In some situations, the Title IX Coordinator may proceed with the issuance of a Formal Complaint even when the Complainant's report has been made anonymously.

#### 2.12. Confidentiality

GIA shall undertake reasonable efforts to preserve the confidentiality of reports and Complaints. GIA shall not disclose any report or Complaint except as provided herein and as necessary to effectuate this Policy, or as permitted by the [Family Educational Rights and Privacy Act \(FERPA\), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99](#), or as required under applicable law.

Certain professionals have a legal and/or ethical responsibility to maintain communications made in the scope of their professional roles in strict confidence.<sup>1</sup> Some of these roles include licensed professional counselors/mental health providers, licensed medical and health care

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<sup>1</sup> In highly limited circumstances, such as when presenting an immediate threat or danger to another, or when subject to a court order, confidential communications may be revealed without the consent of a party.



providers, victim advocates, ordained/licensed clergy, licensed attorneys and rape crisis or domestic violence resources. Complainants or Respondents wishing to speak to someone confidentially are encouraged to seek out such resources. Communications with such professionals are considered legally privileged and cannot be revealed without a party's express written consent.

### 2.13. Supportive Measures

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to GIA's Education Program or Activity, including measures designed to protect the safety of all parties or GIA's educational environment, and/or deter harassment, discrimination, and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available upon receipt of a report or a complaint alleging possible sexual harassment. At the time that supportive measures are offered, GIA will inform the Complainant, in writing, that they may file a Formal Complaint with GIA either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

GIA shall maintain the confidentiality of the supportive measures to the greatest extent reasonably practicable, provided that confidentiality does not impair GIA's ability to provide supportive measures or otherwise fulfill its obligations under this Policy. GIA will implement measures in a way that does not unreasonably burden the other party.

Supportive measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, referral to medical or healthcare services, referral to community-based services, campus escort services, mutual restrictions on contact between the parties, changes in work, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

GIA encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interest of the GIA community that Complainants choose to report misconduct to GIA officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

### 2.14. Right to an Advisor

The parties have the right to select an advisor of their choice to accompany them to any or all meetings and interviews during the resolution process. There are no limits on who can serve





as an advisor; it may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. Under Title IX, cross-examination is required during the hearing, and must be conducted by the parties' advisors. If a party selects an advisor of their choice, this advisor must perform cross-examination on their behalf during the hearing, as the parties are not permitted to directly cross-examine each other or any witnesses. If a party does not have an advisor, or the advisor does not appear for a hearing, GIA will provide one for the limited purpose of conducting cross-examination on behalf of the party.

An advisor who is also a witness to the allegations in the complaint creates potential for bias and conflict of interest. A party who chooses an advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-maker(s) and may, but will not necessarily, impact the Final Determination.

GIA cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not select or retain an attorney or cannot afford an attorney, GIA is not obligated to provide the other party with an attorney.

#### 2.15. Conflict of Interest and Bias

Title IX Personnel are trained to ensure they have no conflict of interest and are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally. To raise any concern involving bias, conflict of interest or other misconduct by any Title IX Personnel, contact GIA's chief academic officer, Mr. Duncan Pay to report your concern.

#### 2.16. Resolution Timeline

GIA will make a good faith effort to complete the resolution process fairly and promptly. Duration of a matter that proceeds through the Formal Grievance Process is determined by many factors including, but not limited to, the cooperation and availability of the parties and witnesses, potential concurrent criminal investigations, and GIA closures, among others. GIA will avoid all undue delays within its control and will grant reasonable extensions of time, upon written request and showing of good cause, by a party. GIA shall provide the parties written notice of delays and/or extensions, including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

#### 2.17. Notifications to Parties

All notifications to the parties noted herein will be made by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official GIA records, or emailed to the parties' GIA-issued email or otherwise approved account. Once mailed, e-mailed and/or received in-person, notice will be presumptively delivered.



## 2.18. Clery Act Reporting

Reports or complaints of sexual assault, domestic violence, dating violence, and/or stalking that pose a serious or continuing threat of bodily harm or danger to members of the campus community may trigger a timely warning obligation by GIA under the [Clery Act](#). If a warning is deemed necessary, GIA will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

In addition, GIA is obligated to report and disclose crimes under the Clery Act, including the crimes of sexual assault, domestic violence, dating violence and stalking as defined in this Policy, for statistical reporting purposes only. Reports of these crimes do not include personally identifiable information ("PII") and therefore preserve the confidentiality of any involved parties.

## 2.19. Retaliation

GIA prohibits retaliation under this Policy. Retaliation may include intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy and procedure. Alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. GIA will take appropriate action to protect individuals who fear that they may be subjected to retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this Policy and procedure does not constitute retaliation. Relatedly, a determination of responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

## 3. GIA's Mandatory Response Obligations

The mandatory response obligations under this Policy arise when GIA has actual knowledge of conduct that may constitute sexual discrimination, harassment, or retaliation, as defined herein. Actual knowledge occurs when the Title IX Coordinator or a GIA Official with Authority to implement corrective measures becomes aware of the potential occurrence of such conduct. Actual Notice received by any of these OWAs constitutes actual knowledge upon which GIA's mandatory response obligations arise under this Policy. Additionally, GIA has identified Mandatory Reporters who are required under GIA's policy to report known or suspected discrimination to the Title IX Coordinator. In these cases, GIA must act to stop, remedy and prevent future recurrence of prohibited conduct through application of this Policy.

GIA has identified the following as Official's with Authority ("OWA"):





Department: Education  
Document ID: EDU-EDU-PO-0163-01  
Policy Owner: Senior Manager of Education Compliance,  
Title IX and 504/ADA Coordinator  
Original Effective Date: 08/14/2020

- 3.1. Vusala Aranjó  
Senior Manager of Education Compliance, Title IX and 504/ADA Coordinator  
5345 Armada Drive  
Carlsbad, CA 92008  
[varanjo@gia.edu](mailto:varanjo@gia.edu); [titleixcoordinator@gia.edu](mailto:titleixcoordinator@gia.edu)  
760-603-4000 x7776
- 3.2. Jennifer Kim  
Director of New York Education, and Deputy Title IX and 504/ADA Coordinator  
50 W. 47th Street  
New York, New York 10036  
[jkim@gia.edu](mailto:jkim@gia.edu)  
212-944-5900 x3662
- 3.3. Duncan Pay  
Senior Vice President, Chief Academic Officer  
5345 Armada Drive  
Carlsbad, CA 92008  
[dpay@gia.edu](mailto:dpay@gia.edu)  
760-603-4251
- 3.4. Lisa Garris  
Vice President, Human Resources  
50 W. 47th Street  
New York, New York 10036  
[lgarris@gia.edu](mailto:lgarris@gia.edu)  
917-286-3604
- 3.5. Kimberly Overlin  
Dean of Students  
5345 Armada Drive  
Carlsbad, CA 92008  
[koverlin@gia.edu](mailto:koverlin@gia.edu)  
760-603-4093
- 3.6. Abhishek Misra  
Senior Manager, Security Operations  
5345 Armada Drive  
Carlsbad, CA 92008  
[amisra@gia.edu](mailto:amisra@gia.edu)  
760-603-4105
- 3.7. Darnell Travis  
Security Manager (Carlsbad)  
5355 Armada Drive  
Carlsbad, CA 92008  
[dtravis@gia.edu](mailto:dtravis@gia.edu)



760-583-0149

- 3.8. Christopher Cordes  
Security Manager (New York)  
50 W. 47th Street  
New York, New York 10036  
[ccordes@gia.edu](mailto:ccordes@gia.edu)  
917-286-3588  
646-276-5894 / Mobile

Officials with Authority, also known as *Mandatory Reporters* are GIA's designated officers for handling complaints and implementing the Institute's policy against unlawful discrimination and harassment. Mandatory Reporters must notify the Title IX Coordinator of all reports or allegations of sexual misconduct, discrimination, harassment, or violence. These individuals are required to share all of the details that were shared with them with the Title IX Coordinator, including the name of the individual who made the report.

#### 4. Notice, Dissemination and Publication of Policy

Title IX requires GIA to notify applicants for admission or employment as well as students, employees, and, if applicable, unions or professional organizations holding collective bargaining agreements with GIA, of this Policy. GIA complies with Title IX's notice requirements, including prominently publishing its Non-Discrimination Grievance Policy and Process and contact information for the Title IX Coordinator on its website and in other publications.

#### 5. Sexual Harassment Defined, Jurisdiction and Scope of Policy

##### Sexual Harassment Defined

For purposes of this Policy and the grievance process, Sexual Harassment has the meaning set forth below. Sexual Harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, gender and/or gender identity of those involved.

Sexual Harassment means:

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

##### 5.1. Quid Pro Quo:

- 5.1.1. A GIA employee,
- 5.1.2. conditions the provision of an aid, benefit, or service of GIA,
- 5.1.3. on an individual's participation in unwelcome sexual conduct; and/or

##### 5.2. Sexual Harassment:

- 5.2.1. unwelcome conduct,
- 5.2.2. determined by a reasonable person,



- 5.2.3. to be so severe, and
- 5.2.4. pervasive, and,
- 5.2.5. objectively offensive,
- 5.2.6. that it effectively denies a person equal access to GIA's Education Program or Activity.
- 5.3. Sexual assault, defined as:
  - 5.3.1. Sex Offenses, Forcible:
    - Any sexual act directed against another person,
    - without the consent of the Complainant,
    - including instances in which the Complainant is incapable of giving consent.
  - 5.3.2. Forcible Rape:
    - Penetration,
    - no matter how slight,
    - of the vagina or anus with any body part or object, or
    - oral penetration by a sex organ of another person,
    - without the consent of the Complainant.
  - 5.3.3. Forcible Sodomy:
    - Oral or anal sexual intercourse with another person,
    - forcibly,
    - and/or against that person's will (non-consensually), or
    - not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
  - 5.3.4. Sexual Assault with an Object:
    - The use of an object or instrument to penetrate,
    - however slightly,
    - the genital or anal opening of the body of another person,
    - forcibly,
    - and/or against that person's will (non-consensually),
    - or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
  - 5.3.5. Forcible Fondling:
    - The touching of the private body parts of another person (buttocks, groin, breasts),
    - for the purpose of sexual gratification,
    - forcibly,



- and/or against that person's will (non-consensually),
- or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

5.3.6. Sex Offenses, Non-forcible:

- Incest:
  - Non-forcible sexual intercourse,
  - between persons who are related to each other,
  - within the degrees wherein marriage is prohibited by California and New York laws.
- Statutory Rape:
  - Non-forcible sexual intercourse,
  - With a person who is under the statutory age of consent in states of California and New York.

5.4. Dating Violence, defined as:

5.4.1. violence,

5.4.2. on the basis of sex,

5.4.3. committed by a person,

5.4.4. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.

- The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition:
- Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- Dating violence does not include acts covered under the definition of domestic violence.

5.5. Domestic Violence, defined as:

5.5.1. violence,

5.5.2. on the basis of sex,

5.5.3. committed by a current or former spouse or intimate partner of the Complainant,

5.5.4. by a person with whom the Complainant shares a child in common, or

5.5.5. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or



- 5.5.6. by a person similarly situated to a spouse of the Complainant under the applicable state domestic or family violence laws or
- 5.5.7. by any other person against an adult or youth Complainant who is protected from that person's acts under state domestic or family violence laws.

\*To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

5.6. Stalking, defined as:

- 5.6.1. engaging in a course of conduct,
- 5.6.2. on the basis of sex,
- 5.6.3. directed at a specific person, that

- would cause a reasonable person to fear for the person's safety, or
- the safety of others; or
- suffer substantial emotional distress.

For the purposes of this definition:

- Course of conduct means two or more acts, including, but not limited to,
- acts in which the Respondent 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.
- Reasonable person means a reasonable person under similar circumstances
- and with similar identities to the Complainant.
- Substantial emotional distress means significant mental suffering or
- anguish that may but does not necessarily require medical or other professional treatment or counseling.

5.7. Force, Coercion, Consent, and Incapacitation

As used in the offenses above, the following definitions and meanings apply:

- 5.7.1. *Force*: Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent.

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

- 5.7.2. *Coercion*: Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the



pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

- 5.7.3. *Consent*: Consent is known permission to engage in sexual activity that is voluntarily given through clear verbal communication or by unambiguous behavior.

Since individuals may experience the same interaction in different ways, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain *their* consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on GIA to determine whether this Policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

- 5.7.4. *Incapacitation*: A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this Policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to an alleged sexual assault violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. "Should have known" is an objective, reasonable person standard which assumes that a reasonable person is both sober and exercising sound judgment.





Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

#### 5.8. Jurisdiction of GIA

If the Respondent is unknown or is not a member of the GIA community, the Title IX Coordinator will assist the Complainant as requested in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement to file a police report upon request.

Further, even when the Respondent is not a member of GIA’s community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator. In addition, GIA may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from GIA property and/or events. All vendors serving GIA through third-party contracts are subject to the policies and procedures of their employers, or if applicable, to these policies and procedures to which their employer has agreed to be bound by their contracts.

#### 5.9. Scope of GIA’s Educational Program and Activities

For purposes of this Policy, GIA’s educational program or activities include locations, events, or circumstances, within the U.S., where GIA exercises substantial control over both the Respondent and the context in which the alleged sexual harassment or discrimination occurs and also includes any building owned or controlled by GIA or by a student organization that is officially recognized by GIA. It also includes online, and cyber manifestations of conduct prohibited by this Policy, when those behaviors occur in or have an effect on GIA’s Education Program and Activities or use GIA networks, technology, or equipment.

### 6. Formal Grievance Process

If a Formal Complaint is filed, the matter will proceed through the Grievance Process as outlined below and will include an objective investigation, live hearing with opportunity for cross-examination and the right to appeal. This process will treat Complainants and Respondents equitably. Any provision, rule or practice adopted by GIA as part of the grievance process, other than those required under Title IX and its implementing regulations will apply equally to both parties. The process will include an objective evaluation of all relevant evidence (inculpatory and exculpatory), will be conducted by trained Title IX Personnel, free from any known conflict of interest or bias, and presumes Respondent’s non-responsibility until and unless demonstrated otherwise by the evidence



and after a Final Determination as been rendered. Disciplinary sanctions or punitive measures will not be imposed against a Respondent unless and until there has been a finding of responsibility after application of the process. If at any stage of the investigation it is determined that conditions exist warranting dismissal, the complaint will be dismissed. Complainant will continue to be entitled to appropriate supportive measures in such cases.

GIA requires impartiality in the process by ensuring there are no actual or apparent conflicts of interest or disqualifying biases of any Title IX Personnel. The parties may, at any time during the resolution process, raise a concern regarding bias, conflict of interest, or any irregularity which may taint the impartiality of the process. Such concerns should be reported in writing to the Title IX Coordinator, or the Chief Academic Officer, who will evaluate the concern and take appropriate corrective action to ensure integrity of the process.

#### 6.1. Notice of Allegations

The Title IX Coordinator will provide written notice of the allegations to the Respondent and Complainant upon receipt of a Formal Complaint. The notice will be provided prior to any initial meeting or interview with the Respondent and their advisor, if applicable, allowing sufficient advanced notice to prepare.

The notice will include:

- 6.1.1. A meaningful summary of all allegations,
- 6.1.2. The identity of the parties (if known),
- 6.1.3. The precise misconduct being alleged,
- 6.1.4. The date and location of the alleged incident(s) (if known),
- 6.1.5. The specific policies alleged to have been violated,
- 6.1.6. A description of the applicable procedures,
- 6.1.7. A statement of the potential sanctions/responsive actions that could result,
- 6.1.8. A statement that Respondent is presumed not responsible for the reported misconduct unless and until a Final Determination has been rendered at the conclusion of the process,
- 6.1.9. Notice that the parties will be given an opportunity to inspect and review all directly related and relevant evidence obtained during the investigation,
- 6.1.10. GIA's policy on retaliation,
- 6.1.11. Information about the privacy of the process,
- 6.1.12. The right to have an advisor of their choice, who may be, but is not required to be, an attorney,



6.1.13. If applicable: A statement informing the parties that GIA's policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,

6.1.14. Detail on how the party may request disability accommodations during the interview process,

6.1.15. An instruction to preserve any evidence that is directly related to the allegations.

## 6.2. Investigation

Trained Investigators will be assigned to investigate allegations contained in a Formal Complaint and will do so objectively. The burden to collect all evidence related to the allegations, including both inculpatory and exculpatory, rests on GIA, and not on the parties. Investigators must be free from bias and conflicts of interest. Depending on the complexity of the case, more than one Investigator may be assigned.

## 6.3. Investigation Timeline

GIA will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation. GIA may undertake a reasonable delay in its investigation under appropriate circumstances. Such circumstances include, but are not limited to, a concurrent law enforcement investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions. GIA will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates as warranted. GIA will promptly resume its investigation and resolution process as soon as feasible. During such delay, GIA will implement supportive measures as deemed appropriate.

## 6.4. Concurrent Law Enforcement Investigation or Criminal Proceedings

GIA's grievance process is an administrative procedure required under Title IX to address sexual discrimination, and therefore is separate and independent of any law enforcement investigation or criminal proceedings. While a law enforcement investigation may necessitate a temporary delay in GIA's grievance process, such law enforcement investigation does not replace GIA's grievance process, as GIA is legally obligated to address and remedy potential sexual harassment in its educational programs and activities as set forth in this Policy.

## 6.5. The Investigation Process

Investigators serve free from conflict of interest, objectively and without bias. All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses and obtaining available, relevant evidence. GIA, not the parties, bears the burden of gathering evidence and burden of proof. Parties have equal opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.



The investigation will be conducted within a reasonably prompt timeframe, allowing for thorough collection and evaluation of all evidence related to the allegations. The Investigator will keep the parties informed as to estimated timelines, and any delays.

#### 6.6. Right to Inspection and Review of Evidence

Prior to the conclusion of the investigation, the parties will be provided with an electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the allegations in the Formal Complaint, (whether or not it will be used in reaching a determination). The parties will have a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence.

The Investigator will incorporate any relevant feedback provided by the parties during the review process, and the final report will be shared with all parties and their advisors through electronic transmission or hard copy at least ten (10) business days prior to a hearing.

#### 6.7. Role and Participation of Witnesses in the Investigation

Witnesses who are GIA employees are expected to cooperate with and participate in GIA's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a Policy violation and may warrant discipline.

Interviews may occur in-person or remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used. GIA will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

#### 6.8. Recording of Interviews

No unauthorized audio or video recording of any kind is permitted during investigation meetings.

#### 6.9. Evidentiary Considerations in the Investigation

The investigation includes collection of all evidence directly related to the allegations, which is not otherwise privileged. Only evidence which is also deemed relevant is summarized in the investigative report which is considered by the Decision-maker(s), in rendering a determination of responsibility. All parties are provided the opportunity to review all non-privileged evidence gathered during the investigation which is directly related to the allegations in the complaint, whether or not it is also included in the investigative report. All parties are also provided with a copy of the investigative report summarizing relevant evidence only.

Relevant evidence does not include evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such evidence is offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the evidence concerns specific incidents of the Complainant's prior sexual behavior with respect to the Respondent, and are offered to prove consent.



Privileged evidence is likewise excluded from both the investigation, investigative report and hearing unless a party expressly waives this privilege in writing and consents to the release of this information during the grievance process.

#### 6.10. Investigative Report

Upon conclusion of the investigation, the Investigator will create an investigative report that fairly summarizes relevant evidence and, at least ten (10) days prior to a hearing, will send the report to each party and the party's advisor, if any, in an electronic format or hard copy, for their review and written response.

#### 6.11. The Hearing

Upon conclusion of the investigation and distribution of the investigative report to the parties, the matter will proceed to the hearing stage of the Grievance Process. The hearing will be offered live, in real-time and will include cross-examination. A Decision-maker(s) will be appointed to preside over the hearing, evaluate the evidence and make a determination as to each allegation in the complaint. The Decision-maker will be independent and neutral, and will not have had any previous involvement with the investigation. Investigators, the Title IX Coordinator (or designee) and Advisors are prohibited from serving as Decision-makers.

GIA reserves the right to adopt any hearing protocols, which will be applied and be made available equally to both parties, to ensure the efficiency, order and decorum of the hearing process. Any such protocols will be provided in writing to the parties, witnesses and participating individuals at least ten (10) days prior to the scheduled hearing date.

GIA may designate an administrative facilitator of the hearing, which may include the Title IX Coordinator, as long as they do not have a conflict of interest.

GIA may conduct the hearing virtually at their discretion or upon request of a party. Request for remote participation by any party or witness should be directed to the Title IX Coordinator at least five (5) business days prior to the hearing.

The Decision-maker may question the parties and any witness at the hearing.

Only relevant questions, testimony and evidence may be proffered at the hearing, and the Decision-maker will make determinations as to relevancy of every question posed by an Advisor during cross-examination before it is answered, and of any evidence offered.

Privileged evidence or testimony, likewise, may not be proffered during the hearing, without a party's voluntary waiver and written consent allowing its consideration at the hearing.

Parties may not conduct cross-examination. Advisors only will conduct cross-examination on a party's behalf. Only relevant questions will be allowed.

Parties, Advisors, witnesses, and all participating individuals are expected to behave respectfully during the hearing. Harassing, intimidating or disruptive behavior will not be tolerated, and GIA reserves the right to exclude anyone from participation in the process that fails to comport themselves accordingly.



An audio or audiovisual recording, or transcript will be made of the hearing, and will be made available to the parties for inspection and review. No other recording of the hearing will be allowed.

## 6.12. Evidentiary Considerations in the Hearing

### 6.12.1. Only Relevant Evidence Allowed

Any evidence that the Decision-maker(s) determine(s) is relevant and credible may be considered. Only evidence which is directly related to the allegations, not subject to an enforceable legal privilege, and not otherwise excludable as described here is considered relevant.

The hearing does not consider the following which are deemed not relevant: 1) incidents not directly related to the allegations, unless they evidence a pattern; or 2) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

### 6.12.2. Privileged Evidence Must be Excluded

Evidence subject to any recognized legal privilege will not be allowed in the hearing without the prior written voluntary waiver of the privilege and consent for its consideration during the Grievance Process.

### 6.12.3. When a Party/Witness Refuses to Submit to Cross-Examination

If a party or witness does not attend or chooses not to submit to cross-examination at the hearing, the Decision-maker may not rely on any prior statement made by that party or witness in the ultimate determination of responsibility. The Decision-maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

## 6.13. Final Determination as to Responsibility and Standard of Proof

Upon completion of the hearing, the Decision-maker will deliberate privately and will render a finding as to each allegation in the complaint by applying the preponderance of the evidence standard; whether it is more likely than not that the Respondent violated the Policy as alleged. The decision will be provided simultaneously to the parties through the issuance of a written determination letter, delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official GIA records, or emailed to the parties' GIA-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The determination letter will include:





- 6.13.1. Identification of the allegations potentially constituting sexual harassment as defined under this Policy;
- 6.13.2. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits methods used to gather evidence, and hearing held;
- 6.13.3. Findings of fact supporting the determination;
- 6.13.4. Conclusions regarding application of GIA's Student or Employee code of conduct to the facts;
- 6.13.5. A statement, and rationale for, the results as to each allegation, including a determination regarding responsibility, and disciplinary sanctions GIA imposes on the Respondent, and whether remedies designed to restore or preserve equal access to GIAs' Education Program or Activity will be provided to the Complainant; and
- 6.13.6. GIA's permissible bases for the Complainant and Respondent to appeal.

The determination regarding responsibility becomes final after expiration or exhaustion of any appeal rights.

## 7. Sanctions, Disciplinary Action & Remedies

GIA may consider a number of factors when determining a sanction and/or remedy and will focus primarily on actions aimed at ending, and preventing the recurrence of, discrimination, harassment, and/or retaliation and the need to remedy the effects on the Complainant and campus community. Sanctions will be imposed upon either expiration of the appeal window, or after Final Determination on any appeal filed.

Sanctions or actions may include, but are not limited to, those listed below. These may be applied individually or in combination and GIA may assign sanctions not listed, as deemed appropriate.

### 7.1. Applicable Student Sanctions:

As a result of the investigation, with sufficient evidence, GIA at its sole discretion may impose one or more sanctions, depending upon factors that include the nature and severity of the offense. Sanctions may include verbal warning, written warning or probation, or dismissal from GIA. In cases involving potential criminal conduct, GIA will determine in its sole discretion whether the appropriate law enforcement or other authorities will be notified. To maintain the safety and the integrity of its investigation, GIA reserves the right to suspend students pending investigation. Because it is impossible to list all the rules that might cover every situation, GIA will make every effort to operate on the fundamental principle of mutual trust and respect among all students, faculty, staff and administration.

### 7.2. List Applicable Employee Actions

If it becomes necessary to discipline an employee because of unsatisfactory job performance, excessive tardiness/absenteeism or violation of Institute policies, we may elect to use



progressive steps in the disciplinary process. These steps may include a verbal discussion and warning by your manager to correct the problem, formal written warning, paid or unpaid administrative leave or termination of employment. However, such steps are not mandatory and it is in our sole discretion whether to use such steps, the order in which to use them and whether to proceed directly with dismissal. In addition, the action taken by management in an individual case should not be assumed to establish a precedent in other circumstances.

### 7.3. False Allegations and Evidence

Making deliberately false and/or malicious accusations, knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation are policy violations subject to discipline.

### 7.4. Long-Term Remedies/Other Actions

Following the conclusion of the resolution process, and in addition to any sanctions imposed, the Title IX Coordinator may implement additional long-term Remedies or actions with respect to the parties and/or the campus community that are intended to stop the harassment, discrimination, and/or retaliation, remedy the effects, and prevent reoccurrence.

These Remedies/actions may include, but are not limited to:

#### 7.4.1. Referral to counseling and health services

While GIA does not provide on-campus professional counseling services, GIA students and staff have access to Lifeworks, a no charge confidential counseling service:

877-234-5151

<https://www.lifeworks.com/>

User ID: gem

Password: 11018

#### 7.4.2. Education for the individual and/or the community

#### 7.4.3. Alteration of work arrangements for employees

#### 7.4.4. Provision of campus safety escorts

#### 7.4.5. Policy modification

#### 7.4.6. Training or awareness campaigns

#### 7.4.7. Implementation of long-term contact limitations between the parties

#### 7.4.8. Adjustments to academic deadlines, course schedules, etc.

#### 7.4.9. Modified campus security measures

Additional off-campus resources are available, including but not limited to:

#### 7.4.10. Center for Community Solutions



7.4.11. The Center for Community Solutions (CCS) is an organization whose mission is to end relationship and sexual violence by being a catalyst for caring communities and social justice. CCS provides a wide range of prevention and education programs and response services for those impacted by Domestic Violence and Sexual Assault. CCS provides a 24-hour hotline and legal, victim advocacy, counseling, and shelter and transitional services. (858) 272-5777

7.4.12. [Community Resource Center](#)

7.4.13. San Diego Domestic Violence Hotline

888-385-4657

7.4.14. [San Diego Family Justice Center](#)

Located in downtown San Diego at 1122 Broadway, Suite 200, San Diego, CA 92101, the San Diego Family Justice Center is a public safety initiative launched by the City of San Diego to assist victims of family violence.

7.4.15. [New York City Community Resources](#)

7.4.16. [New York State Coalition Against Domestic Violence](#)

Confidential Domestic Violence hotline for crisis help, safety planning, emotional support, and help finding resources in your area including safe shelter, advocacy, counseling and legal assistance. The New York State Domestic Violence Hotline has access to advocates in 170 languages through interpreter services.

7.4.17. [New York State Office for the Prevention of Domestic Violence](#)

The Office for the Prevention of Domestic Violence (OPVD) is the country's only executive level state agency dedicated to the issue of Domestic Violence. Their mission is to improve New York State's response to and prevention of domestic violence with the goal of enhancing the safety of all New Yorkers in their intimate and family relationships. (866) 933-4673

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no Policy violation is found.

GIA will maintain the privacy of any long-term Remedies, provided privacy does not impair GIA's ability to provide these services.

## 7.5. Failure to Comply with Disciplinary Sanctions or other Remedies

Respondents are expected to comply with any disciplinary sanction or remedy as set forth in the Final Determination or in response to a final outcome (i.e., informal resolution, appeal). Failure to abide by the sanction(s)/action(s) whether by refusal, neglect, or any other reason, may result in additional disciplinary action, including suspension or expulsion.



## 7.6. Appeals

Any party may appeal the dismissal of a Formal Complaint, or the Final Determination of the Grievance Process on the following grounds. Appeals must be submitted in writing to the Title IX Coordinator within five (5) days of the delivery of the notice of an appealable action. After expiration of the appeal window, all decisions will be considered final, and any applicable sanctions will be imposed.

### 7.6.1. Grounds for Appeal

Appeals may be made on the following bases:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

Any sanctions imposed as a result of the Final Determination are stayed during the appeal process.

Title IX Personnel with prior involvement in the matter will not be permitted to serve as a Decision-maker in the appeal. Appeals will not include a hearing. A decision on the merits will be based on information provided in the appeal document. If an appeal is based on the availability of new evidence, this evidence must be described with specificity and must be available for review within a reasonably prompt timeframe for consideration by the Appeal Decision-maker.

The appeal outcome will specify the finding on each ground for Appeal, any specific instructions for remand or reconsideration, and the rationale supporting the findings. Appeal decisions will be made within ten (10) business days, barring exigent circumstances, including the review of new evidence not immediately available for submission with the appeal request. Decisions on appeal will be made by applying the preponderance of evidence standard.

Notification of the appeal outcome will be made in writing and will be delivered simultaneously to the Parties by one or more of the following methods: in person, mailed to the local or permanent address of the Parties as indicated in official GIA records, or emailed to the parties' GIA-issued email or otherwise approved account. Once mailed, e-mailed and/or received in-person, notice will be presumptively delivered. Decisions on appeal are considered final.

## 8. Records Retention

GIA shall maintain the following records related to the implementation of this Policy for at least seven years:

- 8.1. Reports or Formal Complaints alleging sexual discrimination, including harassment.



- 8.2. Records of any dismissal of a Formal Complaint.
- 8.3. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
- 8.4. Any disciplinary sanctions imposed on the Respondent;
- 8.5. Any Remedies implemented by GIA designed to restore or preserve equal access to GIA's Education Program or Activity;
- 8.6. Any appeal and the result therefrom;
- 8.7. Any Informal Resolution and the result therefrom;
- 8.8. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an informal resolution process. GIA will make these training materials publicly available on GIA's website, and
- 8.9. Any actions, including any supportive measures, taken in response to a report or Formal Complaint of sexual harassment, including:
  - 8.9.1. The basis for all conclusions that the response was not deliberately indifferent;
  - 8.9.2. Any measures designed to restore or preserve equal access to GIA's Education Program or Activity; and
  - 8.9.3. If no supportive measures were provided, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

## 9. Failure to Comply

- 9.1. Failure to comply with this Policy may result in disciplinary action, up to and including, dismissal (for students) and termination (for employees).

## 10. Responsibility

- 10.1. Responsible Executive and Policy Owner – senior manager of education compliance, Title IX and 504/ADA Coordinator

## 11. Definitions

- 11.1. [Definitions](#)

## 12. References and Related Documents

- 12.1. [Annual Safety Report](#)
- 12.2. [California Addendum](#)
- 12.3. [Code of Conduct](#)
- 12.4. [Complaint Form for Reporting Sexual Harassment](#)



Department:  
 Document ID:  
 Policy Owner:  
 Original Effective Date:

Education  
 EDU-EDU-PO-0163-01  
 Senior Manager of Education Compliance,  
 Title IX and 504/ADA Coordinator  
 08/14/2020

- 12.5. [Concern Reporting System](#)
- 12.6. [Education Catalog](#)
- 12.7. [New York Addendum](#)
- 12.8. [Policy Prohibiting Discrimination Harassment and Retaliation](#)
- 12.9. [Sexual Harassment Policy for GIA New York State Employees](#)
- 12.10. [US Employee Handbook](#)
- 12.11. [Whistleblower and Non-Retaliation Policy](#)
- 12.12. [Workplace and Campus Violence Policy](#)

### 13.Related Regulations

- 13.1. [34 C.F.R. Part 106](#)

### 14.Revision History

Revision Date	Description	Approved By
08/14/2020	Initial release	Senior Manager of Education Compliance, Title IX and 504/ADA Coordinator
07/06/2021	Updated language in Section 2.8.1. Added language to Section 2.10 regarding investigations. Updated Section 3 with current GIA contacts and duties of Mandated Reporters. Expanded definition 11, Informal Resolution Process. Incorporated California Addendum and New York Addendum.	Executive Team





## Definitions

### 1. Actual Notice

- 1.1. Notice of sexual harassment or allegations of sexual harassment to GIA's Title IX Coordinator or any official of GIA who has the authority to institute corrective measures on behalf of GIA. GIA receives notice when an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge.

### 2. Complainant

- 2.1. An individual who is alleged to be the victim of conduct that could constitute harassment, discrimination or retaliation under Title IX.

### 3. Consolidated Complaint

- 3.1. A formal complaint with more than one Complainant or Respondent arising when multiple parties submit formal complaints arising out of the same facts and circumstances and as deemed appropriate for consolidation by the Title IX Coordinator.

### 4. Deputy Title IX Coordinator

- 4.1. Any employee delegated with responsibility for compliance with Title IX and this Policy by the Title IX Coordinator and acting within the scope of authority of a Title IX Coordinator as set forth herein.

### 5. Education Program or Activity

- 5.1. Locations, events, or circumstances where GIA exercises substantial control over both the Respondent and the context in which the alleged sexual harassment or discrimination occurs and also includes any building owned or controlled by GIA or by a student organization that is officially recognized by GIA.

### 6. Final Determination

- 6.1. A decision rendered and provided in writing to the parties of a Formal Complaint after application of GIA's Grievance Process concluding whether or not Respondent is responsible for conduct alleged within a Formal Complaint in violation of this Policy.

### 7. Finding

- 7.1. A conclusion within the Final Determination as evaluated under the burden of proof that a specific allegation within a Formal Complaint did or did not occur.



## 8. Formal Complaint

- 8.1. A document filed and signed by the Complainant or signed by the Title IX Coordinator alleging a Policy violation by a Respondent and requesting that GIA investigate the allegation(s).

## 9. Formal Grievance Process

- 9.1. The method of formal resolution designated by GIA to address conduct that falls within the scope of this Policy, and which complies with the requirements of 34 CFR Part 106.45.

## 10. Decision-maker(s)

- 10.1. A trained individual with responsibility for making a Final Determination as set forth in GIA' Grievance Process. A Decision-maker must maintain neutrality and cannot perform the function of either the Title IX Coordinator or Investigator.

## 11. Informal Resolution Process

- 11.1. An alternative resolution process which may be available to the parties to seek Resolution of a Formal Complaint in lieu of the Formal Grievance Process. Informal resolution is facilitated by appropriately trained individuals, is made available at the discretion of GIA and as deemed appropriate by the Title IX Coordinator, and offered only if informed, voluntary and written consent is made by all parties to a complaint. Any party may opt-out of the informal process at any time, and the matter will proceed through the Formal Grievance Process. Examples of informal resolution include, but are not limited to, mediation and restorative justice.

Informal resolution is not available to resolve allegations that an employee sexually harassed a student.

## 12. Investigator

- 12.1. A trained individual responsible for fulfilling GIA's burden of gathering and evaluating all evidence related to allegations within a Formal Complaint as required under GIA's Grievance Process.

## 13. Mandatory Reporter

- 13.1. An employee of GIA who is obligated by Policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator.

## 14. Official with Authority

- 14.1. An employee of GIA explicitly vested with the responsibility to implement corrective measures for Title IX harassment, discrimination, and/or retaliation on behalf of GIA.

## 15. Parties

- 15.1. The Complainant(s) and Respondent(s), collectively.



## 16. Remedies

- 16.1. Actions, which may or may not be directed to the Complainant and/or the campus community to address safety, prevent the recurrence of harassment, and ensure continued access to GIA's educational program.

## 17. Respondent

- 17.1. An individual who has been reported to be the perpetrator of conduct that could constitute harassment, discrimination or retaliation under Title IX.

## 18. Sanction

- 18.1. A disciplinary consequence imposed by GIA on a Respondent who is found to have violated this Policy.

## 19. Sexual Harassment

- 19.1. Behavior or conduct as defined under Title IX and its implementing regulations at 34 CFR 106, and as more fully articulated in this Policy.

## 20. Title IX Coordinator

- 20.1. GIA's employee responsible for ensuring compliance with Title IX.

## 21. Title IX Personnel

- 21.1. Those individuals collectively tasked with implementation of this Policy and Grievance Process including specifically, the Title IX Coordinator (including any designees as applicable), any Investigator or any Decision-maker.



## **CALIFORNIA ADDENDUM**

### **Affirmative Consent**

California law requires that colleges and universities adopt an affirmative consent standard determining whether a sexual assault complainant consented. Affirmative consent is defined as an affirmative, conscious and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

Neither the lack of protest or resistance nor silence constitutes consent, and consent may be withdrawn at any time. Affirmative consent must be given by all parties to sexual activity.

It is not a valid excuse that the accused believed the complainant consented if: (A) the accused's belief arose from his or her own intoxication or recklessness, or (B) the accused did not take reasonable steps to ascertain whether the complainant affirmatively consented.

It is not a valid excuse that the accused believed the complainant affirmatively consented where the accused knew or reasonably should have known that the complainant was unable to consent because he or she was: (A) asleep or unconscious, (B) incapacitated due to drugs/alcohol/medication, or (C) unable to communicate due to a mental or physical condition.

### **Reporting Crimes**

When the allegations described could be a crime under the Clery Act or California law, University staff members designated as Campus Security Authorities are also required by California law to notify GIA Security at 760-603-4031. Under California law, violent crimes, including sexual assault, and hate crimes must be reported immediately by calling 9-1-1 or 760-931-2197.

Except in the event the person who is the subject of the potential criminal act is a minor, the name of this individual should not be released to the Department of Public Safety without the individual's consent.

### **Stranger and Non-Stranger Sexual Assault**

The following definitions apply to all acts of sexual assault:

- A non-stranger someone known to the Complainant, whether casually or intimately.
- A stranger is someone unknown to the Complainant at the time of the Sexual Assault.

California law requires universities to describe how a school will respond to instances of stranger and non-stranger sexual assault: GIA applies the same policies and sanctions for both stranger and non-stranger sexual assault.



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Title IX and 504/ADA Coordinator  
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### **Amnesty Policy**

An individual who participates as a complainant or witness in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to disciplinary sanctions for a violation of the GIA's student conduct policy at or near the time of the incident, unless GIA determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.



## **NEW YORK ADDENDUM**

### **Student Bill of Rights**

All GIA students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by the institution, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.

### **Affirmative Consent**

New York law requires that colleges and universities adopt an affirmative consent standard for sexual activity. Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression. In addition:

- a. Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.



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

### **Policy for Alcohol and/or Drug Use Amnesty**

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

### **Appeal Panel**

Under New York 129-B, in instances where a student is accused of sexual assault, domestic violence, dating violence, stalking, or sexual activity that may otherwise violate GIA's policies, appeals of investigation determinations must go before a panel of two or more individuals.

### **Impact Statements**

Under New York 129-B, where accusations of sexual assault, domestic violence, dating violence, stalking, or sexual activity that may otherwise violate GIA's policies are at issue, all students have the right to make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.

### **Transcript Notations**

Under New York 129-B, for crimes of violence (including, but not limited to sexual violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act), GIA will make a notation on the transcript of students found responsible after a conduct process that they were "suspended after a finding of responsibility for a code of conduct violation" or "expelled after a finding of responsibility for





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a code of conduct violation.” For the respondent who withdraws from the institution while such conduct charges are pending, and declines to complete the disciplinary process, institutions shall make a notation on the transcript of such students that they “withdrew with conduct charges pending.” If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.