



Title IX Non-Discrimination Grievance Policy and Process (U.S.)

1. Policy Statement and Purpose

Title IX of the Education Amendments Act of 1972 prohibits discrimination on the basis of sex, including pregnancy or related conditions, and prohibits [Sexual Harassment](#) 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 detailed in this Policy, GIA:

- 1.1. Does not discriminate on the basis of sex, including pregnancy or related conditions; prohibits Sexual Harassment in admissions and employment; and is committed to providing an educational and workplace environment free from sex-based discrimination, harassment and [Retaliation](#).
- 1.2. Prohibits discrimination on the basis of sex, including pregnancy, childbirth, and related conditions, 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.
- 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. Inquiries about this Policy, or the application of Title IX can be referred to GIA's [Title IX Coordinator](#), the Assistant Secretary of the U.S. 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 the implementation and enforcement of this Policy. This includes primary responsibility for coordinating GIA's efforts related to the intake, investigation, resolution, and implementation of supportive measures designed to restore or preserve equal access to GIA's Education Program or Activity.

The Title IX Coordinator is identified below and is the primary point of contact for questions about this Policy, for filing a report or [Formal Complaint](#), or for requesting supportive measures.

Title IX Coordinator

Address: 5345 Armada Drive, Carlsbad, CA, 92008

Tel.: 760-603-4093

Email: titleixcoordinator@gia.edu

Web: www.gia.edu



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

Individuals may contact the U.S. Department of Education's Office for Civil Rights ("OCR") with Title IX questions. However, inquiries to OCR alone are insufficient to allow appropriate responsive action by GIA. To have your concern 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
Web: <http://www.ed.gov/ocr>

2.3. Determining Title IX applicability for Student-Employees

When a party is both a student and an employee the Title IX Coordinator must conduct a thorough inquiry to determine the appropriate grievance process. This includes assessing whether the party's primary association with the Institution is educational and whether the alleged sex-based harassment occurred during an Educational Program or Activity.

2.4. Pregnancy and Related Conditions

GIA prohibits discrimination based on pregnancy or related conditions for students, employees, or applicants. To ensure equal access to Education Programs and Activities, GIA provides reasonable modifications for students, lactation breaks for employees, and lactation spaces. Documentation for modifications may only be requested when necessary. Employees must promptly inform pregnant students of the Title IX Coordinator's contact information and role in preventing discrimination when they first learn of the pregnancy or related conditions unless the Title IX Coordinator has already been notified.

2.5. 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, regardless of whether the reporting person is the alleged victim of such conduct. A report is different 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. Informal resolution may only be offered after a Formal Complaint has been filed and if both Parties voluntarily consent in writing.

A report or [Complaint](#) may be filed through multiple channels, including with the Title IX Coordinator in person, by phone, by mail, or by email at any time, including non-business hours, ensuring flexibility for those wishing to report concerns. Reports may be submitted using the contact information provided in the section immediately above or as outlined below. Individuals making a report are encouraged to provide as much detail as possible to support a prompt and effective response.

To document reports appropriately, all phone and in-person conversations regarding reports or Complaints will be summarized in writing by the Title IX Coordinator. These records must be maintained in accordance with our confidentiality and record retention policies.

2.5.1. Title IX Coordinator and Director, Student Services and Dean of Students

Address: 5345 Armada Drive, Carlsbad, CA, 92008

Tel.: 760-603-4093

Email: titleixcoordinator@gia.edu

Web: www.gia.edu

2.5.2. Deputy Title IX Coordinator and Director, School

Address: 50 W. 47th Street, New York, New York 10036

Tel.: 917-286-3662

Web: www.gia.edu

2.5.3. Online via the [GIA Ethicspoint](#)

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

2.6. After Making a Report or Formal Complaint

Upon receipt of a report or Complaint, the Title IX Coordinator will conduct an initial assessment to determine the appropriate next steps as required under this Policy. This includes conducting an initial threat assessment to ensure there is no immediate danger to the Complainant or the campus community. If there is a threat, the Title IX Coordinator will take appropriate action, which may include emergency removal of the [Respondent](#) as described below.

The Title IX Coordinator will contact Complainant to discuss the available supportive measures, which may be implemented with input from the Complainant. This is irrespective of, and in addition to, any resolution process including the [Formal Grievance Process](#). The Complainant will also be informed about their right to have an advisor.

If the report was 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, the Title IX Coordinator may initiate a Complaint if it is deemed necessary.

If a Complaint is filed, or the Title IX Coordinator initiates a Complaint, the matter will proceed as described under Section 6, Formal Grievance Process.

Once a Complaint is submitted and the Respondent is notified of the allegations, the Parties will be informed about the availability of the [Informal Resolution Process](#), as applicable. All Parties must voluntarily consent in writing to any Information Resolution Process. Parties may withdraw consent at any time and resume the Formal Grievance Process.

At all stages of the process, responsive and reasonable supportive measures will be implemented to ensure continued access to GIA's Educational Program or Activities.

2.7. Emergency Removal of Respondent

GIA reserves the right to remove a Respondent from its Education Program or Activities on an emergency basis if the Respondent poses an immediate threat to the health or safety of any student or campus employee. 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 and the opportunity to meet with the Title IX Coordinator to show cause why the removal should not occur. Emergency removal decisions are not subject to appeal.

2.8. Administrative Leave of Employee Respondent

Respondents who 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.

2.9. Complainant's Decision to Pursue a Complaint

If a Complainant does not wish to be identified, does not wish for an investigation to occur, or does not want a Complaint pursued, they may request this from the **Title IX Coordinator**, who will evaluate the request based on the duty to ensure campus safety and compliance with state and federal law. GIA will comply with the Complainant's wishes unless the Title IX Coordinator determines that initiating a Complaint is necessary under the circumstances.

If the Title IX Coordinator independently initiates a Complaint, the Complainant may be as involved or uninvolved as desired in the process. The Complainant retains all rights under this Policy, regardless of participation level.

If the Complainant chooses not to file a Complaint, they retain the right to file a Complaint later. If the Title IX Coordinator initiates a Complaint, they must consider:

- 2.9.1. the Complainant's wishes;
- 2.9.2. the Complainant's reasonable safety concerns;
- 2.9.3. risk of additional discrimination;
- 2.9.4. severity of the allegations;
- 2.9.5. relationship between the Parties;
- 2.9.6. scope of the discrimination;
- 2.9.7. availability of evidence; and
- 2.9.8. whether GIA can prevent further discrimination without filing a Complaint.

2.10. Complaint Dismissal

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

- 2.10.1. GIA cannot identify the Respondent after reasonable efforts;
- 2.10.2. The Complainant voluntarily withdraws the Complaint or any allegations;
- 2.10.3. The Title IX Coordinator declines to initiate a Complaint if the allegations do not constitute sex discrimination;
- 2.10.4. The Respondent is no longer enrolled in or employed by GIA; or
- 2.10.5. Circumstances prevent GIA from gathering sufficient evidence.

Upon dismissal, GIA will promptly notify the Parties in writing, explaining the rationale. 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 \(U.S.\)](#), [Workplace and Campus Violence Policy \(U.S.\)](#), or other conduct policies and may be addressed through other applicable, non-Title IX conduct policies and procedures accordingly.

2.11. [Consolidated Complaints](#)

If multiple Complaints arise from the same set of circumstances, GIA may choose to consolidate Complaints.

2.12. 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. Incidents occurring prior to the publication date of this policy will be subject to the policy definitions that were in place at the time of the alleged incident(s) and the procedures in place at the time of the complaint. 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.

2.13. 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 may limit GIA's ability to investigate and respond, depending on the information provided. In some cases, the Title IX Coordinator may proceed with the issuance of a Formal Complaint even if the Complainant has chosen to remain anonymous.

2.14. 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. Some of these roles include licensed professional counselors/mental health providers, licensed medical and health care 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.

2.15. 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 take their preferences 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. At any time, Parties may appeal any decisions regarding supportive measures to an impartial party as referred to in Section 3, GIA's Mandatory Response Obligations.

It is in the best interest of the GIA community that Complainants choose to report misconduct to their direct supervisor or manager, or to any one of the GIA employees outlined in Section 3. GIA's Mandatory Response Obligations. It is also important that witnesses come forward to share what they know, and that all Parties are forthcoming during the process.

2.16. 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 restrictions 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 party with an attorney.

2.17. Conflict of Interest and Bias

[Title IX Personnel](#) involved in the grievance process, including the Title IX Coordinator(s), [Investigators](#), Decision-makers and individuals facilitating informal resolutions, must be free from conflicts of interest and bias. These individuals are required to be trained on maintaining impartiality and conducting a fair process. If any party believes there is a conflict of interest or bias on the part of any Title IX Personnel, they may raise any concern with the Title IX Coordinator or GIA's chief academic officer. The concern will be reviewed, and appropriate action will be taken to maintain the integrity and impartiality of the grievance process.

2.18. 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.

2.19. Notifications to Parties

Notifications to the Parties specified herein will be delivered through one or more of the following methods: in person, by mail to the local or permanent address as recorded in official GIA records, or via email to the GIA-issued or other account email address also recorded in official GIA records. Once mailed, emailed or received in person, notice will be presumptively delivered.

2.20. 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 personal data and therefore preserve the confidentiality of any involved Parties.

2.21. 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

GIA's obligation to respond under this Policy arises when it has actual knowledge of conduct that constitutes sexual discrimination, harassment, or Retaliation, as defined herein. Under Title IX, actual knowledge occurs when the Title IX Coordinator, [Deputy Title IX Coordinator](#) or an [Official with Authority](#) receives notice of Sexual Harassment or allegations of Sexual Harassment.

GIA has designated the Title IX Coordinator, Deputy Title IX Coordinator, and those listed in Sections 3.3 and 3.4 as Officials with Authority. These individuals have the authority to implement corrective measures on behalf of GIA.

GIA is required to respond promptly and effectively to any notice of Sexual Harassment received by an Official with Authority, meaning the response must be reasonable in light of the known circumstances. Additionally, GIA must provide supportive measures to all Parties upon receipt of a report of sexual harassment, even if a Formal Complaint is not filed.

All individuals listed in Sections 3.1 through 3.6 are designated as [Mandatory Reporters](#) under GIA policy. While all Officials with Authority are Mandatory Reporters, not all Mandatory Reporters are Officials with Authority. The following individuals are designated as Mandatory Reporters under GIA policy:

- 3.1. Title IX and 504/ADA Coordinator and Director, Student Services and Dean of Students
5345 Armada Drive
Carlsbad, CA 92008
titleixcoordinator@gia.edu
760-603-4093
- 3.2. Deputy Title IX and 504/ADA Coordinator and Director, School
50 W. 47th Street
New York, New York 10036
917-286-3662
- 3.3. Senior Vice President and Chief Learning Officer
5345 Armada Drive
Carlsbad, CA 92008
760-603-4156
- 3.4. Senior Vice President and Chief Human Resources Officer
5345 Armada Drive
Carlsbad, CA 92008
760-603-4000
- 3.5. Vice President, Human Resources
50 W. 47th Street



New York, New York 10036
917-286-3604

3.6. Senior Global Security Operations Manager
5345 Armada Drive
Carlsbad, CA 92008
760-603-4105

3.7. Manager, Security Operations
5345 Armada Drive
Carlsbad, CA 92008
760-603-4073

3.8. Manager, Security Operations
50 W. 47th Street
New York, New York 10036
646-465-5647

4. Notice, Dissemination and Publication of 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. GIA also disseminates the Policy and process in a way that is accessible to all members of the campus community, including students, faculty, staff and applicants for admission. This includes making the Policy readily available and accessible in multiple formats.

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, pervasive and objectively offensive,
- 5.2.4. 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,
- oral penetration by a sex organ of another person, or
- 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 the States of California and New York.

5.4. Force, Coercion, Consent, and Incapacitation

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

- 5.4.1. **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.
- 5.4.2. **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.
- 5.4.3. **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.

- 5.4.4. *Incapacitation*: A person cannot consent if they are unable to understand what is happening or are 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.

5.5. 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.

5.6. Scope of GIA’s Educational Program and Activities

- 5.6.1. For purposes of this Policy, GIA’s Educational Program or Activity includes locations, events, or circumstances, within the U.S., where GIA has substantial control over both the Respondent and the context in which the alleged Sexual Harassment occurs. This also includes any building owned or controlled by GIA or a student organization officially recognized by GIA.

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, a live hearing with cross-examination conducted by each party’s



advisor, 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), conducted by trained Title IX Personnel free from any known conflict of interest or bias. The Respondent will be presumed not responsible until demonstrated otherwise by a preponderance of the evidence, and only after a Final Determination has been rendered. No disciplinary [Sanctions](#) or punitive measures will be imposed on the Respondent unless and until a determination of responsibility has been made.

If at any stage of the investigation it is determined that the conduct alleged in the Formal Complaint does not meet the Title IX definition of Sexual Harassment, did not occur within GIA's Educational Program or Activity, or if the Complainant withdraws the Formal Complaint or the Respondent is no longer part of GIA's community, the Complaint must be dismissed for Title IX purposes. However, GIA may address the alleged conduct under other applicable policies. GIA will provide written notice to the Parties of the dismissal and the rationale for the decision.

6.1. Notice of Allegations

Upon receipt of a Formal Complaint, the Title IX Coordinator will provide written notice of the allegations to the Respondent and Complainant. This notice will be provided prior to any initial meeting or interview with the Respondent or their advisor, if applicable, to allow for adequate preparation.

The notice will include:

- 6.1.1. A meaningful summary of all allegations, including the identities of the Parties involved (if known), the specific misconduct being alleged, and the date and location of the incident(s) (if known).
- 6.1.2. The specific policies alleged to have been violated, with reference to the Title IX policy or related provisions.
- 6.1.3. A description of the applicable procedures, including a statement regarding the opportunity for both Parties to participate in the process.
- 6.1.4. A statement that Respondent is presumed not responsible for the alleged misconduct unless and until a Final Determination has been rendered at the conclusion of the process.
- 6.1.5. A statement that both Parties will be given an opportunity to inspect and review all evidence directly related to the allegations, including exculpatory evidence, before a determination is made.
- 6.1.6. Information regarding the availability of an advisor of choice for both the Complainant and Respondent, including that the advisor may be an attorney.
- 6.1.7. Notice of GIA's prohibition against Retaliation, including the fact that Retaliation is subject to discipline under this policy.
- 6.1.8. Notice that false statements or false information provided in the grievance process can result in disciplinary action.
- 6.1.9. Information regarding the right to request disability accommodations during the interview process or any other part of the grievance procedure.



6.1.10. The instructions to preserve any evidence directly related to the allegations, including electronic and physical evidence, where applicable.

6.2. Investigation

Trained Investigators will be assigned to investigate allegations contained in a Formal Complaint and will do so objectively. The burden of collecting all evidence related to the allegations, including both inculpatory and exculpatory evidence, rests on GIA, and not on the Parties. Investigators must be free from bias and conflicts of interest and will conduct the investigation objectively, thoroughly, and impartially. Depending on the complexity of the case, more than one Investigator may be assigned. Both Parties will have an equal opportunity to suggest witnesses, provide evidence, and respond to all evidence gathered during the investigation.

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 will notify the Parties in writing of the anticipated duration if there is any delay and the reason for the delay. GIA will communicate regularly with the Parties regarding the progress of the investigation and the expected timelines. GIA will promptly resume its investigation and resolution process as soon as feasible. During such a 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. 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

Investigations will be conducted by trained and impartial Investigators, free from any conflict of interest or bias. The process will be thorough, reliable, impartial, prompt, and fair. Investigations will include interviews with all Relevant Parties and witnesses and the gathering of Relevant evidence.

GIA bears the burden of gathering all evidence, both inculpatory and exculpatory. Parties will have an equal opportunity to suggest witnesses, submit questions, provide evidence, and fully review and respond to all evidence related to the allegations.

The investigation will be completed in a reasonably prompt timeframe, allowing for thorough collection and evaluation of all evidence related to the allegations. The Investigator will provide the Parties with status updates and inform them of any delays or changes in the timeline.

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



reasonable opportunity to respond to the evidence or the accuracy description of the evidence. GIA shall take reasonable steps to prevent the Parties from unauthorized disclosure outside of the process.

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 the 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 virtually. Appropriate technologies may be used to facilitate virtual interviews. GIA will take reasonable steps to ensure the security and privacy of virtual 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

- 6.10. 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 is offered to prove consent.

Privileged evidence is likewise excluded from 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.

6.11. 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.

6.12. 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. Requests 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 will only 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.

6.13. Evidentiary Considerations in the Hearing

6.13.1. Only Relevant Evidence Allowed

Any evidence that the Decision-maker(s) determine(s) is Relevant and credible may be considered. Only evidence that is directly related to the allegations, not subject to a legally recognized privilege, and not otherwise excludable as described here is considered Relevant. The hearing will not consider evidence of a Complainant's prior sexual behavior, unless such evidence is offered to prove that someone other than the Respondent committed the alleged conduct, or if it concerns specific incidents of prior sexual behavior between the Complainant and Respondent and is offered to prove consent.

6.13.2. 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.

6.13.3. 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, 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.

6.14. 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, by mail to the local or permanent address as recorded in official GIA records, or via email to the GIA issued email address or other email address of record. Once mailed, emailed, or received in person, notice will be presumptively delivered.

The determination letter will include:

- 6.14.1. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including notifications to the Parties, interviews with Parties and witnesses, site visits, methods used to gather evidence, and hearing held;
- 6.14.2. A statement, and rationale for, the results as to each allegation, including a determination regarding responsibility, any disciplinary Sanctions GIA imposes on the Respondent, and whether Remedies will be provided to the Complainant; and
- 6.14.3. Information on the appeal process and permissible bases for appeal.

The determination regarding responsibility becomes final either on the date the appeal outcome is provided, or if no appeal is filed, the date on which the appeal window expires.

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 or actions may include, but are not limited to, those listed below.

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. In cases involving sexual harassment, GIA will proceed under the Title IX grievance process and issue sanctions after a determination of responsibility has been made. In cases involving potential criminal conduct, GIA will determine in its sole discretion whether the appropriate law enforcement or other authorities will be notified. Sanctions will not be imposed until after a Finding of responsibility has been made. GIA will not impose sanctions without first allowing the Respondent to contest the allegations and findings through the formal grievance process. 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. Applicable Employee Actions

Where the investigation has resulted in sufficient evidence, GIA may, at its sole discretion, impose one or more Sanctions, depending upon factors that include the nature and severity of the offense. These steps may include a verbal discussion and warning by the employee's 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. Sanctions will not be imposed until after a Finding of responsibility has been made. In cases of sexual harassment involving employees, GIA will follow the procedures outlined in the Title IX grievance process and ensure fair and impartial treatment of both Parties. 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. However, GIA will not penalize a Complainant for making a report in good faith, even if the report is ultimately not substantiated.

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

GIA does not provide on-campus professional counseling services. However, GIA students have access to the [My SSP](#) service that connects students with confidential emotional health and wellbeing support. This service is free of charge and is conveniently available 24 hours a day, 7 days a week via a mobile app, telephone number and through the web. The My SSP app also contains an extensive library of emotional and physical wellbeing resources, virtual fitness sessions and self-administered assessments.

GIA staff have access to Lifeworks, a free of 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

GIA may implement Educational Programs and Activities to address the issues identified and prevent further incidents of discrimination, harassment, or Retaliation.

7.4.3. Alteration of work arrangements for employees



GIA may modify employee work arrangements as needed to provide a safe and supportive work environment.

7.4.4. Provision of campus safety escorts

Safety escorts may be offered to help individuals navigate campus safely.

7.4.5. Policy modification

GIA may review and adjust policies to address concerns and prevent recurrence.

7.4.6. Training or awareness campaigns

GIA may introduce training or awareness campaigns to educate the campus community about Title IX regulations and non-discrimination policies.

7.4.7. Implementation of long-term contact limitations between the Parties

GIA may impose contact limitations between the Parties involved in the grievance process when necessary.

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

Reasonable adjustments to academic schedules or requirements may be provided to minimize disruption to the Complainant's education. This may include the option to change academic courses or schedules if the Complainant requests such adjustments.

7.4.9. Modified campus security measures

GIA may implement security measures to support the safety of the affected Parties.

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

7.4.10. Center for Community Solutions

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 Activities 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.

7.4.11. [Community Resource Center](#)

7.4.12. San Diego Domestic Violence Hotline

888-385-4657

7.4.13. [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.

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

7.4.15. [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.

7.4.16. [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).

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, within five (5) days of the delivery of the notice of an appealable action.

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. The appeal process will allow both Parties an opportunity to participate equally and will not result in a further disadvantage to the Complainant or Respondent.

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, by mail to the local or permanent address as recorded in official GIA records, or via email to the GIA-issued or other account email address also recorded in official GIA records. Once mailed, emailed or received in-person, notice will be presumptively delivered. Decisions on appeal are considered final.

8. Training

- 8.1. All Title IX Coordinators, Investigators, Decision-makers, informal resolution facilitators and any other individuals responsible for implementing Title IX grievance procedures or modifying or terminating supportive measures shall receive training that includes:
 - 8.1.1. understanding GIA's obligations under Title IX;
 - 8.1.2. the grievance procedures themselves;
 - 8.1.3. maintaining impartiality, avoiding bias and conflicts of interest;
 - 8.1.4. interpreting the term "Relevant" in relation to questions and evidence;
 - 8.1.5. recognizing impermissible types of evidence regardless of relevance; and
 - 8.1.6. training on how to conduct an impartial investigation and hearing, including the prohibition on conflicts of interest or bias.
- 8.2. Facilitators of the Informal Resolution Process shall be trained on the rules and procedures associated with the Informal Resolution Process, as well as how to serve impartially, including avoiding conflicts of interest and bias, and understanding the requirements for live hearings with cross-examination.
- 8.3. Title IX Coordinators and their designees shall be trained on their specific responsibilities, the recipient's recordkeeping system, and Title IX recordkeeping requirements, in addition to any other training necessary to coordinate the recipient's compliance with Title IX.

9. Records Retention

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

- 9.1. Reports or Formal Complaints alleging sexual discrimination, including harassment.
- 9.2. Records of any dismissal of a Formal Complaint.
- 9.3. Each Sexual Harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation.
- 9.4. Any disciplinary Sanctions imposed on the Respondent.



- 9.5. Any Remedies implemented by GIA designed to restore or preserve equal access to GIA's Educational Program or Activity.
- 9.6. Any appeal and its result.
- 9.7. Any Informal Resolution and its result.
- 9.8. 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.
- 9.9. Any actions, including any supportive measures, taken in response to a report or Formal Complaint of Sexual Harassment, including:
 - 9.9.1. The basis for all conclusions that the response was not deliberately indifferent.
 - 9.9.2. Any measures designed to restore or preserve equal access to GIA's Educational Program or Activity.
 - 9.9.3. If no supportive measures were provided, GIA shall document the reasons why such a response was not clearly unreasonable in light of the known circumstances, including a written record of why supportive measures were not offered.

10. Failure to Comply

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

11. Responsibility

- 11.1. Responsible Executive and Policy Owner – vice president, student affairs

12. Definitions

- 12.1. [Definitions](#)

13. References and Related Documents

- 13.1. [Annual Safety Report](#)
- 13.2. [California Addendum](#)
- 13.3. [Code of Conduct \(Global\)](#)
- 13.4. [Complaint Form for Reporting Harassment \(U.S.\)](#)
- 13.5. [Concern Reporting System](#)
- 13.6. [Education Catalog](#)
- 13.7. [New York Addendum](#)
- 13.8. [Policy Prohibiting Discrimination Harassment and Retaliation \(U.S.\)](#)
- 13.9. [Sexual Harassment Policy for GIA New York State Employees \(U.S.\)](#)
- 13.10. [Title IX Complaint Form \(California\)](#)



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- 13.11. [Title IX Complaint Form \(New York\)](#)
- 13.12. [US Employee Handbook](#)
- 13.13. [Whistleblower and Non-Retaliation Policy \(Global\)](#)
- 13.14. [Workplace and Campus Violence Policy \(U.S.\)](#)

14. Related Regulations

- 14.1. [20 USC 1400 et seq.](#)
- 14.2. [34 C.F.R. Part 106](#)
- 14.3. [Family Educational Rights and Privacy Act \(FERPA\), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99](#)
- 14.4. [Section 504 \(29 USC 794\)](#)

15. 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
06/29/2022	Updated employee title in Section 3.1. Revised Section 6.12.3 to delete reference to the Decision Maker not being able to rely on any prior statements made by that party or witness in the ultimate decision of responsibility, in accordance with revised and updated applicable law.	Director of Education Compliance
04/10/2023	Updated contact names and titles. Revised language in Section 10.2 to remove specific date and clarify that incidents are subject to the policy definitions that were in place at the time of the alleged incident(s) and the procedures in place at the time of the complaint.	Executive Committee
06/12/2023	Updated Section 7.4.1 to include information relevant to My SSP.	Director, Legal Operations
08/14/2023	Added Sections 12.10 and 12.11.	Data Privacy and Protection Analyst (CPMO)
11/21/2023	Updated Sections 2.1, 2.3.1, 3.1 and 3.5.	Data Privacy and Protection Analyst (CPMO)
08/01/2024	Updated to comply with the 2024 Title IX Final Rule. Changes include expanding the definition of sex-based harassment, requiring prompt complaint responses and employee training, establishing credibility assessments, removing mandatory dismissals, and defining hostile environment harassment as conduct limiting educational participation.	President's Policy Committee
04/08/2025	Updates made throughout to align with the reversion to the 2020 Title IX Rules, in response to recent federal executive orders and legal developments.	President's Policy Committee



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Definitions

1. Actual Notice

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 actual knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge.

2. Complaint

A request, either spoken or written, that clearly asks the recipient to investigate and decide on alleged discrimination under Title IX.

3. Complainant

An individual who is alleged to be the victim of conduct that could constitute Sexual Harassment, discrimination, or Retaliation under Title IX.

4. Consolidated Complaint

A Formal Complaint that includes more than one Complainant or Respondent when multiple parties submit complaints arising from the same facts or circumstances, and the Title IX Coordinator determines it is appropriate to consolidate them for resolution.

5. Decision-maker(s)

A trained individual(s) responsible for making a Final Determination regarding the allegations in a Formal Complaint. Decision-makers must remain neutral and cannot have a conflict of interest or bias. They must not have been involved in the investigation or served in other roles related to the grievance process.

6. Deputy Title IX Coordinator

An employee designated by the Title IX Coordinator to assist with Title IX compliance responsibilities. The Deputy Title IX Coordinator acts within the scope of authority delegated by the Title IX Coordinator and may assist with the implementation of grievance procedures, supportive measures, and other Title IX obligations.

7. Education Program or Activity

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. This includes any building or property owned or controlled by GIA or a student organization officially recognized by GIA and also includes any activities occurring within the United States in which GIA has substantial control over the Respondent and the environment where the conduct occurs.

8. Final Determination



A written decision provided to the Parties at the conclusion of the Formal Grievance Process, determining whether the Respondent is responsible for the alleged conduct in violation of this Policy. The decision will be based on a preponderance of the evidence standard and will include a detailed explanation of the Findings of fact, the application of the relevant policy, and any Sanctions or Remedies imposed.

9. Finding

A conclusion within the Final Determination, based on the preponderance of the evidence standard, regarding whether a specific allegation in a Formal Complaint occurred or did not occur. The Finding will be based on the evaluation of all Relevant evidence, including both inculpatory and exculpatory evidence.

10. Formal Complaint

A document filed and signed by the Complainant, or signed by the Title IX Coordinator, alleging Sexual Harassment or other conduct that violates this Policy and requesting that GIA initiate the Grievance Process. A Formal Complaint must include the Complainant's signature or the Title IX Coordinator's signature and must contain the specific allegations for which the investigation is requested.

11. Formal Grievance Process

The method of formal resolution designated by GIA to address allegations of Sexual Harassment conduct that falls within the scope of this Policy. The process will comply with the requirements outlined in 34 CFR Part 106.45, including providing an equitable and impartial process for both the Complainant and Respondent, with the opportunity for a live hearing, cross-examination, and a written determination.

12. Hostile Environment Harassment

Unwelcome sex-based conduct is considered harassment when it is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to GIA's Educational Program or Activity. This conduct must meet both an objective and subjective standard, meaning that a reasonable person would find the conduct offensive, and the individual subjected to it must also find it offensive.

13. Informal Resolution Process

An alternative resolution process that may be available to the Parties to resolve allegations of Sexual Harassment either before or after a Formal Complaint has been filed, and in lieu of the Formal Grievance Process. Informal resolution is facilitated by appropriately trained individuals and is offered at the discretion of GIA and the Title IX Coordinator, only when all Parties have voluntarily agreed to participate in writing. Both Parties must give informed, written consent before informal resolution can proceed. At any point during the Informal Resolution Process, any party may withdraw their consent, 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, in compliance with Title IX regulations.

14. Investigator

A trained individual responsible for conducting a fair, impartial and thorough investigation of the allegations within a Formal Complaint. The Investigator is responsible for gathering and evaluating all Relevant evidence, both inculpatory and exculpatory, as required under GIA's Grievance Process. The Investigator



must be free from bias and conflict of interest and will ensure that the investigation is conducted in a manner consistent with the principles of equity and due process.

15. Mandatory Reporter

An employee of GIA who is required by Policy to promptly report to the Title IX Coordinator any knowledge, notice, or reports of harassment, discrimination, and/or Retaliation. The employee must notify the Title IX Coordinator regardless of whether the individual who experiences the conduct wishes to file a Formal Complaint.

16. Official with Authority

An employee of GIA who has the authority to institute corrective measures on behalf of GIA in response to Title IX harassment, discrimination, and/or Retaliation. This includes any employee who has been designated by GIA to take corrective action in response to reports of Title IX violations.

17. Parties

The individuals involved in the Title IX grievance process, including the Complainant(s) (the individual(s) who allege(s) a Title IX violation) and the Respondent(s) (the individual(s) accused of the Title IX violation). Both the Complainant and Respondent have specific rights throughout the grievance process.

18. Relevant

Refers to information that is directly related to the allegations of Sexual Harassment being investigated. Questions are considered relevant if they help to gather evidence that shows whether a violation of policy occurred. Evidence is Relevant if it helps the Decision-maker determine whether the discrimination or a violation of policy occurred.

19. Remedies

Actions that may be implemented to restore or preserve equal access to GIA's Educational Program or Activity, address safety, prevent the recurrence of harassment, and ensure continued participation of the Complainant and/or the campus community in GIA's Educational Programs or Activities.

20. Respondent

An individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment, discrimination or Retaliation under Title IX.

21. Retaliation

Intimidation, threats, coercion, or discrimination against anyone in the recipient's Educational Programs and Activities, including students, employees, or authorized individuals, who aim to interfere with a right or privilege protected by Title IX. This includes actions against those who report information, file complaints, testify, assist, or participate (or choose not to) in investigations, proceedings, or hearings under Title IX regulations.

22. Sanction



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A disciplinary consequence imposed by GIA on a Respondent who is found to have violated this Policy following the completion of the Grievance Process under Title IX.

23. Sexual Harassment

Unwelcome behavior or conduct on the basis of sex as defined under Title IX and its implementing regulations at 34 CFR 106.30, including any conduct that meets the specific criteria for Sexual Harassment as set forth in this Policy.

24. Title IX Coordinator

GIA's employee responsible for overseeing and ensuring compliance with Title IX, including coordinating the recipient's efforts to comply with Title IX regulations and addressing reports and complaints of sex-based discrimination, harassment, or Retaliation.

25. Title IX Personnel

Those individuals collectively responsible for the implementation of this Policy and Grievance Process including the Title IX Coordinator (and any designees), Investigators, Decision-makers, and any other individuals involved in the resolution of complaints under Title IX.



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 they have 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 their 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.

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



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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 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.