# SEXUAL MISCONDUCT

# &

# TITLE IX POLICIES AND PROCEDURES

ACADEMY OF CHINESE CULTURE AND HEALTH SCIENCES

October 28, 2020

# ACADEMY OF CHINESE CULTURE & HEALTH SCIENCES SEXUAL MISCONDUCT AND TITLE IX POLICIES AND PROCEDURES

The Academy of Chinese Culture and Health Sciences (Academy) is committed to providing a work and academic environment that is free of discrimination. In keeping with this commitment, the Academy vehemently prohibits sexual, racial, and other forms of harassment by its faculty, staff, and students. The Academy maintains a policy that prohibits harassment on the basis of sex, race, religion, color, national origin, disability, medical condition, marital status, age, sexual orientation, or any other basis protected by federal, state, or local ordinance or regulation.

The Academy staff members responsible for Title IX reporting, investigations, hearings, and appeals receive training to ensure all processes are thorough, efficient, and unbiased. The content and materials used for staff training can be found in the ACCHS Title IX Training Manual.

Students can seek assistance from the college president or Title IX Coordinator, who can guide the student through the reporting process and provide access to important resources and support services. If it is determined that any of the individuals involved need immediate medical care, the first priority is to make sure those individuals receive the necessary medical attention. If a student wishes to pursue internal action within the college, a Complaint and Incident Form should be completed and submitted to the College President or Title IX Coordinator. The accused also has a right to submit a counter-complaint by completing a Complaint and Incident Form.

Students or staff who wish to report a complaint or incident should complete an Anonymous Complaint & Incident Form or email the Title IX Coordinator at dspartos@acchs.edu

## NONDISCRIMINATION POLICY

Our community at the Academy celebrates the diversity of our students, faculty, staff and board members. The mission of the Academy since our founding has centered around connection to our local community. Our school was and remains the most affordable acupuncture school in California as part of our mission to be accessible to that local community. In the words of our President, Andres Bella, “Our aim has always been to pursue, through the medium of medical learning, the goal of an ideal society and civilization, and to make a significant contribution towards the development and prosperity of mankind”.

We believe that diversity and cultural humility improve not only our learning environment, but the communities that the Academy serves and that our students will go on to serve themselves. We aim to create an inclusive school for people of all identities. This includes, but is not limited to sexual orientation, gender identity and presentation, racial identity, nationality, citizenship status, ability, religion, socioeconomic status, and veteran status.
As one of the few acupuncture schools focused in Classical Chinese Medicine, we seek to honor and restore the roots of this medicine as it was meant to be practiced. We honor not only the medicine

itself, but also the Chinese culture that it comes from--this is why we are the Academy of Chinese Culture and Health Sciences.

The Academy sits on the territory of Huichin, the ancestral and unceded land of the Chochenyo speaking Ohlone people. We not only honor this history, but also recognize that their descendants, members of the Muwekma Ohlone Tribe, still live and thrive here today. We recognize that our school and community benefit from the use and occupation of this land and as such place great importance on honoring our connection to this place.

**SEXUAL MISCONDUCT & TITLE IX POLICY**

Title IX of the Education Amendments of 1972 is a federal civil rights law that prohibits sex discrimination on the basis of sex in education programs, including athletic programs, or activities that receive federal funding. Title IX protects all students from sex-based discrimination, regardless of their real or perceived sex, gender identity and/or gender expression. Effective August 2020, updated regulations established by the U.S. Department of Education reaffirmed the commitment to anti-discriminatory practices and introduced new training and procedural requirements.

Under Title IX, forms of sexual misconduct and intimidation constitute prohibited sex-based discrimination. The college strictly prohibits any act of sexual harassment, sexual assault, domestic violence, dating violence, or stalking. Sexual harassment on the job or of a student is unlawful whether it involves co-worker harassment, harassment by a director or teacher, harassment of a student by either an employee or by another student, or by a person doing business with the Academy. Under federal and state law, sexual harassment against employees or students is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature, made by someone from or in the work or educational setting, when:

1. Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or academic progress; or

2. Submission to or rejection of the conduct by the individual is used as the basis of either employment or academic decision affecting the individual; or

3. The conduct has the purpose or effect of having a negative impact on the individual's work or academic performance or of creating an intimidating, hostile or offensive work or educational environment.

Examples of unwelcome visual, verbal or physical conduct of a sexual nature include, but are not limited to, the following:

- Unwanted sexual advances.

- Offering employment, grades or academic honors in exchange for sexual favors.

- Making or threatening reprisals after a negative response to sexual advances.

- Visual conduct, including leering, making sexual gestures, displaying of pornographic objects or pictures, cartoons or posters or e-mail messages of a sexual nature.

- Verbal sexual advances or propositions.

- Verbal abuse of a sexual nature, graphic verbal commentary about an individual's body, sexually degrading words to describe an individual, suggestive or obscene letters, notes or persistent invitations.

- Physical conduct, including unwelcome touching, assault, impeding or blocking movements.

Because of the Academy's mission and the trust placed in the Academy by the students, Academy employees, and the community, such harassment of any person on the Academy's premises or elsewhere by an employee while acting within the scope of employment with the Academy will not be tolerated. Any member of the Academy community found to have committed such an act will face harsh disciplinary action including, but not limited to, mandated counseling, restricted access to college property and functions, expulsion from the college, immediate termination of employment at the college, and/or prosecution by external authorities. The Academy's non-discrimination policy extends to our educational programs, student admissions, and faculty/staff/student employment.

Any employee or student who believes that he/she has been harassed by a co-worker, teacher or agent of the Academy or other student should promptly report the facts of such incident(s) to Katrina Hanson, Title IX Coordinator, at the school office. Any employee who becomes aware of harassment by another employee, student, or other individual should immediately report such conduct to the same contact above. The complaint, whether verbal or written, should include names of individuals involved, and names of any witnesses, if applicable. Complaints may be made anonymously if necessary. Resources and procedures related to the Academy's policy on sexual misconduct and Title IX regulations can be found in the college's Misconduct, Grievance, and Title IX Resources handbook. Students or staff who wish to report a complaint or incident should complete an Anonymous Complaint & Incident Form or email the Title IX Coordinator at dspartos@acchs.edu

The Academy will immediately undertake or direct an effective, thorough, and objective investigation of the harassment allegations. The Academy will make an effort to conduct the investigation in a manner that maintains confidentiality as much as possible. The investigation will be completed and a determination regarding the alleged harassment will be made and communicated to the complainant(s) and to the alleged harasser(s). If the Academy determines that sexual harassment has occurred, the Academy will take effective remedial action commensurate with the circumstances. Appropriate action will also be taken to deter any future harassment. If a complaint of sexual harassment is substantiated, appropriate disciplinary action, up to and including discharge or expulsion, will be taken. Whatever action is taken against the harasser will be communicated to the employee or student who complained.

Reporting a sex offense, domestic violence, dating violence, sexual assault or stalking to the police or a campus official does not mean you are obligated to pursue further legal action. Remember that the earlier you report an incident, the easier it will be for the police to investigate the crime, and to prosecute the case successfully if you decide to move ahead with legal action. Even if you initially do not intend to pursue legal action, it helps to have a prompt and strong investigation should you change your mind in the future.

The Academy prohibits retaliation against any employee or student by another employee or another student because of that individual's complaint or because that individual as opposed alleged harassment or testified, assisted or participated in any manner in any investigation, proceeding or

hearing conducted by the Academy or by a state or federal agency. Any report of retaliation by the one accused of harassment, or by co-workers or directors will also be immediately, effectively and thoroughly investigated in a separate investigation. If a complaint of retaliation is substantiated, appropriate disciplinary action, up to and including termination or expulsion, will be taken.

Any member of the Academy community may choose to file a complaint or report an incident to the Academy instead of, or in addition to, seeking legal action outside the college. Someone with a complaint of sexual misconduct may decide to report an incident via the legal system without going through the college's disciplinary process. However, in the interest of community safety, the Academy may be obligated to conduct an internal investigation and pursue disciplinary procedures. If a student believes they are a victim of a sexual assault, stalking, or a violent crime, they are encouraged to notify the police or campus official immediately. In the initial meeting with police, you will be asked to tell them what happened, where it happened, and what your attacker looked like. If you wish to have the assailant prosecuted, the police and district attorney's office will handle the legal proceedings without expense to you. You do not need to hire an attorney.

In addition to filing a complaint using the Academy's internal complaint procedure, an employee who believes he or she has been sexually harassed or harassed by any other basis prohibited by state or federal law may file a complaint with the federal Equal Employment Opportunity Commission (EEOC) or the state Department of Fair Employment and Housing (DFEH). These agencies investigate and prosecute complaints of harassment or discrimination in employment. The closest offices of these agencies are listed in the government pages of the telephone directory.

Questions, concerns, or reports regarding Title IX violations should be directed to the ACCHS Title IX Coordinator:
Dmitrius Spartos L.Ac.
Title IX Coordinator, Student Affairs Coordinator, Director of the Academy Learning Center
dspartos@acchs.edu
Contact by phone or zoom: https://dmitriusspartos.setmore.com
Contact anonymously: Anonymous Complaint & Incident Form

**OTHER SEXUAL MISCONDUCT**

Other sexual misconduct is unwelcome conduct on the basis of sex, including sexual orientation and gender identity. Other sexual misconduct includes unwelcome sexual advances; requests for sexual favors; and other verbal, nonverbal, graphic, or physical conduct of a sexual nature or based on sexual orientation or gender identity, that satisfies one or more of the following:

(1) an employee of the Academy either explicitly or implicitly conditioning the provision of an aid, benefit, or services of the Academy, such as an individual's employment or academic standing (for example, academic evaluation, grades, or advancement) on an individual's participation in unwelcome sexual conduct (quid pro quo), which may occur whether a person resists and suffers the threatened harm or the person submits and avoids the threatened harm; or

(2) unwelcome conduct determined by a reasonable person to be so severe, persistent, or pervasive that it effectively denies a person access to the Academy's education or work programs or activities

(hostile environment). Whether the alleged behavior constitutes other sexual misconduct may depend on a variety of factors, including: the degree to which the behavior affected one or more person's education or employment; the type, frequency, and duration of the behavior; the relationship between the parties; the number of people involved; and the context in which the behavior occurred.

Conduct is unwelcome if a person did not consent to it. Consent is agreement, assent, approval or permission given voluntarily and may be communicated verbally or by actions. That a person welcomes some sexual contact does not necessarily mean that person welcomes other sexual contact. Similarly, that a person willingly participates in conduct on one occasion does not necessarily mean that the same conduct is welcome on a subsequent occasion. In addition, when a person is incapacitated, meaning so impaired as to be incapable of giving consent, conduct of a sexual nature is deemed unwelcome, provided that the Respondent knew or reasonably should have known of the person's incapacity. The person may be incapacitated as a result of drugs or alcohol or for some other reason, such as sleep or unconsciousness. A Respondent's impairment at the time of the incident as a result of drugs or alcohol does not, however, diminish the Respondent's responsibility for other sexual misconduct under this Policy.

This Interim Other Sexual Misconduct Policy applies to other sexual misconduct that is committed by students, faculty, staff, the Academy appointees, or third parties, whenever the misconduct falls outside of the Interim Title IX Sexual Harassment Policy and occurs:

1. On THE ACADEMY property; or

2. Off THE ACADEMY property, if: a) the conduct was in connection with a THE ACADEMY or THE ACADEMY-recognized program or activity; or b) the conduct may have the effect of creating a hostile environment for a member of THE ACADEMY community.

## GENDER-BASED HARASSMENT

Gender-based harassment is verbal, nonverbal, graphic, or physical aggression, intimidation, or hostile conduct based on sex, sex-stereotyping, sexual orientation or gender identity, but not involving conduct of a sexual nature, when such conduct is sufficiently severe, persistent, or pervasive that it interferes with or limits a person's ability to participate in or benefit from the Academy's education or work programs or activities. For example, persistent disparagement of a person based on a perceived lack of stereotypical masculinity or femininity or exclusion from an activity based on sexual orientation or gender identity also may violate this Policy.

This Policy applies to sexual or gender-based harassment that is committed by students, faculty, staff, the Academy appointees, or third parties, whenever the misconduct occurs:

1. On THE ACADEMY property; or

2. Off THE ACADEMY property, if: a) the conduct was in connection with a THE ACADEMY or THE ACADEMY-recognized program or activity; or b) the conduct may have the effect of creating a hostile environment for a member of the THE ACADEMY community

If a formal complaint is filed, the Academy must legally respond and initiate a formal investigation if the following conditions are met:

- The harassment or misconduct is sufficiently severe, persistent, or pervasive and adversely affects a student's education or creates a hostile or abusive educational environment.
- The sexual misconduct occurred on campus or in the context of educational activities, such as college-owned buildings and college-sponsored trips. Off-campus housing, and educational trips outside of the United States such as study abroad programs are excluded.

If the allegations in the formal complaint do not meet the above conditions, the school must dismiss such allegations for purposes of Title IX. However, the college may still address the allegations in any manner the school deems appropriate under the school's own code of conduct and other policies.

## Notification

When a formal complaint is filed and the situation warrants an investigation under Title IX regulations, written notification in electronic format or hard copy is sent to both parties outlining the charges/accusations as well as the disciplinary process. Both parties are also offered supportive measures. The respondent is presumed innocent until/unless the hearing process proves otherwise. Both parties are informed that they should obtain an Advisor (who may be an attorney) to guide and advocate for them throughout the process. A statement of no retaliation is included in the notification.

## Retaliation

Intimidation, threats, coercion, or discrimination against any individual who has made a report or complaint, testified, assisted, participated or refused to participate in Title IX investigations or proceedings is strictly prohibited. In an effort to prevent retaliation, the school will keep confidential the identity of the individual who made the report or complaint, the individual who has been reported to be the perpetrator, and any actual or potential respondent or witness.

## Investigation

Once the Title IX Coordinator receives the formal complaint, the school Investigator will begin the investigatory process. The process includes fact gathering, and interviews with both parties and any witnesses. A party's medical, psychological, and similar treatment records cannot be accessed or used unless the school obtains the party's voluntary, written consent to do so. Schools must send the parties and their advisors all the evidence obtained in the investigation and allow them at least 10 days to review and comment in writing. The investigator then prepares an investigative report that summarizes

relevant evidence, in electronic format or hard copy, at least 10 days prior to informal resolution or live hearing. Each party has the right to file a written response to the investigative report.

## Emergency Removal

When safety and/or time issues mandate the need for an immediate decision, the College President or other member of the Board of Directors will conduct an individualized safety and risk analysis. If the analysis determines there is an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment, the source of the threat may be removed and barred from campus and/or school functions until Informal Resolution or Hearing takes place. The respondent has an opportunity to challenge the decision immediately following removal.

## Informal Resolution

The Academy may choose to offer and facilitate informal resolution options, such as mediation or restorative justice, so long as both parties give voluntary, informed, written consent. Informal resolution cannot be offered unless a formal complaint has been filed. Each party has the right to withdraw from the informal resolution process at any point and instead opt for a hearing. The informal resolution process is prohibited in allegations that involve an employee/instructor acting inappropriately against a student.

## Live Hearing

Both the respondent and complainant appear at the hearing at the same time. Either party can request that the live hearing take place with the parties in separate rooms with technology that allows the decision makers and all parties to see and hear one another in real time. The hearing will be recorded or transcribed. All information gathered during the investigatory, pre-hearing, and hearing process will be taken into consideration.

At the live hearing, each party's advisor is permitted to ask the other party and any witnesses any relevant questions, including follow-up questions and questions challenging credibility. Cross-examination is only permitted by advisors, never any of the involved parties. Trained decision maker(s) will determine the relevance of each question. The respondent and complainant will be treated with dignity, courtesy, and professionalism. In an effort to follow Civil rights laws, and Title IX guidelines, the college will adhere to a preponderance-of-the-evidence standard. There must be substantial evidence showing that the alleged incident/behavior is "more likely than not" to have happened in order for disciplinary action to take place. Determination Following the hearing, the decision maker(s) will issue a written Determination regarding responsibility.

The document will include the following:
1. The allegations that could constitute sexual harassment
2. A description of the procedural steps undertaken, including notifications to parties, interviews and site visits, methods used to gather evidence, and hearings

3. Findings of fact that support the determination regarding responsibility
4. Conclusions about the application of the institution's code of conduct to the facts
5. An explanation regarding the result of each allegation, including the determination of responsibility, any disciplinary actions against the respondent, and any remedies to be provided to the complainant
6. Statement of no retaliation
7. Procedures and bases for appeal. The determination regarding responsibility will be sent to both parties simultaneously.

The Determination is final
(1) on the day the appeal deadline has passed if no appeal is filed, or
(2) on the day the institution notifies the parties of the written result of an appeal, if one is filed.

## Appealing

Students and employees have the right to appeal by submitting an appeal request. Appeals must be received within 5 business days of receiving the written Determination Regarding Responsibility. When an appeal is filed, the college will notify all parties in writing, identify who will hear and decide the appeal, and ensure that the appeal decider(s) is free of bias and is properly trained. Those involved in the appeal decision will not be the Title IX Coordinator, the investigator(s), or the decision maker(s) from the previous review of the case. Both parties have the opportunity to submit written statements which will be considered before the appeal decider(s) prepare a written decision outlining the result and rationale of the appeal decision. The decision of the appeal decider/committee is final.

An appeal will be allowed if any of the following is asserted:
• Procedural irregularities affected the outcome
• New evidence that could affect the outcome
• Bias of the Title IX Coordinator, investigator or decision-maker

## Penalties

The range of college penalties and sanctions shall include, but are not limited to: alteration of class or work schedule, loss of privileges, restitution, conduct probation, mandated counseling, and/or termination from school or the workplace. Violations of the law regarding rape or sexual offenses may be subject to prosecution through both legal and civil authorities. Such legal decisions are separate from, but may supersede, any the Academy disciplinary decisions.

## Confidentiality

To the extent possible, strict confidentiality will be maintained by all parties regarding all matters relevant to a Title IX complaint. Only those parties who "need to know" will be provided with confidential details. All parties involved are legally and ethically bound to maintain absolute confidentiality with all matters pertaining to the grievance. Please be advised that all documents, testimony and any other information related to a complaint may be seen by any party directly

involved. Student disciplinary records, including any action taken under Title IX Policy, are considered educational records and are subject to FERPA. However, there are certain circumstances in which disciplinary records may be disclosed without the student's consent. Parties involved in a formal Title IX complaint will have access to all findings of the formal investigation conducted by the college, as well as other materials submitted for consideration during the live hearing process. A postsecondary institution will disclose to an alleged victim of any crime of violence or non-forcible sex offense the final results of a disciplinary proceeding conducted by the institution against the alleged perpetrator of that crime, regardless of whether the institution concluded a violation was committed. An institution may disclose to anyone—not just the victim—the final results of a disciplinary proceeding, if it determines that the student is an alleged perpetrator of a crime of violence or non-forcible sex offense, and with respect to the allegation made against him or her, the student has committed a violation of the institution's rules or policies.

## OTHER GRIEVANCE PROCEDURES

Students with concerns about academic or administrative rulings or procedures should first bring their concern directly to the instructor or administrator involved. If resolution is not possible, the complaint should then be presented in writing to the Grievance Committee, which will hear the matter and respond within ten working days of receipt. If the Grievance Committee's decision does not provide resolution, an appeal for review can be made to the Academy's president on behalf of the Board of Directors. Any resolution will be kept in both the student file and school grievance file. Also, after initiating the institutional Grievance Procedure, the student may report any grievances to BPPE and/or ACAOM, respectively.

Disciplinary action must be taken by the Academy when an offense occurs on campus, during an off campus event, while an employee or student is acting in an official capacity, or that affects job or academic performance detrimentally.

### FAIRNESS AND RETALIATION

The Academy grievance protocols provide employees and students with a fair, impartial method for presenting and resolving a grievance as soon as possible at the lowest possible level. No retaliation or reprisals will be taken because a staff, student, faculty, or administrative member has initiated the grievance protocol. Intimidation, threats, coercion, or discrimination against any individual who has made a report or complaint, testified, assisted, participated or refused to participate in investigations or proceedings is strictly prohibited. In an effort to prevent retaliation, the school will keep confidential the identity of the individual who made the report or complaint, the individual who has been reported to be the perpetrator, and any actual or potential respondent or witness.

### TIMING

The time limits and other provisions set forth in this section may be extended or waived by a mutual written agreement of both of the parties.

## DOCUMENTATION

All complaints must be documented from the initial complaint, regardless of the complaint method, whether it is made by name or anonymously, or whether the complainant decides to initiate the disciplinary procedures. Pre-hearing documentation will go into a private grievance folder. Hearing documentation will go into the official persons' files.

## DISCIPLINARY PROCEDURES

Disciplinary procedure at the Academy is as follows:

### 1. COMPLAINT MADE TO ANY ADMINISTRATOR

An admin, staff, faculty, or student makes any type of complaint or grievance to the Title IX Coordinator or any administrator per open door policy. Complaints may be made written or verbally. Complaints may be made anonymously, however, anonymous complaints may not proceed beyond step 3 of this procedure list. A third party witness may make a complaint, however, unless the person(s) involved decide to pursue the grievance process, it cannot proceed beyond step 2.

### 2. DISCUSS WITH COMPLAINANT

THIRD PARTY WITNESS REPORTS STOP HERE UNLESS COMPLAINANT DECIDES TO TAKE THEM FURTHER

The complaint is referred to the Title IX Coordinator, Dean, Program Administrator, Clinical Director, or Director of Education, who will fill the role of 'Acting Admin' and take the complaint through this grievance process. The Acting Admin discusses the complaint with the complainant in a face-to face meeting. Supportive measures are offered. Written documentation of the verbal counseling may be placed in a private grievances file along with any evidence, supporting documentation, policy violated, and resolution desired.

### 3. EMERGENCY MEASURES (IF NECESSARY)

When safety issues mandate the need for an immediate decision, the College President or other member of the Administration will conduct an individualized safety and risk analysis. If the analysis determines there is an immediate threat to the physical health or safety of any student, faculty, staff, admin arising from the allegations, the source of the threat may be removed and barred from campus and/or school functions until Informal Resolution or Hearing takes place. The respondent has an opportunity to challenge the decision immediately following removal.

## 4. DISCUSS WITH RESPONDENT

ANONYMOUS COMPLAINTS STOP HERE UNLESS COMPLAINANT DECIDES TO COME FORWARD

The Acting Admin contacts the person responsible for the violation of the nondiscrimination policy ('Respondent'). The respondent has 10 days to respond and schedule a face-to-face meeting with the acting admin. The meeting is held to counsel them on behavior changes and offer supportive measures.

## 5. MEDIATED CONVERSATION WITH BOTH PARTIES

The acting Admin may invite the persons involved to an informal mediated conference, per the discretion of acting Admin. If a mutually agreed resolution is not achieved during that meeting, they shall convene the Grievance Committee within ten (10) working days. If a mutually agreeable resolution is achieved, or if the complainant chooses to withdraw the complaint, the situation is considered resolved.

## 6. IF NO RESOLUTION: GRIEVANCE COMMITTEE FORMED

The Grievance Committee consists of three employees of the Academy: one is the Director of Education or Clinical Director (chairperson), one is the Dean or Program Administrator, and one will be a faculty member chosen by the other members of the grievance committee. None of these members may be the person who is handling the procedure process, nor may they be involved in the complaint. In the event that the above named members are not available to serve on the committee, an additional admin member will be appointed by the President.

## 7. HEARING PLANNED WITHIN SEVEN DAYS

All parties will be notified by the chairperson of the date and time the grievance hearing will be conducted. The committee will be responsible for gathering evidence on the issue before the hearing. The committee shall seek to obtain all relevant and reliable evidence pertaining to the grievance, and to assure that the hearing is conducted in a fair and thorough manner.

## 8. HEARING CONDUCTED

Both the respondent and complainant appear at the hearing at the same time, person or virtually. Either party can request that the live hearing take place with the parties in separate rooms with technology

that allows the decision makers and all parties to see and hear one another in real time. The hearing will be recorded or transcribed. If staff members are present in one room they must be present in both. All procedures must be fair and equal to both parties. All information gathered during the investigatory, pre-hearing, and hearing process will be taken into consideration.

Participants may choose an advisor (faculty member or legal representation). If one party has an advisor and the other does not, the committee will assign a faculty member to represent the other party. At the live hearing, each party's advisor is permitted to ask the other party and any witnesses any relevant questions, including follow-up questions and questions challenging credibility. Cross-examination is only permitted by advisors, never any of the involved parties.
The committee will determine the relevance of each question.

## 9. DETERMINATION WITHIN FIFTEEN DAYS

The respondent and complainant will be treated with dignity, courtesy, and professionalism. There must be substantial evidence showing that the alleged incident/behavior is "more likely than not" to have happened in order for disciplinary action to take place.

### a. RECOMMENDATION TO PRESIDENT

Determination following the hearing, the committee will issue a written Determination regarding responsibility and submit it to the President.

### b. FINAL DETERMINATION

The president will have fifteen (15) working days in which to confirm or modify the Determination. By initiating this procedure, it is agreed between the Academy and parties involved that the decision of the president will be binding and final.

### c. POSSIBLE OUTCOMES

- Disciplinary probation and/or suspension: Written notice by the Director of Administration regarding the probation and or/suspension is sent to the member. A decision regarding the length of the probation and/or suspension with or without pay depends upon the misconduct, and is made by the President. After the disciplinary probation and/or suspension period, the probation and/or suspension may be lifted, extended, or the employee may be terminated. However, no staff or administrative member may be reinstated without prior approval from the President.
- Immediate dismissal/expulsion from employment or participation within any of the school's programs or activities without severance fee/tuition reimbursement.
- Other measures per discretion of the President

### d. DOCUMENTATION OF DETERMINATION

Any resolution will be kept in both the faculty, administrator, staff, or student file and the school grievance file.

## APPEALS

Students and employees have the right to appeal by submitting an appeal request. Appeals must be received within 5 business days of receiving the written Determination Regarding Responsibility. When an appeal is filed, the college will notify all parties in writing, identify who will hear and decide the appeal, and ensure that the appeal decider(s) is free of bias and is properly trained. Those involved in the appeal decision will not be the Title IX Coordinator, the investigator(s), or the decision maker(s) from the previous review of the case. Both parties have the opportunity to submit written statements which will be considered before the appeal decider(s) prepare a written decision outlining the result and rationale of the appeal decision. The decision of the appeal decider/committee is final.

An appeal will be allowed if any of the following is asserted:
- Procedural irregularities affected the outcome
- New evidence that could affect the outcome
- Bias of the Title IX Coordinator, investigator or decision-maker

## CONFIDENTIALITY

To the extent possible, strict confidentiality will be maintained by all parties regarding all matters relevant to a complaint. Only those parties who "need to know" will be provided with confidential details. All parties involved are legally and ethically bound to maintain absolute confidentiality with all matters pertaining to the grievance. Please be advised that all documents, testimony and any other information related to a complaint may be seen by any party directly involved. Student disciplinary records are considered educational records and are subject to FERPA. However, there are certain circumstances in which disciplinary records may be disclosed without the student's consent. Parties involved in a formal complaint will have access to all findings of the formal investigation conducted by the college, as well as other materials submitted for consideration during the live hearing process. A postsecondary institution will disclose to an alleged victim of any crime the final results of a disciplinary proceeding conducted by the institution against the alleged perpetrator of that crime, regardless of whether the institution concluded a violation was committed. An institution may disclose to anyone—not just the victim—the final results of a disciplinary proceeding, if it determines that the student is an alleged perpetrator of a crime, and with respect to the allegation made against them, the student has committed a violation of the institution's rules or policies.

## **COMPLAINT TO ACAOM**

ACAOM is the accrediting body for the college, which has a process to monitor student complaints regarding the college's handling of the grievance process. Students who have completed the internal grievance and/or disciplinary processes at THE ACADEMY may file a complaint with ACAOM. From the ACAOM Handbook: ACAOM's complaint policy is not a mechanism for adjudication of disputes between individuals and programs. As such, the Commission will only consider complaints that allege violations of ACAOM Eligibility Requirements, standards, policies or procedures. 104 The Commission cannot, for instance, direct a program to change a grade, re-admit a student, or reinstate a faculty member. The Commission shall only entertain a complaint when it believes that the

institution's policies, procedures or practices indicate that the institution may be in Policies and Procedures Handbook noncompliance with ACAOM Eligibility Requirements, standards, policies or procedures. For details see the ACAOM website, www.acaom.org.

24 hour emergency crisis hotline: **BAWAR (510) 845-7273**

## I. SERVICES AVAILABLE FOR VICTIM

The Academy does not have staff specifically trained to provide services to victims of sexual assault. The Academy has a referral arrangement with a well-established local organization, Bay Area Women Against Rape (BAWAR) to provide appropriate services for victims. BAWAR can provide services for both men and women and has a long and successful history of doing so in our local area. Services include counseling, advocacy at the hospital and police station, and follow-up care. Information given to the victim by both the Academy representative and the BAWAR representative shall include at least all of the following options: criminal prosecution, civil prosecution, the disciplinary process through the college, the availability of mediation, alternative housing arrangements, and academic assistance alternatives.

The President or the Directors, as appropriate, will refer the victim to BAWAR immediately, and accompany the victim if necessary to the meeting-place with the BAWAR counselor.

FURTHER RESOURCES

Further Title IX and other harassment resources can be found here.