



TITLE IX SEX/GENDER DISCRIMINATION

TITLE IX: HARASSMENT AND NON-DISCRIMINATION POLICIES

Below are the College's policies as they relate to discrimination, harassment, and retaliation. In this section you will find the following:

1. Discriminatory Harassment Policy
2. Sexual Harassment and Non-Discrimination policy
3. Title IX Sexual Misconduct Policy

DISCRIMINATORY HARASSMENT POLICY

Discriminatory Harassment. Any unwelcome conduct based on actual or perceived status including sex, gender, race, color, age, creed, national or ethnic origin, physical or mental disability, veteran status, pregnancy status, religion, sexual orientation, or other protected status should be reported to campus officials, who will act to remedy and resolve reported incidents. When discriminatory harassment is sufficiently severe, pervasive, or persistent and objectively offensive that it unreasonably interferes with, limits, or denies the ability to participate in or benefit from the College's educational or employment program or activities, sanctions can be imposed for the creation of a hostile environment.

SEXUAL HARASSMENT AND NON-DISCRIMINATION POLICY

Otis College of Art and Design expects that all members of the community—students, faculty, instructors, staff, guests, and visitors—should be able to pursue their work and education in an environment free from sexual misconduct, violence, harassment, and intimidation. The College does not tolerate sexual misconduct, violence, harassment, or intimidation within the work or academic environment, as defined below.

Any sexual misconduct that unreasonably interferes with an individual's work or academic performance or creates an intimidating, hostile, offensive, or otherwise adverse working or learning environment, can be a violation of this policy. Such examples may include, but are not limited to, the following: sexual harassment, sexual violence, sex or gender-based bullying, hazing, stalking, relationship violence, and failure to provide equal opportunity in admissions, activities, employment, or professional development.

VIOLATIONS OF THE COLLEGE'S SEXUAL HARASSMENT AND NON-DISCRIMINATION POLICY

Sexual misconduct is a serious offense and such violations are subject to any combination of conduct sanctions as described in *Section 7: Formal Conduct Procedures* with individuals found responsible for violation of the sexual harassment and misconduct policy facing a potential sanction of College suspension or College dismissal. Deviations from this range are rare and only made where there are compelling mitigating circumstances. Suspensions, if given, are based on satisfying conditions rather than administered solely for a period of time. Predatory, pattern and/or repeat offenders face dismissal, which may also be imposed for any serious offense whether pattern, predatory or repeat offending is evidenced or not. The other forms of sexual misconduct defined below cover a range of behaviors, and therefore a range of sanctions from warning to dismissal can be applied, depending on the nature and frequency of the misconduct. Definitions of specific College sexual misconduct policy violations are provided below.

1. **Sexual Harassment:** Gender or sex-based verbal or physical conduct that has the effect of unreasonably interfering with an individual's work or academic performance or creates an intimidating, hostile or offensive working or educational environment. There are two types of sexual harassment defined here:
 - **Hostile Environment:** includes situations in which there is harassing conduct that is sufficiently severe, pervasive/persistent, and objectively offensive to alter the conditions of education, from both a subjective (the alleged victim's) and objective (a reasonable person's) viewpoint. The determination of whether an environment is "hostile" must be based on all the circumstances. These circumstances could include, but are not limited to, the following:
 - The frequency of the speech or conduct;
 - The nature and severity of the speech or conduct;

- Whether the conduct was physically threatening;
 - Whether the speech or conduct was humiliating;
 - The effect of the speech or conduct on the alleged victim's mental and/or emotional state;
 - Whether the speech or conduct was directed at more than one person;
 - Whether the speech or conduct arose in the context of other discriminatory conduct;
 - Whether the speech or conduct unreasonably interfered with the alleged victim's educational or work performance; and
 - Whether a statement is a mere utterance of an epithet which engenders offense in a student or offends by mere discourtesy or rudeness.
- **Quid Pro Quo** sexual harassment exists when there are unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature where submission to, or rejection of, such conduct results in educational or employment action.
2. **Sexual Exploitation:** Taking nonconsensual or abusive sexual advantage of another for one's own advantage or benefit, or to benefit a person other than the one being exploited. Examples of sexual exploitation include, but are not limited to, the following:
- Prostituting another student;
 - Nonconsensual video or audio recording of sexual activity;
 - Exceeding the boundaries of explicit consent, such as allowing friends to hide in a closet to be witness to one's consensual sexual activity;
 - Engaging in voyeurism (Peeping Tommmery); and/or
 - Knowingly transmitting a sexually transmitted disease/infection or HIV to another student.

TITLE IX SEXUAL MISCONDUCT POLICY

The College is committed to complying with all requirements as set forth by Title IX of the Education Amendments of 1972 ("Title IX"). As such, discrimination on the basis of sex or gender will not be tolerated in any of College's education programs or activities. Such discrimination includes, but is not limited to, the following: *sexual harassment; sexual violence; stalking; relationship violence; and failure to provide equal opportunity in admissions, activities, or employment.* Student workers will be covered by this policy, and may also fall under the jurisdiction of Human Resources and Development, which will jointly resolve all complaints with the Dean of Student Affairs.

Title IX sexual harassment pertains to only the following three categories of conduct, when they occur on the basis of sex, or a sexual in nature:

1. A College employee explicitly or implicitly conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct (quid pro quo);
2. Unwelcome conduct on the basis of sex determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education programs or activities; or
3. "Sexual assault" as defined in [20 U.S.C. 1092\(f\)\(6\)\(A\)\(v\)](#), "dating violence" as defined in [34 U.S.C. 12291\(a\)\(10\)](#), "domestic violence" as defined in [34 U.S.C. 12291\(a\)\(8\)](#), or "stalking" as defined in [34 U.S.C. 12291\(a\)\(30\)](#). Definitions of these terms are provided below.

Jurisdiction

In keeping with applicable Federal regulations, behavior falls under Title IX policy and procedure if it meets the following jurisdictional criteria:

1. Nature of Complaint:
 - A complaint of Sexual Harassment, Dating Violence, Domestic Violence, Stalking, or Sexual Assault as defined below;

- A complaint of sexual harassment in which the harassment was so severe and pervasive and objectively offensive that it denied the Complainant equal access to an educational program or activity, including employment;
- A complaint that an employee respondent engaged in the quid pro quo sexual harassment of a student.

If yes, to one of the above, continue. If no, please see Code of Student Conduct.

1. Location

- The incident(s) occurred on the institution's campus, within the United States;
- The incident(s) occurred in a building under the institution's control, such as a residence hall or affiliated residential locations off campus, and within the United States;
- The incident(s) were part of one of the institution's programs or activities, such as part of a field trip or travel study, and within the United States.

If yes, to one of the above, continue. If no, please see Code of Student Conduct.

1. The institution has control over the Respondent, meaning the Respondent is a student (whether applicant, admitted, or currently enrolled) or employee (applicant, hired, but not yet working, or employed).

If yes, to one of the above, continue. If no, please see Code of Student Conduct

1. Complainant is a student (whether applicant, admitted, or currently enrolled) or employee (applicant, hired but not yet working, or employed) participating in or attempting to participate in the College's educational (including employment) program.

If yes, to one of the above, continue. If no, please see Code of Student Conduct.

If the above jurisdictional requirements are met, the Title IX Coordinator or the Dean of Student Affairs or designee will act on any reports received.

You may file a formal complaint at any time by using the online [Title IX Reporting Form](#). You may also file a complaint by email, or in person. Upon receipt of a formal complaint, the Title IX Coordinator will reach out to the Complainant to conduct an intake interview (*see below*).

You may also notify the Title IX Coordinator if you believe you, or someone else, may have experienced conduct that would be a violation of this policy. The Title IX Coordinator will then reach out to the Complainant to schedule an intake interview.

DEFINITIONS & PROHIBITED CONDUCT

CONSENT

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

COERCION

There is a difference between seduction and coercion; coercion is defined as unreasonably pressuring another person for sex. Coercing someone into engaging in sexual activity violates this policy in the same way as physically forcing someone into engaging in sexual activity.

SEXUAL MISCONDUCT

Includes, but is not limited to, sexual harassment, nonconsensual sexual contact, nonconsensual sexual intercourse, and/or sexual exploitation (see "Community Standards Sexual Misconduct Policy" for further information).

RESPONDENT

Respondent is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

COMPLAINANT

Complainant is an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

SEXUAL ASSAULT

Any sexual act directed against a Complainant, without their consent, or instances in which the Complainant is incapable of giving consent. Sexual acts include forcible rape, forcible fondling, sexual assault with an object, forcible sodomy, incest, or statutory rape.¹

¹ Forcible Rape:

- The carnal knowledge of a Complainant (penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person),
- without their consent,
- including instances where they are incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity."

Forcible Sodomy:

- Oral or anal sexual intercourse with a Complainant,
- forcibly,
- and/or against their will (non-consensually), or
- not forcibly or against their 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.

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 the Complainant,
 - 1) forcibly, and/or
 - 2) against their will (non-consensually), or
 - 3) not forcibly or against their 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.

Forcible Fondling:

- The touching of the private body parts of the Complainant (buttocks, groin, breasts),
- for the purpose of sexual gratification,
- forcibly, and/or
- against their will (non-consensually), or

OTHER SEXUAL ASSAULTS

DOMESTIC VIOLENCE

A felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim; by a person with whom the victim shares a child in common; by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

DATING/RELATIONSHIP VIOLENCE

Dating Violence is violence or abuse committed by a person who is or has been in a social relationship of a romantic or intimate nature with another. The existence of such a relationship will be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes sexual or physical abuse or the threat of such abuse.

STALKING

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (1) fear for the person's safety or the safety of others; or (2) suffer substantial emotional distress.

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

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

NON-TITLE IX CONDUCT

Behavior that does not meet the definitions in this Title IX Sexual Misconduct Policy may be covered under the College's Sexual Harassment and Non-Discrimination Policy.

Students with questions regarding these policies or potential instances of harassment or sexual misconduct should be brought to any of the following individuals: Title IX Coordinator, Dr. Carol Branch, at cbranch@otis.edu, or the Dean of Student Affairs or designee, or complete an online "Incident Report" to initiate a complaint process at: https://cm.maxient.com/reportingform.php?OtisCollege&layout_id=2.

Reports may be submitted at any time. Students will not be disciplined or discriminated against in any way for sexual harassment inquiries or complaints made in good faith. If allegations of harassment or sexual misconduct are reported but do not meet the Title IX criterion noted above, the College will follow the process as outlined in the Code of Student Conduct. Disciplinary action for violations of this policy can range from verbal or written warnings, to serious sanctions, up to and including dismissal or termination from the College.

The College's Title IX Coordinator will be informed of, and oversee, all complaints of sex discrimination/harassment/misconduct and is responsible for identifying and addressing any patterns or systemic problems that arise during the review of such complaints.

not forcibly or against their 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.

The College will make every effort to successfully complete the grievance process for complaints of sex discrimination within the time frames outlined within the procedures below. The parties will receive periodic status updates on the progress of the Title IX Grievance Process. During the investigation and/or grievance process for complaints of sex discrimination, the College may take a number of interim actions in order to ensure the preservation of the educational experience and the overall College environment of the parties. These actions may include, but are not limited to, the following: imposing a No Contact Order; residence hall room change for one or more involved parties; changes in academic schedules or assignments for one or more parties; and emergency removal. To read more about Title IX of the Education Amendments of 1972, please visit:

<https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/sex.html>

Retaliation

Protected activity under this Policy includes reporting alleged misconduct that may implicate this Policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. The College will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

Otis College and any member of College community are prohibited from taking or attempting to take materially adverse action by 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.

Filing a complaint under the Code of Student Conduct could be considered retaliatory if those allegations could be subject to the Title IX grievance process, when the Code of Student Conduct allegations are made for the purpose of interfering with or circumventing any right or privilege provided afforded within the Title IX grievance process that is not provided by Code of Student Conduct. Therefore, the College carefully vets all complaints to ensure this does not happen, and to ensure that complaints are routed to the appropriate process.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Pursuing a Code of Student 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, provided that the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

CONFIDENTIALITY AND REPORTING SEXUAL MISCONDUCT

College officials, depending on their roles at the College, have varying reporting responsibilities and abilities to maintain confidentiality. In order to make informed choices, one should be aware of confidentiality and mandated reporting requirements when consulting campus resources. The majority of faculty/staff members are mandated reporters. However, on campus, some resources may maintain confidentiality, offering options and advice without any obligation to inform an outside agency or individual unless you have requested information to be shared. Other resources exist for you to report crimes and policy violations and these resources will take action when you report victimization to them. Most resources on campus fall in the middle of these two extremes; neither the College nor the law requires them to divulge private information that is shared with them, except in the rare circumstances. The following describes the three reporting options at College:

CONFIDENTIAL REPORTING

If you would like the details of an incident to be kept confidential, you may speak with on-campus counselors, off-campus rape crisis resources, or clergy/chaplains who will maintain confidentiality. Free counseling services within the Student Health and Wellness Center are available to help you and can be seen on an emergency basis during normal business hours.

PRIVATE REPORTING

You may seek advice from certain resources who are still required to report information to the Title IX Coordinator, while keeping your information as private as possible. Private reporting is not confidential, and will still follow all mandated reporting procedures but will do so in a way that protects privacy. These resources include: Resident Advisors (RAs), faculty members, advisors to student organizations, career services staff, admissions officers, student activities personnel, and many others. If you are unsure of someone's duties and ability to maintain your privacy, ask them before you talk to them. They will be able to tell you and can help you make decisions about who can assist you best. Any non-confidential resource member who receives a report of allegations related to Title IX violations is required to submit a Title IX report to the Title IX Coordinator, in an effort to protect you or other members of the community. If your personally identifiable information is shared, it will be shared with as few people as possible and all efforts will be made to protect your privacy to the greatest possible extent.

FORMALLY REPORTING A TITLE IX COMPLAINT

Formal reports of violations of this policy must be made to the Title IX Coordinator.

You may file a formal complaint at any time by using the form provided at https://cm.maxient.com/reportingform.php?OtisCollege&layout_id=2. You may also email the complaint, call the Title IX Coordinator, or make an in-person report with the Title IX Coordinator. The Title IX Coordinator can be reached at 310-846-2554, or cbranch@otis.edu. Upon receipt of a formal complaint, the Title IX Coordinator will reach out to the Complainant to conduct an intake interview (*see below*).

Note: In the event that the Complainant declines to participate in an intake interview, if the formal complaint contains an allegation meeting all of the jurisdictional elements of this policy, the formal complaint is signed, and the formal complaint requests an investigation, the Title IX Coordinator will, within 7 business days, put the Respondent on notice of the allegation and commence the investigation process.

You may also notify the Title IX Coordinator if you believe you, or someone else, may have experienced conduct that would be a violation of this policy. The Title IX Coordinator will then reach out to the Complainant to schedule an intake meeting.

Intake Meeting

During the intake meeting, the Title IX Coordinator will assess the potential Title IX complaint for all of the jurisdictional elements required to proceed under this policy. In the event the allegation involves a sexual assault, dating or domestic violence, or stalking, that aligns with the location requirements of the federal Clery Act, the Title IX Coordinator will document and report data to the Chief of Campus Safety and Security for statistical purposes. Generally, this data will not personally identify those involved in the incident(s).

The Title IX Coordinator will also explain to the Complainant the process for filing a formal complaint, if they have not already done so.

The Title IX Coordinator will also offer the Complainant Supportive Measures designed to restore or preserve equal access to the College's education programs or activities, and will consider the Complainant's wishes with respect to these measures. These measures are available with, or without, the filing of a formal complaint. Such Supportive Measures may include, but are not limited to, measures that are not punitive to the Respondent, are non-disciplinary, and at no fee to the Complainant or the Respondent:

- Counseling
- Extensions of deadlines or other course-related adjustments

- Modifications of work or class schedules
- Campus escort services (as appropriate)
- Mutual no-contact directives
- Changes in work or housing locations
- Leaves of absence
- Increased security
- Monitoring of certain areas of the campus

Note: Any Supportive Measures put in place will be kept confidential, except to the extent that doing so impairs the ability of the institution to provide the supportive measures. For example, in order to facilitate a housing change, Residential Life and Housing staff are informed of the need to assist with a housing change as directed by the Title IX Coordinator, but will not be provided with any of the details of a complaint.

Notice to Respondent

Upon the filing of a Title IX Complaint, written notice is provided to the Respondent, and copied to the Complainant. Such notice includes the following information:

- The specific allegation and the specific conduct that is alleged to have occurred
- The identity of the Complainant
- The date and location (if known) of the conduct that is alleged to have occurred
- A copy of this policy, which contains the process that will be followed, including an explanation that each party will have the right to inspect and review all reports and any submitted evidence prior to the completion of the investigation
- A statement indicating that the decision to accept a complaint does not presume that the conduct at issue has occurred, and that the Respondent is presumed not responsible, unless and until, at the conclusion of the process below, there is a determination of responsibility
- An explanation that each party may be accompanied by an advisor of their choice, who may be a parent, friend, attorney, or any other individual they choose
- The date and time of the initial meeting with the Title IX Coordinator, with a minimum of 5 business days' notice
- The College's alcohol and drug amnesty policy
- The name and contact information for the assigned investigator
- Information regarding Supportive Measures, which are available equally to the Respondent and to the Complainant
- Abuse of the Conduct Process conduct policy

Note: Should additional allegations be added at a later time, the parties will again be provided with a full written notice.

Emergency Removal

If the College determines that the conduct, as alleged, poses a safety risk to one or more students, or to the College's educational environment, the College may instruct that the Respondent be suspended, on an interim basis, from the College, from residence halls, or from specific programs or activities. Any such assessment will be made on a case-by-case basis, based on an individualized safety and risk analysis. If the College determines that an immediate physical threat to the health or safety of students, or others justifies removal, then a Respondent may be suspended on an emergency basis. The decision to do so will be provided to the Respondent in writing.

The Respondent has an opportunity to challenge the decision immediately following the removal. To challenge the removal, the Respondent should contact the Dean of Student Affairs, who will explain the college's process for challenging emergency removals.

The decision to place any Respondent on an emergency removal will not be considered as evidence that any determination has been made regarding potential responsibility. Outside of the Title IX grievance

process, the College may also impose interim suspensions under its interim suspension policy, outlined below.

Standard of Evidence

The decision regarding a Respondent's responsibility will be determined by a preponderance of the evidence. This means that the Decision Maker will decide whether it is "more likely than not," based upon all of the evidence, that the Respondent is responsible for the alleged violation(s).

Prohibition On False Evidence Provided During Title IX Process

Each party and every witness is expected to provide truthful information to the investigator, hearing officer, and appeals officer. Should any party, or a witness, provide knowingly false information as part of this process, this may be considered a violation of the Code of Student Conduct and will be referred to the Dean of Student Affairs.

Mandatory Dismissal under Title IX

Any complaint proceeding under this policy will be dismissed if it is determined that the conduct does not meet the jurisdictional requirements of this policy. If the alleged conduct would, if true, support a finding that another College policy has been violated, the College may, in its sole authority, transfer the complaint for further consideration under the appropriate policy.

Permissive Dismissal Under Title IX

The College may dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:

1. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein
2. The Respondent is no longer enrolled in or employed by the College
3. Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein

A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it. Upon any dismissal, the College will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties. This dismissal decision is appealable by any party under the procedures for appeal below. [The decision not to dismiss is also appealable by any party claiming that a dismissal is required or appropriate.]

Transfer of Complaints, Sharing of Information

Should any complaint be dismissed under Title IX and then transferred to another office, the College has the right to transfer all communications and information gathered to any other College administrator who will be reviewing and/or addressing the complaint.

No Conflict of Interest or Bias

Any individual carrying out this policy must be free from any actual conflict of interest or bias that would impact the outcome. Should the Title IX Coordinator have a conflict of interest, the Title IX Coordinator is to immediately notify the Dean of Student Affairs, who will take the role of Acting Title IX Coordinator for purposes of carrying out the management of the complaint. Should any investigator have a conflict of interest, the investigator is to notify the Title IX Coordinator upon discovery of the conflict.

Any party may object to the Title IX Coordinator or designated investigator, hearing officer, or appeals officer, on the grounds of an actual bias or conflict of interest. If any of the parties objects, they must notify the Title IX Coordinator or Acting Title IX Coordinator, who will evaluate whether the objection is substantiated. The party raising the objection will be notified in writing of the findings within three (3) business days. If it is determined that an actual bias or conflict of interest exists, the person who was the subject of the objection will be removed and replaced, and the effects of the bias or conflict will be addressed and ameliorated.

Presumption of Non-Responsibility

The decision to proceed with an investigation is not a determination that the Respondent has engaged in the conduct as alleged. Any Respondent is presumed not responsible for the conduct that is the subject of the investigation, unless and until a decision of responsibility has been made upon the completion of the grievance process.

Advisor

All parties are permitted to bring an Advisor of their own choosing to any meeting or interview to provide support. The advisor may be any person, including a family member or an attorney. The Advisor may accompany the Complainant or Respondent to any and all portions of the grievance process. Other than asking questions of the other party, or of witnesses, at the hearing, the Advisor may not participate directly in, or interfere with, the proceedings. Although reasonable attempts will be made to schedule proceedings consistent with an Advisor's availability, the process will not be delayed to schedule the proceedings or hearing at the convenience of the Advisor. The Hearing Officer has the discretion to remove the Advisor from the proceedings if the Advisor interferes with the proceedings. For any Complainant or Respondent who does not have an Advisor at the hearing, one will be provided, at no charge, for purposes of conducting any cross-examination of the other party or witnesses.

Requests for Delays, and Extensions of Time

The Title IX Coordinator may extend any deadlines within this policy for good cause shown and documented. The Complainant and Respondent will be notified in writing of any extension, the reasons for it, and projected new timelines.

RESOLUTION METHODS

Alternative Resolution

When any party requests an Alternative Resolution, the Title IX Coordinator will determine if the complaint is suited for an informal approach, and if all parties agree, will provide the Complainant and Respondent written notice that includes:

- The specific allegation and the specific conduct that is alleged to have occurred
- The identity of the Complainant
- The date and location (if known) of the conduct that is alleged to have occurred
- A copy of this policy, which contains the information about both the Alternative Resolution process as well as the formal complaint process
- A statement indicating that the decision to accept a complaint for alternative resolution does not presume that the conduct at issue has occurred, and that the Respondent is presumed not responsible, unless and until, at the conclusion of the process below, there is a determination of responsibility
- An explanation that each party may be accompanied by an advisor of their choice, who may be a parent, friend, or attorney
- The date and time of the initial meeting with the alternative resolution facilitator, with a minimum of seven (7) business days notice
- Information regarding Supportive Measures
- An explanation of the consequences of participating in the Alternative Resolution process, including a summary of the records that will be maintained or could be shared if the parties elect for an Alternative Resolution.

The Alternative Resolution process is generally expected to be completed within thirty (30) days of its authorization by the Title IX Coordinator, though that timeline may be extended for good cause by the Title IX Coordinator. The parties will be notified, in writing, of any extension and the reason for the extension.

Participation in an Alternative Resolution is voluntary, and the parties must agree to use it in lieu of a formal grievance process, in writing. Even if the parties agree to an Alternative Resolution, it is within the discretion of the Title IX Coordinator to determine that a report must proceed through Formal Complaint

process in certain cases (e.g., where a Respondent is alleged to have violated the Title IX Policy on multiple occasions or with multiple Complainants, or where the reported conduct, if true, presents a threat to the safety of the Otis College community). If any party does not voluntarily agree in writing to pursue an Alternative Resolution, or if the Complainant, Respondent, or Title IX Coordinator, at any time, determines that Alternative Resolution is no longer appropriate, the Title IX Coordinator will promptly inform the Complainant and Respondent in writing that the complaint will proceed through Formal Resolution.

Once the final terms of an Alternative Resolution have been agreed upon by the parties, in writing, the matter will be considered closed, and will not then proceed to a Formal Complaint process. Any resolution reached through an Alternative Resolution process will be confirmed in writing and provided to the parties within five (5) business days of reaching a resolution.

Records of any Alternative Resolution will be maintained and can be shared with other offices as appropriate.

Allegations under Title IX of quid pro quo harassment of a student by an employee will not be addressed through the Alternative Resolution process, and instead only through the formal complaint process.

Investigation and Hearing Process

The Investigation process, up to evidence review, is generally expected to take about 40 business days, which may be extended for good cause by the Title IX Coordinator. All parties will be notified, in writing, of any extension granted and the reason for the extension.

The Investigator will interview all Parties and relevant witnesses, and gather relevant documentary evidence provided by the Parties and any identified witnesses, including any expert witnesses. Interviews may be conducted in person, or via video conference. The Investigator will prepare an Interview Summary of each interview. The Investigator will share the Interview Summary with the interviewee. The interviewee will have three (3) business days opportunity to correct or comment on any statements made in the Interview Summary. The deadline may be extended for good cause, upon request to the investigator. If the interviewee has no corrections to, or comments on, the Interview Summary, the interviewee will sign an acknowledgement that the interviewee has reviewed and agrees that the Interview Summary is accurate. If the interviewee has corrections or comments to the Interview Summary, the interviewee may submit a written response within three (3) business days reflecting any additions or changes which the interviewee believes are necessary to ensure the accuracy of the interviewee's interview. If no response is received from the interviewee by the deadline, their Interview Summary will be presumed to be accurate. In all instances where the Investigator includes the Interview Summary as an exhibit to a report, the Investigator will either adjust the Interview Summary to reflect revisions as may be appropriate, or include any interviewee response provided within the Investigation Report.

Each party will be provided with an opportunity to offer relevant witnesses and evidence. The Investigator will consider all relevant evidence which has a tendency to prove or disprove the allegation(s) (inculpatory and exculpatory).

Any and all information for consideration by the Hearing Officer must be provided to the investigator as part of the investigation process. Information that was not provided to the Investigator will not be allowed during the hearing itself, unless it can be clearly demonstrated that such information was not reasonably known to or available to the Parties at the time of the investigation. In the event that new evidence is provided at the hearing, either the Hearing Officer or Title IX Coordinator may send the complaint back to the investigator for further inquiry.

Evidence Review

At the conclusion of all interviews and fact gathering, and when the evidence has been gathered, the Investigator will provide each party and their advisor the opportunity to review all of the evidence gathered that is directly related to the allegation(s). This will include both inculpatory and exculpatory evidence. Given the sensitive nature of the information provided, the information will be provided in a secure manner (e.g., by providing digital copies of the materials through a protected, "read-only" web

portal). Neither the Complainant nor the Respondent (nor their advisors) may copy, remove, photograph, print, image, video record, record, or in any manner otherwise duplicate or remove the information provided. Any student or employee who fails to abide by this policy may be subject to discipline. Any advisor who fails to abide by this policy may be subject to discipline and/or may be excluded from further participation in the process. Advisors will be asked to sign a non-disclosure agreement before any materials are provided to them for review.

The parties will then have ten (10) business days in which to respond to the evidence. Each may provide a response in writing, or verbally, to the Investigator. The Investigator will incorporate any response provided by the Parties into the Final Investigation Report. Along with their response to the evidence, the Parties may also submit a written request for additional investigation, such as a request for a follow-up interview(s) with existing witnesses to clarify or provide additional information, including offering questions to the investigator to pose to witnesses or to the other party. This response may include written, relevant questions that a party would like the investigator to ask of any party or witness. If any of the questions posed will be excluded as not relevant, or not likely to lead to relevant information, the investigator will explain any decision to exclude a question as not relevant in the Final Report.

Upon receipt of each party's response to the evidence reviewed, the investigator will determine if any additional investigation is needed and respond to all review and comment within the Final Report.

In addition, each party may offer new witnesses or other new evidence. The Investigator will take into account the responses provided, will pose questions to parties or witnesses as appropriate, and interview new witnesses, and accept new, relevant, evidence.

If new relevant evidence is provided by any party, or gathered by the Investigator, the newly-gathered evidence (including answers to clarifying questions) will be made available for review by each party. Each party will have five (5) business days in which to respond to the new evidence. Each may provide a response in writing, or verbally, to the Investigator. The Investigator will incorporate any written response provided by the Parties into the Final Report.

Exclusion of Questions Regarding Complainant's Past Sexual Behavior, or Predisposition

Questions and evidence about the complainant's sexual predisposition are never permitted. Questions about the Complainant's prior sexual behavior are not relevant and will not be asked, unless such questions and evidence about the complainant's prior sexual behavior are offered for one of two reasons: (a) to prove that someone other than the respondent committed the conduct alleged by the complainant, or (b) if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

Investigation Report

After all review and comment, the Investigator will then prepare a Final Report summarizing all of the relevant evidence gathered and all investigative steps taken to date. Each party and advisor will be provided with a copy of the written report, containing all relevant evidence, and ten (10) business days to review and comment on it to the Hearing Chair prior to or at the hearing. The Final Report will include as an attachment all directly related evidence gathered during the investigation, as well as all interview notes and interview summaries, showing the original (as sent to each interviewee for review) and the revised version, after corrections or additions by each interviewee.

Conclusion of Investigation, Notice of Hearing

Prior to sharing the Final Report with the parties, the Title IX Coordinator will review the final Investigation Report, with attachments. The Title IX Coordinator may require that the Investigator conduct additional investigation. Once the Investigation Report is final, it will be provided through a protected, read-only, server, together with all attachments, to each Party.

At the same general time, each party will be provided with a Notice of Hearing, which will include information regarding the date of the hearing, the identity of the Hearing Officer and hearing panel, and

any deadlines for submission of evidence, names of witnesses, etc. The hearing will be scheduled no less than 10 business days from the date of the Notice of Hearing.

Within three (3) business days of receipt of the Notice of Hearing, either party may object to the hearing officer, or hearing panel, on the basis of an actual bias or conflict of interest. Any objection is to be in writing, and sent to the Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator will remove the hearing officer and appoint another. No decision-maker may have a bias for or against complainants or respondents generally, or for or against any complainant or respondent in particular.

Advisor for Hearing

Each party is entitled to one advisor at the hearing. The role of the Hearing Advisor is to ask questions of the party they are advising, the other Party, and of witnesses, but not to advocate for, or otherwise speak on behalf of, the advisee during the hearing. No party will be permitted to ask direct questions of the other Party, or of a witness. An advisor of the College's choosing will be provided for any party who does not have an advisor, if that party wishes to conduct cross-examination. The advisor will be invited to attend a pre-hearing meeting with their party, which will be scheduled by the Hearing Officer for no later than three (3) business days before the hearing. This meeting will be an opportunity to understand the hearing process and afford each party an opportunity to ask questions pertaining to the hearing process. The Hearing Officer will also review possible questions for the hearing, should the parties or advisors elect to submit them in advance.

Hearing

Hearings may be by in person or via videoconferencing. Each hearing will be recorded, on video with an audio transcript. No other individual is permitted to record while the hearing is taking place. The recording is the property of Otis College, and will be available for listening by contacting the Title IX Coordinator.

Only the College can call witnesses, a list of whom must be arranged for in advance in collaboration between the Hearing Officer and the parties. Each party may submit the names of witnesses they would like to call no less than five (5) business days in advance. Witnesses must have information relevant to the incident, including expert witnesses. No party will be permitted to call as a witness anyone who was not interviewed by the Investigator as part of the College's Investigation.

Up to three business days prior to the hearing, each party may submit to the Hearing Officer a preliminary list of questions they wish to pose to the other party, or to a witness. If the hearing officer determines that any are not relevant, the hearing officer will explain the reason for the exclusion of the question either prior to or at the hearing.

The hearing officer will have the authority to limit the time allotted to any phase of the hearing, and/or to limit the time allotted to the full hearing. Any such limitation will be communicated to the parties no later than three (3) business days before the hearing.

The hearing will start with an overview of the hearing process from the hearing officer. The Investigator will then present a summary of the evidence and be subject to questioning by the panel and then the advisors. Then, the Complainant may offer an opening statement. The panel will then pose questions to the Complainant. When the hearing officer has concluded, the Complainant's advisor will be permitted to question the Complainant, then the Respondent's advisor may pose questions to the Complainant. If the hearing officer has any additional questions, those will be posed by the hearing officer. If the advisors have any follow-up questions for the Complainant, the advisor will ask those questions. Next, the Respondent may offer an opening statement. The panel will then pose questions to the Respondent. When the hearing officer has concluded, the Respondent's advisor will be permitted to question the Respondent, then the Complainant's advisor may pose questions to the Respondent. If the hearing officer has any additional questions, those will be posed by the hearing officer. If the advisors have any follow-up questions for the Respondent, the advisor will ask those questions. Then, each witness will be called, in order. Questioning will be by the panel, then the Complainant's advisor, then the Respondent's advisor.

The parties will then be offered the opportunity to make closing statements. This statement is to be made by the party directly, and not by their advisor. This closing statement is not evidence, but is intended as an opportunity to address the decision-maker directly. It should not include impact evidence. Impact statements should be submitted before the close of all evidence, in writing, to the hearing officer, who will exchange the statements between the parties. The panel will only consider impact evidence as it relates to sanctions, if a policy violation is found.

The hearing officer may refuse to allow those questions that seek information that is not relevant under this Policy, including those that are unduly repetitious or abusive. The hearing officer is not required to provide a lengthy or complicated explanation, but is required only to explain the reason why a question is not relevant.

If either Party does not appear or participate, their advisor may still be present for the purpose of asking questions of the other party, or of witnesses. No party or witness is required to attend or participate, and the panel will draw no inferences solely from the decision not to attend or participate.

The panel will then deliberate, making a decision by a majority vote on each policy allegedly violated. The Hearing Officer will then prepare a report. To the extent credibility determinations need to be made, they will not be based on a person's status as complainant, respondent, or witness. The Hearing Officer's report will be provided to the parties within fourteen (14) business days after the hearing.

The Hearing Officer's report will include:

- The allegations
- Description of all procedural steps taken
- Findings of fact
- Final determination applying facts to the policy
- Rationale for each finding/determination, by the preponderance of the evidence
- Sanctions and Remedies
- Rationale for sanctions
- Procedure for appeal
- When the decision is considered final and any changes to the decision that occur prior to finalization
- The written decision will be sent simultaneously to each party

Sanctions and Remedies

Upon conclusion of the grievance process, when there is a finding of responsibility, the Complainant will be offered remedies designed to restore or preserve equal access to the institution's education program or activity. Some examples are individualized supportive measures, tutoring, or counseling.

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-maker(s)

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the

expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

If it is later determined that a party or witness intentionally provided false or misleading information, that action could be grounds for reopening a grievance process at any time, and/or referring that information to another process for resolution.

a. Student Sanctions

The following are the common sanctions that may be imposed upon students singly or in combination:

- *Warning:* A formal statement that the conduct was unacceptable and a warning that further violation of any College policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Required Counseling:* A mandate to meet with and engage in either College-sponsored or external counseling to better comprehend the misconduct and its effects.
- *Probation:* A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Suspension:* Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at College.
- *Expulsion:* Permanent termination of student status and revocation of rights to be on campus for any reason or to attend College-sponsored events.
- *Withholding Diploma:* The College may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree:* The College reserves the right to revoke a degree previously awarded from the College for fraud, misrepresentation, and/or other violation of College policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Other Actions:* In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

b. Student Organization Sanctions

The following are the common sanctions that may be imposed upon student organizations singly or in combination:

- *Warning:* A formal statement that the conduct was unacceptable and a warning that further violation of any College policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Probation:* A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social and event privileges, denial of College funds, ineligibility for honors and awards, restrictions on new member recruitment, no-contact orders, and/or other measures deemed appropriate.
- *Suspension:* Termination of student organization recognition for a definite period of time not

to exceed two years and/or until specific criteria are met. During the suspension period, a student organization may not conduct any formal or informal business or participate in College-related activities, whether they occur on or off-campus. Re-recognition is possible but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from the College.

- *Expulsion*: Permanent termination of student organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason.
- *Loss of Privileges*: Restricted from accessing specific College privileges for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

c. Employee Sanctions/Responsive/Corrective Actions

Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation include but are not limited to verbal warnings; written warnings; loss of privileges, probation; suspension; termination of employment, or other disciplinary measures as deemed appropriate.

Remedies may include, but are not limited to offering to remove the complainant from the hostile environment (or vice versa); changes in residence arrangements, changes of room locks, contacting professors/managers, changes in schedules or work hours, changes in work assignment/location, or a “no contact” order.

Failure to Complete Conduct Sanctions

All students, as members of the College community, are expected to comply with conduct sanctions within the time frame specified by the Dean of Student Affairs or designee. Failure to follow through on conduct sanctions by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions, administrative “holds” on the student account, and/or suspension from the College. In such situations, resident students will be required to vacate College housing within 24 hours of notification by the Dean of Student Affairs, although this deadline may be extended upon application to, and at the discretion of, the Dean of Student Affairs. A suspension will only be lifted when compliance with conduct sanctions is satisfactorily achieved. This determination will be made by the Dean of Student Affairs.

Appeals

Appeals may be filed by either party. Appeals will be sent to the VP of Human Resources and Development. When an appeal is filed, the other party will be notified, in writing, within one business day, and will then have five (5) business days to respond to the appeal. Any party’s decision not to submit a reply to an appeal is not evidence that the non-appealing party agreed with the appeal. The appeals process is a written exchange, and no hearing is held.

The Appeals Officer may not have any actual conflict of interest or bias. Within three (3) business days of receipt of the Hearing Officer’s report at the conclusion of the hearing, either party may object to the Appeals Officer on the basis of an actual bias or conflict of interest. Any objection is to be in writing and sent to the Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator will remove the appeals officer and appoint another.

Appeals may be filed on the following grounds:

- **Procedural Error:** A procedural irregularity occurred that significantly impacted the outcome of the investigation or hearing. A description of the irregularity and its impact on the outcome of the complaint must be included in the written appeal; or
- **New Evidence:** New evidence or information has arisen that was not available or known to the party during the investigation or hearing, and that could significantly impact the findings. Information that was known to the Appellant during the investigation or hearing but which they chose not to present is not new information. A summary of this new evidence and its potential impact on the investigation findings must be included in the written appeal.
- **Disproportionate Sanction:** The sanction(s) imposed were grossly disproportionate to the severity of the offense. An explanation of why the sanction(s) is/are grossly disproportionate must be included in the written appeal.
- **Conflict of Interest or Bias:** 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.

The Appeals Officer crafts a letter of rationale which will be sent simultaneously to the parties. The letter will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, and any sanctions that may result which the College is permitted to share according to state or federal law.

Consolidation of Complaints

In the event that the allegations under this policy involve allegations of a violation of a separate policy, whether Student Code of Conduct, Faculty Handbook, or Staff Handbook, the College has the right, within its sole discretion, to consolidate those other allegations within one investigation and/or hearing. The College may also consolidate complaints when they evidence a potential pattern of misconduct.

Recordkeeping

College will maintain for a period of seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation
2. Any disciplinary sanctions imposed on the Respondent
3. Any remedies provided to the Complainant designed to restore or preserve equal access to the College's education program or activity
4. Any appeal and the result therefrom
5. Any Informal Resolution and the result therefrom
6. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. College will make these training materials publicly available on College's website.
7. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
 - a. The basis for all conclusions that the response was not deliberately indifferent
 - b. Any measures designed to restore or preserve equal access to the College's education program or activity
 - c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances

The College will also maintain any and all records in accordance with state and federal laws.

Disability Accommodations in the Resolution Process

The College is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the College's resolution process.

Anyone needing such accommodations or support should contact the Director of Disability Services or [Appropriate HR individual if employee], who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

Revision of this Policy and Procedures

This Policy and procedures supersede any previous policy(ies) addressing harassment, sexual misconduct, discrimination, and/or retaliation for incidents occurring on or after August 14, 2020, under Title IX and will be reviewed and updated annually by the Title IX Coordinator. The College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require Policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government laws or regulations or court holdings.

This document does not create legally enforceable protections beyond the protections of the background state and federal laws which frame such policies and codes, generally.

This Policy and procedures are effective February 18, 2022

REPORTING SEXUAL HARASSMENT AND MISCONDUCT AND GENDER-BASED DISCRIMINATION

To report an incident, contact the Title IX Coordinator (310) 846-2554, or the Dean of Student Affairs (310) 665-6967. Reports can also be submitted online through the incident report form online. Anyone with knowledge about a sexual assault or incident of sexual misconduct is encouraged to report it immediately.

If you are sexually assaulted it is important that you do as follows:

1. Go to a safe place and speak with someone you trust. Tell this person what happened. If there is any immediate danger, let a security guard know if you are on campus or call 911 if you are off campus. To contact Campus Security call (310) 665-6965 or stop by the office it is open 24 hours.
2. Consider securing immediate professional support to assist you in the crisis.
3. You can contact Student Counseling Services at (310) 846-5738.
4. For your safety and well-being, immediate medical attention is encouraged. Further, being examined as soon as possible, ideally within 120 hours, is important. The Santa Monica Rape Treatment Center will arrange for a specific medical examination at no charge. To preserve evidence, it is best that you do not bathe, shower, douche, or change clothes before that exam. Even if you have already bathed, you are still encouraged to have prompt medical care. Additionally, you are encouraged to gather bedding, linens, or unlaundered clothing and any other pertinent articles that may be used for evidence.
5. Even after the immediate crisis has passed, consider seeking support from Student Counseling Services at Otis College or Santa Monica Rape Treatment Center or Valley Trauma Center.
6. Contact the Title IX Coordinator at (310) 846-2554 or cbranch@otis.edu, if you need assistance with a College-related concern

FEDERAL TIMELY WARNING OBLIGATIONS

Individuals impacted by sexual misconduct should be aware that College administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. The College will make every effort to ensure that the Complainant's name and other identifying information are not disclosed, while still providing enough information for community members to make safety decisions in light of the danger.

INFORMATION SUPPLEMENTING THE COLLEGE SEXUAL MISCONDUCT POLICY

In addition to the information provided in the Title IX Sexual Misconduct Policy, students should know that rape is a crime that can be reported to civil authorities. College students are more likely to be victimized by someone they know, and perhaps trust, than by someone who is a stranger. Any person can be a target, regardless of sexual orientation or gender identity.

CONTACTS AND RESOURCES

Questions or concerns regarding the College's procedures and Title IX may be directed to the following resources:

Carol D. Branch, Ph.D.
Assistant Dean of Student Affairs and
Title IX Coordinator
Office of Student Affairs
9045 Lincoln Blvd.
Los Angeles, CA. 90045
(310) 846-2554
cbranch@otis.edu

Inquiries may be made externally to:

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

Local resources include:

Santa Monica Rape Treatment Center—UCLA Medical Center
1250 16th St.
Santa Monica, CA 90404
(310) 319-4000
<http://www.911rape.org/home>

To report directly to law enforcement, contact:

Los Angeles Police Department-Pacific Division
12312 Culver Blvd.
Los Angeles, CA 90066
(310) 482-6334

FREQUENTLY ASKED QUESTIONS

The following are some of the most commonly asked questions regarding the College's Sexual Misconduct Policy and procedures.

- *Does a complaint remain confidential?*

Reports made to on-campus counselors, off-campus health service providers, and off-campus clergy will be kept confidential. All other reports are considered private. The privacy of all parties to a complaint of sexual misconduct will be maintained, except insofar as it interferes with the College's obligation to fully investigate allegations of sexual misconduct. Where information is shared, it will still be tightly controlled on a need-to-know basis.

In all complaints of sexual misconduct, the Complainant will be informed of the outcome. In some instances, the administration also may choose to make a brief announcement of the nature of the violation and the action taken, to the community, though personally identifying information about the Complainant will not be shared. Certain College administrators are informed privately (e.g., the President of the College, Chief Conduct Officer, Title IX Coordinator, Chief of Safety and Security, etc.). The College must statistically report the occurrence on campus of any of six major violent crimes, including certain sex offenses, and hate crimes in an annual report of campus crime statistics. This statistical report does not include personally identifiable information.

- *Will my parents/guardians be told?*

No, not unless you tell them. Whether you are the Complainant or the Respondent, the College's primary relationship is to the student and not to the parent/guardian; however, in the event of major medical, conduct action, or academic jeopardy, students are strongly encouraged to inform their parents. College officials may directly inform parents when requested to do so by a student, or if a student is in a life-threatening situation.

- *Will I have to confront the alleged perpetrator?*

Yes, if you file a formal complaint, but not directly. Sexual misconduct is a serious offense and the Respondent has the right to question the Complainant; however, the College does provide options for allowing questioning without direct contact, including Zoom, using a room divider, or using separate hearing rooms.

- *Do I have to name the alleged perpetrator?*

Yes, if you want formal conduct action to be taken against the alleged perpetrator. No, if you choose to respond informally and do not file a formal complaint. One should consult the complete privacy policy described above to better understand the College's legal obligations regarding information that is shared with various College officials.

- *What should I do if I am accused of sexual misconduct?*

First, do not contact the alleged impacted individual. You may immediately want to contact someone in the campus community who can act as your advisor. You may also contact the Title IX Coordinator, who can explain the College's procedures for dealing with sexual misconduct complaints. You may also want to talk to a counselor in Counseling Services.

- *What should I do about legal advice?*

Targets of criminal sexual assault need not retain a private attorney to seek prosecution because legal issues will be handled through a representative from the District Attorney's office. Parties may want to retain an attorney as an advisor and/or if they are considering filing a civil action.

- *What should I do about changing College housing rooms?*

If you want to move, you may request a room change. Room changes under these circumstances are considered emergencies. It is the College's policy that in emergency room changes, the student is moved to the first available suitable room. Other accommodations available to you might include the following:

- Assistance from College support staff in completing the relocation;
- Arranging to dissolve a housing contract and prorate a refund;
- Exam, paper or assignment rescheduling;
- Taking an incomplete in a class;
- Transferring class sections;
- Temporary withdrawal; and/or
- Alternative course completion options;
- A no-contact order;
- Counseling assistance; and/or
- Escorts or other campus safety protections.

- *What should I do to preserve evidence of a sexual assault?*

Physical information of a sexual assault must be collected within about 120 hours of the assault for it to be useful in a criminal prosecution. If you believe you have been sexually assaulted, you should go to a hospital Emergency Room before washing yourself or your clothing. A sexual assault health professional (a specially trained nurse called a SANE) at the hospital is on call and will counsel you. If you go to the hospital, local police will be called but you are not obligated to talk to the police or to prosecute. The exam will help to keep that option open for you should you decide later to exercise it.

The hospital staff will collect information, check for injuries, and address the possibility of exposure to sexually transmitted infections. If you have changed clothing since the assault, bring the clothing you had on at the time of the assault with you to the hospital in a clean, sanitary container such as a clean paper grocery bag or wrapped in a clean sheet. (Plastic containers do not breathe, and may render forensic information useless.) If you have not changed clothes, bring a change of clothes with you to the hospital, if possible, as they will likely keep the clothes you are wearing as information. You can take a support person with you to the hospital, and they can accompany you through the exam, if you want. Do not disturb the crime scene—leave all sheets, towels, etc. that may bear information for the police to collect.

- *Will a student be sanctioned when reporting an act of sexual misconduct if the student has illegally used drugs or alcohol?*

No. The College offers amnesty in such situations. The seriousness of sexual misconduct is a major concern and the College does not want any of the circumstances (e.g., drug or alcohol use) to inhibit the reporting of sexual misconduct.

- *Will either party's prior use of drugs and/or alcohol be a factor when reporting sexual misconduct?*

No, not unless there is a compelling reason to believe that prior use or abuse is relevant to the present complaint.

- *What should I do if I am uncertain about what happened?*

If you believe that you have experienced non-consensual sexual contact, but are unsure of whether it was a violation of the College's sexual misconduct policy, you should contact the Title IX Coordinator and/or Dean of Student Affairs. The College provides counselors who can help you to define and clarify the event(s), and advise you of your options.

RISK REDUCTION TIPS

Tips like these tend to make individuals feel blamed if a sexual assault occurs. It is never the Complainant's fault, and these tips are offered in the hope that recognizing patterns can help individuals to reduce the risk of victimization. That said, only a rapist or an empowered bystander can intervene to prevent a rape or assault. Generally, an assault by a known offender will follow a four-step pattern:

- An individual's personal space is violated in some way. For example, the perpetrator may touch the individual in a way that does not feel comfortable.
- If the Complainant does not express discomfort, the perpetrator may begin to view the individual as an easy target because they are not acting assertively.

- The perpetrator may take the potential target to a location that is secluded and where the person is vulnerable.
- The individual feels trapped or unable to be assertive and is raped or assaulted.

Decisive action early in an encounter may be the key to avoiding rape. An individual who can combine assertiveness and self-defense skills, who is self-confident and definite in his/her interactions with others, is less likely to become a target of rape. If the individual can assertively defend his/her rights initially, they has a better chance of avoiding being raped than does a person who resorts to techniques such as pleading or trying to talk the perpetrator out of it. If you find yourself in an uncomfortable sexual situation, these suggestions may help you to reduce your risk:

- Make your limits known before things go too far.
- Give clear messages. Say “yes” when you mean yes and “no” when you mean no. Leave no room for misinterpretation. Tell a sexual aggressor “NO” clearly and loudly.
- Try to extricate yourself from the physical presence of a sexual aggressor.
- Grab someone nearby and ask for help.
- Be responsible for your alcohol intake/drug use and realize that alcohol/drugs lower your sexual inhibitions and may make you more vulnerable to someone who views a drunk or high person as a sexual opportunity.
- Watch out for your friends and ask that they watch out for you. A real friend will get in your face if you are about to make a mistake. Respect them if they do.
- Be aware of any nonverbal messages you may be sending that conflict with what you are saying. Notice your tone of voice, gestures, and eye contact.
- Be forceful and firm when necessary. Don't be concerned with being polite. Your passivity may be interpreted as permission or approval for this behavior.
- Do not acquiesce to something you do not want just to avoid unpleasantness. Do not allow “politeness” to trap you in a dangerous situation. This is not the time to be concerned about hurt feelings.
- Trust your feelings or instincts. If a situation does not feel comfortable to you or you feel anxious about the way your date is acting, you need to respond. Leave immediately if necessary.

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct:

- Do not make assumptions about the following:
 - Consent;
 - Someone's sexual availability;
 - Whether a person is attracted to you;
 - How far you can go; or
 - Whether a person is physically and mentally able to consent to you.
- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Mixed messages from your partner should be a clear indication that you should step back, defuse the sexual tension, and communicate better. Perhaps you are misreading your partner. Perhaps your partner has not figured out how far they want to go with you yet. You need to respect the timeline with which your partner is comfortable.
- Do not take advantage of someone's drunkenness or drugged state, even if they did it to themselves.
- Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Do not abuse that power.
- Understand that consent to some forms of sexual behavior does not necessarily imply consent to other forms of sexual behavior.

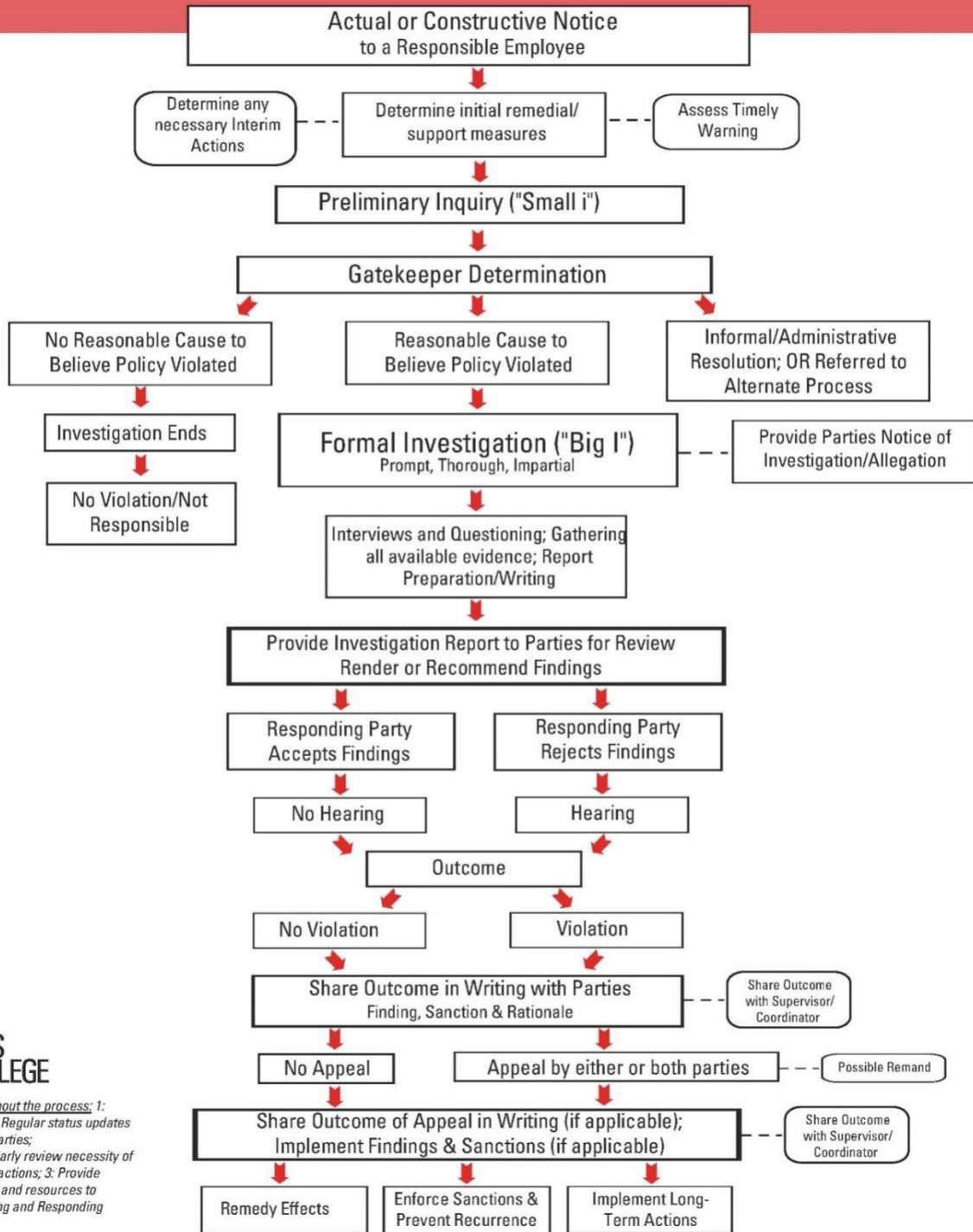
- On this campus, silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and nonverbal communication and body language.
- Do not force someone to have sex with you, or have sex with a partner who has not clearly consented to you by words or actions unmistakable in their meaning.

SEX OFFENDERS

In accordance with the Campus Sex Crimes Prevention Act of 2000, which amends the Jacob Wetterling crimes against children and sexually violent offender registration act, the Jeanne Clery Act, and the Family Educational Rights and Privacy act of 1974, Otis College of Art and Design is providing a link to the California State Sex Offender Registry. All sex offenders are required to register in the state of California and to provide notice of each institution of higher education in California at which the person is employed, carries a vocation, or is a student. See www.meganslaw.ca.gov.

In addition to the above notice to the state of California, all sex offenders are required to deliver written notice of their status as a sex offender to the College's Dean of Student Affairs no later than five (5) business days prior to their enrollment on the College. Such notification may be disseminated by the College to, and for the safety and well-being of, the Otis College community, and may be considered by the College for enrollment and discipline purposes.

INVESTIGATION AND HEARING PANEL FLOWCHART



Throughout the process:
 1: Provide Regular status updates to the parties;
 2: Regularly review necessity of interim actions; 3: Provide support and resources to Reporting and Responding Parties



STUDENT CONDUCT

CODE OF STUDENT CONDUCT

SECTION I. PHILOSOPHY

Otis College Philosophy Statement

The Otis College community is committed to fostering a campus environment that is conducive to academic inquiry, a productive campus life, and thoughtful study and discourse. The student conduct program within the Office of Student Affairs is committed to an educational and developmental process that balances the interests of individual students with the interests of the Otis College community.

A community exists on the basis of shared values and principles. At Otis College, student members of the community are expected to uphold and abide by certain standards of conduct that form the basis of the Code of Student Conduct. These standards are embodied within a set of core values that include integrity, respect, community/civic engagement, and social responsibility.

Each member of the Otis College community bears responsibility for their conduct and to assume reasonable responsibility for the behavior of others. When members of the community fail to exemplify these five values by engaging in violation of the rules below, campus conduct proceedings are used to assert and uphold the Code of Student Conduct.

The student conduct process at Otis College is not intended to punish students; rather, it exists to protect the interests of the community and to challenge those whose behavior is not in accordance with our policies. Sanctions are intended to challenge students' moral and ethical decision-making and to help them bring their behavior into accord with our community expectations. When a student is unable to uphold our shared community expectations, the student conduct process may determine that they should no longer share in the privilege of participating in this community.

Students should be aware that the student conduct process is quite different from criminal and civil court proceedings. Procedures and rights in student conduct procedures are conducted with fairness to all, but do not include the same protections of due process afforded by the courts in criminal matters.

Due process, as defined within these procedures:

- (1) assures Respondents written notice of the charges against them
- (2) provides an opportunity for a hearing before an objective decision-maker or committee
- (3) provides Respondents an opportunity to respond to the charges against them

No student will be found in violation of College policy without information demonstrating that it is **more likely than not** (preponderance of evidence) that a policy violation occurred and any sanctions will be proportionate to the severity of the violation and to the cumulative conduct history of the student.

Code of Student Conduct Violations

Any member of the Otis College community may file a complaint for a violation of the Code of Student Conduct. Violations should be reported on a [Student Conduct Complaint form](#) and filed with any member of the Student Conduct Committee or the Dean of Student Affairs.

SECTION II. JURISDICTION

Students at the College are provided a copy of the Code of Student Conduct each semester in the form of a link on the College website and in an email sent to their Otis College email. Hard copies are available upon request from the Office of Student Affairs. Students are responsible for having read and abiding by the provisions of the Code of Student Conduct.

The Code of Student Conduct and the student conduct process apply to the conduct of individual students, both undergraduate and graduate (remote or in-person), and all College-affiliated student organizations. For the purposes of student conduct, the College considers an individual to be a student when an offer of admission has been extended and thereafter as long as the student has a continuing educational interest in the College.

Students participating in summer programs, who have also been offered admission to Otis College BFA/MFA programs, will be held to the policies, protocols, and procedures outlined in their respective summer program, first and foremost. Additionally, the College reserves the right to make a decision to also adjudicate any student who has been offered admission to Otis College and/or may rescind admission without following the formal student conduct process if the summer program student has not yet registered for their Otis College academic year courses (pre-matriculation).

The College retains conduct jurisdiction over students who choose to take a leave of absence, withdraw, or have graduated for any misconduct that occurred prior to the leave, withdrawal or graduation. If sanctioned, a hold may be placed on the student's ability to re-enroll and/or obtain official transcripts and all sanctions must be satisfied prior to re-enrollment eligibility. In the event of serious misconduct committed by a graduate while still enrolled but reported after graduation, the College may invoke these procedures and should the former student be found responsible, the College may revoke that student's degree.

The Code of Student Conduct applies to behaviors that take place on the campus, in the residence hall, at College-sponsored events and may also apply off-campus when the Dean of Student Affairs or designee determines that the off-campus conduct affects a substantial College interest. A substantial College interest is defined to include:

- a) Any situation where it appears that the student may present a danger or threat to the health or safety of themselves or others;
- b) Any situation that significantly infringes upon the rights, property, or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or
- c) Any situation that is detrimental to the educational mission and/or interests of the College

The Code of Student Conduct may be applied to behavior conducted online, such as harassment or bullying via email or social media. Students must also be aware that blogs, web page entries on sites such as Google+, Facebook, and Instagram, Twitter, and other similar online postings, are in the public sphere and are not private. These postings can subject a student to allegations of conduct violations if evidence of policy violations is posted online. The College does not regularly search for this information but may take action if and when such information is brought to the attention of College officials. However, most online speech by students not involving College networks or technology will be protected as free expression and not subject to this Code, with two notable exceptions:

1. A true threat, defined as "a threat a reasonable person would interpret as a serious expression of intent to inflict bodily harm upon specific individuals"; and
2. Speech posted online about the College or its community members that causes a significant on-campus disruption.

The Code of Student Conduct applies to guests of community members whose hosts may be held accountable for the misconduct of their guests. Visitors to and guests of College may seek resolution of violations of the Code of Student Conduct committed against them by members of the Otis College community.

There is no time limit on reporting violations of the Code of Student Conduct; however, the longer someone waits to report an offense, the harder it becomes for College officials to obtain information and witness statements and to make determinations regarding alleged violations. Though anonymous complaints are permitted, doing so may limit the College's ability to investigate and respond to a complaint. Those who are aware of misconduct are encouraged to report it as quickly as possible to the Office of Student Affairs and/or Campus Safety and Security. College e-mail is the College's primary means of communication with students. Students are responsible for all communication delivered to their College email address.

SECTION III. VIOLATIONS OF THE LAW

Alleged violations of federal, state and local laws may be investigated and addressed under the Code of Student Conduct. When an offense occurs over which the College has jurisdiction, the College's conduct process will usually go forward notwithstanding any criminal complaint that may arise from the same incident.

The College reserves the right to exercise its authority of interim suspension/restrictions upon notification that a student is facing criminal investigation and/or a complaint. Interim suspensions are imposed until a hearing can be held, typically within two weeks. Any interim restrictions should limit their impact on the academic progress of the Respondent, to the extent possible. Within that time, the suspended student may request an immediate hearing from the Dean of Student Affairs to show cause why the interim suspension/restrictions should be lifted. This hearing may resolve the allegation, or may be held to determine if the interim suspension should be continued. The interim suspension may be continued if a danger to the community is posed and the College may be delayed or prevented from conducting its own investigation and resolving the allegation by the pendency of the criminal process. In such cases, the College will only delay its hearing until such time as it can conduct an internal investigation or obtain sufficient information independently or from law enforcement upon which to proceed.

Students accused of crimes may request to take a leave from the College until the criminal charges are resolved. In such situations, the College procedure for voluntary leaves of absence is subject to the following conditions:

- a) The Respondent must comply with all campus investigative efforts that will not prejudice his/her/their defense in the criminal trial; and
- b) The Respondent must comply with all interim actions and/or restrictions imposed during the leave of absence; and
- c) The Respondent must agree that, in order to be reinstated to active student status, they must first be subject to, and fully cooperate with, the campus conduct process and must comply with all sanctions that are imposed.

SECTION IV: STUDENT CONDUCT RULES AND EXPECTATIONS

Core Values and Behavioral Expectations

The College considers the behavior described in the following sections as inappropriate for the College

community and in opposition to the core values set forth in this document. These expectations and rules apply to all students, whether undergraduate or graduate. The College encourages community members to report to College officials all incidents that involve the following actions. Any student found to have committed or to have attempted to commit the following misconduct is subject to the sanctions outlined in Section VII: Formal Conduct Procedures.

- A. **Integrity:** Otis College students exemplify honesty, honor, and a respect for the truth in all of their dealings. Behavior that violates this value includes, but is not limited to
1. **Falsification.** Knowingly furnishing or possessing false, falsified or forged materials such as falsification or misuse of documents, accounts, records, identification, or financial instruments.
 2. **Academic Dishonesty.** Acts of academic dishonesty as outlined in the Code of Academic Integrity. This includes but is not limited to, plagiarism, fabrication, and cheating.
 3. **Unauthorized Access.** Unauthorized possession, duplication, or use of means of access to any College building (i.e. keys, cards, etc.) or failing to timely report a lost College ID Card or key.
 4. **Collusion.** Action or inaction with another or others to violate the Code of Student Conduct.
 - Complicity with or failure of any student to appropriately address known or obvious violations of the Code of Student Conduct or law;
 - Complicity with or failure of any organized group to appropriately address known or obvious violations of the Code of Student Conduct or law by its members.
 5. **Trust.** Violations of positions of trust within the community.
 6. **Election Tampering.** Tampering with the election of any College-recognized student organization.
 7. **Taking of Property.** Intentional and unauthorized taking of College property or the personal property of another, including goods, services, and other valuables.
 8. **Stolen Property.** Knowingly taking or maintaining possession of stolen property.
 9. **Abuse of Conduct Process.** Abuse or interference with, or failure to comply in, College processes including conduct, but not limited to:
 - Falsification, distortion or misrepresentation of information;
 - Failure to provide, destroying or concealing information during an investigation of an alleged policy violation;
 - Attempting to discourage an individual's proper participation in, or use of, the campus conduct system;
 - Harassment (verbal or physical) and/or intimidation of a member of a campus conduct body prior to, during, and/or following a campus conduct proceeding;
 - Failure to comply with the sanction(s) imposed by the campus conduct system, and
 - Influencing, or attempting to influence, another person to commit an abuse of the campus conduct system.

- B. **Community and Civil Engagement:** Otis College students build and enhance their community. Behavior that violates this value includes, but is not limited to the following.
10. **Disruptive Behavior.** Disruption of College operations including obstruction of teaching, research, administration, other College activities, and/or other authorized non-College activities that occur on campus.
 11. **Riots.** Causing, inciting, or participating in any disturbance that presents a clear and present danger to self or others, causes physical harm to others, or destruction of property.
 12. **Unauthorized Entry.** Misuse of access privileges to College premises or unauthorized entry to or use of buildings, including trespassing, propping, or unauthorized use of alarmed doors for entry into or exit from a College building.
 13. **Trademark Misuse.** Unauthorized use (including misuse) of College or organizational names and images.
 14. **Damage and Destruction.** Intentional and/or unauthorized damage to or destruction of College property or the personal property of another.
 15. **IT and Acceptable Use.** Violating the College Acceptable Use and Computing Policy, found online at <http://www.otis.edu/information-systems/policies-forms>
 16. **Gambling.** Gambling as prohibited by the laws of the State of California. (Gambling may include raffles, lotteries, sports pools and online betting activities. For more information, see The Hoot, "Community Standards").
 17. **Weapons.** Possession, use, or distribution of explosives (including fireworks and ammunition), guns (including air, BB, paintball, facsimile weapons, and pellet guns), or other weapons or dangerous objects such as arrows, axes, machetes, nun chucks, throwing stars, or knives (switchblade or belt buckle) with a blade of longer than two inches, including the storage of any item that falls within the category of a weapon in a vehicle parked on College property.
 18. **Tobacco.** Smoking or tobacco use in any area of campus except for the designated smoking areas. This includes prohibiting the use of Tobacco under the age of 21 as defined by California State law.
 19. **Fire Safety.** Violation of local, state, federal or campus fire policies including, but not limited to, intentionally or recklessly causing a fire that damages College or personal property or that causes injury. Failure to evacuate a College-controlled building during a fire alarm; Improper use of College fire safety equipment; or tampering with or improperly engaging a fire alarm or fire detection/control equipment while on College property. Such action may result in a local fine in addition to College sanctions.
 20. **Animals.** Animals, with the exception of service animals that provide assistance (e.g., seeing-eye dogs) and pets as outlined in the Residence Life Handbook and solely related to students within the program and their guests, are not permitted on campus except as

permitted by law.

21. **Wheeled Devices.** Skateboards, hoverboards, roller blades, roller skates, bicycles, and similar wheeled devices are not permitted inside buildings, the residential community, or on campus. Additionally, skateboards and other wheeled items may not be ridden on railings, curbs, benches, or any such fixtures that may be damaged by these activities, and individuals may be liable for damage to College property caused by these activities.

C. **Respect:** Otis College students show positive regard for each other and for the community. Behavior that violates this value includes, but is not limited to

22. **Harm to Persons.** Intentionally or recklessly causing physical harm or endangering the health or safety of any person.

23. **Threatening Behaviors.** Written and cyberbullying are repeated and/or severe aggressive behaviors that intimidate or intentionally harm or control another person physically or emotionally, and are not protected by freedom of expression.

24. **Hazing.** Defined as an act that endangers the mental or physical health or safety of a student, or one that destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization. Participation or cooperation by the person(s) being hazed does not excuse the violation. Failing to intervene to prevent, failing to discourage and/or failing to report those acts may also violate this policy.

D. **Social Responsibility:** Otis College students are given and accept a high level of responsibility to self, to others and to the community. Behavior that violates this value includes, but is not limited to the following:

25. **Sexual Assault I:** Nonconsensual Sexual Intercourse (or attempts to commit the same): Any sexual intercourse (anal, oral, or vaginal), however slight, with any object, by a person upon another person, without consent and/or by physical force.

26. **Sexual Assault II:** Nonconsensual Sexual Contact (or attempts to commit the same): Any intentional sexual touching, however slight, with any object, by person upon another person, without consent and/or by physical force.

27. **Dating/Relationship Violence.** Dating/Relationship Violence is violence or abuse committed by a person who is or has been in a social relationship of a romantic or intimate nature with another. The existence of such a relationship will be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes sexual or physical abuse, psychological/emotional abuse, and/or the threat of such abuse. Partners may be married or not married; heterosexual, gay, or lesbian; living together, separated or dating.

28. **Stalking.** Stalking is a menacing and/or invasive course of conduct directed at a specific person that is unwelcome and would cause a reasonable person to feel fear for their safety or

the safety of their family/household.

29. **Public Exposure.** Includes deliberately and publicly exposing one's intimate body parts, public urination and defecation, and public sex acts.
30. **Sexual Harassment.** Hostile Environment: includes situations in which there is harassing conduct that is sufficiently severe, pervasive/persistent, and objectively offensive that it alters the conditions of education, from both a subjective (the alleged victim's) and objective (a reasonable person's) viewpoint. The determination of whether an environment is "hostile" must be based on all the circumstances.
31. **Sexual Harassment.** Quid Pro Quo: sexual harassment exists when there are unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature where submission to, or rejection of, such conduct results in educational or employment action.
32. **Sexual Exploitation:** Taking nonconsensual or abusive sexual advantage of another for one's own advantage or benefit, or to benefit a person other than the one being exploited.
33. **Harassment.** Conduct that is so severe and/or pervasive, and objectively offensive, and that so substantially impairs a person's access to College's programs or activities that the person is effectively denied equal access to the College's resources and opportunities.
34. **Discrimination.** Any act or failure to act that is based upon an individual or group's actual or perceived status (sex, gender, race, color, age, creed, national or ethnic origin, physical or mental disability, veteran status, pregnancy status, religion or sexual orientation, or other protected status) that is sufficiently severe that it limits or denies the ability to participate in or benefit from the College's educational program or activities.
35. **Discriminatory Harassment.** Any unwelcome conduct based on actual or perceived status including sex, gender, race, color, age, creed, national or ethnic origin, physical or mental disability, veteran status, pregnancy status, religion, sexual orientation, or other protected status should be reported to campus officials, who will act to remedy and resolve reported incidents. When discriminatory harassment is sufficiently severe, pervasive, or persistent and objectively offensive that it unreasonably interferes with, limits, or denies the ability to participate in or benefit from the College's educational or employment program or activities, sanctions can be imposed for the creation of a hostile environment.
36. **Retaliatory Discrimination or Harassment.** Exists when an individual harasses, intimidates, or takes other adverse actions against a person because of the person's participation in an investigation of discrimination or sexual misconduct or their support of someone involved in an investigation of discrimination or sexual misconduct. Retaliatory actions include, but are not limited to, threats or actual violence against the person or their property, adverse educational or employment consequences, ridicule, intimidation, bullying, or ostracism.
37. **Alcohol.** Use, possession, or distribution of alcoholic beverages or paraphernalia except as expressly permitted by law and the College's Alcohol Policy.

38. **Drugs.** Use, possession, or distribution of illegal drugs and other controlled substances or drug paraphernalia except as expressly permitted by law and the College's Drug Policy.
39. **Marijuana.** Use, possession, or distribution of marijuana for medical or recreational purposes, even if it otherwise meets the qualifications of the California compassionate use act, proposition 215, or the adult use of marijuana act, proposition 64. This includes all cannabis products, including those with CBD.
40. **Prescription Medications.** Abuse, misuse, sale, or distribution of prescription or over-the-counter medications.
41. **Failure to Comply.** Failure to comply with the directives of College officials or law enforcement officers during the performance of their duties and/or failure to identify oneself to these persons when requested to do so.
42. **Financial Responsibilities.** Failure to promptly meet financial responsibilities to the institution, including, but not limited to knowingly passing a worthless check or money order in payment to the institution or to members of the institution acting in an official capacity.
43. **Arrest.** Failure of any student to accurately report an off-campus arrest for any crime (including noncustodial or field arrests) by any law enforcement agency to the Office of Student Affairs within seventy-two (72) hours of release.
44. **Other Policies.** Violating other published College policies or rules, including all Residence Hall policies found in the Hallway Handbook.
45. **Health and Safety.** Creation of health and/or safety hazards (dangerous pranks, hanging out of or climbing from/on/in windows, balconies, roofs, etc.).
46. **Violations of Law.** Evidence of violation of local, state, or federal laws, when substantiated through the College's conduct process.
47. **Infectious Disease.** Violation of College requirements or public health orders in place to reduce the risk of spreading infectious disease or failing to follow any applicable federal, state, and/or local public health orders.

SECTION V: OVERVIEW OF THE STUDENT CONDUCT PROCESS

This overview gives a general idea of how the College's campus conduct proceedings work, but it should be noted that not all situations are of the same severity or complexity. Thus, these procedures are flexible, and are not exactly the same in every situation, although consistency in similar situations is a priority. The campus conduct process and all applicable timelines commence with notice to an administrator of a potential violation of College rules.

NOTICE: Once notice is received from any source (Complainant, Resident Assistant, 3rd party, online, etc.), the College may proceed with a preliminary inquiry/investigation and/or schedule an initial

educational meeting/conference with the Respondent to explain the conduct process to the Respondent and gather information.

To assure continued compliance with applicable laws, if state or federal statutory provisions, regulatory guidance, or court interpretations or guidance provided by any authorized regulating agency change, or conflict with college policy and/or procedure including but not limited to the hearing procedures set forth in this Code of Student Conduct, the College's policy and/or procedure will be deemed amended as of the time of the decision, ruling, legislative enactment or guidance. Further, the procedures set forth in this policy may be modified or changed to protect the due process rights of the parties and/or to comply with any state or federal laws or regulations.

OVERVIEW OF STEP 1

Preliminary inquiry and/or educational conference.

The College conducts a preliminary inquiry into the nature of the incident, complaint, or notice, the evidence available, and the parties involved. The preliminary inquiry may lead the College to determine that there is insufficient evidence to pursue the investigation, because the behavior alleged, even if proven, would not violate the Code of Student Conduct, (e.g.: for reasons such as mistaken identity or allegations of behavior that falls outside the code). The preliminary inquiry may also lead to a more comprehensive investigation, when it is clear more information must be gathered. It may lead to a formal complaint of a violation and/or an educational conference with the Respondent.

When an initial educational meeting/conference is held, the possible outcomes include as follows:

- a decision not to pursue the allegation based on a lack of or insufficient evidence. The matter should be closed and records should so indicate;
- a decision on the allegation, also known as an "informal" or "administrative" resolution to an uncontested allegation where the student accepts responsibility (see immediately below); or
- a decision to proceed with additional investigation and/or referral for a "formal" resolution.

If a decision on the allegation is made and the finding is that the Respondent is not responsible for violating the Code, the process will end. In sexual misconduct and other discrimination complaints, the alleging party may request that the Dean of Student Affairs and the Title IX Coordinator reopen the investigation and/or grant a hearing. This decision will be in the sole discretion of the Dean of Student Affairs and the Title IX Coordinator and will only be granted for extraordinary cause. If the College's finding is that the Respondent is in violation and the Respondent accepts responsibility within three days of the formal or informal hearing/educational conference, the College considers this an "uncontested allegation." The administrator conducting the initial educational conference will then determine the sanction(s) for the misconduct.

If the sanctions are rejected, the College will conduct a sanction-only hearing, conducted by the Student Conduct Committee which recommends a sanction to the Dean of Student Affairs. The sanction is then reviewed and finalized by the Dean of Student Affairs and is subject to appeal (see appeals section, below) by any party to the misconduct. Once an appeal decision is made, the process ends.

If the administrator conducting the educational conference determines that it is more likely than not that the Respondent is in violation, and the Respondent rejects that finding in whole or in part, then it is considered a contested allegation and the process moves to Step 2.

OVERVIEW OF STEP 2

Formal Hearing.

In a contested allegation, additional investigation may then be commenced and/or a hearing may be held when there is reasonable cause to believe that a rule or rules have been violated. A formal notice of the complaint will be issued, and a hearing will be held before a panel or an administrator. All relevant evidence gathered by the investigation will be shared with the parties at least ten (10) business days before the hearing. At the hearing, a finding will be determined and is final except in complaints that involve sexual misconduct or other discrimination allegations. In those cases, the hearing results serve as a recommendation to the Dean of Student Affairs or designee, who will review and finalize the finding. If the finding is that the Respondent is not responsible, the process ends. Applicable appeals options are described below.

OVERVIEW OF STEP 3

Review and Finalize Sanction(s).

If the student is found responsible for the charges/violations, sanctions will be recommended by the Student Conduct Committee or administrator to the Dean of Student Affairs or designee when applicable, who will review and finalize the sanctions, subject to the College appeals process by any party to the complaint. An appeal is also available in cases where no violation is found.

SECTION VII: STUDENT CONDUCT AUTHORITY

A. Authority.

The Dean of Student Affairs is vested with the authority over student conduct by the Board of Trustees or President. The Dean of Student Affairs or designee serves as the Chief Conduct Officer and oversees and manages the student conduct process. The Dean of Student Affairs may appoint administrative hearing and appeals officers as deemed necessary to efficiently and effectively supervise the student conduct process.

The Dean of Student Affairs or designee will assume responsibility for the investigation of an allegation of misconduct to determine if the complaint has merit.

B. Gatekeeping.

No complaint will be forwarded for a hearing unless there is reasonable cause to believe a policy has been violated. Reasonable cause is defined as some credible information to support each element of the offense, even if that information is merely a credible witness or the Complainant's statement. A complaint wholly unsupported by any information will not be forwarded for a hearing.

C. Conflict Resolution Options.

The Dean of Student Affairs or designee has discretion to refer a complaint for mediation or other forms of appropriate conflict resolution. All parties must agree to mediation and to be bound by the decision with no review/appeal. Any unsuccessful mediation can be forwarded for formal processing and hearing. The Dean of Student Affairs may also suggest that complaints that do not involve conduct that violates the Code of Student Conduct be referred for mediation or other appropriate conflict resolution.

D. Interpretation and Revision.

The Dean of Student Affairs will develop procedural rules for the administration of hearings that are consistent with provisions of the Code of Student Conduct. Material deviation from these rules will, generally, only be made as necessary and will include reasonable advance notice to the parties involved, either by posting online and/or in the form of written communication. The Dean of Student Affairs may vary procedures with notice upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Code. The Dean of Student Affairs may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party. Any question of interpretation of the Code of Student Conduct will be referred to the Dean of Student Affairs whose interpretation is final. The Code of Student Conduct will be updated annually under the direction of the Dean of Student Affairs with a comprehensive revision process being conducted every three years.

SECTION VIII: FORMAL CONDUCT PROCEDURES

A. College as Convener

Otis College is the convener of every action under this code. Within that action, there are several roles:

- Respondent: The respondent is the person who is alleged to have violated the code.
- Complainant: The Complainant, who may be a student, employee, visitor or guest, may choose to be present and participate in the process as fully as the Respondent.
- Witnesses: There are witnesses, who may offer information regarding the allegation. There is an investigator(s) whose role is to present the allegations and share the evidence that the College has obtained regarding the allegations.
- Advisor: Advisors serve as support people to the students, and can be anyone of the student's choosing, as long as they are eligible, available, and not otherwise a witness to the complaint. Advisors may be attorneys but may not make a presentation or represent the party during the hearing.

B. Group Violations

A student group or organization and its officers and membership may be held collectively and individually responsible when violations of this code by the organization or its member(s) take place at organization- sponsored or co-sponsored events, whether sponsorship is formal or tacit; have received the consent or encouragement of the organization or of the organization's leaders or officers; or were known or should have been known to the membership or its officers.

Hearings for student groups or organizations follow the same general student conduct procedures. In any such action, individual determinations as to responsibility will be made and sanctions may be assigned collectively and individually and will be proportionate to the involvement of each individual and the organization.

C. Amnesty

1. For Complainants

The College provides amnesty to Complainants who may be hesitant to report to College officials because they fear that they themselves may be accused of minor policy violations, such as underage drinking, at the time of the incident.

2. For Those Who Offer Assistance

To encourage students to offer help and assistance to others, the College pursues policy of amnesty for minor violations when students offer help to others in need (bystander intervention). At the discretion of the Dean of Student Affairs, amnesty may also be extended on a case-by-case basis to the person receiving assistance. Educational options will be explored, but no conduct proceedings or conduct record will result.

Bystander Intervention: Appropriate ways to address situations and intervene as a bystander may include the following:

- Where the student is not complicit, by leaving the area where the violation was occurring where a risk of serious harm exists, merely leaving will not be appropriate; or
- Creating an effective distraction, intervening, or confronting the violation in an effort to stop it; or
- Contacting the appropriate staff members or authorities to address the violation.

3. For Those Who Report Serious Violations

Students who are engaged in minor violations but who choose to bring related serious violations by others to the attention of the College are offered amnesty for their minor violations. Educational options will be explored, but no conduct proceedings will result.

Abuse of amnesty requests can result in a decision by the Dean of Student Affairs not to extend amnesty to the same person repeatedly.

4. Safe Harbor

The College has a Safe Harbor rule for students. The College believes that students who have a drug and/or addiction problem deserve help. If any College student brings their own use, addiction, or dependency to the attention of College officials outside the threat of drug tests or conduct sanctions and seeks assistance, a conduct complaint will not be pursued. However, if a student's alcohol and/or other drug addiction/dependency results in behavior that threatens the safety and security of the surrounding community, a student conduct process may be pursued. A written action plan may be used to track cooperation with the Safe Harbor program by the student. Failure to follow the action plan will nullify the Safe Harbor protection and campus conduct processes will be initiated.

D. Reporting Alleged Violation(s)

Any member of the College community, visitor, or guest may report a policy violation(s) by any student for misconduct under this Code.

Reports may also be given to the Dean of Student Affairs (or designee) and/or to the Title IX Coordinator, when appropriate. Additionally, these administrators may act on notice of a potential violation whether a formal allegation is made or not. All allegations can be submitted by the Complainant or a third party, and should be submitted as soon as possible after the offending event occurs. The College has the right to pursue an allegation or notice of misconduct on its own behalf and to serve as convener of the subsequent campus conduct process. The Dean of Student Affairs (or designee) will assume responsibility for the investigation of the alleged violation as described in the section below.

E. Investigation

The Dean of Student Affairs will investigate any allegation under this Code. The Title IX Coordinator or designee(s) will investigate any complaint that falls under the Title IX procedures (e.g. sexual misconduct) using the procedures in that section, above. The investigator(s) will take the following steps:

- Initiate any necessary remedial/interim actions on behalf of the Complainant (if any);
- Determine the identity and contact information of the Complainant, whether that person is the initiator of the complaint, the alleged Complainant, or a College proxy or representative;
- Conduct an immediate preliminary inquiry to identify a complete list of all policies that may have been violated, to review the history of the parties, the context of the incident(s), any potential patterns and the nature of the complaint;
- If the Complainant is reluctant to pursue the complaint, determine whether the complaint should still be pursued and whether sufficient independent evidence could support the complaint without the participation of the Complainant;
- Notify the Complainant of whether the College intends to pursue the complaint regardless of their involvement, and inform the Complainant of their rights in the process and option to become involved if they so choose;
- Preliminary inquiry usually takes between 1–7 business days to complete;
- If indicated by the preliminary inquiry, conduct a comprehensive investigation to determine if there is reasonable cause to believe that the Respondent violated College policy, and to determine what specific policy violations should serve as the basis for the complaint;
- If there is insufficient evidence through the investigation to support reasonable cause, the allegations will be closed with no further action;
- A comprehensive investigation usually takes between one day and two weeks, though complex allegations may take longer;
- Meet with the Complainant to finalize the Complainant's Statement, which will be drawn up by the investigator or designee as a result of this meeting;
- Commence a thorough, reliable, and impartial investigation by developing a strategic investigation plan, including witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the Respondent, who may be given notice of the interview prior to or at the time of the interview;
- Prepare the notice of alleged policy violation(s) on the basis of the reasonable cause determination, which may be delivered prior to, during or after the Respondent is interviewed, at the discretion of the investigator(s);
- Interview all relevant witnesses, obtain statements from each, and have each witness sign their statements to verify them;
- Obtain all documentary evidence and information that is available;
- Obtain all physical evidence that is available;
- Complete the investigation promptly by analyzing all available evidence without unreasonable deviation from the intended timeline;
- Make a finding, based on a preponderance of the evidence (whether a policy violation is more likely than not);
- Present the investigation report and findings to the Respondent, who may:
 - accept the findings,
 - accept the findings in part and reject them in part,
 - or may reject all findings;

- Share the findings and update the Complainant on the status of the investigation and the outcome.

Note: Any student needing language assistance to fully participate in the conduct process should make a request with the Dean of Student Affairs, Title IX Coordinator, or designee.

F. Findings OPTION 1:

The Respondent is Found “Not Responsible”

Where the Respondent is found not responsible for the alleged violation(s), the investigation will be closed. The Complainant, if any, may request that the Title IX Coordinator (in cases involving sexual misconduct) and/or the Dean of Student Affairs (for general conduct), as applicable, review the investigation file to possibly re-open the investigation or convene a hearing. The decision to re-open an investigation or convene a hearing rests solely in the discretion of the Title IX Coordinator or the Dean of Student Affairs in these cases, and is granted only on the basis of extraordinary cause.

OPTION 2A:

The Respondent Accepts “Responsibility”

Should the Respondent accept the finding that they violated College policy, the Dean of Student Affairs or designated committee will determine a necessary sanction(s). In cases involving discrimination, sanctions will act to end the discrimination, prevent its recurrence, and remedy its effects on the Complainant and the College community. If the Respondent accepts these recommended sanctions, the sanctions are implemented and the process ends. This outcome is not subject to appeal.

OPTION 2B:

The Respondent Accepts a “Responsibility” but Rejects the Sanctions Recommended. If the Respondent accepts the “responsible” findings, but rejects the recommended sanctions, they will have a right to Appeal, based on the appeal guidelines detailed below.

OPTION 3A:

Respondent Rejects the Allegations Completely

Where the Respondent rejects the findings of the investigation, a formal hearing will be convened within fourteen business days, barring exigent circumstances.

Prior to the hearing, the Dean of Student Affairs will provide all reports/evidence to the parties and the Student Conduct Committee. During the hearing the committee will hear from the parties and any necessary witnesses. The investigation report will be considered by the committee, which renders an independent and objective finding. Full committee procedures are detailed below.

If the committee finds the Respondent not responsible for all violations, the Dean of Student Affairs will inform the parties of this determination and the rationale for the decision in writing in a timely manner. This determination is subject to appeal by any party to the complaint. Appeal review procedures are outlined below.

If the panel finds the Respondent responsible for the alleged violation, it will recommend a sanction/responsive action to the Dean of Student Affairs, who will, conferring with the Title IX Coordinator as necessary, render a decision within five (5) business days of the hearing and

timely and simultaneously notify the parties, in writing. An appeal may be filed within five (5) business days after the delivery of the formal letter of the findings by any party to the complaint, as detailed below.

OPTION 3B:

Respondent Accepts "Responsibility" in Part and Rejects the Findings in Part

Where the Respondent rejects in part the findings that they violated College policy, there will be a committee hearing solely on the disputed allegations within fourteen days, barring exigent circumstances. For all findings holding a Respondent responsible for a violation, the process will follow the same process outlined in Option 3A. If the committee finds the Respondent "Not Responsible" on any of the contested allegations, the process will move to an administrative hearing on the sanctions for the uncontested allegations.

G. Special Hearing Provisions for Sexual Misconduct, Discrimination and Other Complaints of a Sensitive Nature (applicable only when the Title IX procedures above, are not)

All hearings under this section will be conducted by the Student Conduct Committee. For sexual misconduct, discrimination, and other complaints of a sensitive nature, whether the impacted individual(s) is serving as the Complainant or as a witness, alternative testimony options may be provided, such as placing a privacy screen in the hearing room or allowing the Complainant to testify from another room via Skype, Zoom, conference call, or similar technology. While these options are intended to help make the Complainant more comfortable, they are not intended to work to the disadvantage of the Respondent.

The past sexual history or sexual character of a party will not be admissible by the other parties in hearings unless such information is determined to be highly relevant by the panel Chair. All such information sought to be admitted by a party or the College will be presumed irrelevant until a showing of relevance is made, in advance of the hearing, to the Chair. Demonstration of pattern, repeat, and/or predatory behavior by the Respondent, in the form of previous findings in any legal or campus proceeding, or in the form of previous good faith allegations, will likely be relevant to the finding, not just the sanction. The parties will be notified in advance if any such information is deemed relevant and will be introduced in the hearing.

The Complainant in any complaint alleging sexual misconduct or other behavior falling within the coverage of Title IX will be notified in writing of the outcome of a hearing, any sanctions assigned and the rationale for the decision.

H. Notice of Hearing

Once a determination is made that reasonable cause exists for the Dean of Student Affairs (or designee) to refer a complaint for a hearing, notice will be given to the parties. Notice will be in writing and may be delivered primarily through email to the student's Otis College email account. Other methods of delivery can include: in person by the Dean of Student Affairs (or designee); or mailed to the local or permanent address of the student as indicated in official College records; or emailed to the student's personal email. Once mailed, e- mailed and/or received in-person, such notice will be presumptively delivered. The letter of notice will:

- a) Include the alleged violation and notification of where to locate the Code of Student Conduct and College procedures for resolution of the complaint; and

- b) Direct the Respondent to contact the Dean of Student Affairs (or designee) within a specified period of time to respond to the complaint. This time period will generally be no less than two business days from the date of delivery of the summons letter. A meeting with the Dean of Student Affairs (or designee) may be arranged to explain the nature of the complaint and the conduct process. At this meeting, the Respondent may indicate, either verbally or in writing, to the Dean of Student Affairs (or designee), whether they admit or deny the allegations of the complaint.

I. Interim Actions

Under the Code of Student Conduct, the Dean of Student Affairs or designee may impose restrictions and/or separate a student from the community pending the scheduling of a campus hearing on alleged violation(s) of the Code of Student Conduct when a student represents a threat of serious harm to others, is facing allegations of serious criminal activity, to preserve the integrity of an investigation, to preserve College property and/or to prevent disruption of, or interference with, the normal operations of the College.

Interim actions can include separation from the institution (Interim Suspension) or restrictions on participation in the community for no more than ten (10) business days pending the scheduling of a campus hearing on alleged violation(s) of the Code of Student Conduct. Other examples of interim actions can include but are not limited to:

- Housing relocation/reassignment
- Class schedule accommodations
- No trespass orders
- No contact orders

A student who receives an interim suspension may request a meeting with the Dean of Student Affairs or designee to demonstrate why an interim suspension is not merited. Regardless of the outcome of this meeting, the College may still proceed with the scheduling of a campus hearing.

During an interim suspension, a student may be denied access to College housing and/or the College campus/facilities/events. As determined appropriate by the Dean of Student Affairs, this restriction may include classes and/or all other College activities or privileges for which the student might otherwise be eligible. At the discretion of the Dean of Student Affairs and with the approval of, and in collaboration with, the appropriate Chairs(s), alternative coursework options may be pursued to ensure as minimal an impact as possible on the Respondent.

Order of Exclusion/Stay Away Notices

Students may be excluded from campus by order of the Dean of Student Affairs; employees may be excluded from campus by order of Human Resources. Individuals who are under an order of exclusion are prohibited from entering the Otis College campus or participating in Otis College activities on or off campus. Individuals who fail to comply with an order of exclusion will be given a Trespass Notice.

To execute an order of exclusion, the Dean of Student Affairs or Human Resources notifies the Chief Safety & Security Officer, who in turn notifies Campus Security. The Campus Security administers and supervises the order of exclusion until such time as the student or employee returns to good standing in the College community, as determined by the Dean of Student Affairs

in the case of students and Human Resources in the case of employees. Persons under an order of exclusion may visit campus for brief periods only by written permission of the Chief Safety & Security Officer, the Dean of Student Affairs (for students), or Human Resources (for employees). A Trespass Notice will be issued to any person under an order of exclusion who returns to campus without written permission. The Dean of Student Affairs and Human Resources may appoint a designee to act on their behalf.

J. Hearing Options and Preparation

The following sections describe the College's conduct hearing processes. Except in a complaint involving failure to comply with the summons of the Dean of Student Affairs (or designee), no student may be found to have violated the Code of Student Conduct solely as a result of the student's failure to appear for a hearing. In all such instances, conduct hearings will proceed as scheduled and the information in support of the complaint will be presented to, and considered by, the Dean of Student Affairs or committee presiding over the hearing.

Where the Respondent admits to violating the Code of Student Conduct, the Dean of Student Affairs (or designee) may invoke administrative hearing procedures to determine and administer appropriate sanctions without a formal hearing. This process is also known as an administrative conference. In an administrative/educational conference, complaints will be heard and determinations will be made by the Dean of Student Affairs or designee.

Where the Respondent denies violating the Code of Student Conduct, a formal hearing will be conducted. This process is known as a committee hearing. At the discretion of the Dean of Student Affairs (or designee), a request by one or more of the parties to the complaint for an administrative/educational conference may be considered. Students who deny a violation for which a committee hearing will be held will be given a minimum of five (5) days from the issuance of the hearing notice to prepare unless all parties wish to proceed more quickly. Preparation for a formal hearing is summarized in the following guidelines:

- a) Notice of the time, date and location of the hearing will be in writing and may be delivered by one or more of the following methods: in person by the Dean of Student Affairs (or designee); mailed to the local or permanent address of the student as indicated in official College records; or e-mailed to the student's College-issued email account. Once mailed, e-mailed and/or received in-person, such notice will be presumptively delivered.
- b) If there is an alleged impacted individual of the conduct in question, the alleged impacted individual may serve as the Complainant or may elect to have the College administration serve as the Complainant. Where there is no alleged impacted individual, the College administration will serve as the Complainant.
- c) If a Respondent fails to respond to notice from the Dean of Student Affairs (or designee), the Dean of Student Affairs (or designee) may initiate a complaint against the student for failure to comply with the directives of a College official and give notice of this offense. Unless the student responds to this notice within two days by answering the original notice, an administrative conference may be scheduled and held on the student's behalf. As a result, the student may be administratively withdrawn from attending classes or a disciplinary hold may be placed on their College account, deeming them ineligible to register for courses or College housing until such time as the student responds to the initial complaint.
- d) At least five (5) business days before any scheduled formal hearing, the following will occur:

- The Respondent will be given the opportunity to submit questions to the Committee to be used for cross examination of the Complainant(s) and any witnesses. This can be done prior to or at the hearing.
- Similarly, the Complainant may submit questions to the Conduct Committee to be used for cross examination of the Respondent(s) and any witnesses. This can be done prior to or at the hearing.
- The Chair of the Conduct Committee has the right to exclude any questions from either party as irrelevant, as long as there is a documented rationale offered for the exclusion(s).
- The parties will deliver to the Dean of Student Affairs (or designee) a written list of all witnesses they wish the College to call at the hearing, at least 5 business days prior to the hearing;
- The parties and/or investigator will deliver to the Dean of Student Affairs (or designee) all physical evidence they intend to use or need to have present at the hearing and will indicate who has possession or custody of such evidence, if known, so that the Dean of Student Affairs can arrange for its presence;
- The Complainant and the Respondent will notify the Dean of Student Affairs (or designee) of the names of any advisors/advocate who may be accompanying the parties at the hearing, at least 5 business days prior to the hearing.

The Dean of Student Affairs (or designee) will ensure that the hearing evidence and any other available written documentation is shared with the parties at least two (2) business days before any scheduled hearing. In addition, the parties will be given a list of the names of all committee members in advance. Should any party object to any committee member, they must raise all objections, in writing, to the Dean of Student Affairs immediately. Committee members will only be unseated if the Dean of Student Affairs concludes that their bias precludes an impartial hearing of the complaint. Additionally, any committee member who feels they cannot make an objective determination must recuse themselves from the proceedings.

K. Committee Hearing Procedures

The Conduct Committee consists of a minimum of three panelists. The Dean of Student Affairs will serve as the Chair of the conduct panel with no voting rights, or will appoint one panelist as the Chair for the hearing. In the event an outside hearing Chair is appointed, that individual will serve as a voting member of the panel. The parties have the right to be present at the hearing; however, they do not have the right to be present during deliberations. If a student cannot attend the hearing, it is that student's responsibility to notify the Dean of Student Affairs no less than three (3) business days prior to the scheduled hearing to arrange for another date, time and location. Except in cases of grave or unforeseen circumstances, if the Respondent fails to give the requisite minimum three (3) day notice, or if the Respondent fails to appear, the hearing will proceed as scheduled. If the Complainant fails to appear, the complaint may be dismissed unless the College chooses to pursue the allegation on its own behalf, as determined by the Dean of Student Affairs. No party is required to attend the hearing or to participate in it.

The Dean of Student Affairs (or designee) and the committee will conduct panel hearings according to the following guidelines:

- a) Hearings will be closed to the public.
- b) Admission to the hearing of persons other than the parties involved will be at the discretion of the panel chair and/or the Dean of Student Affairs.

- c) In hearings involving more than one Respondent, the standard procedure will be to hear the complaints jointly; however, the Dean of Student Affairs may permit the hearing pertinent to each Respondent to be conducted separately. In joint hearings, separate determinations of responsibility will be made for each Respondent.
- d) In sexual misconduct hearings, the parties have the right to an advisor of their own choosing, including an attorney.
- e) The advisor may not make a presentation or represent the Complainant or Respondent during the hearing.
- f) The Complainant, the Respondent, and the committee will have the privilege of questioning all present witnesses and questioning all present parties (through the Chair, at the discretion of the Chair). Unduly repetitive testimony can be limited at the discretion of the panel Chair.
- g) Pertinent records, exhibits, and written statements may be accepted as evidence for consideration by the panel. Formal rules of evidence are not observed. The Dean of Student Affairs or Chair may limit the number of character witnesses presented or may accept written affidavits of character instead.
- h) All procedural questions are subject to the final decision of the Dean of Student Affairs or Chair.
- i) Cross examination questions submitted by the parties will be evaluated for relevance and posed by the Chair in order to maintain a civil questioning process.
- j) After a committee hearing, the panel will deliberate and determine, by majority vote, whether it is **more likely than not** (preponderance of evidence) that the Respondent has violated the Code of Student Conduct. The Dean of Student Affairs (or designee) will be present and available as a resource during all deliberations. Once a finding is determined, if the finding is that of a policy violation, the panel will determine an appropriate recommended sanction(s). The Dean of Student Affairs (or designee) is responsible for informing the panel of applicable precedent and any previous conduct violations or other relevant pattern information about the Respondent. The panel Chair will prepare a written deliberation report and deliver it to the Dean of Student Affairs, detailing the committee's finding, as well as the information cited by the panel in support of their finding, and any information the panel excluded from its consideration and why. This report should conclude with any recommended sanctions. This report should not generally exceed two pages in length and must be submitted to the Dean of Student Affairs within two (2) business days of the end of deliberations.
- k) The Dean of Student Affairs will consider the recommendations of the committee, may make appropriate modifications to the committee's report (with the assent of the committee panelists), and will then render a decision and inform the Respondent and Complainant (if applicable by law or College policy) of the final determination within seven business days of the hearing. Notification will be made in writing and may be delivered by one or more of the following methods: in person by the Dean of Student Affairs (or designee); mailed to the local or permanent address of the student as indicated in official College records; or emailed to the student's College- issued email account. Once mailed, emailed and/or received in-person, such notice will be presumptively delivered. In cases of sexual misconduct, notice of the outcome will be delivered to all parties simultaneously, meaning without substantial delay between the notifications to each. The notification will detail any applicable appeal options, will specify when the decision is considered final, and will note any changes to the outcome made before finalization.

L. Conduct Sanctions

One or more of following sanctions may be imposed upon any student for any single violation of the Code of Student Conduct:

- Administrative Warning: An official written notice that the student has violated College policies and/or rules and that more severe conduct action will result should the student be involved in other violations while the student is enrolled at the College.
- Restitution: Compensation for damage caused to the College or any person's property. This is not a fine but, rather, a repayment for property destroyed, damaged, consumed, or stolen.
- Fines: Reasonable fines may be imposed. Fines are specified to include: Alcohol and other drug-related activities—fines in increments of \$50 to \$300; Damages—actual repair costs, including labor and materials; Noncompliance with discretionary sanctions - \$15 per hour for service not performed; Unauthorized residence hall room change - \$35; Failure to return a reserved space to proper condition – labor costs and expenses.
- Community/College Service Requirements: For a student or organization to complete a specific supervised Community/College service.
- Loss of Privileges: The student will be denied specified privileges for a designated period of time.
- Confiscation of Prohibited Property: Items whose presence is in violation of College policy will be confiscated and will become the property of the College. Prohibited items that are confiscated will not be returned.
- Behavioral Requirement: This includes required activities including, but not limited to, seeking academic counseling or substance abuse screening, writing a letter of apology, complete online alcohol and other drug courses, etc.
- Mandated Counseling Consultation: The student will meet with an Otis College counselor and follow the recommended mandated session(s). The student will be required to comply with the counselor's written treatment plan, and will sign a formal release documenting their attendance in order to complete this sanction. The details of the treatment plan will be based on the student's individual circumstances, and will not be shared with the Student Conduct Committee or Student Affairs Staff.
- Educational Program: Requirement to attend, present, and/or participate in a program related to the violation. It may also be a requirement to sponsor or assist with a program for others on campus to aid them in learning about a specific topic or issue related to the violation for which the student or organization was found responsible. Examples of an educational program can be but are not limited to online education courses, residence hall program for the building or floor communities, health and wellness programming, etc. Audience may be restricted.
- Restriction of Visitation Privileges: May be imposed on a resident or nonresident student. The parameters of the restriction will be specified.
- College Housing Probation: Official notice that, should further violations of Residence Life or College policies occur during a specified probationary period, the student may immediately be removed from College housing. Regular probationary meetings may also be imposed.
- College Housing Reassignment: Reassignment to another College housing facility. Residential Life personnel will decide on the reassignment details.
- College Housing Suspension: Removal from College housing for a specified period of time after which the student is eligible to return. Conditions for readmission to College

housing may be specified. Under this sanction, a student is required to vacate College housing within 24 hours of notification of the action, although this deadline may be extended upon application to, and at the discretion of, the Dean of Student Affairs. This sanction may be enforced with a trespass action if deemed necessary. Prior to reapplication for College housing, the student must gain permission from the Dean of Student Affairs (or designee).

- College Housing Dismissal: The student's privilege to live in, or visit, any College housing structure is revoked indefinitely. This sanction may be enforced with a trespass action if deemed necessary.
- College Probation: The student is put on official notice that, should further violations of College policies occur during a specified probationary period, the student may face suspension or expulsion. Regular probationary meetings may also be imposed.
- Eligibility Restriction: The student is deemed "not in good standing" with the College for a specified period of time. Specific limitations or exceptions may be granted by the Dean of Student Affairs and terms of this conduct sanction may include, but are not limited to, the following:
 - a) Ineligibility to hold any office in any student organization recognized by the College or hold an elected or appointed office at the College; or
 - b) Ineligibility to represent the College to anyone outside the College community in any way, including participating in the study abroad program, attending conferences, or representing the College at an official function, event or competition, and so on
- College Suspension: Separation from the College for a specified minimum period of time, after which the student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension. The student is required to vacate the campus within 24 hours of notification of the action, although this deadline may be extended upon application to, and at the discretion of, the Dean of Student Affairs. During the suspension period, the student is banned from College property, functions, events, and activities. This sanction may be enforced with a trespass action and/or No Contact action as necessary.
- College Dismissal: Permanent separation from the College. The student is banned from College property and the student's presence at any College-sponsored activity or event is prohibited. This action may be enforced with a trespass action and No Contact action as necessary.
- Other Sanctions: Additional or alternate sanctions may be created and designed as deemed appropriate to the offense with the approval of the Dean of Student Affairs or designee.

The following sanctions may be imposed upon groups or organizations found to have violated the Code of Student Conduct:

- a) One or more of the sanctions listed above; and/or
- b) Deactivation, derecognition, loss of all privileges (including College registration), for a specified period of time.

M. Parental Notification

The College reserves the right to notify the parents/guardians of dependent students regarding any conduct situation, particularly alcohol and other drug violations. The College may also notify

parents/guardians of nondependent students who are under the age of 21 of alcohol and/or other drug violations.

N. Notification of Outcomes

The outcome of a campus hearing is part of the education record of the Respondent and is protected from release under the Federal Education Rights and Privacy Act (FERPA), except under certain conditions. As allowed by FERPA, when a student is accused of a policy violation that would constitute a “crime of violence” or forcible or nonforcible sex offense, the College will inform the alleged Complainant in writing of the final results of a hearing regardless of whether the College concludes that a violation was committed.

In cases where the College determines through the student conduct process that a student violated a policy that would constitute a “crime of violence” or nonforcible sex offense, the College may also release the above information publicly and/or to any third party. FERPA defines “crimes of violence” to include:

- a) Arson
- b) Assault offenses (includes stalking)
- c) Burglary
- d) Criminal Homicide—manslaughter by negligence
- e) Criminal Homicide—murder and nonnegligent manslaughter
- f) Destruction/damage/vandalism of property
- g) Kidnapping/abduction
- h) Robbery
- i) Forcible sex offences
- j) Nonforcible sex offences

O. Failure to Complete Conduct Sanctions

All students, as members of the College community, are expected to comply with conduct sanctions within the time frame specified by the Dean of Student Affairs or designee. Failure to follow through on conduct sanctions by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions, administrative “holds” on the student account, and/or suspension from the College. In such situations, resident students will be required to vacate College housing within 24 hours of notification by the Dean of Student Affairs, although this deadline may be extended upon application to, and at the discretion of, the Dean of Student Affairs. A suspension will only be lifted when compliance with conduct sanctions is satisfactorily achieved. This determination will be made by the Dean of Student Affairs.

P. Appeal Review Procedures

Any party may request an appeal of the decision of the Committee/Administrative Hearing by filing a written request to the Vice President of Campus Life, subject to the procedures outlined below. All sanctions imposed by the original hearing body go into effect once the five (5) business day appeal window has concluded, unless an appeal is requested. All parties should be timely informed of the status of requests for appeal, the status of the appeal consideration, and the results of the appeal decision.

GROUND FOR APPEAL REQUESTS

Appeals requests are limited to the following grounds:

- **Procedural Error:** A procedural error occurred that significantly impacted the outcome of the investigation or hearing. A description of the error and its impact on the outcome of the case must be included in the written appeal; or
- **New Evidence:** New evidence or information has arisen that was not available or known to the party during the investigation or hearing, and that could significantly impact the findings. Information that was known to the Appellant during the investigation or hearing but which they chose not to present is not new information. A summary of this new evidence and its potential impact on the investigation findings must be included in the written appeal.
- **Disproportionate Sanction:** The sanction(s) imposed are grossly disproportionate to the severity of the violation(s). An explanation of why the sanction(s) is/are grossly disproportionate to the findings must be included in the written appeal.
- **Conflict of Interest or Bias:** An actual conflict of interest or bias impacted the results of the resolution procedures.

The Dean of Student Affairs or designee will share the appeal by one party with the other party (parties) when appropriate under procedure or law (e.g., if the Respondent appeals, the appeal is shared with the Complainant, who may also wish to file a response, request an appeal on the same grounds or different grounds). The Dean of Student Affairs will refer the request(s) to the College's designated Appeal Review Officer.

The Appeal Review Officer will conduct an initial review of appeals to determine if the appeal request meets the limited grounds and is timely. They may consult with the Dean of Student Affairs and/or Title IX Coordinator on any procedural or substantive questions that arise.

If the appeal is not timely or substantively eligible, the original finding and sanction will stand and the decision is final. If the appeal has standing, the Appeal Review Officer determines the final outcome. Full rehearings are not permitted. Where new evidence is presented or the sanction is challenged, the Appeals Review Officer will determine if the matter should be returned to the original decision-maker or investigator for reconsideration or if they should make a determination. In review, the original finding and sanction are presumed to have been decided reasonably and appropriately, thus the burden is on the appealing party(ies) to show clear error. The Appeal Review Officer must limit their review to the challenges presented, generally.

On reconsideration, the Dean of Student Affairs or Conduct Committee may affirm or change the findings and/or sanctions. Procedural or substantive errors should be cured, new evidence should be considered, and sanctions should be proportionate to the severity of the violation and the student's cumulative conduct record.

All decisions of the Appeal Review Officer are to be made within five (5) business days of submission and are final, as are any decisions made by the Dean of Student Affairs or Title IX Coordinator as the result of reconsideration consistent with instructions from the Appeal Review Officers.

OTHER GUIDELINES FOR APPEALS

All parties will be timely informed of the status of requests for appeal, the status of the appeal consideration, and the results of the appeal decision;

Appeals are not intended to be full re-hearings of the complaint (de novo). In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal; witnesses may be called if necessary.

Appeals are not an opportunity to substitute an Appeal Review Officer's judgment for that of the original decision-maker merely because they disagree with the finding and/or sanctions. Appeals decisions are to be deferential to the original decision-maker, making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so.

Q. Disciplinary Records

All conduct records are maintained by the College for seven (7) years from the time of their creation except those that result in separation (suspension or expulsion, including from housing) and those that fall under Title IX, which are maintained indefinitely.

R. Changes to the Code and Effective Date

The College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect. During the resolution process, the Dean of Student Affairs may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Dean of Student Affairs may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require Policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government laws or regulations or court holdings.

This document does not create legally enforceable protections beyond the protections of the background state and federal laws which frame such policies and codes, generally.

This Policy and procedures are effective February 18, 2022.