

# SCHOOL OF VISUAL ARTS CAMPUS SAFETY AND SECURITY REPORT

JANUARY 14, 2021

The 2021 Annual Security Report is published in compliance with the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act* {34 CFR 668.46} and the *Violence Against Women Reauthorization Act of 2013 (VAWA)* (Public Law 113-14).

In 1990, Congress enacted the *Crime Awareness and Campus Security Act of 1990* (Title II of Public Law 101-542), which amended the *Higher Education Act of 1965 (HEA)*. This act required all postsecondary institutions participating in *HEA*'s Title IV student financial assistance programs to disclose campus crime statistics and security information. The act was amended in 1992, 1998, 2000 and 2008. The 1998 amendments renamed the law the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act* in memory of a student who was slain in her dorm room in 1986. It is generally referred to as the *Clery Act* and is in section 485(f) of the *HEA*.

On March 7, 2013, the *Violence Against Women Reauthorization Act of 2013 (VAWA)* (Public Law 113-14) was signed into law. *VAWA* includes amendments to the *Clery Act*. These changes require institutions to disclose statistics, policies and programs related to dating violence, domestic violence, sexual assault and stalking, among other changes.

## SECURITY SERVICES

The Office of Security Services is charged with maintaining a safe and secure environment on campus. Its chief responsibilities include patrolling campus and staffing security desks; lending assistance and coordinating with first responders in emergencies; investigating reports made by students, faculty and staff; and collecting campus crime statistics for the US Department of Education. The office's success depends heavily on cooperation from all those who it is asked to protect.

The SVA Security Department has a state-of-the art command center. It operates as both the offices for our security team and our surveillances center, covering the entire SVA college campus. The command center's systems are state-of-the art with digital recording equipment, interface with card access systems and direct access to any cameras. It has several large flat-screen televisions to allow for constant monitoring. In addition it has a sophisticated communications system, which enables any emergency to be handled from the command center. The digital cameras and recording systems cover the interior and exterior of all our buildings, including classrooms, dormitories, lounges and theaters. Hundreds of digital cameras are monitored from this one location. The command center is manned 24 hours a day and seven days a week, with a security management team member. This allows for a quick response to emergency situations, and a focal point for all security-related matters.

## SECURITY POLICIES AND PROCEDURES

SVA's security procedures have been established to protect you and your personal property, as well as the property of the College. Although all reasonable precautions are taken to safeguard property, it is the responsibility of each member of the SVA community to assist in that effort by not leaving valuable personal articles — wallets or handbags, for example, unattended or in open view at any time. If you see any strangers or suspicious-looking activities, alert the Security Desk in your building immediately. A security officer is on duty 24-hours a day.

*Please Note:* Security officers have the authority to request to see SVA identification cards at any time. Security officers can detain but do not have the authority to arrest. Currently SVA does not have a voluntary confidential reporting system in place.

#### **DAILY SECURITY LOG**

Every security officer in each SVA building maintains a daily activity log where criminal and non-criminal incidents are reported. In addition, an incident report is generated that includes the details of all criminal and non-criminal acts reported to the security department. The incident reports include the following information:

- (1) the nature, date, time, and general location of each crime; and
- (2) the disposition of the complaint, if known.

The incident reports are then filed for the record and are available for public inspection.

#### **BUILDING SECURITY PROCEDURES**

Security in SVA buildings is strictly enforced. All College buildings are open from 8:00 AM to 11:00 PM, Monday through Friday, except during College holidays. Some studios are also open 24 hours, seven days a week.

Overnight stays, visitors and any unscheduled access to SVA buildings and studios must be requested and approved by the appropriate department chair at least 24 hours in advance. Guests must bring picture IDs and receive a visitor's pass from the security officer. Request for Access forms are available in each academic department office.

#### **FIRE DRILLS**

Fire drills are conducted at least twice each academic year in all campus buildings and are supervised by the fire safety coordinator with the assistance of a drill coordinator. All occupants in the building are required to participate. Drills will be conducted in accordance with the building's fire safety plan. Notice will be given in advance of a fire drill.

#### **THE FACILITIES AND PHYSICAL PLANT DEPARTMENTS**

The Facilities and Physical Plant Departments oversee the operation, maintenance and capital construction of all campus facilities which includes academic, administrative and residential. These departments are also linked to the Security and Environmental Health and Safety Departments. We work closely with each as well as meet regularly with our Residence Life staff to maintain communication on a daily basis and to review upcoming activities and events throughout each semester. The Physical Plant Department implements scheduled preventative maintenance programs at each location to ensure that students, faculty and staff can enjoy a safe and comfortable environment.

#### **ENVIRONMENTAL HEALTH AND SAFETY**

SVA's EH&S Department functions as a part of the Facilities team and works with the Physical Plant staff as well as Student Affairs and the Educational Departments. EH&S provides environmental monitoring and testing services as well as providing safety information and training to the staff, students and faculty. EH&S also heads SVA's recycling and waste management programs. In conjunction with the Facilities Team, the EH&S Department is working with the NYC Mayor's Office as a participant of the "Mayor's Challenge," a program to reduce our carbon footprint by 30% in ten years.

## **PARKING**

The College makes no provision for parking, which is both difficult and expensive in Manhattan. All members of the College community should make their own arrangements with garages or lots in the immediate area of the College.

## **IMPORTANT NUMBERS**

Below is a list of important NYPD phone numbers.

- **Emergency: 911**
- **Non-Emergency: 311**
- **NYPD General Inquiries: 646-610-5000**
- **Sex Crimes Report Line: 212-267-RAPE**
- **Crime Stoppers: 800-577-TIPS**
- **Crime Stoppers (Spanish): 888-57-PISTA**
- **Missing Persons Case Status: 212-694-7781**
- **Terrorism Hot-Line: 888-NYC-SAFE**
- **Gun Stop Program: 866-GUN-STOP; C**
- **Cop Shot: 800-COP-SHOT**

## **MANHATTAN PRECINCTS:**

|                           |                |                           |
|---------------------------|----------------|---------------------------|
| 1 <sup>st</sup> Precinct  | (212) 334-0611 | 16 Ericsson Place         |
| 5 <sup>th</sup> Precinct  | (212) 334-0711 | 19 Elizabeth Street       |
| 6 <sup>th</sup> Precinct  | (212) 741-4811 | 233 West 10 Street        |
| 7 <sup>th</sup> Precinct  | (212) 477-7311 | 19 1/2 Pitt Street        |
| 9 <sup>th</sup> Precinct  | (212) 477-7811 | 321 East 5 Street         |
| 10 <sup>th</sup> Precinct | (212) 741-8211 | 230 West 20th Street      |
| 13 <sup>th</sup> Precinct | (212) 477-7411 | 230 East 21st Street      |
| Midtown South Pct.        | (212) 239-9811 | 357 West 35th Street      |
| 17 <sup>th</sup> Precinct | (212) 826-3211 | 167 East 51st Street      |
| Midtown North Pct.        | (212) 767-8400 | 306 West 54th Street      |
| 19 <sup>th</sup> Precinct | (212) 452-0600 | 153 East 67th Street      |
| 20 <sup>th</sup> Precinct | (212) 580-6411 | 120 West 82nd Street      |
| Central Park Pct.         | (212) 570-4820 | 86th St & Transverse Road |
| 23 <sup>rd</sup> Precinct | (212) 860-6411 | 164 East 102nd Street     |
| 24 <sup>th</sup> Precinct | (212) 678-1811 | 151 West 100th Street     |
| 25 <sup>th</sup> Precinct | (212) 860-6511 | 120 East 119th Street     |
| 26 <sup>th</sup> Precinct | (212) 678-1311 | 520 West 126th Street     |
| 28 <sup>th</sup> Precinct | (212) 678-1611 | 2271-89 8th Avenue        |
| 30 <sup>th</sup> Precinct | (212) 690-8811 | 451 West 151st Street     |
| 32 <sup>nd</sup> Precinct | (212) 690-6311 | 250 West 135th Street     |
| 33 <sup>rd</sup> Precinct | (212) 927-3200 | 2207 Amsterdam Avenue     |
| 34 <sup>th</sup> Precinct | (212) 927-9711 | 4295 Broadway             |

## **EMERGENCY PREPAREDNESS AND NOTIFICATION**

SVA has an Emergency Response Plan that includes information about operating status parameters, incident priorities and performance expectations, shelter-in-place, evacuation guidelines, and contingency and continuity plans. Detailed information about responding to emergency incidents on

campus is available at <https://sva.edu/students/life-at-sva/health-and-safety/emergency-incident-guides>.

SVA transmits critical information to the College community using the following methods:

- Sva.edu: Emergency notices, including unscheduled closings and facilities evacuations, are posted as banners on the home page of the College's website. Status updates are published as new information becomes available.
- Main telephone line: Emergency notices, including unscheduled closings and facilities evacuations, are the subject of recorded announcements at 212.592.2000.
- All Concerned email: Bulk messages sent to current students, faculty and staff at their SVA email addresses are used to provide more detailed information in an emergency.
- SVAAlert: SVA provides an electronic notification system that allows members of the College community to receive messages directly to a designated cell phone (as a text or voice message), email address and/or landline phone. Current students, faculty and staff are automatically enrolled in SVAAlert. Select your preferences and verify your contact information through MySVA
- (my.sva.edu), the College's internal website.
- In the event that either the College's website or the main telephone line is temporarily out of service, the College community will be directed to an alternate website and telephone number via All Concerned email and SVAAlert.

In addition, SVA officials may deploy other methods for notifying the College community, including security officers, fire brigades and other SVA staff.

### **EMERGENCY PROCEDURES ON CAMPUS**

In the event of an emergency, including any serious injury, **SEEK HELP IMMEDIATELY. Call 911** from any campus phone, other landline or mobile phone. When 911 answers, stay calm and be prepared to answer the operator's questions, which may include:

- Where is the emergency located?
- What is the emergency? (Fire, medical, hazardous material, etc.)
- How did it happen?
- When did it happen?
- What is your name and location?

Do not hang up until you are instructed to do so by the operator. You do not need to know all the answers to these questions, but try to gather as much information as you can. Give a telephone number or other safe location where the emergency responders can call or meet you and wait for the responders at that location.

After the emergency has been responded to, an incident report and witness statement should be filed with SVA Security. Reports concerning an SVA student's physical or mental health will be forwarded to SVA Student Health and Counseling Services, and a staff member will follow up with the student(s) involved, if appropriate.

## **NOTIFY SVA SECURITY**

After calling 911, contact the nearest security officer at one of the following locations:

- 132/136 West 21st Street: 212.592.2745
- 133/141 West 21st Street: 212.675.7993
- 209 East 23rd Street: 212.696.4632
- 214 East 21st Street: 212.475.1659
- 380 Second Avenue: 212.614.8026
- 335 West 16th Street: 212.929.0296
- 24th Street Residence: 212.592.2768
- Gramercy Women's Residence: 212.777.2843
- Ludlow Residence: 212.254.3730
- 23rd Street Residence: 212.889.2797
- SVA Theatre: 212.675.1314
- 24-hour Security (209 East 23rd Street): 212.696.4632

## **TIMELY WARNINGS**

The School of Visual Arts has a duty to report data about various forms of sexual misconduct in accordance with *The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Act* (Clery Act). No personally identifiable information is disclosed, but statistical information is disclosed as part of SVA's Annual Security Report. The information to be shared includes the date, location type (residence hall, public property, off-campus, etc.), and specific crime category.

The Clery Act also requires SVA to issue a "timely warning" when it receives a report of a crime that poses a serious and continuing threat to the campus community, except in circumstances where the issuance of the warning may compromise pending law enforcement efforts or when the warning itself could potentially identify the reporting individual. No personally identifying information about the victim will be disclosed in a timely warning.

## **EMERGENCY RESPONSE GUIDELINES**

Emergency response guidelines are intended for non-emergency personnel. Faculty, staff and students should review these suggested responses to become familiar with what emergency responders expect of them in an emergency. (Incidents are listed here based on likelihood.)

## **MEDICAL EMERGENCY**

For serious medical illnesses or injuries, call 911 then call SVA Security.

What to do when you call 911:

1. State that medical care is needed.
2. Provide your campus location, including the building and room number if known.
3. Provide the location of the injured or sick person (if different from your location).
4. Provide the person's present condition (e.g. bleeding, breathing erratically, unconscious).
5. Recount the nature of the injury or medical problem if the person has been able to tell you what is wrong.
6. Follow the directions of the dispatcher, who will tell you if an ambulance is required or if the injured individual may be brought in to the emergency room.
7. Remain calm as the emergency responder will arrive at the scene as soon as possible.

**What to do while waiting for medical help to arrive on the scene:**

1. Return to the injured person; do not leave the scene or leave the injured person alone again.
2. Do not move the injured person.
3. Give first aid if you are qualified to do so.

Report illness and injuries to students to the Student Affairs Office at (212.592.2214). Injuries to employees should be reported to Human Resources at (212.592.2645).

- Return to the injured person; do not leave the scene or leave the injured person alone again.
- Do not move the injured person.
- Give first aid if you are qualified to do so.

**SEVERE WEATHER**

**Severe weather (thunderstorms, winter storms, tornado, hurricane)**

1. When possible, students, faculty and staff will receive instructions via SVAAlert of any impending severe weather events.
2. Essential personnel may be required to remain on campus overnight during severe weather events.
3. As a general rule, classes will be held whenever possible.
  - If necessary, classes may be moved to alternate classrooms.
  - If a faculty member is unable to meet for class, the faculty member must notify his/her department as soon as possible.
  - The registrar will send an email to students enrolled in affected classes. Faculty members should also attempt to send an email to students notifying them of the change. However, students may not receive this as the faculty member may be without power or otherwise have access to email.
4. Any decision to close the College will come from the executive vice president and will be communicated to the Emergency Management Committee, which includes the director of Human Resources and the director of Communication. A closing message will be then communicated to the SVA community through SVAAlert and other communication means, depending on the scope of the impact.

**Severe weather watches (when conditions are right for severe weather)**

Monitor news sources for updates on weather conditions and effects in the area.

**Severe weather warnings (when spotters and/or radar have identified a weather emergency in the area)**

1. If you are in the warning area, seek shelter immediately.
2. If you are in a vehicle, get out and seek shelter in a sturdy building.
3. If the severe weather involves high winds and a building is not available, a depression such as a ditch or ravine may offer some protection.
4. Do not open windows. This can increase damage to the building. Stay away from windows and exterior doors.
5. Basements, interior hallways on the lower floors and small interior rooms on the lower floors offer the best shelter.
6. Do not attempt to turn utilities on or off. Do not use landline phones.
7. Report injuries and damage to 911. Notify your departmental office.

8. After the all-clear, leave badly damaged buildings and do not attempt to return unless directed to do so by SVA Security or Facilities Management.

**With certain types of severe weather, evacuations prior to the arrival of the weather may be declared by state or local authorities. All SVA community members will abide by these types of evacuations and follow the directions of the declaring authorities.**

#### **FLOODING**

Flooding may be caused by a number of hazards, from severe weather and its impact to a building leak or sprinkler activation. The effects of flooding on a building will be similar; it is the scope of the incident that will vary from localized to building wide.

1. For localized flooding, evacuate the area. If the flooding is caused by a small leak, call the security desk phone or building superintendent. If the flooding covers multiple rooms, is caused by a major leak, or a sprinkler flow, call 911. Give:
  - a. Your location
  - b. Your name and phone number
  - c. Type of incident
  - d. Floor
  - e. Room number
2. Leave badly damaged buildings and do not attempt to return unless directed to do so by the SVA Security Officers or Facilities Management.
3. Do not attempt to turn utilities on or off.
4. Report injuries and damage to 911. Notify your departmental office.

#### **FIRE, EXPLOSION OR SMOKE EMERGENCIES**

**What to do if the alarm sounds and the strobes flash in Class E buildings: 132 West 21st Street, 133/141 West 21st Street, 136 West 21st Street, 335 West 16th Street, 380 Second Avenue, 601 West 26th Street, 24th Street Residence:**

1. Unless there is smoke or fire on your floor, do not evacuate the space. Wait for instructions that will be issued via the emergency public address system. The building's fire safety director will make an announcement informing you what to do.
2. You may be asked to "shelter in place" (stay where you are) or to vacate the floor. If you are told to vacate the floor, please leave the floor via the stairwells and descend at least two floors before re-entering the building, or you may continue down to the street level.
3. Never use the elevator during an emergency.
4. Persons that are injured or cannot descend the stairs on their own should wait in the stairwell for assistance from the fire department (FDNY).

**What to do if the alarm sounds and the strobes flash in Coded Interior Alarm buildings: 205-209 East 23rd Street, 23rd Street Residence, 214 East 21st Street, Gramercy Women's Residence, Ludlow Residence, SVA Theatre:**

1. Evacuate the area immediately and proceed via the stairs to the ground floor exits. When leaving a room, please close the door behind you. This will slow the spread of smoke through the building.
2. Never use the elevator during an emergency.
3. Persons that are injured or cannot descend the stairs on their own should wait in the stairwell for assistance from the FDNY.

4. Never ignore an alarm.
5. Follow the directions of the floor wardens or the fire safety director.
6. If you smell smoke or see fire, don't hesitate, activate the nearest alarm pull station and get everyone out of the area.
7. The security officer who knows the area involved should meet the fire and police departments and give specifics.
8. Notify police and/or firefighters on the scene if you suspect someone may be trapped inside the building.
9. Report potential hazards or address fire prevention questions to SVA Security at 212.592.2001.

#### **Operating fire extinguishers:**

1. Never enter a room that is full of smoke.
2. Before opening doors, check to ensure that they are not hot to the touch. If hot, do not open. If warm, open slowly to check room/hallway conditions.
3. Portable fire extinguishers can be used for small fires. However, this is at the employee's discretion and an immediate readiness to evacuate is essential.
4. Never use water on an electrical or flammable liquid fire. Use a dry chemical or carbon dioxide extinguisher only.
5. When using a dry chemical extinguisher on a flammable liquid fire, stay back a minimum of 10 feet from the fire.
6. Before approaching the fire, determine an evacuation route safe of flames, excessive heat and smoke. Do not allow evacuation route to become blocked.
7. Start at the leading edge of the fire and use a side-to-side sweeping motion to extinguish the fire.

#### **P.A.S.S.**

- Pull the pin.
- Aim at the base of the fire.
- Squeeze the discharge handle.
- Sweep from side to side.

#### **BEHAVIORAL CONCERNS OR POTENTIAL VIOLENCE**

There is any number of reasons that a person may instill concern in those around them. If someone is in acute crisis, notify 911 and describe the behaviors and actions of that person so the appropriate resources may be dispatched. The following observable behaviors have been indicators of individuals who have engaged in self harm, workplace violence, sexual violence, and criminal violence towards others. It is important when reporting behaviors to relate them in context of the situation and as a total picture of the individual's actions, not as a single factor.

**Potentially violent behaviors by a student, staff member of faculty member may include one or more of the following (this list of behaviors is not comprehensive, nor is it intended as a mechanism for diagnosing violent tendencies):**

- Increased use of alcohol and/or illegal drugs
- Unexplained increase in absenteeism; vague physical complaints
- Noticeable decrease in attention to appearance and hygiene
- Depression / withdrawal
- Resistance and overreaction to changes in policy and procedures



- Repeated violations of company policies
- Increased severe mood swings
- Noticeably unstable, emotional responses
- Explosive outbursts of anger or rage without provocation
- Suicidal; comments about “putting things in order”
- Behavior which is suspect of paranoia, (“everybody is against me”)
- Increasingly talks of problems at home or school
- Escalation of domestic problems into the workplace; talk of severe financial problems
- Talk of previous incidents of violence
- Empathy with individuals committing violence
- Increase in unsolicited comments about firearms, other dangerous weapons and violent crimes.

### **CRIME IN PROGRESS**

If you witness a crime in progress, do not attempt to intervene. A situation that might appear safe may escalate beyond your control very quickly. You should take the following actions:

1. Call 911 immediately indicating your location.
2. Be observant and try to make the following mental notes:
  - Type of event taking place
  - Number of individuals present
  - Physical characteristics such as race, gender, height, weight, clothing worn, hair, or other distinguishing characteristics
  - Description of any weapons used
  - Mode of transportation of the individuals

### **SUSPICIOUS PACKAGES**

#### **What constitutes a “suspicious package”?**

No one characteristic makes a package suspicious; include all known factors when evaluating the suspiciousness of any mail or package. Some typical characteristics postal inspectors have detected over the years include parcels that:

- Are unexpected or are from someone unfamiliar to you, especially if the package is not consistent with your normal activities.
- Are addressed to someone no longer with your organization or are otherwise outdated.
- Have misspellings of standard words.
- Are addressed to a position or title, not a person, i.e. ”Dean,“ or “President.”
- Have no return address, or have one that can’t be verified as legitimate.
- Are of unusual weight, given their size, or are lopsided or oddly shaped.
- Are marked with restrictive endorsements, such as “Personal” or “Confidential.”
- Packages may be unprofessionally wrapped with several combinations of tape used to secure the package and may be marked “Fragile-Handle With Care” or “Rush-Do Not Delay.”
- Have protruding wires, strange odors or stains.
- Show a city or state in the postmark that doesn’t match the return address.

Should you receive or come upon a suspicious package, do not touch or open it. Isolate the package and evacuate yourself and others at least 2000 feet (around, above and below) from the area. Do not

put the package in water or make any attempt to render it harmless. Use a telephone in another area (not a mobile phone) and report it immediately to 911.

**Information for the 911 operators:**

- Your name
- Your location
- Your telephone number
- A description of the package and why it is suspicious:
  - Explosive devices tend to have oily stains, protruding wires, excessive tape or wrapping, excessive postage, or are very lopsided.
  - Chemical or biological agents may have powder on the outside or when opened, or may cause symptomatic responses to people in the area.
- Whether the package contains threats or hate-based writings that may be criminal violations.
- A description of how the package arrived, if known.

**BOMB THREATS**

**Bomb threats usually come from one of two sources:**

- **The Hoax Caller:** The most frequent goal is to create an atmosphere of panic and anxiety, the idea being to disrupt normal activities or operations at the location where the explosive device is alleged to be placed or for the entire college.
- **The Credible Caller:** The caller has a definite knowledge or believes that an explosive device has been or will be placed, and he or she wants to warn of the threat to minimize personal injuries or property damage. The caller may be the person placing the bomb or someone who has become aware of information they believe to be credible.

Bomb Threats may also be transmitted by letter or email. Regardless of the medium the threat; the receiver of that message should immediately call 911 and provide all the information possible.

The following is the information on the ATF's Call Checklist for phone call bomb threats. If a phone threat is received, do not disconnect the call. Keep the caller on the line as long as possible and try to ascertain as much of the following information. If it is possible to transfer the call to 911, do so.

**You should note:**

1. The time and date you received the call.
2. The telephone number at which the call was received.
3. The caller's exact wording of the threat?

**Questions to Ask the Caller:**

1. When is the bomb going to explode?
2. Where is it right now?
3. What does it look like?
4. What kind of bomb is it?
5. What will cause it to explode?
6. Did you place the bomb?
7. Why?
8. What is your address?
9. What is your name?

**Description of the caller's voice:**

- Calm, nasal, angry, stutter
- Raspy, lisp, excited, slow
- Rapid, soft, ragged, loud
- Disguised, deep breathing, distinct, accent
- Cracking, sturred, whispered
- Female, male, other, familiar\*

\*If familiar, who did the caller sound like?

**Background sounds:**

- Street noises, factory machines, aircraft noise
- Animal noises, public-address system, music
- Clear static, house noises
- Television, office equipment, other language heard

**ACTIVE SHOOTER**

An Active Shooter is an individual who is engaged in killing or attempting to kill people in a confined and populated area; in most cases, active shooters use firearms(s) and there is no pattern or method to their selection of victims. Active shooter situations are unpredictable and evolve quickly. Typically, the immediate deployment of law enforcement is required to stop the shooting and mitigate harm to victims.

Because active shooter situations are often over within 10 to 15 minutes, before law enforcement arrives on the scene, individuals must be prepared both mentally and physically to deal with an active shooter situation.

If you are alerted to an Active Shooter on Campus, but not in the building that you are in, SHELTER IN PLACE. Do not leave until notified that it is safe to do so by campus authorities. Evacuating may place you in the range of the shooter, especially if they are moving. If you are not in a building, seek cover in the closest one to you that is not being affected by the incident.

Good preparatory practices for coping with an active shooter situation:

- Be aware of your environment and any possible dangers
- Take note of the two nearest exits in any facility you visit

**CALL 911 WHEN IT IS SAFE TO DO SO!**

You should be prepared to provide the following information to 911 and/or law enforcement when they arrive:

- Your location
- Location of the active shooter
- Number of shooters, if more than one
- Physical description of shooter/s

- Number and type of weapons held by the shooter/s
- Number of potential victims at the location
- Whether you saw them use explosive devices or plant any explosive devices

**HOW TO RESPOND WHEN AN ACTIVE SHOOTER IS IN YOUR BUILDING:** Quickly determine the most reasonable way to protect your own life. Remember that others are likely to follow the lead of faculty and staff during an active shooter situation.

**1. RUN**—If there is an accessible escape path, attempt to evacuate the premises. Be sure to:

- Have an escape route and plan in mind.
- Evacuate regardless of whether others agree to follow.
- Leave your belongings behind.
- Help others escape, if possible.
- Prevent individuals from entering an area where the active shooters may be located.
- Keep your hands visible.
- Follow the instructions of any police officers.
- Do not attempt to move wounded people.
- Call 911 when you are safe.

**2. HIDE**—If evacuation is not possible, find a place to hide where the active shooter is less likely to find you. Your hiding place should:

- Be out of the active shooter’s view
- Provide protection if shots are fired in your direction (i.e., an office with a closed and locked door)
- Not trap you or restrict your options for movement

**To prevent an active shooter from entering your hiding place:**

- Lock the door
- Blockade the door with heavy furniture If the active shooter is nearby:
- Silence your cell phone
- Turn off any source of noise (i.e., radios, televisions)
- Hide behind large items (i.e., cabinets, desks)
- Remain quiet

**If evacuation and hiding out are not possible:**

- Remain calm
- Dial 911, if possible, to alert police to the active shooter’s location. If you cannot speak, leave the line open and allow the dispatcher to listen

**3. FIGHT** —As a last resort, and only when your life is in imminent danger, attempt to disrupt and/or incapacitate the active shooter by:

- Committing to your actions
- Throwing items and improvising weapons
- Acting as aggressively as possible against him/her
- Yelling

**HOW TO RESPOND WHEN LAW ENFORCEMENT ARRIVES:**

**Law enforcement’s purpose is to stop the active shooter as soon as possible. Officers will proceed directly to the area in which the last shots were heard.**

- Officers usually arrive in teams of two to four
- Officers may wear regular patrol uniforms or external bulletproof vests, Kevlar helmets, and other tactical equipment
- Officers may be armed with rifles, shotguns and/or handguns
- Officers may use pepper spray or tear gas to control the situation
- Officers may shout commands, and may push individuals to the ground for their safety

**How to react when law enforcement arrives:**

- Remain calm, and follow the officers’ instructions
- Put down any items in your hands (i.e., bags, jackets)
- Immediately raise hands and spread fingers
- Keep hands visible at all times
- Avoid making quick movements toward officers such as attempting to hold on to them for safety
- Avoid pointing, screaming and/or yelling
- Do not stop to ask officers for help or direction when evacuating, just proceed in the direction from which officers are entering the premises

The first officers to arrive to the scene will not stop to help injured persons. Expect rescue teams comprised of additional officers and emergency medical personnel to follow the initial officers. These rescue teams will treat and remove any injured persons. They may also call upon able-bodied individuals to assist in removing the wounded from the premises. Once you have reached a safe location or an assembly point, you will likely be held in that area by law enforcement until the situation is under control, and all witnesses have been identified and questioned. Do not leave the safe location or assembly point until law enforcement authorities have instructed you to do so.

Source: DHS Booklet, “Active Shooter, How to Respond,” May 2017.

**SHELTER-IN-PLACE PROCEDURES**

**What it means to “shelter-in-place”**

If an incident occurs and the buildings or areas around you become unstable, or if the air outdoors becomes dangerous due to toxic or irritating substances, it is usually safer to stay indoors, because leaving the area may expose you to that danger. Thus, to “shelter-in-place” means to make a shelter of the building that you are in, and with a few adjustments this location can be made even safer and more comfortable until it is safe to go outside.

**Basic “shelter-in-place” guidance**

If an incident occurs and the building you are in is not damaged, stay inside in an interior room until you are told it is safe to come out. If your building is damaged, take your personal belongings (purse, wallet, SVA ID, etc.) and follow the evacuation procedures for your building (close your door, proceed to the nearest exit, and use the stairs instead of the elevators). Once you have evacuated, seek shelter at the nearest SVA building quickly. If police or fire department personnel are on the scene, follow their directions.

**How you will know to “shelter-in-place”**

A shelter-in-place notification may come from several sources, including SVA Security, Residence Life staff, other College employees, the federal or state government, NYPD, FDNY or other authorities utilizing SVA's emergency communications tools.

### **How to “shelter-in-place”**

No matter where you are, the basic steps of shelter-in-place will generally remain the same. Should the need ever arise, follow these steps, unless instructed otherwise by local emergency personnel:

1. If you are inside, stay where you are. Collect any emergency shelter-in-place supplies and a telephone to be used in case of emergency. If you are outdoors, proceed into the closest building quickly or follow instructions from emergency personnel on the scene.
2. Locate a room to shelter inside. It should be:
  - An interior room
  - Without windows or with the least number of windows.
  - If there is a large group of people inside a particular building, several rooms may be necessary.
3. Shut and lock all windows (tighter seal) and close exterior doors.
4. Turn off air conditioners, heaters, and fans. Close vents to ventilation systems as you are able. (SVA staff will turn off the ventilation as quickly as possible.)
5. Make a list of the people with you and ask someone (Residence Life staff, faculty member or other College employee) to call the list in to SVA Security so they know where you are sheltering. If only students are present, one of the students should call in the list.
6. Turn on a radio or TV and listen for further instructions.
7. Make yourself comfortable.

### **RESIDENCE HALL SECURITY**

All residence halls maintain 24-hour security. The security officers are responsible for monitoring guest and security policies. When entering the building, students must present their SVA photo identification card to the security officer. Students and guests are required to provide photo identification when requested by a security officer or other College official. If students have a concern regarding security services, they should speak to a Residence Life staff member.

#### **DELIVERIES**

Any student who places a food or grocery order to be delivered to a residence hall must be present to receive the delivery by going to the security desk in the lobby of the building.

#### **DRUG AND ALCOHOL EDUCATION PROGRAMS**

Each semester, Resident Assistants routinely facilitate programs designed to help students understand the dangers of drug and alcohol abuse.

#### **EXTERMINATION/PEST CONTROL SERVICES**

Pest control technicians make regular visits to the residence halls. To request pest control services, fill out a work order using the online work request system available at [myworkorder.sva.edu](http://myworkorder.sva.edu). Technicians will be escorted to all rooms by security or by a member of the Residence Life staff. When responding to a concern about pests, the technicians may make recommendations regarding the room conditions.

#### **FIRE ALARM EVACUATION PROCEDURES**

Evacuation plans are posted throughout residence hall buildings, and fire extinguishers and alarms are located on every floor. Every resident should be familiar with the evacuation procedures and

the location of fire extinguishers. Students are responsible for informing their guests of fire evacuation procedures. Anyone concerned or confused about a safety precaution or procedure should consult the Residence Life staff.

#### **FIRE DRILLS**

Fire drills are conducted at least twice each year in all campus buildings and are supervised by the fire safety coordinator with the assistance of the fire marshals assigned to each floor. Everyone in the building is required to participate. Drills will be conducted in accordance with the fire safety plan. Notice will be given in advance of a fire drill.

#### **FIRE SAFETY**

Smoke detectors and sprinklers are located throughout the residence halls. In addition, each room is equipped with a hardwired smoke detector and sprinkler system. Residents may not tamper with or cover the smoke detectors or sprinklers.

#### **GUEST POLICY**

The guest policy allows students to have visitors in a responsible manner. Maximum residence occupancy follows established fire codes and allows no more than two guests per resident student. Unannounced guests will be asked to wait at the security desk, where they will be announced by the security officer and met by the resident. All other guests are required to sign in at the security desk and show a current government/state-issued valid photo ID. The guest's ID will be held at the security desk while the guest is in the building. All short-term guests must leave residence hall premises by 11:00pm, unless prior approval to stay overnight has been granted. If a visitor stays past 11:00pm, security or a Residence Life staff member will escort the visitor off the premises. Failure to follow the guest policy will result in loss of guest privileges and disciplinary action.

Every guest must have a resident host and be accompanied by the host while in the residence halls. Guests may not have a resident's keys at any time. Guests are expected to comply with all College policies and regulations as well as federal and state laws.

Residents are responsible for the behavior of their guests and are held accountable for their actions. Should their guests violate any of the College's rules and regulations, they may be denied permission to be on the premises.

#### **OVERNIGHT GUEST PRIVILEGE**

All overnight guest request forms must be signed by a security officer before 11:00 pm of the day of an overnight visit. Students wishing to sign in a guest under 17 to stay overnight in the residence halls require prior approval from their Residence Hall director. Students can have visitors stay overnight for no more than three consecutive days in a seven-day period, and no more than 10 nights in a month. Should a student wish to have a guest stay for more than the three-day limit, prior approval from the RHD is necessary. An overnight guest request form must be submitted to the RHD at least one business day in advance. Students may pick up approved forms from the security desk or the Office of Residence Life prior to their guest's arrival.

Residents are not permitted to list or advertise their rooms (through Airbnb or any other similar service) or permit guests to occupy them, overnight or otherwise, for compensation. Any violation of this restriction shall be grounds for immediate termination of their residence arrangements.

#### **KEYS**

Resident students must keep their keys with them at all times. If students are locked out of their room, security may provide access. Lost keys must be immediately reported to Residence Life, and the student will be issued new keys. All new key costs will be deducted from the \$500 housing security deposit. Charges will not be reversed should the student locate the lost key.

#### **SMOKING POLICY**

In accordance with government regulations, the School of Visual Arts prohibits smoking in any part of its buildings including private offices, private rooms, classrooms, hallways, restrooms and residence halls. This includes tobacco as well as electronic cigarettes. Smoking is also prohibited within 25 feet of any building entrance.

#### **ROOM INSPECTION AND ENTRY POLICIES**

SVA reserves the right to enter student living quarters to ensure the health and safety of students. Rooms may be entered for emergencies, monthly health and safety inspections, to complete repairs, conduct pest control procedures or to conduct an investigation if there is a reasonable cause to believe that someone may be in danger or in violation of College or civil regulations. Students found in violation of health and safety regulations will be given due notice to remove the violation. Failure to do so will result in disciplinary action followed by the confiscation of any item(s) causing the violation.

Preserving student privacy is of paramount importance to Residence Life. Students who believe that their privacy has been compromised should notify their Resident Assistant or Residence Hall Director.

#### **ROOM OCCUPANCY POLICIES**

Residents living in shared living spaces such as double rooms or adjoining suites are permitted to occupy only their assigned portion of the room or suite. If a vacancy occurs within the space/suite, the resident(s) and/or any guests of residents remaining in the room/suite are not permitted to occupy the vacant space, including the bed, furniture and other designated spaces, or remove furniture from the space. When there is a vacant space in a room or suite, Residence Life may assign another resident to that space at any time.

#### **NAVIGATING YOUR NEIGHBORHOOD**

New students are led on a walking tour of the area surrounding the SVA campus. This program helps students get the “lay of the land” and identify places to go if they are in need of help.

#### **SAFETY IN THE CITY**

This program, organized by the offices of Student Affairs and Security, educates students about how to be safe in the city. It also focuses on sexual assault statistics, myths, and how to prevent sexual assault. Tips on how to stay safe, knowing your resources, and consent.

#### **RESIDENCE HALL VIOLATIONS AND DISCIPLINARY PROCEDURES**

Residents who violate SVA residence hall policies are subject to disciplinary action. The disciplinary process is described in the following pages. This process does not follow the rules of procedure used in court proceedings, and legal representation is not permitted in any hearing. Additional policies may be communicated to students by written notices posted in the residence halls.

**Important:** Residents will be held responsible for any policy violations by their guests. Any resident or student who was present when a violation occurred may be subject to disciplinary action even



though they did not actively participate in the offense. Prohibited items described in this section will be confiscated.

#### **SVA RESIDENCE HALL VIOLATIONS**

1. Tampering with fire extinguishers, alarms, sprinkler systems, smoke detectors, emergency exits or other safety equipment.
2. Possession and/or use of extension cords to power multiple appliances (as opposed to power strips, which are permitted).
3. Possession and/or use of flammable decorations, appliances or other property that may be deemed a fire hazard, including but not limited to candles, incense and evergreens.
4. Possession and/or use of cooking and other household appliances in the 24th Street and Ludlow Residences, including, but not limited to heating coils, hot plates, microwave ovens, open faced electrical appliances, space heaters and toaster ovens.
5. Possession and/or use of spray paint, spray adhesive and spray glue.
6. Possession of unauthorized furniture.
7. Use, possession or storage of any weapon, including but not limited to knives, self-defense spray devices, firearms or am- munition, dangerous chemicals, fireworks or explosives, regardless of the presence of a state or federal license to possess same.
8. Possession or storage of a gas engine or any form of combustible fuel in the residence halls.
9. Possession or use of a hoverboard or similar self-balancing scooter.
10. Possession or use of drones or other unmanned aerial vehicles (UAV).
11. Keeping pets or animals in any residence hall.
12. Possession, use or distribution of an alcoholic beverage or alcoholic beverage containers, including empty containers or entering the residence hall in a severe state of intoxication.
13. Possession, use or distribution of an illegal or controlled substance and/or related paraphernalia.
14. Smoking in the residence halls, or possession of smoking devices such as bong and hookahs.
15. Throwing or allowing to fall from residence hall windows, doors, terraces, ledges, roofs or other areas, any object or substance.
16. Unauthorized solicitation or recruitment of any kind.
17. Failure to maintain acceptable standards of personal hygiene or room cleanliness to the extent that such failure interferes with the general comfort, safety, security, health or welfare of a member of the residence hall community.
18. Disorderly, disruptive, or aggressive behavior that interferes with the general comfort, safety, security, health or welfare of a member of the residence hall community or the regular operation of the College.
19. Any harassment or abusive behavior toward another individual.
20. Physical violence, actual or threatened, against any individual or group of persons.
21. Engaging in, or threatening to engage in, any behavior that endangers the health or safety of another person, property or oneself.
22. Unauthorized access to or use of restricted areas in or about a residence hall, including but not limited to vacant rooms, roofs, ledges, terraces, basements, storage areas or emergency exits.
23. Violation of the SVA Residence Life Guest Policy.
24. Participating in or contributing to the unauthorized entry of another individual, including fraudulent misrepresentation, using false identification, etc., into any part of an SVA residence hall.
25. Theft, vandalism or damage to another resident's property or SVA property.
26. Excessive noise as defined by any New York City ordinance or a residence hall policy on noise.

27. Failure to present a valid ID card or properly identify oneself when entering a residence hall or when requested to do so by an authorized SVA staff member.
28. Unauthorized possession, use or duplication of a residence hall room key.
29. Unauthorized residence hall room change or room occupancy violation.
30. Installing an unauthorized lock on a bedroom, bathroom or suite door.
31. Failure to lock room doors.
32. Exhibiting or affixing any unauthorized sign, advertisement, notice or other lettering, flags or banners, that are inscribed, painted or affixed to any part of the inside or outside of a residence building (other than items affixed entirely inside a resident's room in a non-damaging manner).
33. Violation of the SVA Electronic Code of Conduct.
34. Failure to comply with a request from an SVA staff member.
35. Failure to successfully complete the terms of a judicial sanction.

#### **COMPLAINT REPORT**

Any person may file a report that alleges a violation of a residence hall policy. Any complaint must be made in writing and submitted either to Residence Life via email, to any residence hall director (RHD), or through the completion of a voluntary statement that can be obtained from any security desk.

#### **JUDICIAL MEETING/HEARING**

The Residence Hall Director involved will, if necessary, consult with the Associate Director of Residence Life as to whether a hearing should be held by the RHD, or in cases involving allegations of serious violations or repeat offenses, if it should be referred to the Associate Director of Residence Life or the Director of Student Affairs for a hearing.

The resident involved in the violation will receive notice that includes information about who will hear the case, the alleged violations, and the date, time and location of the hearing.

During the hearing, the resident involved may present supporting information, including witnesses. If the student does not attend the hearing, the SVA staff member hearing the case nonetheless will proceed based on the available information and determine an appropriate resolution. The student will be notified in writing of the determination, including any sanctions imposed.

#### **SANCTIONS**

Sanctions include, but are not limited to:

- Written warning
- Community service
- Probation
- Restitution to the College
- Educational project or research
- Mandatory health referral
- Residence hall or room reassignment
- Restriction of privileges
- Residence hall entry restriction
- Suspension from housing
- Dismissal from housing

- Referral to the director of Student Affairs for the matter to be handled as a student code of conduct violation.

#### **REVIEW OF A DISCIPLINARY DECISION**

A student who wishes to contest the outcome of a hearing is encouraged to speak first with the person that issued the sanction. However, if the student wishes to have the matter reviewed by another administrator, the student must submit a request via email to Residence Life within three business days after the student receives notice of the decision.

If the hearing was held by the RHD, the determination whether to grant a review, and if the review is granted, the review itself, will be made by the Associate Director of Residence Life. If the hearing was held by the Associate Director, the determination whether to grant a review, and if the review is granted, the review itself, will be made by the Director of Student Affairs. If the hearing was held by the Director of Student Affairs, the determination whether to grant a review, and if the review is granted, the review itself will be made by the Executive Director of Student Affairs.

A review may be considered if the reviewer believes that: (1) a significant departure has occurred from the procedures described in this handbook that adversely affected the decision; (2) new information, unavailable at the time of the hearing, has become available and such information is reasonably likely to have substantially affected the decision; (3) the sanctions issued were too severe in relation to the student's record or nature of the violation.

The reviewer may or may not include a review hearing, or consider additional information. In their absolute discretion, reviewers may determine to uphold the findings and sanctions of the initial hearing, or to modify any part of those findings and sanctions. Reviewers also may impose additional sanctions in light of new information discovered during the review process. Any decision by reviewers is final and not subject to further review.

#### **STUDENT HEALTH AND COUNSELING SERVICES**

Services are provided free-of-charge in a non-judgmental environment and are confidential. Students can call or stop by the office to set up an appointment at:

340 East 24th Street, 1st floor  
Monday–Friday, 9:00 AM–5:00 PM  
136 West 21st Street, 10th floor, 1003-F  
(West-side location hours by appointment only)  
Tel: 212.592.2246  
Fax: 212.592.2216  
Email: [health@sva.edu](mailto:health@sva.edu)  
Website: [sva.edu/health](http://sva.edu/health)

Services are provided free of charge in a non-judgmental environment and are confidential. Students should call 212.592.2246 or email [health@sva.edu](mailto:health@sva.edu) to set up an appointment. A map of local medical and urgent care facilities is available at Security desks, through the GoSVA app and at [www.sva.edu/health](http://www.sva.edu/health). While medical services are not available on-site at SVA, a registered nurse can assist you in finding specialists and additional community-based resources.

Student Health and Counseling Services does not write medical excuse notes. Students who are not able to attend classes due to illness should notify their instructors and, for conditions requiring an extended absence from classes, their academic advisor.

### **COUNSELING**

Students are encouraged to speak with a therapist any time there is an issue prohibiting their success at SVA. Counseling offers the opportunity to talk with a licensed mental health professional who can offer non-judgmental feedback and support, and also advocate for the student. Free and confidential short-term counseling services are available to all undergraduate and graduate SVA students. Student Health and Counseling Services' therapists can also help students find long-term treatment options in the community.

Students who need confidential emotional support when the office is closed are encouraged to contact NYC Well (text "WELL" to 65173, chat online at [nycwell.cityofnewyork.us](http://nycwell.cityofnewyork.us) or call 888.NYC.WELL). Students can also text "HOME" to 741741 (Crisis Text Line) or call the Samaritans (a 24-hour crisis-response hotline) at 212.673.3000.

### **ALCOHOL AND DRUG POLICY**

The School of Visual Arts expects all members of the SVA community to assist in maintaining a drug-free environment. The possession, use, distribution, dispensing or manufacture of a controlled substance (illegal drugs, alcohol, etc.) or being under the influence of such a substance on SVA premises, including residence halls, is prohibited and grounds for disciplinary and/or legal action.

SVA students and employees are prohibited from possessing, using, distributing, dispensing or manufacturing illegal drugs and/or alcoholic beverages of any kind on SVA property (including the residence halls) or as part of any event sponsored by SVA or any SVA organization. Preapproval to serve alcohol to persons over the age of 21 with proper identification may be obtained from the President, Executive Vice President, Provost or their respective designee(s) under certain circumstances.

SVA employees must abide by this policy as a condition of employment. In addition, all SVA employees, including student workers, are required by the Drug-Free Workplace Act of 1988 to notify their immediate supervisor and the Executive Director of Human Resources of any criminal drug statute convictions for a violation occurring in the workplace no later than five days after such conviction.

### **SVA TAKES A FIRM STANCE AGAINST DRUGS AND ALCOHOL**

As reported in "What Works: Schools Without Drugs," written by the U. S. Department of Education (1992):

Alcohol consumption causes a number of marked changes in behavior. Even low doses significantly impair the judgment and coordination required to drive a car safely, increasing the likelihood that the driver will be involved in an accident. Low to moderate doses of alcohol also increase the incidence of a variety of aggressive acts, including spouse and child abuse. Moderate to high doses of alcohol cause marked impairments in higher mental functions, severely altering a person's ability to learn and remember information. Very high doses cause respiratory depression and death. If combined with other depressants of the central nervous system, much lower doses of alcohol will produce the effects just described.

Repeated use of alcohol can lead to dependence. Sudden cessation of alcohol intake is likely to produce withdrawal symptoms, including severe anxiety, tremors, hallucinations and convulsions. Alcohol withdrawal can be life-threatening. Long-term consumption of large quantities of alcohol, particularly when combined with poor nutrition, can also lead to permanent damage to vital organs such as the brain and the liver.

Mothers who drink alcohol during pregnancy may give birth to infants with fetal alcohol syndrome. These infants have irreversible physical abnormalities and mental retardation. In addition, research indicates that children of alcoholic parents are at greater risk than other youngsters of becoming alcoholics.

The adverse health effects of drug abuse vary widely based on the drug or drugs being abused and the manner of ingestion, but often include one or more of the following: fluctuations in heart rate; addiction; anxiety; paranoia; mood disturbances; HIV/AIDS infection; and impairment of short-term memory, attention, judgment, coordination, balance and even death. Comprehensive data regarding the long-and short-term health effects of commonly abused drugs is available from the National Institute on Drug Abuse, part of the National Institutes of Health, at: [drugabuse.gov/drugs-abuse/commonly-abused-drugs/health-effects](http://drugabuse.gov/drugs-abuse/commonly-abused-drugs/health-effects).

#### **DRUG AND ALCOHOL PROGRAMS AVAILABLE TO EMPLOYEES AND STUDENTS**

SVA encourages individuals with alcohol or other drug-related problems to seek assistance through a drug and alcohol program.

Students seeking assistance are encouraged to speak with a staff member at SVA's Student Health and Counseling Services (340 E. 24th Street, Ground Floor, 212.592.2246, Monday–Friday, 9:00 AM–5:00 PM) for support. Short-term confidential services are provided free of charge.

Staff and faculty seeking assistance are encouraged to speak with their healthcare professional for support.

The following community-based treatment organizations are also available as resources:

- **Alcoholics Anonymous**  
aa.org • 212.870.3400
- **Inter-Group Association of Alcoholics Anonymous of New York**  
nyintergroup.org • 212.647.1680
- **New York City Area of Narcotics Anonymous**  
nycna.org • 212.929.6262
- **The Addition Institute of New York**  
[mountsinai.org/locations/addiction-institute](http://mountsinai.org/locations/addiction-institute) 212.420.4220

#### **POSSIBLE DISCIPLINARY SANCTIONS IMPOSED BY SVA**

Any employee or student found to be in violation of this policy will be subject to sanctions, including, but not limited to, expulsion from SVA or termination of employment, suspension, referral to law enforcement authorities, parental notification (as permitted by the federal Family Educational Rights and Privacy Act (FERPA)), and/or mandatory referral for counseling and/or treatment. For a list of student-specific disciplinary consequences for violations of this policy, see “Student Code of Conduct Sanctions” on page 79 in the SVA Handbook, <http://www.sva.edu/students/student-affairs/handbooks>.

## **POSSIBLE SANCTIONS AND PENALTIES IMPOSED BY STATE AND FEDERAL LAWS**

A student or employee who violates this policy is subject not only to disciplinary sanctions by SVA but may be subject to criminal sanctions under federal and/or state law as well. Conviction of illegal possession, use and/or distribution of drugs can lead to imprisonment, fines, mandatory community service and loss of eligibility for some financial aid programs, among other sanctions and penalties.

### **FEDERAL PENALTIES: CONTROLLED SUBSTANCES**

The federal Controlled Substances Act, 21 U.S.C. 801, et seq., creates a comprehensive scheme of sanctions for offenses involving controlled substances, with penalties of up to life imprisonment and fines ranging into the millions of dollars for unlawful distribution or possession of a controlled substance. The actual sanctions and penalties imposed generally are determined by the seriousness of the offense, the quantity of illicit substances involved in the commission of the offense and the criminal background of the person convicted of the offense.

For example, federal penalties and sanctions for simple possession of a controlled substance (21 U.S.C. § 844) include but are not limited to the following:

- First conviction: Up to one-year imprisonment and a fine of at least \$1,000; and
- After one prior drug conviction: Up to two years, imprisonment and a fine of at least \$2,500; and
- After two or more prior drug convictions: Up to three years, imprisonment and a fine of at least \$5,000.

Federal trafficking convictions are much more serious, with individual penalties ranging from 5 years to life in prison, and a fine of up to \$5 million. For a schedule of penalties for trafficking offenses, see [dea.gov](http://dea.gov).

Notably, pursuant to federal law, any person found to have unlawfully distributed a controlled substance to a person under 21 may be punished by up to twice the term of imprisonment and twice the fines for a first offense (21 U.S.C. § 859). The same applies to distribution or manufacture of drugs in or within 1,000 feet of a college or school, as well as for the receipt of a controlled substance from a person under 18 years of age (21 U.S.C. §§ 860-61). Conviction for possession and/or trafficking can also lead to forfeiture of property, loss of entitlement to certain federal benefits and a criminal record that may prevent an individual from entering certain career fields.

Students who receive federal financial aid (including grants, loans or work-study funding) must report any criminal drug conviction that occurs after the submission of a FAFSA form through the end of the academic year for which the student is receiving aid to the Director of Financial Aid and Executive Director of Human Resources within five days of the criminal conviction. In addition to sanctions imposed by SVA, students convicted of such charges risk the revocation of federal student aid.

### **NEW YORK STATE PENALTIES: CONTROLLED SUBSTANCES**

Additional penalties may apply under various New York State drug laws. As under federal law, the actual sanctions and penalties imposed are determined by the seriousness of the offense, the quantity of illicit substances involved in the commission of the offense, and the criminal background of the person convicted of the offense. The New York State Penal Law characterizes more minor drug offenses as “misdemeanors” (offenses punishable by imprisonment for more than 15 days but no more than one year) and more serious drug offenses as “felonies” (crimes punishable by imprisonment

ranging from one year to life). Felonies are further classified from A to E, with varying degrees of minimum and maximum sentences; class A felonies carry the longest jail sentences, while class E felonies carry the shortest.

Below are the classifications for some of the more common illicit drug offenses and crimes provided for by the New York Penal Law:

- Sale of a controlled substance on or near school grounds (N.Y. Penal Law § 220.44), or to a person less than 21 years of age (N.Y. Penal Law § 220.39) are Class B felonies;
- Possession of a hypodermic instrument without a doctor's prescription (N.Y. Penal Law § 220.45), or possession or sale of drug paraphernalia (which includes a wide category of items that are considered drug preparation materials) (N.Y. Penal Law § 220.50), are Class A misdemeanors;
- Injection of another person with a narcotic drug with consent of that person is a Class E felony (N.Y. Penal Law § 220.46).

The full text of the New York Penal Law, including classifications and penalties for all controlled substances offenses (Article 220), is available via the New York State Courts website: <http://www.nycourts.gov/judges/cji/2-PenalLaw/220/art220hp.shtml>.

#### **NEW YORK STATE PENALTIES: ALCOHOL**

New York law also prohibits the sale or possession of alcohol in certain circumstances. Below is a list of some common offenses and penalties relating to alcoholic beverages provided for by New York Law:

- Giving or selling alcohol to a person under the age of 21 carries a penalty of up to five days imprisonment and a \$200 fine (N.Y. ABC Law §65-a);
- Purchasing or attempting to purchase an alcoholic beverage through fraudulent means by a person under age 21 carries a penalty of up to 30 hours of community service, a fine of up to \$100, and/or mandatory completion of an alcohol awareness program (N.Y. ABC Law § 65-b);
- Unlawful possession of alcohol by a person under the age of 21 with the intent to consume carries a penalty of up to 30 hours of community service and a fine of up to \$50 (N.Y. ABC Law § 65-c).

This lists only a sampling of federal and state penalties and sanctions for conduct involving drugs and alcohol, all of which are subject to change. Additional federal, state and local penalties and sanctions may apply.

#### **ALCOHOLIC BEVERAGES: EMPLOYEES**

Employees should not consume alcoholic beverages during business hours. This applies particularly to business lunches. In the event an employee consumes alcoholic beverages in connection with a business function where SVA management has approved the serving of alcohol, SVA expects that employees will act responsibly and avoid excess. If an employee has any concerns that he/she is not capable of safely driving after such events, SVA will reimburse the cost of alternative transportation to ensure that the employee does not place them- selves or others in danger. An employee who is arrested and convicted for Driving Under the Influence while in the performance of company business, or when returning from a business function, is subject to disciplinary action up to and including termination.

#### **ALCOHOLIC BEVERAGES: STUDENTS**

#### Undergraduate Students:

- No alcoholic beverages may be served at events hosted by an undergraduate department or by any department whose event is intended primarily for undergraduate students.
- Under no circumstances may alcoholic beverages be offered to undergraduate students at bars, restaurants or other similar settings.

#### Graduate Students:

Extreme care and thought should go into deciding if alcoholic beverages are served to graduate students. The following rules apply:

- Wine or beer (not hard alcohol) may be served for events hosted by a graduate department.
- The department must retain at least one licensed bartender for each bar setup.
- Written permission must be received from the Provost prior to the event.
- IDs are checked by the bartender.
- Non-alcoholic beverages must also be available.

### **EMPLOYEE USE OF LEGAL DRUGS**

SVA recognizes that employees may, from time to time, be prescribed legal drugs that, when taken as prescribed or according to the manufacturer's instructions, may result in their impairment. Employees may not work while impaired by the use of legal drugs if the impairment might endanger the employee or someone else, pose a risk of significant damage to SVA property, or substantially interfere with the employee's job performance. If an employee is so impaired by the appropriate use of legal drugs, they may not report to work and must contact Human Resources to discuss potential accommodations that may be available. Disclosures made by employees to Human Resources concerning the use of legal drugs will be treated confidentially and will not be revealed to managers or supervisors unless there is an important work-related reason to do so in order to determine whether it is advisable for the employee to continue working while taking the drug(s) in question. Nothing in this policy is intended to diminish SVA's commitment to employ and reasonably accommodate qualified individuals with disabilities, provided that such accommodation does not constitute an undue hardship on SVA.

### **SMOKING REGULATIONS**

In accordance with government regulations, the School of Visual Arts prohibits smoking in any part of its buildings, including private offices, private rooms, hallways, restrooms and all residence halls. Smoking is also prohibited within 25 feet of any building entrance. This includes the use of electronic smoking devices such as e-cigarettes, vapes, etc.

Any violation of or dispute arising under this policy should be reported immediately to the Director of Student Affairs or the Executive Director of Human Resources. Violations of this policy may result in appropriate corrective action, up to and including expulsion or termination of employment. Student Affairs and/or Human Resources will promptly investigate any disputes arising under this policy. Each student, faculty or staff member is protected from retaliatory action or from being subjected to any adverse action for exercising or attempting to exercise their rights under this policy. Any person who feels they have been subject to a retaliatory adverse action for exercising or attempting to exercise any rights under this policy or under any applicable law or regulation concerning the subject matter of this policy should inform the Director of Student Affairs or the Executive Director of Human Resources who will promptly investigate the complaint and provide for adequate redress where necessary.

Any questions regarding this policy should be directed to Student Affairs (tel: 212.592.2214, email: [studentaffairs@sva.edu](mailto:studentaffairs@sva.edu)) or Human Resources (tel: 212.592.2645, email: [hr@sva.edu](mailto:hr@sva.edu)).



## **HAZARDOUS AND/OR DANGEROUS MATERIALS POLICY**

SVA prohibits the presence or use of hazardous or dangerous materials, including dangerous artists' materials, on campus. If you need more information on the products or materials you are using, please contact the Environmental Health and Safety at [ehs@sva.edu](mailto:ehs@sva.edu).

The use of spray paint, spray adhesive and spray glue, toxic glues, epoxies and resins is prohibited in any SVA building, including, but not limited to classrooms, studios, offices, residence halls, common spaces and stairwells. The Environmental Protection Agency and the New York City fire code allow for the use of spray paint, spray adhesives and spray glue only in prescribed spray booths. Since no such booths exist on campus, the use of such materials is not allowed.

## **HOVERBOARDS**

Self-balancing scooters, such as hoverboards, are prohibited in all SVA facilities, including all residence halls, academic and administrative buildings, the Student Center and the SVA Theatre. They are also illegal to use on New York City streets and sidewalks.

## **MISSING STUDENT POLICY AND PROCEDURE**

The Federal Higher Education Opportunity Act (HEOA) requires that institutions providing on-campus housing establish a missing student notification policy for students living in on-campus housing. In accordance with this legislation, students must be informed that they have the option of identifying an individual whom the institution may contact no later than 24 hours after the time a student is determined missing.

SVA has a procedure for students to follow to register this emergency contact.

When SVA students complete a housing application and contract using the online housing application portal, they will be asked to provide emergency contact information for a relative or friend that SVA can contact in the event the student is determined to be missing.

In the event that the missing student is under 18, the institution must notify a custodial parent or guardian no later than 24 hours after the student is determined missing. The emergency contact will be notified by the Director of Student Affairs or his designee.

Upon receiving a report of a suspected missing student who lives in campus housing, the Residence Life and security staff will initiate an investigation to determine when the student was last seen and gather relevant information from friends, roommates, classmates, instructors and other individuals as necessary. If campus security or law enforcement personnel makes a determination that a student who is the subject of a missing person report has been missing for more than 24 hours and has not returned to campus, the institution will initiate the emergency contact procedures.

If a student who does not live in SVA housing is suspected missing, security staff in conjunction with the Registrar's Office and other administrative staff will initiate an investigation to determine when the student was last active on campus. If the student has been missing for more than 24 hours, the emergency contact will be notified by the Director of Student Affairs.

Anyone who suspects that a student may be missing should immediately call the Director of Student Affairs at 212.592.2214.

## **STUDENT DISRUPTIVE AND CONCERNING BEHAVIOR**

Faculty, staff and students may encounter concerning or disruptive behavior on campus. If any such situations occur, the issues or behavior should be addressed using the following guidelines and procedures. If anyone at the College is concerned about an individual student, the Students at Risk Committee (STAR) should be contacted by filling out the form on [star.sva.edu](http://star.sva.edu).

STAR assesses students of concern and reviews reports regarding student behavior provided by SVA faculty, staff and students. STAR provides guidance and support to faculty and staff who are faced with challenging and sensitive student issues. They provide case management support for the College while connecting students to available support and resources. Committee members include the Director of Student Affairs, the Associate Director of Student Health and Counseling Services, the Associate Director of Disability Resources, the Associate Director of Student Affairs and the Associate Director of Residence Life, as well as additional representatives from Student Health and Counseling Services and Residence Life. To connect with STAR, go to [star.sva.edu](http://star.sva.edu).

## **ACADEMIC FREEDOM**

The School of Visual Arts supports the right of each faculty member to pursue research and teaching without interference, subject only to the constraints of law and the pursuit of truth. No policy, regulation or member of the staff may interfere with this basic tenet of the institution's philosophy. Any infringement of academic freedom will be immediately and vigorously addressed and corrected.

## **PROHIBITED CONDUCT**

All members of the School of Visual Arts community, including applicants, students, employees (both faculty and staff) and third parties doing business with SVA are prohibited from engaging in discrimination, sex-based or otherwise, discriminatory harassment, sexual or sex-based harassment, sexual assault, dating violence, domestic violence, sexual exploitation, stalking, and retaliation as those terms are defined below. Any attempt to engage in prohibited conduct may itself constitute a violation of this policy. Any actions knowingly taken to aid, facilitate or encourage another to engage in prohibited conduct and any actions taken for the purpose of interfering in the investigation of an allegation of prohibited conduct shall constitute a violation of this policy. Anyone found to have violated this policy will be subject to disciplinary action as set forth in the procedures below.

## **POLICY APPLICATION**

When and to whom does this policy apply? This policy applies to School of Visual Arts' applicants, students and employees, including faculty and staff, as well as third parties doing business with SVA or attending SVA sponsored programs or activities.

This Policy applies to any allegation of sexual misconduct regardless of where the alleged prohibited conduct occurred, or if the conduct is related to the College's academic, educational, or extracurricular programs or activities. This policy shall apply to conduct that occurs on SVA's campus, on SVA technological systems, at SVA sponsored programs, activities and events, as well as off-campus when the accused is a matriculated SVA student or when the conduct has a continuing adverse impact upon the SVA work or school environment. While the College will take all necessary remedial measures related to policy violations committed by third parties, the College's disciplinary authority, however, may not extend to third parties who are not students or employees of the College. Additionally, while this Policy is not limited to on-campus conduct, SVA's ability to investigate off-campus conduct may be limited.

Each student shall be responsible for their conduct from the time of application for admission through the awarding of a degree, as well as during periods between terms of actual enrollment, study abroad and leaves of absence or suspension.

#### **SEXUAL RELATIONSHIPS BETWEEN FACULTY AND STUDENTS**

The integrity of the teacher-student relationship is the foundation of the SVA educational mission. As mentor, educator and evaluator, the teacher is entrusted with considerable, and disproportionate, power. This can heighten the vulnerability of the student, and the potential for coercion. Whenever a teacher is responsible for directly supervising a student, a romantic or sexual relationship between them is inappropriate. Any such relationship jeopardizes the integrity of the education process by creating a conflict of interest, and may lead to an environment not conducive to learning.

Therefore, College policy prohibits faculty from having a romantic and/or sexual relationship with their students, including those for whom they are likely to have future supervisory responsibility. Likewise, they must not directly supervise any student with whom they have or have had a sexual relationship.

For purposes of this policy, “direct supervision” includes the following activities (on or off campus): course teaching; examining; grading; advising for a formal project such as a thesis or research; recommending employment, fellowships or awards. “Teachers” include faculty members as well as graduate and professional students serving as teaching fellows or in similar institutional roles. “Students” refer to those enrolled in any and all programs of the College.

We live in a litigious society and educational institutions are not exempt from harassment charges and countercharges. Individual rights, First Amendment rights, confidentiality and academic freedom are sometimes in conflict with one another. Faculty members should be cognizant of the possible misinterpretation of their actions and/or the consequences of socializing with students.

For purposes of this policy, “direct supervision” includes the following activities (on or off campus): course teaching; examining; grading; advising for a formal project such as a thesis or research; recommending employment, fellowships or awards. “Teachers” include faculty members as well as graduate and professional students serving as teaching fellows or in similar institutional roles. “Students” refer to those enrolled in any and all programs of the College.

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#### **REPORTING TO LAW ENFORCEMENT**

If you are in immediate danger, dial 911 and/ or Security Services at 212 696 4632, and attempt to get to a safe place. Acts of violence, including sexual assault, domestic violence, dating violence, and stalking, are against the law.

If you are not in immediate danger and would like to report an incident to the police, you can do so by contacting the NYPD as follows. A staff member from SVA can accompany you to make a report with the police.

- The New York City Police Department Sex Crimes Unit at 212.374.5076, or
- NYPD 13th Precinct at 230 East 21st Street, New York, NY, 10010

## **Rights in Cases of Sexual Assault, Dating Violence, Domestic Violence and Stalking**

### **Students' Bill of Rights**

All students have the right to:

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

### **Rights of All Reporting Parties:**

- The right to request interim protective measures to ensure his or her safety during the complaint process.
- The right to a prompt, thorough, fair and impartial investigation and appropriate resolution of all credible complaints of sexual misconduct.
- The right to be treated with respect by SVA staff throughout the process.
- The right to be notified of available counseling, mental and physical health services on and off campus.
- The right to identify witnesses and to request that the Investigator contact those individuals as part of the investigation.
- The right to have an advisor present in a support or advisory role during the investigation and at any meeting relating to the complaint process.
- The right to report the incident to off-campus authorities and/or law enforcement and to be assisted by SVA staff in doing so.
- The right to know what provisions of this policy the respondent is charged with violating.
- The right to be informed of the determination and sanction in writing to the extent permissible by law.

- The right to privacy and the assurance that information regarding the complaint will be shared only with those necessary.
- The right to receive timely notice of any meeting relating to the complaint process at which respondent will be present.

#### **Rights of the Responding Party**

- The right to a prompt, thorough, fair and impartial investigation and appropriate resolution of all credible complaints of sexual misconduct.
- The right to be treated with respect by SVA staff throughout the process.
- The right to be notified of available counseling, mental and physical health services, on and off campus.
- The right to identify witnesses and other parties, and to request that the Investigator contact those individuals as part of the investigation.
- The right to have an advisor present in a support or advisory role during the investigation and at any meeting relating to the complaint process.
- The right to receive written notice of which policy provisions he or she is alleged to have violated.
- The right to be notified of possible sanctions that may result if found responsible for violating this policy.
- The right to be informed of the determination and any sanction in writing.
- The right to privacy and the assurance that information regarding the complaint will be shared only with those necessary.
- The right to receive timely notice of any meeting relating to the process at which the complainant will be present, except meetings related solely to interim protective measures or accommodations.

## **POLICY AGAINST SEX-BASED DISCRIMINATION, HARASSMENT AND SEXUAL MISCONDUCT**

### **STATEMENT OF EQUAL OPPORTUNITY**

The School of Visual Arts is committed to providing a working, learning, and living environment free from unlawful discrimination and harassment. SVA does not discriminate on the basis of any protected characteristic, in admissions, financial aid, or employment, or in the administration of any SVA program or activity.

It is the policy of the School of Visual Arts to recruit, hire, promote, compensate and administer all employment practices and benefit programs without regard to race, color, religion, creed, sex, sexual orientation, gender (including gender identity or expression), pregnancy, age, disability, national origin, military or veteran status, marital status, alienage or citizenship status, domestic violence status, genetic predisposition or carrier status, partnership status or any other legally protected characteristic.

SVA's policies regarding employment discrimination, including sexual and other unlawful harassment, reflect its responsibility as an educational institution whose environment must be conducive to learning and mutual trust. Its concern is for all members of the College community—students, faculty and staff. Its procedures are designed to address any alleged violations of policy promptly and with equity to all involved, to maintain privacy if possible and to ensure that retaliation does not occur when rights under this policy are exercised. SVA is committed to provide those who feel that they have been subjected to conduct in violation of this policy with mechanisms

for seeking redress and resources for support. Accordingly, SVA prohibits retaliation against any person for complaining of a violation of this policy or for participating in any investigation or proceedings related to an alleged violation.

The School of Visual Arts is committed to providing equal treatment and opportunity for its students and employees, maintaining an environment that is free of bias, prejudice, discrimination and harassment, and establishing fair complaint procedures. The School of Visual Arts does not discriminate on the basis of race, color, religion, creed, sex, sexual orientation, gender (including gender identity or expression), pregnancy, age, disability, national origin, military or veteran status, marital status, parental or familial status, alienage or citizenship status, domestic violence status, genetic predisposition or carrier status, partnership status or any other legally protected characteristic in employment, academic, student admission and/or financial aid decisions, or in any other programs or activities. The College is firmly committed to the rights of all members of its community—students, faculty and staff—who must interact through mutual respect and trust to ensure that the campus remains a center of learning. Any student, faculty or staff member who violates College policy by subjecting another to discrimination or harassment of any kind will be subject to appropriate disciplinary action, including immediate expulsion from the College or termination of employment, in accordance with the policies and procedures outlined in the Policy Against Sex-Based Discrimination, Harassment & Sexual Misconduct, <http://www.sva.edu/students/sexual-misconduct> and the 2020-2021 SVA Handbook, <http://www.sva.edu/students/student-affairs/handbooks>.

#### **ACADEMIC FREEDOM**

Nothing in this policy shall abridge academic freedom or the College's educational mission or prohibit genuine contributions to the marketplace of ideas. Prohibitions against discrimination and harassment do not extend to statements or written materials that are germane to the classroom subject matter and circulated in the context of legitimate classroom discourse.

#### **PROHIBITED CONDUCT**

All members of the School of Visual Arts community, including applicants, students, employees (both faculty and staff) and third parties doing business with SVA are prohibited from engaging in discrimination, sex-based or otherwise, discriminatory harassment, sexual or sex-based harassment, sexual assault, dating violence, domestic violence, sexual exploitation, stalking, and retaliation as those terms are defined below. Any attempt to engage in prohibited conduct may itself constitute a violation of this policy. Any actions knowingly taken to aid, facilitate or encourage another to engage in prohibited conduct and any actions taken for the purpose of interfering in the investigation of an allegation of prohibited conduct shall constitute a violation of this policy. Anyone found to have violated this policy will be subject to disciplinary action as set forth in the procedures below.

#### **TITLE IX**

SVA is committed to complying with Title IX of the Higher Education Amendments Act of 1972, and which prohibits discrimination on the basis of sex in educational programs or activities, admission and employment. Under certain circumstances, sexual misconduct (as defined below) constitutes sexual discrimination prohibited by Title IX. Individuals with questions or concerns that pertain to Title IX are encouraged to speak with SVA's Title IX Coordinator. Students can also seek guidance from the State Education Department and the New York State Office of Campus Safety as well as the U.S. Department of Education's Office of Civil Rights.

The safety and well-being of every member of the College is of primary importance. SVA is committed to providing programs, activities and an educational environment free from sex

discrimination and fostering a community that promotes prompt reporting of all types of sexual misconduct and timely and fair resolution of sexual misconduct complaints.

#### **TITLE IX COORDINATOR**

SVA's Title IX Coordinator, under the direction of the Title IX Officer, has overall responsibility for the administration of this Policy and has been designated to coordinate compliance activities under this Policy and applicable federal, state and local laws, including without limitation Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act.

The School of Visual Arts Title IX Coordinator is:

- Knowledgeable and trained in SVA's policies and procedures and relevant federal, state and local laws;
- Available to answer questions about this policy and the associated procedures;
- Able to advise regarding available resources for support and reporting options; and
- Available to receive complaints of violations of this policy.

SVA's Title IX Coordinator is:

Laurel Christy, Associate Director, Title IX Coordinator  
340 East 24th Street Ground Floor, New York, NY 10010

Email: [lchristy@sva.edu](mailto:lchristy@sva.edu)

Phone: 212.592.2153

Website: [sva.edu/sexualmisconduct](http://sva.edu/sexualmisconduct)

Any member of the SVA community who has a question, concern, or wishes to file a report related to discrimination, harassment, or sexual misconduct should contact Laurel Christy directly.

#### **POLICY APPLICATION**

##### **When and to whom does this policy apply?**

This policy applies to School of Visual Arts' applicants, students and employees, including faculty and staff, as well as third parties doing business with SVA or attending SVA sponsored programs or activities.

This Policy applies to any allegation of sexual misconduct regardless of where the alleged prohibited conduct occurred, or if the conduct is related to the College's academic, educational, or extracurricular programs or activities. This policy shall apply to conduct that occurs on SVA's campus, on SVA technological systems, at SVA sponsored programs, activities and events, as well as off-campus when the accused is a matriculated SVA student or when the conduct has a continuing adverse impact upon the SVA work or school environment. While the College will take all necessary remedial measures related to policy violations committed by third parties, the College's disciplinary authority, however, may not extend to third parties who are not students or employees of the College. Additionally, while this Policy is not limited to on-campus conduct, SVA's ability to investigate off-campus conduct may be limited.

Each student shall be responsible for his or her conduct from the time of application for admission through the awarding of a degree, as well as during periods between terms of actual enrollment, study abroad and leaves of absence or suspension.

## SEXUAL RELATIONSHIPS BETWEEN FACULTY AND STUDENTS

The integrity of the teacher-student relationship is the foundation of the SVA educational mission. As mentor, educator and evaluator, the teacher is entrusted with considerable, and disproportionate, power. This can heighten the vulnerability of the student, and the potential for coercion. Whenever a teacher is responsible for directly supervising a student, a romantic or sexual relationship between them is inappropriate. Any such relationship jeopardizes the integrity of the education process by creating a conflict of interest, and may lead to an environment not conducive to learning.

Therefore, College policy prohibits faculty from having a romantic and/or sexual relationship with their students, including those for whom they are likely to have future supervisory responsibility. Likewise, they must not directly supervise any student with whom they have or have had a sexual relationship.

For purposes of this policy, “direct supervision” includes the following activities (on or off campus): course teaching; examining; grading; advising for a formal project such as a thesis or research; recommending employment, fellowships or awards. “Teachers” include faculty members as well as graduate and professional students serving as teaching fellows or in similar institutional roles. “Students” refer to those enrolled in any and all programs of the College.

We live in a litigious society and educational institutions are not exempt from harassment charges and countercharges. Individual rights, First Amendment rights, confidentiality and academic freedom are sometimes in conflict with one another. Faculty members should be cognizant of the possible misinterpretation of their actions and/or the consequences of socializing with students.

For purposes of this policy, “direct supervision” includes the following activities (on or off campus): course teaching; examining; grading; advising for a formal project such as a thesis or research; recommending employment, fellowships or awards. “Teachers” include faculty members as well as graduate and professional students serving as teaching fellows or in similar institutional roles. “Students” refer to those enrolled in any and all programs of the College.

We live in a litigious society and educational institutions are not exempt from harassment charges and countercharges. Individual rights, First Amendment rights, confidentiality and academic freedom are sometimes in conflict with one another. Faculty members should be cognizant of the possible misinterpretation of their actions and/or the consequences of socializing with students.

## FILING A COMPLAINT

### **INTERNAL COMPLAINT PROCEDURES: Complaints of Sexual Misconduct, Including Sexual or Gender-Based Harassment, Sexual Assault, Dating Violence, Domestic Violence, Sexual Exploitation, Stalking and Related Retaliation Claims**

Regardless of whether a community member decides to file a complaint with SVA, SVA strongly encourages anyone who believes they may have been the victim of sexual violence to seek immediate assistance. In the event of an assault or other act of sexual violence, contact Security Services at 212.592.2025, New York City Police at 911, or the New York City Police sexual crimes unit at 212.374.5076. It is extremely important that victims of physical assault receive comprehensive medical attention promptly, both to ensure their health and safety and to preserve physical evidence. In the case of sexual assault, in particular, victims should go immediately to a hospital emergency room. Resources are available to assist victims both on campus and off-campus.



Individuals are protected from sexual misconduct regardless of their race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction or any other protected characteristic.

#### **FILING AN INTERNAL COMPLAINT**

It is in the best interest of the entire SVA community for individuals to report incidents of sexual misconduct. The Title IX Coordinator as well as the Assistant Title IX Coordinators and designated Investigators, are trained to investigate reported incidents, address inquiries and coordinate SVA's compliance efforts. Any member of the SVA community who believes he or she has been subjected to sexual misconduct should submit a complaint, if possible in writing, to the Title IX Coordinator or the Director of Student Affairs. The complaint should clearly describe the alleged incident, when and where it occurred, who was involved, if known, and the desired remedy, if known. Additionally, the initiator of a formal complaint should submit any supporting materials as quickly as possible. SVA's Title IX Coordinator works closely with the Director of Student Affairs to oversee the counseling and investigation of all matters involving student allegations of sexual misconduct. Individuals who observe or become aware of an incident of sexual misconduct are strongly encouraged to report the incident. All reports of sexual misconduct involving students made to any SVA employee, except staff designated as confidential resources within the Counseling and Health Services Office, must be reported to SVA's Title IX Coordinator.

Responsible employees are required to report any incident of sexual misconduct involving a student and of which they become aware, to the Title IX Coordinator.

Responsible employees include:

- senior administrators
- department chairs
- department coordinators
- faculty
- program directors
- program staff, including but not limited to:
  - Student Affairs staff
  - Residential Life staff (including RAs)
  - Admissions staff
  - Security Services staff
  - Officers of the College
  - Human Resources staff

**Reports from Individuals other than the Victim:** If SVA receives a report of an incident of sexual misconduct anonymously or from a third party, the alleged victim will be informed of the report promptly. The policy and procedures will be applied in the same manner as if the alleged victim reported the incident.

**Alcohol and/or Drug Use Amnesty:** The health and safety of every student at SVA is of utmost importance. SVA recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs, may be hesitant to report such incidents due to fear of potential consequences for their own conduct. SVA strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to SVA officials. Any victim or

bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to SVA or law enforcement will not be subject to SVA's code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

**Passage of Time:** Community members are encouraged to make complaints of sexual misconduct at any time and can do so by contacting a responsible employee. Please note that a delay in reporting could weaken SVA's ability to gather information that will be used to determine whether a person is responsible for sexual misconduct. Furthermore, the ability of SVA to take action may be limited by the matriculation or employment status of the responding party.

**Unknown or Unaffiliated Assailant:** If the responding party is unknown or is not a member of the SVA community, SVA's ability to carry-out the investigation and remediation process may be adversely affected. The Title IX Coordinator will assist the reporting party in identifying appropriate resources and contacting local law enforcement if the reporting party would like to file a report. SVA will take appropriate steps as necessary to protect the reporting party and the community from future policy violations or misconduct.

### **Reporting to Law Enforcement**

*If you are in immediate danger, dial 911 and/or Security Services at 212 696 4632 and attempt to get to a safe place.*

Acts of violence, including sexual assault, domestic violence, dating violence, and stalking, are against the law. If you are not in immediate danger and would like to report an incident to the police, you can do so by contacting:

- The New York City Police Department Sex Crimes Unit at 212.374.5076, or
- NYPD 13th Precinct at 230 East 21st Street, New York, NY, 10010

If you would like someone to assist you in contacting the police or to go with you to the police department, any of the following individuals at SVA can assist you:

- Title IX Coordinator
- Director of Human Resources
- Director of Student Affairs
- Associate Director of Student Affairs
- Associate Director of Student Health and Counseling Services
- Associate Director of Residence Life

SVA will investigate a violation of this policy regardless of whether a criminal investigation is being conducted. SVA will not delay its investigation, except when delay is specifically requested by law enforcement and, absent special circumstances, will not delay for more than 10 days. SVA may coordinate with law enforcement as appropriate to avoid compromising the criminal investigation.

Victims may report an incident to law enforcement regardless of whether they choose to report the incident to SVA. Conversely, reporting an incident to SVA does not require the reporting party to report the incident to law enforcement. The School of Visual Arts reserves the right to report any crime to law enforcement, but, as a general rule, will not alert law enforcement to an incident of sexual misconduct without the reporting party's permission, except where there is a serious and

immediate threat to the campus community, when a minor is involved, or as otherwise required by law.

In addition to the interim measures that SVA may take, law enforcement may be able to provide additional protections, such as a restraining order. SVA can assist students in contacting law enforcement and legal services organizations to learn about additional remedies that may be available.

### **Differences Between College Procedures and Criminal Procedures**

While conduct prohibited by College policy may also be unlawful (sexual harassment, for example), the College's procedures, both formal and informal, are not a substitute for the protections and judicial process provided by the courts. College action does not follow the same rigid rules of formal legal proceedings, often includes counseling for those involved, and aspires to resolve the problem with a concern for the dignity of all. If disciplinary measures are deemed appropriate, they will be taken.

Hearings are informal in nature and do not necessarily involve formal rules of evidence. College fact-finding proceedings are conducted privately and are not open to the public. Every effort is made to preserve the confidentiality of both informal and formal proceedings, and the records produced by them.

The involvement of an individual on either a formal or informal basis in the proceedings described in this policy (i.e., with the College), is neither an invitation to institute more formal proceedings outside the institution nor does it prevent an individual from doing so. The College has no control over these actions and will handle internal complaints in accordance with the policies and procedures contained herein.

### **PROCESSING A COMPLAINT INVESTIGATION**

Title IX requires that SVA investigate all incidents about which it knows or has reason to know in order to protect the health and safety of the SVA community. Upon receipt of a complaint, the Title IX Coordinator will review the complaint to make an initial assessment of whether the facts as alleged would constitute a violation of SVA policy. If additional information is necessary to make this determination, the Title IX Coordinator will meet with the reporting party to gather additional, preliminary information.

If the Title IX Coordinator determines that the allegations may constitute a violation of SVA policy, the Title IX Coordinator will provide the reporting party with a written copy of this Policy and Procedure, explain the investigation process and identify available interim measures and support resources as appropriate (described below).

As soon as possible but no later than two business days after determining that a policy violation may have occurred, the Title IX Coordinator or an Assistant Title IX Coordinator will contact the responding party to provide a written copy of this Policy and Procedure, explain the investigation and adjudication process, identify and explain any interim measures imposed that impact the responding party, identify the provision of this policy the responding party has been accused of violating and possible sanctions, and identify available support resources. The Title IX Coordinator and/or Assistant Title IX Coordinator may interview the responding party during this meeting or at a separate meeting.

If the facts as alleged in the complaint do not constitute a violation of SVA policy, as determined by the Title IX Coordinator, the reporting party will be notified and no formal investigation will occur.

SVA will endeavor to complete the investigation and adjudication process, excluding any appeal, within 60 days of the receipt of the complaint, if not sooner. Should this process last longer than 60 days, the Title IX Coordinator will maintain communication and provide an updated timeline to all parties.

#### **PRIVACY**

SVA employees who cannot guarantee confidentiality will maintain the reporting party's privacy to the greatest extent possible. The information the reporting party provides to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator and/or designated Investigator to investigate and/or seek a resolution. Only people who have a need to know about the incident will be informed, and information will be shared only as necessary with investigators, the complainant, witnesses and the responding party to ensure an effective and thorough investigation. While SVA will take all appropriate steps to safeguard the privacy of the parties, the information collected during the investigation process may be subpoenaed in civil or criminal proceedings.

#### **INTERIM MEASURES**

After reviewing the complaint, the Title IX Coordinator may take interim measures to protect the safety and well-being of the individuals involved and the SVA community. Interim measures are preliminary, and only in effect until the process is complete and a decision is rendered.

Example interim measures are listed below. SVA will determine which measures are appropriate on a case-by-case basis. Not all of the measures listed below will be necessary in every case to keep students, faculty and employees safe and ensure their equal access to educational programs and activities. If either the reporting party or responding party identifies additional interim measures beyond those offered, SVA will consider whether the request can be granted. In those instances where interim measures affect both the reporting party and the responding party, SVA will minimize the burden on the reporting party when appropriate.

Available interim measures include:

- An order directing the parties not to contact one another intentionally;
- changes in SVA housing accommodations;
- housing suspensions;
- changes in academic schedules or other academic accommodations;
- changes in SVA work schedules, locations or reporting lines;
- changes in SVA provided transportation arrangements;
- campus restrictions;
- supplying an escort to ensure the student feels safe;
- interim suspension.

These actions may be instituted at any point during the investigation process. Reporting and responding parties are encouraged to request interim measures when needed.

Interim measures will be kept confidential to the extent possible. Only those individuals who need to be informed in order to effectuate the measures will be informed. For instance, if the individual

requests a change in work schedule, the individual's supervisor(s) will need to be informed in order to effectuate the change.

Student reporting and responding parties may request review and modification of any interim measure(s) that directly impacts them, including review of the need for and terms of the interim measure(s), by submitting a letter to the Title IX Coordinator along with any evidence they wish to present. In the event the interim measure impacts the other party, they will be given an opportunity to state their position and present evidence as appropriate. The Title IX Coordinator or her designee will review the submissions and make a determination.

At the conclusion of the investigative process and once a final decision has been rendered, some or all of the interim measures may be lifted or they may be continued to assist the student, even if it is determined that some or all of the allegations have not been substantiated.

Failure to comply with a directive relating to an interim measure may lead to further disciplinary action.

In addition to the measures that the School of Visual Arts may take, law enforcement may be able to provide additional protections, such as a restraining order. SVA can assist reporting parties in contacting law enforcement and legal services organizations to learn about additional remedies that may be available in criminal matters.

#### **ADVISORS**

Reporting and responding parties have a right to be accompanied by an advisor of their choice at all meetings, interviews and hearings, if any, related to allegations of sexual misconduct. In cases involving allegations of domestic violence, dating violence, sexual assault or stalking, the advisor may be an attorney.

During hearings and interviews, advisors are not permitted to advocate on behalf of the individual or to address the Title IX Investigator, the Title IX Coordinator or the hearing panel directly. The party may confer with the advisor, and the advisor may pass notes to the party. If the advisor is disruptive or otherwise fails to comply with these parameters, they may be asked to leave the room.

#### **NOTICE**

All parties will receive reasonable and advance written or electronic notice of any meeting they are required or eligible to attend.

In cases of sexual assault, domestic violence, dating violence and stalking, each party will be given prompt notice of any meeting relating to the investigation and/or adjudication process at which either the reporting or responding party will be present, except that the responding party will not be notified of meetings with the reporting party relating solely to interim measures and other supportive accommodations, and vice versa.

#### **CONFLICT OF INTEREST**

Both the reporting and responding parties have the right to have a fair and impartial investigation, determination and appeal process. If either party has any reason to believe that the Title IX Coordinator, the Assistant Title IX Coordinator, the Title IX Investigator, the hearing panelists or the appeal panelists have a conflict of interest or would otherwise be unable to be fair and impartial, the concerned party should submit a letter explaining the basis for their concern. Concerns regarding the Title IX Investigator, the hearing panel or the appeal panel should be submitted to the Title IX Coordinator. Concerns regarding the Title IX Coordinator should be submitted to the Title IX

Officer. The other party will be provided with a copy of the letter and will have an opportunity to respond. If based upon the submissions and any independent inquiry the decision-maker may choose to make, the decision-maker determines that there is a conflict of interest, another trained SVA employee will be appointed to take on the role of the conflicted individual. If it is found that there is no such conflict, the individual will continue to fulfill their appointed role. Concerns regarding conflicts of interest should be raised as soon as they are identified and prior to the rendering of any determination, e.g. prior to the submission of the investigation report, the determination, or the appeal decision.

#### **MEDIATED RESOLUTION**

Where appropriate and with the consent of the reporting party, the Title IX Coordinator may attempt to mediate a resolution of the matter as amicably and privately as possible. If a satisfactory resolution is reached, the matter will be considered closed. If it becomes clear that a mediated resolution will not be possible, the matter will be investigated. Complaints of sexual assault, domestic violence or dating violence, however, will not be mediated under any circumstances.

#### **FORMAL INVESTIGATION**

Within seven days of receiving a complaint which has been determined to allege a potential violation of SVA policy, the Title IX Coordinator, the Assistant Title IX Coordinator or a designated Title IX Investigator will commence an investigation. During the investigation, both parties will have the opportunity to be heard, to present evidence and to suggest witnesses. Both parties will be provided with a written copy of this Policy and Procedure and will be kept informed of the status of the investigation as deemed appropriate. If any interim measures are put in place during the investigation, they will be communicated to each party, as appropriate.

The Investigator will conduct a prompt, fair, impartial, and thorough investigation. During the investigation, the Investigator will:

- interview the reporting party, the responding party, and any material witnesses (the Investigator will not interview witnesses whose sole purpose is to provide character information);
- gather all relevant documentary and/or physical evidence from the reporting party, the responding party, and witnesses; (This may include, but is not limited to, texts, emails, photos, social media posts, voicemail messages, etc.)
- complete the investigation in a timely manner, without unnecessary deviation from the intended timeline; and
- maintain communication with the reporting and responding parties on the status of the investigation and overall process.

Prior to reaching a conclusion as to whether the alleged violation occurred, the Investigator will present each party with a written recitation of the facts and evidence the Investigator collected during their interview. Upon receipt of the Investigator's written summary, each party has two business days to correct any inaccuracies or misstatements in the written summary. The Investigator will not share one party's statement or evidence with the other party.

**Information Re: Romantic and Sexual History:** Neither the Investigator, nor any hearing panel, will consider information concerning the romantic or sexual history of either the reporting party or the responding party, except as provided by the reporting party and/or responding party relating to their shared sexual history. If either offers such information, the other will have the right to respond.

**Information Re: Mental Health Diagnosis or Treatment History:** Each party shall have the right to object to the Investigator and/or the hearing panel's consideration of their own mental health history or treatment. In the event such an objection is raised, neither the Investigator, hearing panel, nor appeal panel will consider information regarding mental health diagnosis or treatment.

**Prior Conduct Violations:** The Investigator will not consider prior conduct violations in assessing whether a policy violation occurred but such information may be considered by the Investigator, Title IX Coordinator, hearing panel or appeal panel in determining appropriate sanctions.

**Declining to Participate:** Reporting parties have the right to withdraw a complaint at any time. If the reporting party chooses to withdraw the complaint prior to the completion of the investigation, the Title IX Coordinator will determine whether SVA will continue to pursue the complaint.

When weighing a reporting party's request for confidentiality or that no investigation or discipline be pursued, the Title IX Coordinator will consider a range of factors, including the following:

- The increased risk that the alleged perpetrator will commit additional acts of sexual or other violence, such as:
- whether there have been other sexual violence complaints about the same alleged perpetrator;
- whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence;
- whether the allegation indicates an escalation of unlawful conduct by the alleged perpetrator;
- whether the alleged perpetrator threatened further sexual violence or other violence against the victim or others;
- whether the sexual violence was committed by multiple perpetrators;
- the seriousness of the alleged conduct;
- the alleged perpetrator's rights to receive information under FERPA;
- whether the sexual violence was perpetrated with a weapon;
- whether the victim is a minor;
- whether SVA possesses other means to obtain relevant evidence of the sexual violence (e.g., security cameras or personnel, physical evidence);
- whether the victim's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead SVA to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, SVA will likely respect the reporting party's request for confidentiality.

No adverse inference will be made against a responding party as a result of their decision not to participate in an investigation, but the Investigator will complete the investigation and a determination will be made based upon the information available.

#### **DETERMINATION OF RESPONSIBILITY AND DISCIPLINE**

At the conclusion of the investigation, the Investigator will determine whether, based on the evidence collected, it is more likely than not that the alleged violation occurred.

If the Investigator finds the responding party responsible for violating SVA policy, the Investigator will propose an appropriate disciplinary sanction after considering the relevant factors, which include the severity of the violation, the circumstances surrounding the lack of consent (such as force, threat, coercion, intentional incapacitation, etc.), the responding party's state of mind (intentional, knowing,

reckless, negligent, etc.), the responding party's history of misconduct, including prior findings of sexual misconduct, the ongoing impact on the complainant, the ongoing impact on the campus environment, and any ongoing threat to the campus community. In determining the appropriate sanction, the Investigator may consult with the Title IX Officer if the responding party is a faculty member, or the responding party's manager if the responding party is a staff member.

Sanctions may include:

- revocation of degree,
- suspension,
- expulsion,
- demotion,
- termination of employment,
- revocation of honors or awards,
- warning or reprimand,
- disciplinary probation,
- loss of housing privilege,
- loss of other privileges (including but not limited to use of facilities and participation in campus organizations and activities),
- community service, and/or, mandated training and education

The Investigator will present their findings and proposed sanctions, if any, in a written report which must be submitted to the Title IX Coordinator within four weeks of commencement of the investigation, absent unanticipated circumstances.

The Title IX Coordinator (or Title IX Officer in cases where the Title IX Coordinator acted as the Investigator), will review the Investigator's report, including the findings and recommended sanctions. The Title IX Officer or Coordinator will either accept, reject or modify the Investigators findings and/or sanctions. In instances where the Investigator's findings not accepted, the Investigator may be directed to collect additional information and submit a supplemental report.

#### **FINAL NOTICE OF DETERMINATION**

Once the investigation is complete, the Title IX Coordinator/Officer will report the decision and sanctions, if any, in a written Final Notice of Determination that is shared with the parties.

In cases of sexual assault, dating violence, domestic violence and/or stalking, the reporting party and the responding party will be informed simultaneously and in writing of any sanctions imposed. In other cases of sexual misconduct, the reporting party will only be informed of discipline to the extent such sanctions relate to the reporting party. For instance, if the responding party has been restricted from being present in the reporting party's residence hall, the reporting party would be informed of that restriction.

If either party disputes the investigation findings, as stated in the Final Notice of Determination and/or the sanctions imposed, that party may contest the Final Notice of Determination and request a Title IX Adjudication Hearing.

#### **TITLE IX ADJUDICATION HEARING**

If a party wishes to contest the Final Notice of Determination, they must do so in a written statement to the Title IX Coordinator, within two weeks of receipt of the Final Notice of Determination.



Upon receipt of a written statement contesting the Final Notice of Determination, a Title IX Adjudication Panel will be convened and the parties will proceed to an adjudication hearing. The hearing panel will be composed of three SVA staff members who receive annual training on the College's policies and procedures, issues relating to sexual assault, domestic violence, dating violence and stalking, the effects of trauma, impartiality, and the responding party's right to a presumption of being not responsible until a finding of responsibility is made. One member of the panel will be designated as the chair. Students are not permitted serve on the hearing panel. SVA staff members who have a conflict of interest will not be permitted to serve on the panel either.

Prior to the hearing, the reporting party and the responding party will each have an opportunity to review the investigation report and any other materials that were collected during the investigation. The names and other identifying information of other students will be redacted from such materials in accordance with the Family Educational Rights and Privacy Act (FERPA), except to the extent that doing so would interfere with the purpose of Title IX to eliminate sex-based discrimination. The Title IX Coordinator will supervise this review and ensure that reasonable time is afforded for review prior to the hearing.

Each party will be notified in writing of the date, time and location of the Title IX Adjudication Hearing with as much advance notice as possible. The scheduling and timing of hearing sessions shall be undertaken with due regard to the importance of completing the hearing in an expeditious manner and with consideration of the schedules and commitments of all participants. The hearing is a closed proceeding and nobody other than the parties and their respective advisors, the panel, witnesses (when called to appear) and necessary SVA personnel may be present during the hearing. In the event that either party cannot be physically present during the hearing, arrangements will be made to allow the individual to participate in the proceeding remotely whenever possible. Upon request, arrangements will also be made to allow the parties to participate in the hearing without being in the same room at the same time. If a party chooses not to participate in a hearing, it may be held in his or her absence, depending upon the circumstances.

Generally, the Title IX Adjudication Hearing Panel will question the Investigator, the reporting party, the responding party and any other necessary witnesses in that order. The reporting party and responding party will each be permitted to make a closing statement, which may include an impact statement.

During the course of the hearing, the parties will have an opportunity to suggest witnesses and propose questions. The parties are not, however, permitted to directly question each other or any other witnesses. The panel has the discretion to determine which witnesses to call and to revise and/or decide not to ask proposed questions. The panel will not hear character testimony.

The hearing will be audio recorded or transcribed. The hearing record will be maintained for at least five years, and each party will be afforded an opportunity to have access to the full record of the hearing.

The Title IX Hearing Panel will evaluate the evidence and determine whether it is more likely than not that a policy violation occurred. If a policy violation is found the hearing panel will determine the appropriate sanction.

Sanctions may include:

- expulsion,

- revocation of degree,
- suspension,
- demotion,
- termination of employment,
- revocation of honors or awards,
- warning or reprimand,
- disciplinary probation,
- loss of housing privilege,
- loss of other privileges (including but not limited to use of facilities and participation in campus organizations and activities),
- community service, and/or,
- mandated training and education.

In determining the appropriate sanction, the hearing panel will consider the following relevant factors: the severity of the violation, the circumstances surrounding the lack of consent (such as force, threat, coercion, intentional incapacitation, etc.), the responding party's state of mind (intentional, knowing, reckless, negligent, etc.), the responding party's history of misconduct, including prior findings of sexual misconduct, the ongoing impact on the reporting party, the ongoing impact on the campus environment, and any ongoing threat to the campus community. In determining the appropriate sanction, the hearing panel may consult with the Title IX Coordinator, Title IX Officer and/or the Director of Student Affairs.

After the hearing is complete, the reporting party and the responding party will receive simultaneous notification, in writing, of the hearing panel's determination. In cases of sexual assault, dating violence, domestic violence and/or stalking, the reporting party and the responding party will be informed simultaneously and in writing of any sanctions imposed. In other cases of sexual misconduct, the reporting party will only be informed of discipline to the extent such sanctions relate to the reporting party. For instance, if the responding party has been restricted from being present in the reporting party's residence hall, the reporting party would be informed of that restriction.

#### **APPEAL**

After receiving written notification of the Title IX Adjudication Hearing Panel's determination, both the reporting party and the responding party have two weeks to appeal the decision. During that time, both parties will have an opportunity to thoroughly review the hearing record (redacted to remove the names and personally identifying information of other students consistent with FERPA), but copies of the record will not be provided to them. In order to initiate an appeal, the appealing party must submit a formal letter of appeal specifying the grounds upon which the appeal is based, and must include the reasons or circumstances why they believe that the decision should be reevaluated, explaining how those grounds materially affected the outcome. The appeal should be made to the Title IX Coordinator in writing via email to [lchristy@sva.edu](mailto:lchristy@sva.edu) or addressed to the Title IX Coordinator, School of Visual Arts, 209 East 23rd Street, New York, NY 10010.

There are only three limited grounds for appeal, which include:

- new evidence, which was not available at the time the Investigator completed their review, has come to light;
- an error in the process, as outlined by this policy, which materially impacted the outcome;
- the sanction(s) imposed were not appropriate in light of the evidence presented.

A student's disagreement with the hearing panel's findings and/or sanctions is not, by itself, grounds for appeal. If the appeal letter does not bring forward sufficient grounds for appeal, the appeal will be denied and the matter will be closed.

If the appeal letter identifies arguable grounds for appeal, within two business days of receipt of the appeal letter, the Title IX Coordinator will (i) appoint a Title IX Appeal Panel of three trained SVA employees and (ii) provide the other party with an opportunity to review the appeal. The party who is not appealing the decision, will have five calendar days from receipt of the appeal to submit materials in response.

A party's decision not to participate in the investigatory process does not preclude him or her from appealing the hearing panel's decision, however, except in extraordinary circumstances, a party who does not respond to the Investigator's inquiries during the investigatory process will be precluded from appealing on the ground that new evidence has come to light.

The Appeal Panel will hold a closed review session, during which time it will review the Title IX Investigator's report, including the Investigator's findings and recommended sanctions, the Title IX Coordinator's Final Notice of Determination, the Title IX Adjudication Panel's determination, including the hearing record, and any subsequent materials submitted by the parties in anticipation of the appeal. After a review of all of the information and evidence presented, the Appeal Panel may:

- affirm the decision of the Title XI Adjudication Panel. In this case, the decision is final and no further action will be taken.
- remand the matter back to the Adjudication Panel or Title IX Investigator to:
  - reevaluate the decision in light of the Appeal Panel's findings or
  - reopen the investigation;
- modify the sanctions imposed by the Adjudication Panel.

The Appeal Panel's decision will be transmitted in writing to the reporting party, the responding party, and the Title IX Coordinator simultaneously within 15 business days of the non-appealing party's submission. The finding of the Appeal Panel is final.

If neither party files an appeal within two weeks of the Adjudication Hearing Panel's decision, the Title IX Coordinator will provide both parties with a written notice that the Adjudication Hearing Panel's determination is final.

All sanctions shall remain in full force and effect during the pendency of the appeal.

#### **TRANSCRIPT NOTATIONS**

Any student who is found responsible for domestic violence, dating violence, sexual assault or stalking (or any other crime of violence) and suspended will have a notation on their transcript indicating, "suspended after a finding of responsibility for a code of conduct violation."

Any student who is found responsible for domestic violence, dating violence, sexual assault or stalking (or any other crime of violence) and expelled will have a notation on their transcript indicating, "expelled after a finding of responsibility for a code of conduct violation."

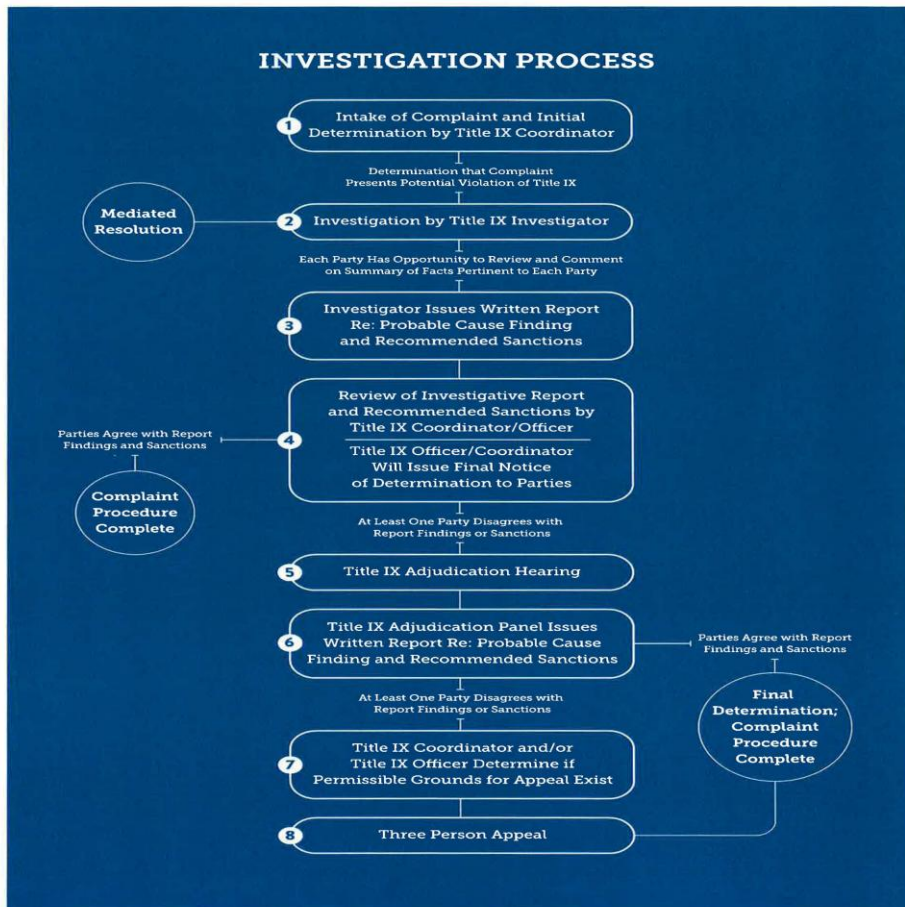
Any student who withdraws from SVA while a complaint of domestic violence, dating violence, or stalking is pending against him or her and declines to complete the investigatory and disciplinary process will have a notation on their transcript indicating, "withdrew with conduct charges pending."

If a finding of responsibility is vacated for any reason, the transcript notation will be removed. Students shall have the right to seek the removal of a notation of suspension after one year has elapsed since the end of the suspension. Students wishing to request removal should submit a letter to the Title IX Coordinator setting forth the justification for removal. Notations of expulsion cannot be removed.

## THE INVESTIGATION PROCESS

### OVERVIEW OF THE PROCESS

An overview outlining the major steps of the investigatory process is depicted in the flow chart below and will be provided to both parties so that they are informed and there is transparency as to what can be expected. The Title IX Office will endeavor to complete the process (excluding any appeal) within 60 days. If circumstances arise that require the extension of certain deadlines (including but not limited to the unavailability of witnesses due to winter or summer break or a simultaneous police investigation), the parties will be updated accordingly.



### Compliance with Sanctions and Accommodations

At the conclusion of the investigation and adjudication process, the Title IX Coordinator will be responsible for ensuring compliance with all imposed sanctions and providing accommodations with the goal of preventing the recurrence of sexual misconduct and assisting the reporting party. The responding party's failure to comply may result in further disciplinary action.

### **Ongoing Accommodations**

Regardless of the determination, both the reporting party and the responding party may request ongoing or additional accommodations. Such requests should be directed to the Title IX Coordinator. Determinations as to whether such accommodations are appropriate or feasible will be made by the Title IX Coordinator in consultation, where appropriate, with the Director of Student Affairs. Ongoing accommodations may include: moving the reporting party's residence, changing the reporting party's academic schedule, allowing the reporting party to withdraw from or retake a class without penalty, providing the reporting party with access to additional academic support.

## **RESOURCES AND SUPPORT FOR VICTIMS OF SEXUAL MISCONDUCT**

### **Medical Attention and Evidence Preservation**

Victims of sexual violence, including sexual assault, dating violence, domestic violence and stalking, are encouraged to seek prompt medical attention and to report the incident to the police. To gain assistance in getting to an emergency room, a victim can call 911 or notify SVA's Security Services at 212.696.4632. The nearest emergency rooms to SVA are at:

#### **Mount Sinai Beth Israel**

281 First Avenue (First Avenue at 16th Street)  
212.420.2000

#### **Bellevue Hospital Center**

462 First Avenue (between East 27th and East 28th streets)  
212.562.4141

#### **NYU Langone Tisch Hospital**

550 First Avenue (at East 33rd Street)  
212.263.5800

The hospital staff will do a detailed examination of the entire body, including an internal exam, and where appropriate, collect evidence, check for injuries, and address pregnancy concerns and the possibility of exposure to sexually transmitted infections.

Seeking medical attention will in no way obligate a victim to file a complaint or press criminal charges. Conversely, electing not to seek medical attention or to contact police will not impact SVA's decision to investigate.

Victims are advised that the best way to preserve evidence of sexual assault is to avoid bathing or washing yourself before being examined. You should not take a shower, wash hands or face, comb your hair or douche. Normal everyday behavior, such as going to the bathroom, can destroy or remove evidence of sexual assault; you should try to avoid doing so if possible. Similarly, you should try not to smoke or drink anything. Altering your appearance can hide bruising or lacerations that can be cited as evidence when pressing charges. It is best not to apply make-up or any other substance that can change your appearance.

Evidence of the assault can be found in the fibers of your clothes, strands of your hair, or on other parts of your body, so it is important to try your best to preserve as much evidence as possible before seeking medical or professional help. Clothing, towels, sheets and other items should not be washed or

moved, if possible. The clothing worn at the time of the assault should be brought to the hospital in a sanitary container, such as a paper bag or a clean sheet. If the clothing worn at the time of the assault is still being worn, it is advisable to bring a change of clothes to the hospital, if possible.

SVA Security Services can assist you in securing the scene to preserve evidence as well.

It is important to note that failure to take the steps described above does not preclude you from reporting an incident to SVA or to the police.

It is important to note that failure to take the steps described above does not preclude you from reporting an incident to SVA or to the police.

## **FREQUENTLY ASKED QUESTIONS**

### **Who Can I Talk to? Will it be Confidential?**

Support services are in place to help any member of the SVA community who feels they are a victim of sexual misconduct.

The School of Visual Arts encourages any person who has experienced sexual violence to talk to someone about what happened, so victims can get the support that they need, and so SVA can respond appropriately. Different employees on campus have different abilities to maintain confidentiality.

- Some are required to maintain near complete confidentiality; talking to them is sometimes called a “privileged communication.”
- Some employees are required to report all details of an incident involving a student (including the identities of both the victim and the alleged perpetrator) to the Title IX Coordinator. A report to these employees (called “responsible employees”) constitutes a report to SVA and generally obligates the Title IX Coordinator or his designee to investigate the incident and take appropriate steps to address the situation.

This policy is intended to make community members aware of the various reporting and confidential disclosure options available to them.

### **Privileged and Confidential Communications**

When reporting a violation of SVA policy, there are resources that can provide confidentiality, sharing options and advice without any obligation to inform other College staff members unless requested. Such on-campus confidential resources include the counselors within Student Health and Counseling Services, located at 340 East 24th Street, ground floor, and by telephone at 212.592.2246.

Additionally, community members can seek assistance from an off-campus crisis center, which can maintain confidentiality.

### **Who is Obligated to Report What I tell Them to the School of Visual Arts?**

A “responsible employee” is an SVA employee who has the authority to redress sexual violence, who has the duty to report incidents of sexual violence or other student misconduct, or who a student could reasonably believe has this authority or duty.

A responsible employee must report to the Title IX Coordinator all relevant details about any incident of sexual misconduct involving a student—including the names of the victim and alleged

perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling SVA's response to the report. A responsible employee should not share information with law enforcement without the victim's consent unless the victim has also reported the incident to law enforcement.

The following categories of employees are SVA's responsible employees:

- Student Affairs staff
- Residential Life staff (including RAs)
- Admissions staff
- Security Services staff
- Officers of the College
- Human Resources staff
- Faculty

Before a reporting party reveals any information to a responsible employee, the employee should ensure that the person understands the employee's reporting obligations—and, if the reporting party wants to maintain confidentiality, direct them to confidential resources.

If the reporting party wants to tell the responsible employee what happened but also maintain confidentiality, the employee should tell them that the School of Visual Arts will consider the request, but cannot guarantee that SVA will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the responsible employee will also inform the Title IX Coordinator of the reporting party's request for confidentiality.

Responsible employees will not pressure a reporting party to request confidentiality, but will honor and support the reporting party's wishes, including for SVA to fully investigate an incident. By the same token, responsible employees will not pressure a reporting party to make a full report if they are not ready to do so.

Even SVA officers and employees who cannot guarantee confidentiality will maintain a reporting party's privacy to the greatest extent possible. Any information provided to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution. Only people who have a need to know about the incident will be informed, and information will be shared only as necessary with investigators, the reporting party, witnesses and the responding party to ensure an effective and thorough investigation. Although SVA will take all appropriate steps to safeguard the privacy of the parties, the information collected during the investigation process may be subpoenaed in civil or criminal proceedings.

#### **PUBLIC AWARENESS EVENTS**

Sharing information regarding an incident of sexual misconduct at a public awareness event, such as Take Back the Night, the Clothesline Project, survivor speak-outs, and other forums, does not constitute notice to SVA and will not trigger an investigation under this policy. However, because SVA is under a continuing obligation to address issues of sexual violence campus-wide, information shared at public awareness events may prompt the College to initiate broader remedial action—such as increased monitoring, supervision or security, increased education and prevention efforts, climate surveys and/or revisions to policies and practices—to ensure the safety of the SVA community.

### **Can I Request That The School of Visual Arts Not Take Action Regarding An Incident?**

If a victim of sexual assault, dating violence, domestic violence or stalking discloses an incident to a responsible employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, SVA must weigh that request against its Title IX obligations, including the obligation to provide a safe, non-discriminatory environment for all members of the SVA community, including the victim. If in making a formal complaint, the reporting party requests confidentiality or asks that the complaint not be pursued, the College still must take all reasonable steps to investigate and implement any remedial measures while being mindful of the request.

If SVA honors the request for confidentiality, a victim must understand that SVA's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be limited.

Although rare, there are times when SVA may not be able to honor a reporting party's request in order to provide a safe, non-discriminatory environment for the entire SVA community.

The Title IX Coordinator will evaluate requests for confidentiality once a responsible employee is on notice of alleged sexual violence. When weighing a reporting party's request for confidentiality or that no investigation or discipline be pursued, the Title IX Coordinator will consider a range of factors, including the following:

- The increased risk that the alleged perpetrator will commit additional acts of sexual or other violence, such as:
  - whether there have been other sexual violence complaints about the same alleged perpetrator;
  - whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence;
  - whether the allegation indicates an escalation of unlawful conduct by the alleged perpetrator;
  - whether the alleged perpetrator threatened further sexual violence or other violence against the victim or others;
  - whether the sexual violence was committed by multiple perpetrators;
- the seriousness of the alleged conduct;
- the alleged perpetrator's rights to receive information under FERPA;
- whether the sexual violence was perpetrated with a weapon;
- whether the victim is a minor;
- whether SVA possesses other means to obtain relevant evidence of the sexual violence (e.g., security cameras or personnel, physical evidence);
- whether the victim's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead SVA to investigate and, if appropriate, pursue disciplinary action. If none of these factors are present, SVA will likely respect the victim's request for confidentiality.

If SVA cannot ensure confidentiality, the reporting party will be so informed prior to the start of an investigation. To the extent possible, SVA will only share information with people responsible for



handling SVA's response. Even if SVA chooses not to take disciplinary action against the alleged perpetrator because the reporting party insists on confidentiality, it may pursue other steps to limit the effects of the alleged conduct and prevent its recurrence.

SVA will remain ever mindful of the victim's well-being, and will take ongoing steps to protect the victim from retaliation or harm and work with the victim to create a safety plan. Retaliation against the victim, whether by students or SVA employees, will not be tolerated.

SVA will also:

- assist the victim in accessing other available victim advocacy, academic support, counseling, disability, and health or mental health services;
- provide other security and support, which could include issuing a no-contact order, helping arrange a change of living or working arrangements or course schedules (including for the alleged perpetrator pending the outcome of an investigation) or adjustments for assignments or tests; and
- inform the victim of the right to report a crime to campus or local law enforcement—and provide the victim with assistance if the victim wishes to do so.

SVA will not require a victim to participate in any investigation or disciplinary proceeding.

Because SVA is under a continuing obligation to address the issue of sexual violence campus-wide, reports of sexual violence (including non-identifying reports) will also prompt SVA to consider broader remedial action—such as increased monitoring, supervision or security at locations where the reported sexual violence occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting its policies and practices.

If SVA determines that it can respect a victim's request for confidentiality, it will also take immediate action as necessary to protect and assist the victim.

#### **Will Information About an Incident Will be Shared With My Parents?**

The Family Educational Rights and Privacy Act (FERPA) allows the School of Visual Arts to share information with parents when (i) there is a health or safety emergency or (ii) where the student is a dependent on the parent's prior year federal tax return. Generally speaking, SVA will not disclose a report of domestic violence, dating violence, sexual assault or stalking to a student's parents without the student's permission.

#### **DEFINITIONS**

**For Purposes of These Policies and Procedures, the Following Definitions Apply:**

**Discrimination** is defined as:

- Treating individuals or groups less favorably because of their protected characteristic(s); or
- Having a policy or practice that has a disproportionately adverse impact on individuals based on a protected characteristic.

**Protected Characteristic** refers to any personal trait or category that is protected by law, including an individual's race, color, religion, creed, sex, sexual orientation, gender (including gender identity or expression), pregnancy, age, disability, national origin, military or veteran status, marital status,

parental or familial status, alienage or citizenship status, domestic violence status, genetic predisposition or carrier status, partnership status or any other characteristic protected by law.

**Discriminatory Harassment** is defined as substantially interfering with an individual's living, learning or working environment by subjecting him or her to severe or threatening conduct or to repeated humiliating or abusive conduct, based on his or her protected characteristic(s). Under this policy, harassment is verbal or physical conduct that belittles or shows hostility or aversion toward an individual because of a protected characteristic, or that of his or her relatives, friends, or associates, and that:

- Has the purpose or effect of creating an intimidating, hostile, or offensive living, learning or working environment.
- Has the purpose or effect of unreasonably interfering with an individual's academic or job performance or limiting or depriving someone of the ability to apply for, participate in or benefit from SVA's educational programs, activities and/or employment; or
- Otherwise adversely affects an individual's academic or employment experience.

Harassing conduct includes, but is not limited to:

- Offensive or suggestive comments, letters, emails or telephone calls;
- Insults, jokes, teasing, threats, embarrassing comments, name calling or other remarks that put people down or make them uncomfortable;
- Conduct that is physically threatening, harmful or intimidating;
- Inappropriate pictures, cartoons or other objects;
- Making obscene or rude gestures, or ogling or leering at someone; and
- Mimicking a person's accent, or mocking or imitating a disability or stutter.

**Sexual or Sex-based Harassment** is defined as unwelcome sex-based verbal, visual or physical conduct that:

- Has the purpose or effect of creating an intimidating, hostile, or offensive living, learning or working environment;
- Has the purpose or effect of unreasonably interfering with an individual's academic or job performance or limiting or depriving someone of the ability to apply for, participate in or benefit from SVA's educational programs, activities and/or employment; or
- where submission to the conduct is explicitly or implicitly made a term or condition of an individual's education, employment, or participation in other activities sponsored by the School of Visual Arts; or
- where submission to or rejection of the conduct is used as the basis for admission, academic or employment decisions.

Examples of sex-based harassment that may cause a hostile environment include, but are not limited to:

- subtle or persistent pressure for sexual activity;
- unwanted or unnecessary touching, brushing against a person, or blocking someone's movement;
- requesting or demanding sexual favors in connection with admission, employment, academics, or SVA activities;
- unwelcome, offensive, or suggestive comments or communications (verbal, written, electronic, etc.) of a sexual nature;
- failure to accept the termination of a consensual relationship with repeated and persistent requests and behavior;

- Verbal and/or physical aggression toward another based upon a perception that the other fails to conform to stereotypical notions of expected characteristics for masculinity or femininity.

**Sexual Assault** is divided into two categories of behavior: **Non-consensual Sexual Contact** and **Non-consensual Sexual Intercourse**.

**Sexual Assault–Non-consensual Sexual Contact** includes any intentional touching of a sexual nature, however slight, whether clothed or unclothed, with any object or body part by a person against another person that is without affirmative consent and/or by force. [1] Consent is required regardless of whether the person initiating the sexual contact is under the influence of drugs and/or alcohol. When consent is withdrawn or can no longer be given due to incapacitation, sexual activity must stop.

Examples of non-consensual sexual contact include, but are not limited to:

- intentional contact with the breasts, buttocks, groin, or genitals;
- intentional touching of another with breasts, buttocks, groin, or genitals;
- making another person touch someone or themselves in a sexual manner;
- any intentional bodily contact in a sexual manner.

[1] Conduct that is prohibited by this policy may also be prohibited by New York State law. Relevant definitions and provisions of New York law are contained in the appendix section which is provided for information purposes only. The School of Visual Arts enforces only its policy. Those interested in filing a complaint with the police are encouraged to do so, and SVA will assist any reporting party in contacting law enforcement.

**Sexual Assault–Non-consensual Sexual Intercourse** includes any form of sexual intercourse, however slight, with any object or body part by a person against another person that is without affirmative consent and/or by force. Consent is required regardless of whether the person initiating the sexual contact is under the influence of drugs and/or alcohol. When consent is withdrawn or can no longer be given due to incapacitation, sexual activity must stop.

Examples of non-consensual sexual intercourse include, but are not limited to:

- vaginal penetration by a penis, object, tongue or finger;
- anal penetration by a penis, object, tongue or finger;
- oral copulation (mouth to genital contact or genital to mouth contact).

**Domestic Violence** includes the use of physical violence, coercion, threats, intimidation, isolation, stalking, or other forms of emotional, sexual or economic abuse directed towards (i) a current or former spouse or intimate partner; (ii) a person with whom one shares a child; or (iii) anyone who is protected from the responding party's acts under the domestic or family violence laws of New York. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone. Domestic violence can be a single act or a pattern of behavior in relationships.

**Dating Violence** includes violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship would be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence would include, but would not

be limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts that meet the definition of “domestic violence.”

**Sexual Exploitation** includes but is not limited to:

- invasion of sexual privacy and voyeurism (in-person or through audio or video recording);
- knowingly transmitting a sexually transmitted infection or disease;
- exposing of a person’s body or genitals;
- prostituting or soliciting sex from another community member.

**Stalking** is a course of conduct directed at a specific person that would cause a reasonable person to feel fear for his or her own safety or the safety of others, or to suffer substantial emotional distress.

Examples of stalking include but are not limited to:

- constantly appearing at places the victim is known to frequent;
- persistent unwanted communication or contact whether in person, by telephone, text, or email;
- persistent unwanted gifts;
- following or surveillance.

**Sexual Misconduct** includes sexual assault, sexual exploitation, sexual or sex-based harassment, dating violence, domestic violence, and stalking.

**Retaliation** includes intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual’s informal or formal complaint of a violation of this policy, participation in a school or government investigation or proceedings related to an alleged violation of this policy or related civil rights law, or advocating for others’ Title IX rights. Federal, state and local civil rights laws, including Title IX, make it unlawful to retaliate against an individual for the purpose of interfering with any right or privilege secured by these laws.

**Intimidation** means unlawfully placing another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

**Affirmative Consent** is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant’s sex, sexual orientation, gender identity or gender expression.

Consent must be freely and actively given; it cannot be obtained by coercive use of force, threats or intimidation. Use of coercion, force or threat invalidates consent. Consent to one form of sexual activity does not imply consent to other forms of sexual activity, nor does past consent to intimacy imply consent to future intimacy. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. In order to give consent, a person must be of the legal age of consent, which is 17 in New York. A person who is incapacitated for any reason, including in some instances, intellectual disability, cannot give consent. Consent can be withdrawn at any time.

**Incapacitation** is a state where someone cannot make rational, reasoned decisions. A person may be incapacitated due to mental disability, sleep, unconsciousness, physical restraint, or from the consumption (voluntary or otherwise) of incapacitating drugs or quantities of alcohol. Sexual activity with someone whom you know or, reasonably should know, is mentally or physically incapacitated (i.e., by alcohol or other drug use, unconsciousness or blackout) constitutes a violation of this policy. Evidence of incapacity may be detected by physical cues, such as slurred speech, bloodshot eyes, the odor of alcohol on a person's breath or clothing, inability to maintain balance, vomiting, unusual or irrational behavior, and unconsciousness. Incapacity may be indicated by the quantity of alcohol consumed. The presence of one or more of these cues does not necessarily indicate incapacity, nor does the absence of these cues necessarily indicate capacity.

**Force** is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation and coercion to overcome resistance.

**Coercion** is unreasonable pressure. The use of emotional manipulation to persuade someone to do something they may not want to do, such as being sexual or performing certain sexual acts, constitutes coercion. Coercing someone into having sex or performing sexual acts does not constitute obtaining consent and is considered sexual misconduct.

Reporting Party is the person(s) who allege(s) that this policy has been violated.

**Responding Party** is the person who is accused of violating this policy.

#### **ADDITIONAL GOVERNMENT RESOURCES**

The government resources listed here may provide additional assistance for students wishing to file an external complaint of sexual misconduct or students with inquiries regarding the application of Title IX and its implementing regulations:

- Not Alone: [notalone.gov](http://notalone.gov)
- U.S. Department of Education, Office for Civil Rights: [ed.gov/ocr](http://ed.gov/ocr)
- U.S. Department of Justice, Office on Violence Against Women: 145 N Street, NE, Suite 10W.121, Washington, DC 20530  
202.307.6026 • [ovw.usdoj.gov](http://ovw.usdoj.gov)
- US Department of Education, Office for Civil Rights New York – Region II, 32 Old Slip, 26th Floor, New York, NY 10005  
646.428.3800 • [OCR.NewYork@ed.gov](mailto:OCR.NewYork@ed.gov)

#### **NEW YORK STATE PENAL LAW**

Although the College only enforces its own policies, community members should be aware that some of the conduct prohibited by the Policy against Discrimination, Harassment and Sexual Misconduct may also be a violation of the New York state penal law.

The Penal Law and Social Services Law definitions in this document are provided for information purposes only. Those interested in filing a complaint with the police are encouraged to do so, and SVA will assist any complainant in contacting law enforcement.

#### **New York Penal Code Section:**

§130.05 Sex offenses; lack of consent.

1. Whether or not specifically stated, it is an element of every offense defined in this article that the sexual act was committed without consent of the victim.
2. Lack of consent results from:

- a. Forcible compulsion; or
  - b. Incapacity to consent; or
  - c. Where the offense charged is sexual abuse or forcible touching, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct; or
  - d. Where the offense charged is rape in the third degree as defined in subdivision three of section 130.25, or criminal sexual act in the third degree as defined in subdivision three of section 130.40, in addition to forcible compulsion, circumstances under which, at the time of the act of intercourse, oral sexual conduct or anal sexual conduct, the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor's situation would have understood such person's words and acts as an expression of lack of consent to such act under all the circumstances.
3. A person is deemed incapable of consent when he or she is:
- a. less than seventeen years old; or
  - b. mentally disabled; or
  - c. mentally incapacitated; or
  - d. physically helpless; or
  - e. committed to the care and custody or supervision of the state department of corrections and community supervision or a hospital, as such term is defined in subdivision two of section four hundred of the correction law, and the actor is an employee who knows or reasonably should know that such person is committed to the care and custody or supervision of such department or hospital. For purposes of this paragraph, "employee" means
    - i. an employee of the state department of corrections and community supervision who, as part of his or her employment, performs duties: (A) in a state correctional facility in which the victim is confined at the time of the offense consisting of providing custody, medical or mental health services, counseling services, educational programs, vocational training, institutional parole services or direct supervision to inmates; or (B) of supervising persons released on community supervision and supervises the victim at the time of the offense or has supervised the victim and the victim is still under community supervision at the time of the offense; or
    - ii. an employee of the office of mental health who, as part of his or her employment, performs duties in a state correctional facility or hospital, as such term is defined in subdivision two of section four hundred of the correction law in which the inmate is confined at the time of the offense, consisting of providing custody, medical or mental health services, or direct supervision to such inmates; or
    - iii. a person, including a volunteer, providing direct services to inmates in a state correctional facility in which the victim is confined at the time of the offense pursuant to a contractual arrangement with the state department of corrections and community supervision or, in the case of a volunteer, a written agreement with such department, provided that the person received written notice concerning the provisions of this paragraph; or
  - f. committed to the care and custody of a local correctional facility, as such term is defined in subdivision two of section forty of the correction law, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such facility. For purposes of this paragraph, "employee" means an employee of the local correctional facility where the person is committed who performs professional duties consisting of providing custody,

medical or mental health services, counseling services, educational services, or vocational training for inmates. For purposes of this paragraph, "employee" shall also mean a person, including a volunteer or a government employee of the state department of corrections and community supervision or a local health, education or probation agency, providing direct services to inmates in the local correctional facility in which the victim is confined at the time of the offense pursuant to a contractual arrangement with the local correctional department or, in the case of such a volunteer or government employee, a written agreement with such department, provided that such person received written notice concerning the provisions of this paragraph; or

- g. committed to or placed with the office of children and family services and in residential care, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to or placed with such office of children and family services and in residential care. For purposes of this paragraph,

"employee" means an employee of the office of children and family services or of a residential facility in which such person is committed to or placed at the time of the offense who, as part of his or her employment, performs duties consisting of providing custody, medical or mental health services, counseling services, educational services, vocational training, or direct supervision to persons committed to or placed in a residential facility operated by the office of children and family services; or a resident or inpatient of a residential facility operated, licensed or certified by

- i. the office of mental health;
- ii. the office for people with developmental disabilities; or
- iii. the office of alcoholism and substance abuse services, and the actor is an employee of the facility not married to such resident or inpatient. For purposes of this paragraph, "employee" means either: an employee of the agency operating the residential facility, who knows or reasonably should know that such person is a resident or inpatient of such facility and who provides direct care services, case management services, medical or other clinical services, habilitative services or direct supervision of the residents in the facility in which the resident resides; or an officer or other employee, consultant, contractor or volunteer of the residential facility, who knows or reasonably should know that the person is a resident of such facility and who is in direct contact with residents or inpatients; provided, however, that the provisions of this paragraph shall only apply to a consultant, contractor or volunteer providing services pursuant to a contractual arrangement with the agency operating the residential facility or, in the case of a volunteer, a written agreement with such facility, provided that the person received written notice concerning the provisions of this paragraph; provided further, however, "employee" shall not include a person with a developmental disability who is or was receiving services and is also an employee of a service provider and who has sexual contact with another service recipient who is a consenting adult who has consented to such contact.

#### §130.20 Sexual misconduct.

A person is guilty of sexual misconduct when:

1. He or she engages in sexual intercourse with another person without such person's consent; or

2. He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent; or
3. He or she engages in sexual conduct with an animal or a dead human body.

Sexual misconduct is a class A misdemeanor.

§ 130.25 Rape in the third degree.

A person is guilty of rape in the third degree when:

1. He or she engages in sexual intercourse with another person who is incapable of consent by reason of some factor other than being less than seventeen years old;
2. Being twenty-one years old or more, he or she engages in sexual intercourse with another person less than seventeen years old; or
3. He or she engages in sexual intercourse with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent.

Rape in the third degree is a class E felony.

§ 130.30 Rape in the second degree.

A person is guilty of rape in the second degree when:

1. being eighteen years old or more, he or she engages in sexual intercourse with another person less than fifteen years old; or
2. he or she engages in sexual intercourse with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated. It shall be an affirmative defense to the crime of rape in the second degree as defined in subdivision one of this section that the defendant was less than four years older than the victim at the time of the act.

Rape in the second degree is a class D felony.

§ 130.35 Rape in the first degree.

A person is guilty of rape in the first degree when he or she engages in sexual intercourse with another person:

1. By forcible compulsion; or
2. Who is incapable of consent by reason of being physically helpless; or
3. Who is less than eleven years old; or
4. Who is less than thirteen years old and the actor is eighteen years old or more.

Rape in the first degree is a class B felony.

§ 130.40 Criminal sexual act in the third degree.

A person is guilty of criminal sexual act in the third degree when:

1. He or she engages in oral sexual conduct or anal sexual conduct with a person who is incapable of consent by reason of some factor other than being less than seventeen years old;
2. Being twenty-one years old or more, he or she engages in oral sexual conduct or anal sexual conduct with a person less than seventeen years old; or
3. He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent.

Criminal sexual act in the third degree is a class E felony.



§130.45 Criminal sexual act in the second degree.

A person is guilty of criminal sexual act in the second degree when:

1. being eighteen years old or more, he or she engages in oral sexual conduct or anal sexual conduct with another person less than fifteen years old; or
2. he or she engages in oral sexual conduct or anal sexual conduct with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated.

It shall be an affirmative defense to the crime of criminal sexual act in the second degree as defined in subdivision one of this section that the defendant was less than four years older than the victim at the time of the act.

Criminal sexual act in the second degree is a class D felony.

§130.50 Criminal sexual act in the first degree.

A person is guilty of criminal sexual act in the first degree when he or she engages in oral sexual conduct or anal sexual conduct with another person:

1. By forcible compulsion; or
2. Who is incapable of consent by reason of being physically helpless; or
3. Who is less than eleven years old; or
4. Who is less than thirteen years old and the actor is eighteen years old or more.

Criminal sexual act in the first degree is a class B felony.

§ 130.52 Forcible touching.

A person is guilty of forcible touching when such person intentionally, and for no legitimate purpose, forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor's sexual desire.

For the purposes of this section, forcible touching includes squeezing, grabbing or pinching.

Forcible touching is a class A misdemeanor.

§130.53 Persistent sexual abuse.

A person is guilty of persistent sexual abuse when he or she commits the crime of forcible touching, as defined in section 130.52 of this article, sexual abuse in the third degree, as defined in section 130.55 of this article, or sexual abuse in the second degree, as defined in section 130.60 of this article, and, within the previous ten year period, excluding any time during which such person was incarcerated for any reason, has been convicted two or more times, in separate criminal transactions for which sentence was imposed on separate occasions, of forcible touching, as defined in section 130.52 of this article, sexual abuse in the third degree as defined in section 130.55 of this article, sexual abuse in the second degree, as defined in section 130.60 of this article, or any offense defined in this article, of which the commission or attempted commission thereof is a felony.

Persistent sexual abuse is a class E felony.

§130.55 Sexual abuse in the third degree.

A person is guilty of sexual abuse in the third degree when he or she subjects another person to sexual contact without the latter's consent; except that in any prosecution under this section, it is an affirmative defense that (a) such other person's lack of consent was due solely to incapacity to consent

by reason of being less than seventeen years old, and (b) such other person was more than fourteen years old, and (c) the defendant was less than five years older than such other person.

Sexual abuse in the third degree is a class B misdemeanor.

§130.60 Sexual abuse in the second degree.

A person is guilty of sexual abuse in the second degree when he or she subjects another person to sexual contact and when such other person is:

1. Incapable of consent by reason of some factor other than being less than seventeen years old;  
or
2. Less than fourteen years old.

Sexual abuse in the second degree is a class A misdemeanor.

§130.65 Sexual abuse in the first degree.

A person is guilty of sexual abuse in the first degree when he or she subjects another person to sexual contact:

1. By forcible compulsion; or
2. When the other person is incapable of consent by reason of being physically helpless; or
3. When the other person is less than eleven years old; or
4. When the other person is less than thirteen years old and the actor is twenty-one years old or older.

Sexual abuse in the first degree is a class D felony.

§130.65-a Aggravated sexual abuse in the fourth degree.

1. A person is guilty of aggravated sexual abuse in the fourth degree when:
  - a. He or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person and the other person is incapable of consent by reason of some factor other than being less than seventeen years old; or
  - b. He or she inserts a finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person and such person is incapable of consent by reason of some factor other than being less than seventeen years old.
2. Conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated sexual abuse in the fourth degree is a class E felony.

§130.66 Aggravated sexual abuse in the third degree.

1. A person is guilty of aggravated sexual abuse in the third degree when he or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person:
  - a. By forcible compulsion; or
  - b. When the other person is incapable of consent by reason of being physically helpless;  
or
  - c. When the other person is less than eleven years old.
2. A person is guilty of aggravated sexual abuse in the third degree when he or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person and such person is incapable of consent by reason of being mentally disabled or mentally incapacitated.
3. Conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated sexual abuse in the third degree is a class D felony.

§130.67 Aggravated sexual abuse in the second degree.

1. A person is guilty of aggravated sexual abuse in the second degree when he or she inserts a finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person:
  - a. By forcible compulsion; or
  - b. When the other person is incapable of consent by reason of being physically helpless;  
or
  - c. When the other person is less than eleven years old.
2. Conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated sexual abuse in the second degree is a class C felony.

§130.90 Facilitating a sex offense with a controlled substance.

A person is guilty of facilitating a sex offense with a controlled substance when he or she:

1. knowingly and unlawfully possesses a controlled substance or any preparation, compound, mixture or substance that requires a prescription to obtain and administers such substance or preparation, compound, mixture or substance that requires a prescription to obtain to another person without such person's consent and with intent to commit against such person conduct constituting a felony defined in this article; and
2. commits or attempts to commit such conduct constituting a felony defined in this article.

Facilitating a sex offense with a controlled substance is a class D felony.

§130.95 Predatory sexual assault.

A person is guilty of predatory sexual assault when he or she commits the crime of rape in the first degree, criminal sexual act in the first degree, aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, and when:

1. In the course of the commission of the crime or the immediate flight therefrom, he or she:
  - a. Causes serious physical injury to the victim of such crime; or
  - b. Uses or threatens the immediate use of a dangerous instrument; or
2. He or she has engaged in conduct constituting the crime of rape in the first degree, criminal sexual act in the first degree, aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, against one or more additional persons; or
3. He or she has previously been subjected to a conviction for a felony defined in this article, incest as defined in section 255.25 of this chapter or use of a child in a sexual performance as defined in section 263.05 of this chapter.

Predatory sexual assault is a class A-II felony.

§130.96 Predatory sexual assault against a child.

A person is guilty of predatory sexual assault against a child when, being eighteen years old or more, he or she commits the crime of rape in the first degree, criminal sexual act in the first degree, aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, and the victim is less than thirteen years old.

Predatory sexual assault against a child is a class A-II felony.

§120.45 Stalking in the fourth degree.

A person is guilty of stalking in the fourth degree when he or she intentionally, and for no legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct:

1. is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or
2. causes material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning or initiating communication or contact with such person, a member of such person's immediate family or a third party with whom such person is acquainted, and the actor was previously clearly informed to cease that conduct; or
3. is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct.

For the purposes of subdivision two of this section, "following" shall include the unauthorized tracking of such person's movements or location through the use of a global positioning system or other device.

Stalking in the fourth degree is a class B misdemeanor.

§120.50 Stalking in the third degree.

A person is guilty of stalking in the third degree when he or she:

1. Commits the crime of stalking in the fourth degree in violation of section 120.45 of this article against three or more persons, in three or more separate transactions, for which the actor has not been previously convicted; or
2. Commits the crime of stalking in the fourth degree in violation of section 120.45 of this article against any person, and has previously been convicted, within the preceding ten years of a specified predicate crime, as defined in subdivision five of section 120.40 of this article, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or
3. With intent to harass, annoy or alarm a specific person, intentionally engages in a course of conduct directed at such person which is likely to cause such person to reasonably fear physical injury or serious physical injury, the commission of a sex offense against, or the kidnapping, unlawful imprisonment or death of such person or a member of such person's immediate family; or
4. Commits the crime of stalking in the fourth degree and has previously been convicted within the preceding ten years of stalking in the fourth degree.

Stalking in the third degree is a class A misdemeanor.

§120.55 Stalking in the second degree.

A person is guilty of stalking in the second degree when he or she:

1. Commits the crime of stalking in the third degree as defined in subdivision three of section 120.50 of this article and in the course of and in furtherance of the commission of such offense: (i) displays, or possesses and threatens the use of, a firearm, pistol, revolver, rifle, shotgun, machine gun, electronic dart gun, electronic stun gun, cane sword, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, chuka stick, sand bag, sandclub, slingshot, slungshot, shirken, "Kung Fu Star", dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, dangerous instrument, deadly instrument or deadly weapon; or (ii) displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or

2. Commits the crime of stalking in the third degree in violation of subdivision three of section 120.50 of this article against any person, and has previously been convicted, within the preceding five years, of a specified predicate crime as defined in subdivision five of section 120.40 of this article, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or
3. Commits the crime of stalking in the fourth degree and has previously been convicted of stalking in the third degree as defined in subdivision four of section 120.50 of this article against any person; or
4. Being twenty-one years of age or older, repeatedly follows a person under the age of fourteen or engages in a course of conduct or repeatedly commits acts over a period of time intentionally placing or attempting to place such person who is under the age of fourteen in reasonable fear of physical injury, serious physical injury or death; or
5. Commits the crime of stalking in the third degree, as defined in subdivision three of section 120.50 of this article, against ten or more persons, in ten or more separate transactions, for which the actor has not been previously convicted.

Stalking in the second degree is a class E felony.

§120.60 Stalking in the first degree.

A person is guilty of stalking in the first degree when he or she commits the crime of stalking in the third degree as defined in subdivision three of section 120.50 or stalking in the second degree as defined in section 120.55 of this article and, in the course and furtherance thereof, he or she:

1. intentionally or recklessly causes physical injury to the victim of such crime; or
2. commits a class A misdemeanor defined in article one hundred thirty of this chapter, or a class E felony defined in section 130.25, 130.40 or 130.85 of this chapter, or a class D felony defined in section 130.30 or 130.45 of this chapter.

Stalking in the first degree is a class D felony.

Social Services Law section 459-a provides

1. "Victim of domestic violence" means any person over the age of sixteen, any married person or any parent accompanied by his or her minor child or children in situations in which such person or such person's child is a victim of an act which would constitute a violation of the penal law, including, but not limited to acts constituting disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, kidnapping, assault, attempted assault, attempted murder, criminal obstruction of breathing or blood circulation, or strangulation; and (i) such act or acts have resulted in actual physical or emotional injury or have created a substantial risk of physical or emotional harm to such person or such person's child; and (ii) such act or acts are or are alleged to have been committed by a family or household member.
2. "Family or household members" mean the following individuals:
  - a. persons related by consanguinity or affinity;
  - b. persons legally married to one another;
  - c. persons formerly married to one another regardless of whether they still reside in the same household;
  - d. persons who have a child in common regardless of whether such persons are married or have lived together at any time;

- e. unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household;
- f. persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors that may be considered in determining whether a relationship is an "intimate relationship" include, but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an "intimate relationship"; or
- g. any other category of individuals deemed to be a victim of domestic violence as defined by the office of children and family services in regulation.

3. "Parent" means a natural or adoptive parent or any individual lawfully charged with a minor child's care or custody.

### **DISCIPLINARY PROCEDURES GOVERNING COMPLAINTS AGAINST STUDENTS**

The Student Code of Conduct disciplinary process does not follow the rules of procedure used in court proceedings, and legal representation is not permitted in any hearing.

### **REPORTING POSSIBLE STUDENT CODE OF CONDUCT VIOLATIONS**

Any member of the College community (student, staff or faculty) may make a complaint and/or referral or offer information concerning a possible violation of the Student Code of Conduct. The listing of Student Code of Conduct violations can be found on page 75 of the SVA Handbook. Community members should contact Bill Martino, Director of Student Affairs, at [wmartino@sva.edu](mailto:wmartino@sva.edu) or 212.592.2212 or Maria McCune, Associate Director of Student Affairs, at 212.592.2897 or [mrovira@sva.edu](mailto:mrovira@sva.edu).

Alleged violations of the Sexual Misconduct Policy will be handled in accordance with the procedures outlined in that policy. Once a complaint is received, the student who has allegedly violated the Student Code of Conduct will receive written notice that includes information about the alleged violation(s). A student who has allegedly violated the Student Code of Conduct must meet with the Director of Student Affairs or his designee concerning the alleged violation. The Director or his designee will determine if the case will be handled in an individual conduct meeting or with a Student Code of Conduct Disciplinary Committee Hearing.

### **TYPES OF CONDUCT RESOLUTION: INDIVIDUAL CONDUCT MEETING**

After gathering the facts and relevant evidence, the Director or his designee will issue a determination of responsibility, and in the event of a finding of responsibility for a Code of Conduct violation, appropriate sanction(s) will be assigned. The student may accept the sanction(s) or submit an appeal based on one of three grounds, which are listed on page 80 of the SVA HANDBOOK, 2020-21.

If the student appeals the determination of an individual conduct meeting, the appeal will be handled as follows:

- For an appeal of a case involving a sanction involving suspension or dismissal, the appeal will be referred to the Student Code of Conduct Disciplinary Committee Hearing.

- For an appeal of a case not involving a sanction of suspension or dismissal, the appeal will be referred to the Provost's office.

### **STUDENT CODE OF CONDUCT DISCIPLINARY COMMITTEE HEARING**

After an initial meeting with a student regarding allegations of a Code of Conduct violation, the Director of Student Affairs or his designee may determine that a Student Code of Conduct Disciplinary Committee Hearing will be scheduled.

The Student Code of Conduct Disciplinary Committee Hearing will also be convened if a student appeals a determination including a sanction of suspension or dismissal following an individual conduct meeting.

The Student Code of Conduct Disciplinary Committee consists of:

- Director of Student Affairs or his designee
- Coordinator of Academic Advisement or his designee
- The advisor from the student's major department or a department with a connection to the alleged violation
- Two student employees of the Office of Student Affairs (may include Visual Arts Student Association–VASA–members, Resident Assistants or Orientation Leaders) who have been trained to participate in such hearings.

The student will be notified in writing of the date, time and location of the hearing. During the hearing the student may present supporting information, including witnesses. The Disciplinary Committee may call witnesses and take such other steps as it deems appropriate in its discretion in order to determine relevant facts and make an informed decision. While these hearings are intended to assist the committee in its fact-finding process, formal rules of evidence shall not be followed, and no party may appear with or through counsel, or be represented at the hearing by counsel.

The scheduling and timing of hearing sessions shall be undertaken with due regard to the importance of completing the hearing in an expeditious manner and with consideration of the schedules and commitments of all participants. The Director of Student Affairs' decision with respect to scheduling issues shall be final. In cases where the Director of Student Affairs or his designee has previously made a determination, the Disciplinary Committee may affirm that decision or modify it in any respect, including imposing more severe sanctions.

After the hearing is completed, the student will be notified, in writing, of the determination of the Disciplinary Committee, including any sanctions imposed. **Sanctions imposed by the Director of Student Affairs, his designee or the Disciplinary Committee are effective immediately unless specifically stated otherwise in the written determination.**

The student is expected to attend the Disciplinary Committee Hearing, whether it was called at the student's appeal or by the Director of Student Affairs. If the student does not attend the hearing, the Director or his designee hearing the case will proceed in the student's absence based on the available information and determine an appropriate resolution. The student will be notified in writing of the determination, including any sanctions imposed. A record of the proceedings will be made and kept on file.

### **STUDENT CODE OF CONDUCT SANCTIONS**

A student who is found to have violated the Student Code of Conduct may receive any of the following sanctions in the absolute judgment of the Director of Student Affairs or his designee, or the Student Code of Conduct Disciplinary Committee.

#### **WARNING**

Written notice of behavior that is not consistent with the Student Code of Conduct. A subsequent occurrence of the sanctioned behavior may result in immediate imposition of a more severe sanction.

#### **PROBATION**

A student placed on probation may attend classes and use College facilities for course requirements, but depending on the violation may be prevented from being on College premises for any other purpose and may not be allowed to participate in College-associated extracurricular activities. Any further Student Code of Conduct violations occurring during the probationary period, or violations of probationary terms, may result in immediate imposition of a more severe sanction.

#### **MANDATORY HEALTH REFERRAL**

A student may be referred to Student Health and Counseling Services or an outside and preapproved licensed clinician for assessment related to substance use, behavioral concerns, or concerns related to emotional well-being. If this sanction is assigned, the student will be required to attend the initial meeting, and any required sessions recommended by the clinician(s).

#### **RESTITUTION**

Payment to the College or others for damages to property resulting from a violation of the Student Code of Conduct.

#### **DEFERRED SUSPENSION**

Deferred suspension from the College is a period of review during which the student must demonstrate an ability to comply with College policies and all other stipulated requirements. A student placed on deferred suspension may attend classes and use College facilities for course requirements, but depending on the violation may be prevented from being on College premises for any other purpose and may not be allowed to participate in College-associated extracurricular activities. If, during the period of the deferred suspension, the student is again found responsible for violating any College policy, the student will be immediately suspended from the College.

#### **SUSPENSION**

Exclusion from College premises, all classes and activities. While the maximum period for suspension is one academic year, a conditional suspension may be given with reinstatement based on fulfillment of specified requirements.

#### **INTERIM SUSPENSION**

The College may suspend a student on an interim basis, prior to any hearing before the Director of Student Affairs or his designee, or the Student Code of Conduct Disciplinary Committee, if the College determines in its absolute discretion that there is a basis to conclude that the continued presence of the student at the College poses a substantial and immediate threat to the SVA community or causes the student to significantly disrupt the educational activities of the community. Where the threat to the community is a result of a student's psychiatric, psychological or other medical condition, the student will be referred to Student Health and Counseling Services for immediate assessment.



In such cases, after the student has been notified of such interim suspension, the suspended student will be given the opportunity to meet with the Director of Student Affairs or his designee within five business days, or as soon thereafter as possible, in order to discuss the following issues only:

- The nature of the charges, including the identity of the person or persons making the complaint. However, in some cases, including cases involving violations of the Sexual Misconduct Policy, the complainant's identity may be kept confidential.
- The reason why the conduct indicates that the continued presence of the student on College premises poses a substantial and immediate threat to the student's own self, others or property.

#### **DISMISSAL**

Termination of enrollment and permanent exclusion from College premises, all classes and activities with loss of all rights, including tuition refunds.

#### **ALTERNATIVE SANCTIONS**

Sanctions other than those stated previously may be imposed if deemed necessary or appropriate in a particular circumstance. Examples of such sanctions include but are not limited to the following:

- Community service
- Removal from College residences
- Loss of privilege to access College computing resources, studios, labs or networks
- Prohibition from attending a particular class, workshop or event. A student prohibited from attending an event that is prepaid will not receive a refund.
- Educational sanctioning

#### **CIVIL OR CRIMINAL PROCEEDINGS**

Regardless of any other actions taken or sanctions imposed by the Director of Student Affairs or his designee, or by the Student Code of Conduct Disciplinary Committee, the College reserves the right to commence civil proceedings in court against the student, or to refer any matter for criminal prosecution, if it deems appropriate.

#### **APPEALS**

The decision by the Director of Student Affairs or his designee and the Student Code of Conduct Disciplinary Committee may be appealed. The three grounds for appeal are:

- A procedural error affecting the determination or sanction;
- New information that was not available at the time of the investigation or hearing and that may change the determination or sanction; and
- The sanctions issued were too severe in relation to the student's record or nature of the violation.

Disagreement with the findings or sanction is not, by itself, grounds for appeal.

The request for an appeal must be submitted within five business days after a copy of the written decision has been delivered to the student's SVA email address. The appeal should be emailed to provost@sva.edu or addressed to: Office of the Provost, School of Visual Arts, 209 East 23rd Street, New York, NY 10010.

Appeals decisions will be communicated within 10 business days of the receipt of the written appeal. The Provost or his designee may determine to uphold the findings and sanctions of the Disciplinary Committee, or to modify any part of those findings and sanctions. The Provost or his designee also may impose additional sanctions. Any decision by the Provost or his designee is made in his absolute discretion, and is final and not subject to further review.

**While the appeal is pending, sanctions imposed by the Director of Student Affairs, his designee or the Disciplinary Committee will remain in effect.** The Provost or his designee will inform the student of the decision regarding the appeal.

#### **DETERMINATIONS/STANDARD OF PROOF**

The Director of Student Affairs or his designee and the Student Code of Conduct Disciplinary Committee will use the “preponderance of the evidence” as the standard of proof to determine whether a violation of the Code of Conduct occurred. Preponderance of evidence means that the Director of Student Affairs or his designee and the Student Code of Conduct Disciplinary Committee must be convinced based on the information it considers that it is more likely than not that a violation of the Code of Conduct occurred.

**Please note:** The procedures set forth in this policy statement are the only means by which the College administration will be deemed to have notice of any alleged complaints or allegations of College policy violations. Individuals who perceive themselves to be the victim of policy violations, therefore, must avail themselves of these procedures in order to obtain redress for any alleged policy violations.

#### **DISCIPLINARY PROCEDURES GOVERNING COMPLAINTS AGAINST FACULTY AND STAFF**

Complaints or reports concerning SVA faculty and staff should be directed to the Executive Director of Human Resources at 212.592.2620 or fagosta@sva.edu, 380 Second Avenue, 8th floor.

All complaints brought by or against faculty and staff will be promptly and thoroughly investigated. If the investigation reveals that a violation of SVA policy occurred, SVA will take appropriate remedial action, up to and including termination of employment.

#### **STUDENT COMPLAINTS**

SVA takes all student complaints serious and strives to respond to them in a prompt and efficient manner. Outside of complaints that concern Title IX or grade appeals, the following individuals should be contacted for the below-listed types of matters:

- **Academic:** Christopher Cyphers, Provost; Emily Ross, Associate Provost
- **Financial:** Gary Shillet, Chief Financial Officer
- **Student Services (e.g. Residence Life, Code of Conduct, Student Health and Counseling Services):** Javier Vega, Executive Director of Admissions and Student Affairs