

**Cleveland Institute of Music  
Title IX  
&  
Sexual Misconduct Policy**

Effective: July 1, 2019



**CLEVELAND  
INSTITUTE OF MUSIC**

**SEXUAL MISCONDUCT POLICY**  
Cleveland Institute of Music

## Table of Contents

Index	Page #
Introduction	4
Definitions and Examples	
Sexual Harassment	5
Sexual Assault	6
Sexual Exploitation	6
Non-Consensual Sexual Contact	6
Forced Sexual Activities	7
Non-Consensual Sexual Intercourse	7
Forced Sexual Intercourse	7
Intimate Partner Violence	7
Stalking	7
Sexual Intimidation	8
Consent	8
Unwelcome Behavior	9
Coercion	9
Force	9
Relevant Considerations	
Relationships Involving Authority or Power	9
Intention vs. Impact	9
Academic Freedom	9
Reporting	10
Designated Reporting and Confidential Support Resource	10
Role of Designated Reporting Representatives	10
Role of Confidential Support Resources	11
Anonymous Reports	13
Confidentiality	13
Retaliation	13
Responsibilities of the CIM Community	13
Cooperating with Investigations	14
Police Responsibility	14
Support of Witnesses and Bystanders	14
Investigative Responsibilities	
CIM's Responsibility	14
Interim CIM Action	15
Notifications	15
Parental/Legal guardian/Partner Notification	15
Federal Timely Warning Obligations	15
Federal Statistical Reporting Obligations - Campus Crime Reporting	15
CIM Complaint Processes	16
Initial Inquiry	17
Rights Under the Informal and Formal Processes	17
Informal Process	17
Complaints by CIM	18
Formal Process: Administrative Hearing	18
Administrative Hearing Procedure	18
Administrative Hearing Appeal Process	22
False Allegations	23

Support Resources	23
Retention of Documents	24
Prevention Education and Awareness Programs	24
Appendix A: Title IX Coordinators and Designated Reporting Representatives	25

### **ACKNOWLEDGEMENT**

Significant portions of this policy have been adapted with permission from the *Case Western Reserve University "Sexual Misconduct Policy"* which in turn makes use of *NCHERM Model Title IX Compliance Policy, Grievance Process and Civil Rights Investigation Protocol* (2011) and are used as permitted by NCHERM.

## Introduction

The Cleveland Institute of Music (CIM) is a community based upon trust and respect for its constituent members. Sexual misconduct is a violation of that trust and respect and will not be tolerated. Members of the CIM community, guests and visitors have the right to be free from sexual misconduct. CIM prohibits all sexual misconduct, including but not limited to crimes involving dating violence, domestic violence, sexual assault, stalking, rape, and all nonconsensual sexual activity. All members of the community are expected to conduct themselves in a manner that does not infringe upon the rights of others. This policy applies to all members of the CIM community including all students, faculty, staff, and other Institute officials, whether full or part-time, and guest lecturers, volunteers, contractors, and visitors.

This policy's purpose is to define sexual misconduct and describe the procedures CIM uses to investigate and take appropriate action on complaints of sexual misconduct. When complaints are reported, CIM will act to end any discrimination found to exist, prevent its recurrence, and remedy the effects on both individuals and the CIM community. CIM aspires that this policy will assist in: strengthening victims' rights; fostering supportive environments for victims of sexual misconduct to come forward; promoting safe and consensual sexual activity for those who choose to engage in such activity; ensuring notice and an opportunity to be heard for those allegedly involved in a sexual misconduct incident; and promoting a safe campus environment. This policy and the accompanying procedures shall serve as the only internal Institute forum of resolution and appeal of sexual misconduct complaints.

This policy governs Institute-sponsored activities occurring both on and off Institute property [including main campus and branch divisions of Preparatory/Continuing Education facilities] and applies to non-Institute sponsored or related events occurring off Institute property between two Institute members or an Institute member and member of Case Western Reserve University (CWRU) or the Cleveland Institute of Art (CIA) that have a demonstrable and significant disruptive impact on an Institute community member or on the campus. The work or educational environment pertinent to these policies includes, but is not limited to: offices, classrooms and studios; residence halls; on-campus or off-campus interactions between Institute community members, whether personal or virtual; and all Institute-sponsored activities, programs, or events (including off-campus activities such as international exchange programs).

Sexual misconduct may involve the behavior of a person(s) regardless of the person's gender identity or expression against a person(s) of the opposite or same gender or against a person who is transsexual or transgender.

CIM does not discriminate on the basis of sex in its educational program and in other activities operated by the CIM and is required by Title IX, and specifically 34 C.F.R. Part 106.9, as well as Title VII, not to discriminate in such a manner. This extends to employees of and applicants for employment or admission to CIM. Inquiries concerning the application of Title IX may be directed to the Title IX Coordinator for the CIM. The Title IX Coordinator is:

**Tamatha Belton, Senior Director of Human Resources/Title IX Co-Coordinator**

CIM 246

11021 East Blvd

Cleveland, OH 44106

216.791.5000, ext. 219

[Tamatha.Belton@cim.edu](mailto:Tamatha.Belton@cim.edu)

For any situations which involve a Case Western Reserve University or Cleveland Institute of Art member, the roles, names, and contact information for the Title IX Coordinators, Deputy Title IX Coordinators, and Investigators are listed in Appendix A, along with contact information for the Office of Civil Rights of the Department of Education.

## **Sexual Misconduct**

Sexual misconduct incorporates a range of behaviors including sexual assault, sexual harassment, intimate partner violence, stalking, voyeurism, and any other conduct of a sexual nature that is nonconsensual, or has the purpose or effect of threatening, intimidating, or coercing a person.

Much sexual misconduct includes nonconsensual sexual contact, but this is not a necessary component. For example, threatening speech that is sufficiently severe or pervasive to constitute sexual harassment will constitute sexual misconduct. Making photographs, video, or other visual or auditory recordings of a sexual nature of another person without consent constitutes sexual misconduct, even if the activity documented was consensual. Similarly, sharing such recordings or other sexually harassing electronic communications without consent is a form of sexual misconduct. Both men and women are protected from sexual misconduct, and sexual misconduct is prohibited regardless of the sex of the harasser.

## **Definitions and Examples**

Misconduct that falls within this policy includes:

### **Sexual Harassment**

Sexual harassment can be defined as any unwelcome verbal or non-verbal sexual advances, requests for sexual favors, other verbal or physical conduct of a sexual nature, and/or conduct directed at an individual(s) because of gender when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or student status; or
2. Submission to or rejection of such conduct is used as the basis for decisions affecting that individual with regard to employment (raises, job, work assignments, discipline, etc.) or to student status (grades, references, assignments, etc.); or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or educational experience or creates an intimidating, hostile, or offensive work and/or educational environment. Such conduct generally involves more than one incident and must be severe or pervasive (or may be both severe and pervasive).

Acts that constitute sexual harassment take a variety of forms and may include but are not limited to the following unwelcome actions:

- a. Propositions, invitations, solicitations, and flirtations of a sexual nature.
- b. Threats or insinuations that a person's employment, wages, academic grade, promotional opportunities, classroom or work assignments, or other conditions of employment or academic life may be adversely affected by not submitting to sexual advances.
- c. Verbal expressions of a sexual nature, including sexual communications about a person's body, dress, appearance or sexual activities; the use of sexually degrading language, name calling, sexually suggestive jokes, or innuendoes; suggestive or insulting gestures, sounds or whistles; sexually suggestive phone calls.
- d. Sexually suggestive objects or written materials, such as e-mail or internet communications, pictures, photographs, cartoons, text messages, videos, or DVD's.
- e. Inappropriate and unwelcome physical contact such as touching, patting, pinching, hugging or other sexually suggestive contact.
- f. Stalking of a sexual nature (i.e. persistent and unwanted contact of any form whether physical, electronic or by any other means). For stalking to fall within this policy, the content or the nature of the stalking must have a sexual component.

- g. Stereotyping or generalizing about a group based on gender. These types of comments typically constitute sexual harassment when associated with other sexual behavior or comments.

While a particular interaction must be offensive to both a reasonable person and to the victim to constitute unlawful harassment, faculty and staff members and other persons of authority should be sensitive to questions about mutuality of consent that may be raised and to the conflict of interests that are inherent in personal relationships that result from professional and educational interactions. Sexual harassment is particularly damaging when it exploits the educational dependence and trust between students and faculty/staff. When the authority and power inherent in faculty/staff relationships with students, whether overtly, implicitly, or through misinterpretation, is abused in any way, there is potentially great damage to the individual student, to the accused individual, and to the climate of the institution.

### **Sexual Assault:**

Assault in general means either knowingly causing or attempting to cause physical harm, or recklessly causing serious physical harm to another person.

Sexual assault is any kind of nonconsensual and/or forced sexual contact. Examples of sexual assault include rape, attempted rape, sodomy, groping/fondling, and any other nonconsensual sexual touching.

### **Sexual Exploitation:**

Occurs when an individual takes non-consensual, unjust or abusive sexual advantage of another; for his/her own advantage or benefit; or to benefit or advantage of anyone other than the one being exploited; and that behavior does not otherwise constitute non-consensual sexual contact, non-consensual sexual intercourse or sexual harassment.

Sexual exploitation includes, but is not limited to:

- a. Non-consensual video or audio taping of any form of sexual activity
- b. Voyeurism
- c. Knowingly transmitting an STI or HIV to another person
- d. Prostituting another person
- e. Invasion of sexual privacy, including exposing one's sexual body parts or exposing another's sexual body parts

### **Non-Consensual Sexual Contact and Conduct (Sexual Activity):**

- a. Any intentional sexual touching, including sexual contact and sexual conduct;
- b. with any object or body part;
- c. by a person upon another person;
- d. without consent and/or by force

Sexual Contact includes: any touching of an erogenous zone of another, including without limitation the thigh, buttock, pubic region, or, if the person is a female, the breast, for the purpose of sexually arousing or gratifying either person. In other words, sexual contact is any intentional bodily contact in a sexual manner.

Sexual Conduct includes: vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal opening of another. Penetration, however slight, is sufficient complete vaginal or anal intercourse.

“Sexual activity” means sexual conduct, sexual contact, or both.

### **Forced Sexual Activity:**

- a. Sexual activity by force or against the will of the victim;
- b. force includes: the use of physical means, violence, threats, intimidation or coercion;
- c. with any object or body part;
- d. by a person upon another person.

Sexual activity includes: Intentional contact with the breast(s), buttock(s), groin, or genitals, or touching another with any of these body parts; making another person touch you or themselves with any of these body parts; and/or any intentional bodily contact in a sexual manner by using a body part or object.

### **Non-Consensual Sexual Intercourse:**

- a. Any sexual intercourse (anal, oral or vaginal);
- b. with any object or body part;
- c. by a person upon a person;
- d. without consent.

### **Forced Sexual Intercourse:**

- a. Sexual intercourse (anal, oral or vaginal) by the use of force, including physical force, threat, intimidation or coercion;
- b. with any object or body part;
- c. by a person upon another person.

### **Intimate Partner Violence:**

Intimate partner violence (IPV) occurs when a current or former intimate partner uses or threatens physical or sexual violence. IPV also may take the form of a pattern of behavior that seeks to establish power and control by causing fear of physical or sexual violence. Stalking may also constitute IPV.

Domestic violence may include a pattern of abusive behavior that is used by an intimate partner to gain or maintain power and control over the other intimate partner. Domestic violence can include intimidation, manipulation, humiliation, isolation, frightening, terrorizing, coercing, threatening, or hurting someone.

Ohio law criminalizes domestic violence and prohibits any person from knowingly or recklessly causing or attempting to cause physical harm to a family or household member and knowingly causing, by threat or force, a family or household member to believe that the offender will cause imminent physical harm to the family or household member.

Dating violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, where the existence of such a relationship is determined based on factors of the relationship's length, the relationship's type, and the frequency of interactions between the persons involved.

### **Stalking:**

Stalking is repeated or obsessive unwanted attention directed toward an individual or group that is likely to cause alarm, fear, or substantial emotional distress. Stalking may take many forms, including following, lying in wait, monitoring, and pursuing contact. Stalking may occur in person or through a medium of communication, such as letters, e-mail, text messages, or telephone calls. In some circumstances, two instances of such behavior may be sufficient to constitute stalking.

Ohio law prohibits any person from menacing by stalking, which means knowingly engaging in a pattern of conduct causing another person to believe that he or she will cause harm to the other person or cause mental distress to the other person. In addition to any other basis for the other person's belief that the offender will cause physical harm to the other person or the other person's mental distress, the other person's belief or mental distress may be based on words or conduct of the offender that are directed at or identify a corporation, association, or other organization that employs the other person. Ohio law also prohibits any person from posting a message with the purpose of urging another person to commit menacing by stalking, including through any electronic method or remotely transferring information, such as through a computer, computer network, computer program, or computer system.

### **Sexual Intimidation**

Sexual Intimidation involves, without limitation, threatening another person with a sex act against them, stalking (including cyber-stalking), and/or engaging in indecent exposure.

## **Additional Applicable Definitions**

### **Consent**

Consent is the mutual approval and agreement, given freely, willingly, and knowingly, of each participant to a specific sexual activity during a sexual encounter. Consent is an affirmative, conscious decision – indicated or expressed clearly and unambiguously by words or actions – to engage in mutually accepted sexual contact and/or conduct. A person forced to engage in sexual activity by force, threat of force, or coercion has not consented to contact.

Lack of mutual consent is the crucial factor in any sexual misconduct. Consent to some form of sexual activity does not necessarily constitute consent to another form of sexual activity. Silence without demonstrating permission does not constitute consent. Consent CANNOT be given if a person's ability to resist or consent is incapacitated because of a physical condition or impairment, psychological or mental condition or impairment, or if there is a significant age or perceived power differential.

Incapacitation is a state in which someone cannot make rational, reasonable decisions because the person lacks the capacity to give knowing consent (e.g., to understand the "who, what, when, where, why or how" of their sexual interaction). Examples include, but are not limited to, being:

- a. unconscious,
- b. frightened,
- c. physically or psychologically pressured or forced,
- d. intimidated,
- e. incapacitated because of a physical condition or impairment,
- f. incapacitated because of a psychological health condition,
- g. incapacitated because of voluntary or involuntary intoxication, or
- h. incapacitated because of the deceptive or forced administering of any drug, intoxicant, or controlled substance.

### **Guidance Regarding Sexual Consent**

Consent can only be accurately gauged through direct communication about the decision to engage in sexual activity. Presumptions based upon contextual factors (such as clothing, alcohol consumption, or dancing) are unwarranted and should not be considered as evidence of consent.



Although consent does not need to be verbal, verbal communication is the most reliable form of asking for and gauging consent. Talking with sexual partners about desires and limits serves as the basis for positive sexual experiences shaped by mutual willingness and respect.

### **Unwelcome Behavior**

Unwelcome behavior is an unsolicited or uninvited action that is undesirable or offensive. Behavior or action that is perceived to be voluntary or consensual may not necessarily be welcome, due to factors like power relationships, intimidation, and/or fear of consequences.

### **Coercion**

Coercion is unreasonable pressure for sexual activity. Coercion includes threatening to commit an offense against another, or threatening to expose a matter that would damage a person's reputation or make them hated or the subject of ridicule.

### **Force**

Force is the use of physical violence or superior strength, and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that overcome resistance and/or produce the appearance of consent.

## **Relevant Considerations**

### **Relationships Involving Authority or Power**

When one party has any professional responsibility for another's academic or job performance or professional future, CIM considers sexual relationships between the two individuals to be a basic violation of professional ethics and responsibility. This includes but is not limited to sexual relationships between faculty and their students or between supervisors and their employees, even if deemed to be mutually consenting relationships. Because of the asymmetry of these professional and/or supervisory relationships, "consent" may be difficult to assess, may be deemed not possible, and may be construed as coercive.

Such relationships involving authority or power also may have the potential to result in sexual harassment claims. Although sexual harassment may take place when the alleged harasser is in a position of power or influence (e.g., faculty member to student, supervisor to supervisee), other types of sexual misconduct are possible even when there is no factor of power or influence (e.g., peer to peer).

### **Intention vs. Impact**

The fact that someone did not intend to engage in sexual misconduct against an individual is not considered a sufficient explanation or defense to a sexual misconduct complaint. For example, in some instances, cultural differences may play a role in the interpretation of behavior, by either the complainant or respondent, which may result in a complaint of sexual misconduct. It is expected that all members of the CIM community are knowledgeable about what constitutes sexual misconduct under this policy. Although the respondent's perceptions will be considered, in most cases it is the effect and characteristics of the behavior on the complainant, and whether a reasonable person in a similar situation would find the conduct offensive that determines whether the behavior constitutes sexual misconduct.

### **Academic Freedom**

The Cleveland Institute of Music adheres to the principles and traditions of academic freedom. As stated in the Faculty Handbook, academic freedom is a right of all members of the CIM faculty and applies to Institute activities including teaching and research. Each faculty member may consider in his or her classes any topic relevant to the subject matter of the course as defined by the appropriate educational unit.

Cleveland Institute of Music also recognizes, however, that these freedoms must be in balance with the rights of others to not be sexually harassed. While principles of academic freedom permit topics of all types, including those with sexual content, to be part of courses, lectures, and other academic pursuits, if there are questions about whether the course material or the manner in which it is presented falls within the definition of sexual harassment, the concerned party(s) should contact a Designated Reporting Representative. (See the Designated Reporting Offices section in this policy).

## **Reporting**

CIM strongly encourages persons who experience or witness sexual misconduct to report the misconduct in order to seek assistance and/or pursue Institute action for their own protection and/or that of the entire campus community.

Anyone who has experienced sexual misconduct may choose to use this Institute process as well as a criminal process. Choosing not to pursue Institute or criminal action, however, does not bar any judgment by CIM to investigate and/or take action on its own. If pursuing a criminal process, see section on Emergency Room Examination/Preservation of Evidence, as applicable.

Reports may be submitted anytime following an incident of sexual misconduct. Generally, complaints should be brought to the attention of CIM as soon as possible after the alleged incident, as CIM's ability to take action may be limited by the report's timeliness and the status of the alleged respondent. CIM reserves the right to utilize the sexual misconduct policy and procedures to investigate and take action concerning a complaint brought beyond this period of time.

When conducting the investigation under this policy, CIM's primary focus will be on addressing sexual misconduct. Other policy violations discovered may be referred to another process.

Different people on campus have different reporting responsibilities and different abilities to maintain confidentiality, depending on their roles at CIM and upon Institute policy. On campus, some resources can offer you confidentiality, sharing options and advice without any obligation to tell anyone unless you want them to. Other resources are expressly there for you to report crimes and policy violations, and they will take action when you report the incident to them. Most resources fall in the middle of these two extremes. Neither CIM nor the law requires them to divulge private information that is shared with them except in certain circumstances, some of which are described below.

### **Designated Reporting and Confidential Support Resources**

A person wishing to pursue Institute action must report the conduct to one of the CIM Designated Reporting Representatives (See Chart I). Taking this action does not preclude reporting the matter to CIM Security [216.791.5000 ext 224], Case Police and Security [216.368.3333], University Circle Police [216.791.1234], or any other law enforcement authority with jurisdiction.

### **Role of Designated Reporting Representatives**

- a. To receive initial complaint(s) regarding alleged sexual misconduct and to make the complainant aware of CIM's obligation to investigate and take appropriate action as warranted.
- b. To provide the complainant and the respondent information about the policy and process.
- c. To hear the complainant's initial complaint and the respondent's response and make safety and support arrangements as appropriate.
- d. To determine if the complaint falls within the Sexual Misconduct Policy and, if so, to determine appropriate next steps.

- e. To conduct any warranted inquiry into reports from anonymous sources. In instances involving anonymous sources, CIM may be limited in its ability to conduct an effective inquiry and to take action concerning the report.
- f. If the complaint falls within the Sexual Misconduct Policy, to conduct an investigation into the complaint and distill factual findings into an investigation report.
- g. Assist in facilitating any Informal Process (as described below) or, if a Formal Process (as described below), participate in the Title IX Committee.

<b>Chart I. CIM Designated Reporting Representatives – Any person wishing to make a report may make a report to any of the following (general areas of responsibility are indicated):</b>
<p><b><i>For Student Concerns:</i></b>  <b>Associate Dean for Student Affairs</b>  <b>CIM N102A</b>  (216) 795-3163 (M-Fri) 9:00 a.m. to 5:00 p.m.</p>
<p><b><i>For Conservatory Faculty Concerns:</i></b>  <b>Senior Associate Dean</b>  <b>CIM N106A</b>  (216) 791-5000 ext. 441 -- (M-Fri) 9:00 a.m. to 5:00 p.m.</p>
<p><b><i>For Preparatory/Continuing Education Faculty Concerns:</i></b>  <b>Senior Director, Artistic and Facilities Operations</b>  <b>CIM 102A</b>  (216) 791-5000 ext. 252 -- (M-Fri) 9:00 a.m. to 5:00 p.m.</p>
<p><b><i>For Staff Concerns:</i></b>  <b>Senior Director of Human Resources</b>  <b>CIM 246</b>  (216) 791-5000 ext 219 -- (M-Fri) 9:00 a.m. to 5:00 p.m.</p>

**Role of Confidential Support Resources**

Confidential resources are those members of the community who are licensed or designated by law as professionals who can receive privileged communication and information regarding possible sexual misconduct in the context of a professional relationship with the reporter of that information.

Confidential resources are not required to report allegations of sexual misconduct to Designated Reporting Representatives unless required by law, such as the duty to report an imminent threat to self or others (see Charts IIa. and IIb.). Confidential resources provide advice, support, and guidance about how to manage the situation without initiating Institute action. Discussions with a confidential source are not considered a report to CIM or a request that any action be taken by CIM in response to any allegation.

**Chart IIa. Student Confidential Support Resources**

On-Campus Resources	Off-Campus Resources
<p><b>Survivors and Friends Empowerment (SAFE) Line</b>                      (216) 368-7777 – Anytime 24 / 7                      For privileged and confidential conversations about sexual assault and relationship violence.</p> <p><b>University Counseling Services</b>                      Sears 201                      (216) 368-5872 – 24 Hours  <a href="https://students.case.edu/counseling/">https://students.case.edu/counseling/</a></p> <p><b>University Health Services</b>                      2145 Adelbert Rd.                      (216) 368-2450 – 24 Hours  <a href="https://students.case.edu/health/">https://students.case.edu/health/</a></p> <p><b>Flora Stone Mather Center for Women</b>                      Thwing Center 309                      (216) 368-0985-(M-Fri) 8:30 am - 5:00 pm                      Ask to speak with the Licensed Professional Health Advocate  <a href="http://students.case.edu/activities/leadership/development/women.html">http://students.case.edu/activities/leadership/development/women.html</a></p> <p><b>Inter-Religious Council:</b>                      Church of the Covenant                      11205 Euclid Avenue—Annex                      Muslim Campus Ministry, Newman Catholic Campus Ministry, and United Protestant Campus Ministry                      (216) 421-9614 or Hillel (216) 231-0040                      (Ask to speak with a Clergy person)  <a href="http://students.case.edu/programs/interfaith/irc.html">http://students.case.edu/programs/interfaith/irc.html</a></p>	<p><b>The Cleveland Rape Crisis Center</b>                      (216) 619-6192 – 24 hours  <a href="http://www.clevelandrapecrisis.org/">http://www.clevelandrapecrisis.org/</a></p> <p><b>The Domestic Violence Center</b>                      (216) 391-HELP (4357) – 24 hours  <a href="http://www.dvcac.org/">http://www.dvcac.org/</a></p>

**Chart IIb. Faculty & Staff Confidential Support Resources**

On-Campus Resources	Off-Campus Resources
<p><b>Employee Assistance Program</b>  <b>IMPACT Solutions</b>                      800-227-6007  <a href="http://www.myimpactsolutions.com">www.myimpactsolutions.com</a></p>	<p><b>The Cleveland Rape Crisis Center</b>                      (216) 619-6192 – 24 hours  <a href="http://www.clevelandrapecrisis.org/">http://www.clevelandrapecrisis.org/</a></p> <p><b>The Domestic Violence Center</b>                      (216) 391-HELP (4357) – 24 hours  <a href="http://www.dvcac.org/">http://www.dvcac.org/</a></p>

## **Anonymous Reports**

In the event that CIM receives an anonymous report of sexual misconduct, the Institute will conduct any warranted inquiry into the matter. In such instances, CIM may be limited in its ability to conduct an effective inquiry and to take action concerning the report.

## **Confidentiality & Retaliation**

### **Confidentiality**

The Designated Reporting Representative(s) will attempt to keep complaints confidential to the extent possible and consistent with legal requirements and/or CIM's requirement to investigate allegations and take appropriate action. In reviewing a complainant's request for confidentiality, the Designated Reporting Representative will weigh the request against other factors such as the seriousness of the alleged misconduct, whether other complaints have been made against the respondent, obtaining information from other witnesses or sources, and the respondent's right to receive information about the allegation under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g (1974), and this policy. In situations which involve a minor, CIM will maintain confidentiality as best possible but will report information according to State of Ohio regulation.

In order to protect the integrity of the inquiry, investigation, and resolution through the use of this policy, all parties and witnesses are expected to maintain the confidentiality of the process. However, confidentiality is not required if disclosure is: required by law, is necessary to report a crime or violation of law, is necessary to engage in concerted activity regarding terms or conditions of employment, or in relation to the right of a student respondent or complainant to re-disclose the outcome of the process under FERPA and/or Campus Crime Statistics Act (Clery Act), 20 U.S.C. § 1092, laws.

Although there is an expectation of confidentiality with regard to the process, CIM recognizes that the complainant, respondent, and witnesses may need support. Should the need arise for parties and/or witnesses to share information regarding this process with others, they are encouraged to confer with the Designated Reporting Representatives before taking this action.

### **Retaliation**

Retaliation against persons raising concerns about sexual misconduct, against a person initiating a complaint, or against witnesses or any person cooperating in the sexual misconduct process is prohibited and will constitute separate grounds for disciplinary action. Retaliation is the act of taking adverse action against a complainant, a respondent, or any other person involved in this policy's process based on the person's reporting or participation in this policy's process. Retaliation includes behavior on the part of the respondent or the complainant and other related persons including, but not limited to, acquaintances, friends, and family members. Although CIM will take independent disciplinary action against anyone engaging in retaliation, the complainant and the respondent are responsible for discouraging such actions and will also be held responsible to the extent of their involvement in the retaliation.

An individual who believes they have experienced retaliation should contact a Designated Reporting Representative (see Chart I) under this policy, and CIM will investigate the complaint. If CIM determines that evidence exists to support that retaliation occurred, appropriate action will be taken regardless of the outcome of the underlying sexual misconduct complaint. This may involve referral of the retaliation concerns to another Institute process for resolution.

## **Responsibilities of the CIM Community**

Any member of the CIM community who is consulted about, observes, and/or witnesses behavior involving potential sexual misconduct has the responsibility to report the potential misconduct to one of the Designated Reporting Representatives. In addition, to the extent possible, the member of the CIM community should advise the complainant

of CIM's sexual misconduct policy and encourage prompt reporting to a Designated Reporting Representative (see Chart I). This CIM community member's duty to report includes instances in which that member learns of the allegation from:

- a. A person who has experienced the sexual misconduct;
- b. A person who perpetrated the sexual misconduct;
- c. A person who witnessed the sexual misconduct; or
- d. A person who heard about the sexual misconduct from another individual under such circumstances that the community member reasonably believes misconduct occurred.

Because CIM is committed to a positive educational and work environment, in instances in which individuals reasonably believe that behavior has occurred that could be construed as sexual misconduct, the individual is encouraged to report the incident to a Designated Reporting Representative.

### **Cooperating with Investigations**

All members of the CIM community are encouraged to cooperate and participate in inquiries and investigations, appear before any hearing panel as requested, and cooperate with resolutions of complaints and implementations of recommended sanctions as applicable. This may include active participation as needed with inquiries and investigations being coordinated or conducted by our sister institutions in University Circle (CWRU and CIA).

### **Police Responsibility**

There may be instances in which sexual misconduct constitutes a criminal act. The police have a responsibility to uphold and enforce the law even if the person experiencing the misconduct does not want to participate in the process and/or make a complaint. As a result, once a report is made to a police officer and/or once the officer learns of possible criminal activity, the officer has a duty to investigate and may have a duty to forward information to the appropriate prosecutor's office for possible criminal prosecution. Reports given to Case Security and Police and University Circle, Inc. ("UCI") Police agencies, dependent upon jurisdiction, will in turn be shared with the CIM Office of Student Affairs and/or the CIM Title IX Coordinator. When the person who has experienced sexual misconduct is under the age of 18, or under 21 and physically or mentally impaired, the Designated Reporting Representative may be required to report the alleged sexual misconduct to the appropriate social service agency or the police.

### **Support of Witnesses and Bystanders**

The welfare of our community is of paramount importance. CIM encourages members of the campus community to offer help and assistance to others in need, including, in certain circumstances, preventing sexual misconduct. Sometimes individuals are hesitant to offer assistance to others for fear that they will be subject to sanctions for other policy violations (e.g. alcohol violations). While policy violations cannot be overlooked, CIM will consider (but cannot guarantee) providing an educational intervention as opposed to sanctions or discipline for those who have offered assistance.

### **CIM's Investigative Responsibility**

Once a report of sexual misconduct is made to one of the Designated Reporting Representatives, CIM will investigate as warranted and determine what action should be taken, regardless of whether the complainant wishes to participate or considers the behavior to constitute sexual misconduct.

CIM's authority to investigate, to compel cooperation, or to impose sanctions against those who are not members of the CIM community is limited. The processes described in this Policy apply to faculty, staff, and students of CIM. Complaints against guest faculty, clinicians, lecturers, volunteers, contractors, and visitors will be referred to the Title IX coordinator or his/her designee for investigation and appropriate action. As part of a greater campus community, CIM works with Case Western Reserve University and the Cleveland Institute of Art to investigate any instances of sexual misconduct reported in which those involved are constituents from different institutions. In such cases, a Sexual Misconduct Investigator from each institution involved will share investigative responsibility. While each institution will be involved

in the investigation, the process used for reporting, investigation, and hearing will be done in accord with processes of the respondent's home institution.

### **Interim Institutional Actions**

Upon receiving a complaint, the Designated Reporting Representative and/or the Title IX Coordinator may need to take interim actions to protect the safety and well-being of the individuals involved in a complaint of sexual misconduct. CIM will consider interim or remedial measures, as appropriate or legally supported, to protect the safety and well-being of those involved. Generally, such actions may include, but are not limited to, the following:

- a. Informing the complainant of how to request changes to academic, living, transportation, working situations, and other protective measures;
- b. Assisting changing living accommodations;
- c. Changing work or class schedules;
- d. Providing awareness to the complainant of student financial aid-related services and information, such as information about applying for a leave of absence or addressing loan repayment terms;
- e. Accessing academic support (e.g. tutoring);
- f. Notifying the respondent that a complaint has been made against them;
- g. Providing a copy of the CIM sexual misconduct policy to both parties;
- h. Establishing an agreement between the parties that they are not to initiate contact with the other party or parties until further notice by CIM. Failure to cooperate or honor the agreement could result in restricting either party's presence on campus;
- i. Having each of the parties and any witnesses acknowledge the expectation of confidentiality as outlined in this policy;
- j. Advising all parties and any witnesses that they may not retaliate against any party or any witness involved in a sexual misconduct complaint; and
- k. Notifying the appropriate member of the President's Cabinet, who has oversight of the area in which the complainant and/or respondent is connected to the institution, to assist with managing the rights of the complainant and the respondent as appropriate. Should the appropriate Cabinet member either be the complainant or respondent or have a material conflict of interest or demonstrable bias in the particular case, the Title IX Coordinator shall refer the matter to a different Cabinet member without such conflict(s) or bias(es) to assist in managing the rights of the parties as appropriate.

CIM has the right to impose an interim separation or suspension, as provided for under CIM policies and procedures.

## **Notifications**

### **Parental/Legal Guardian/Partner Notification**

CIM is committed to providing support to anyone involved in an incident of sexual misconduct. In some instances when there is a health or safety concern involving a dependent or a non-dependent student, CIM may need to notify the parent(s), guardian(s), or partner. In making this determination, CIM will consider the wishes of those involved, as well as their personal safety and the safety of the campus community. CIM may contact the parent(s) or guardian(s) of a dependent student when there is a concerning behavioral pattern or a change in student status. In addition, when a person who is under the age of 18, or under 21 and physically or mentally impaired, reports sexual misconduct other than sexual harassment, both Designated Reporting Representatives and confidential sources may be required to report the sexual misconduct to the appropriate social service agency or the police, who then may contact the parent or legal guardian.

## **Federal Timely Warning Obligations**

Once a report of sexual misconduct is made, CIM is obligated by law to take all necessary and proper steps to protect the campus and the person who has experienced the sexual misconduct. This may include alerting the campus of crimes that it determines pose a substantial threat of bodily harm or danger to members of the campus community. In making such determinations, CIM will consider the safety of students, faculty, and staff as well as the privacy interests of all persons involved in such incidents. Regardless of the action taken by CIM, every effort will be made to ensure that a victim's name and other identifying information is not disclosed while still providing enough information for community members to take safety precautions.

## **Federal Statistical Reporting Obligations**

In compliance with the Clery Act (Campus Crime Statistics Act), 20 U.S.C. § 1092, as amended by the Campus Sexual Violence Elimination Act ("SaVE"), 20 U.S.C. § 1092(f) (2012), Designated Reporting Representatives are required to report sexual misconduct that may constitute a crime (i.e. anything not defined in this policy as sexual harassment) and occurring within a defined geography to Case Police. CIM publishes these statistics annually, compiled into a Clery Act Report. Anonymous reports received by the Case Police are also included in the Clery Act Report. The Clery Act Report contains statistics for the previous three calendar years. Typically, the following information is included: crime (organized by type of sexual misconduct, as defined by the Clery Act and its regulations), date, location, and status (i.e. student, faculty, staff, stranger, etc.) of the individuals involved in the crime. CIM never includes the names of the complainant or the respondent in crime statistics.

When a complaint of sexual misconduct is made that may also constitute a criminal act, the Designated Reporting Representative also will inform the complainant of the right to file a criminal complaint.

Annual Security Reports:

CIM: <http://www.cim.edu/assets/downloads/security/13security.pdf>

CWRU: <http://police.case.edu/docs/secrpt13.pdf>

CIA: <http://www.cia.edu/student-life/student-services/safety-security/jeanne-clery-disclosure-act>

## **CIM Complaint Processes**

CIM strongly encourages persons who experience sexual misconduct to report the misconduct, seek assistance, and pursue institutional action for their own protection and that of the entire campus community.

When a complaint of alleged sexual misconduct is received, the Designated Reporting Representatives conduct an initial inquiry and are neutral administrators in the process. The Designated Reporting Representatives are responsible for coordinating the sexual misconduct investigatory process.

### **Time Table**

CIM will endeavor to resolve complaints of sexual misconduct in a prompt and effective manner. CIM will make reasonable efforts to resolve complaints, including any appeals, within sixty (60) days. However, extenuating circumstances, including the complexity or severity of the allegations, may preclude CIM from resolving a complaint within such a timeframe. CIM will provide complainants and respondents with periodic updates regarding the status of the complaint as appropriate.

### **Initial Report and Title IX Committee Decision**

Upon receiving a sexual misconduct complaint, the Designated Reporting Representative will report the complaint to the Title IX Coordinator. The Title IX Coordinator serves a gatekeeper function with respect to appropriate next steps. Should the Title IX Coordinator determine that the complaint is clearly outside the scope of Title IX Committee's jurisdiction, the Coordinator will meet with the Reporting individual and determine how to bring forth their concerns through appropriate channels. If the Coordinator determines the issues reported require Title IX review, the



Coordinator will convene the Title IX Committee and assign one of the members to serve as the investigator of the complaint. Said assigned individual is hereafter referred to as the Sexual Misconduct Investigator. The Title IX Committee is composed of the four Designated Reporting Representatives listed in Chart I: the Associate Dean for Student Affairs/Title IX Coordinator, the Senior Associate Dean, the Executive Director of Preparatory and Continuing Education, and the Director of Human Resources. Each of the Title IX Committee members receives training on topics including sexual assault and misconduct, this policy, and the complaint, investigation, informal process, and formal hearing process.

### **Initial Inquiry**

An initial inquiry will be conducted by the assigned Sexual Misconduct Investigator and may include interviews with the complainant, the respondent, any witnesses, and a review of any relevant documents, including emails, text messages, and other communications.

After the Sexual Misconduct Investigator has conducted a prompt and thorough inquiry, he/she will provide a written report of findings to the Title IX Committee. A decision will be made as to the appropriate next steps to resolve the complaint, which will include one of the following:

- Informal Process (Facilitated Resolution)
- Formal Process (Administrative Hearing)
- Assignment to a separate institutional process (when violations of other CIM policies are discovered)
- Deference to a process conducted at Case Western Reserve University or Cleveland Institute of Art, if jurisdiction is more appropriate at one of CIM's sister institutions
- Dismissal of the complaint, if the initial investigation fails to reveal any facts or circumstances requiring further investigation or adjudication.

Any of the sexual misconduct offenses defined in this policy, including allegations of dating violence, domestic violence, sexual assault, and stalking may be subject to any of the above steps, including the disciplinary Formal Process.

In making this determination, the reviewers will consider the following factors:

- The investigation's results;
- The complainant and the respondent's wishes;
- Whether there is a pattern of behavior involving sexual misconduct; and
- The nature and severity of the behavior or action.

### **Rights of Complainant and Respondent**

- To confidentiality as provided in this policy (see above).
- To options outlined below in the informal process or formal process if applicable.
- To receive timely notice of meetings or proceedings at which one or the other or both might be present, except those pertaining to interim protective measures for the complainant. To the presence of a support person (as described later in this policy) at meetings during the initial inquiry and during the Informal Process and/or Formal Hearing (see Hearing Procedures).
- To not be questioned about past sexual conduct unless relevant to the case.
- To have the allegations investigated in a thorough and timely manner.
- To receive timely and equal access to information that will be used during informal and formal disciplinary meetings and hearings.
- To refrain from making self-incriminating statements. (However, in such an instance, CIM will make a determination of whether a violation of the sexual misconduct policy occurred based on the information presented.)
- To be informed of the outcome of the sexual misconduct process.

## **Informal Process**

The informal process is an opportunity to resolve an informal complaint through awareness, education, and/or a facilitated discussion. During an informal process, written statements are not taken from the complainant or the respondent, and no hearing is conducted to determine whether the sexual misconduct policy has been violated. Normally, the informal process will not be used to resolve allegations of Non-Consensual Sexual Activity, Forced Sexual Activity, Non-Consensual Sexual Intercourse, Forced Sexual Intercourse, or Sexual Exploitation.

### **Step 1-Facilitate Resolution**

If the Title IX Committee determines that the informal process is appropriate for a sexual misconduct complaint, the Title IX Officer will utilize the information gathered by the Sexual Misconduct Investigator to facilitate an appropriate resolution to the complaint. The following are examples of possible remedies, one or more of which may be used to bring informal resolution to a complaint:

- Distribute a copy of the sexual misconduct policy to the respondent and/or the complainant and/or to the department or area whose behavior is being questioned;
- Educate the respondent or all parties regarding the CIM sexual misconduct policy;
- Conduct a sexual misconduct educational workshop;
- Meet with the respondent to raise awareness about alleged inappropriate behavior and provide notice about possible consequences;
- Facilitate discussion with the agreement of the complainant, respondent, and the Designated Reporting Representative(s) or designee;
- Establish alternative work arrangements, living arrangements, class schedule, advisor/supervisor, and/or other arrangements as feasible; and
- Limit contact or impose no contact between respondent and complainant.

### **Step 2-Document Informal Resolution**

At the conclusion of the informal process, an informal outcome letter summarizing the process' outcome will be sent by the Sexual Misconduct Investigator to the complainant and respondent and other appropriate CIM officials in order to bring closure to the matter (see Retention of Documents section in this policy).

If the matter is not resolved to the complainant or the respondent's satisfaction, either party may submit a request for the formal process to the Title IX Committee within five (5) business days of receiving the informal outcome letter.

## **Complaints by CIM**

CIM may bring a complaint against a respondent in instances in which the complainant is not willing to bring a complaint and the Title IX Committee determines it is necessary to initiate a complaint on its own. In such a case, the Title IX Committee will select a representative to act as an advocate during the formal process.

## **Formal Process: Administrative Hearing**

The formal process consists of a prompt, fair, and impartial administrative hearing before the Title IX Committee (the hearing panel, which is comprised of neutral arbiters) to review the relevant facts and documents, hear from the parties involved, and, if necessary, determine an appropriate sanction and/or response.

### ***Administrative Hearing Procedure:***

1. The Title IX Committee will draft a written complaint and provide a copy to both the respondent and the complainant; and notify respondent and complainant of the hearing's date, time, location, and procedures.

2. The hearing is closed and generally includes the respondent, his or her representative, and/or a support person. The complainant may also attend the hearing and can have a representative and/or support person present. The support person for both the complainant and respondent may, but need not be, an attorney.
3. The complainant may submit an additional written statement concerning the effect of the sexual misconduct on him or her and the desired sanction for the respondent. The written statement must be submitted no later than two (2) business days prior to the scheduled hearing.
4. The respondent may submit a written statement about the sexual misconduct and its effect on him or her and the possible sanction(s) or other outcome misconduct. The written statement must be submitted no later than two (2) business days prior to the scheduled hearing. Such impact statements will only be reviewed by the Hearing Panel as part of establishing recommendations for action as a result of a finding. Impact statements are not included in the determination of a finding.
5. Members of the Title IX Committee (the hearing panel) may ask the respondent and complainant questions and will consider the statements and any relevant information received during the investigation.
6. The Title IX Coordinator will assign one of the Title IX Committee members to preside over the hearing as Chairperson.
7. The Sexual Misconduct Investigator that investigated the complaint will present his/her findings at the hearing.

After the hearing concludes, the Title IX Committee will make a finding and any recommendation for action to the Title IX Coordinator. The Title IX Coordinator will review the recommendation and communicate a final determination of sanction, if any, in writing to the respondent, complainant, and to any administrators, faculty, or staff who require the information to carry out any imposed sanction. Generally, notification will be provided to the parties within two (2) business days after the administrative hearing is held, except when extenuating circumstances preclude notification to the parties within such a timeframe.

***Administrative Hearing Chairperson:***

Prior to the administrative hearing, the Title IX Coordinator shall designate a member of the committee to serve as Chairperson and preside over the hearing. The Chairperson shall:

1. Consult with the complainant, the respondent, and Committee members to determine any personal and/or professional conflicts of interest that may make any panel member unable to render an unbiased decision. All participants are required to disclose any personal and/or professional conflicts of interest to the Chairperson prior to agreeing to participate in a board hearing. The Chairperson will determine whether a member should not serve on the panel because of a conflict of interest;
2. Advise the complainant and respondent of their right to have a support person at the hearing, whose function is to provide support for the complainant or the respondent. During the hearing, the support person may talk quietly with the complainant or the respondent or pass notes in a non-disruptive manner. The support person may not, in any way, intervene in the hearing or address the panel, even if the support person is an attorney.

A support person may, but need not, be a current member of the CIM community (i.e. student, full-time faculty or full-time staff member). Neither party is entitled to legal representation (as the term is commonly understood) during the hearing. A support person may be an attorney, however a support person is only permitted to act as a support person (as described above) during the hearing. CIM need not cancel or postpone any meeting or hearing because of a support person's tardiness or inability to attend so long as proper notice

was given. The complainant or respondent are not required to have any support person present but must have the same opportunity to have a support person. ;

3. Notify all Committee members, the complainant, the respondent, the witnesses, and all those involved in the hearing process that the hearing is closed and confidential and should not be discussed outside the hearing proceedings, except as provided in the Confidentiality section of this policy;
4. Provide the Committee members access to the information to be considered by the Committee. The information shall include the file compiled by the Sexual Misconduct Investigator, which shall include the items compiled by the Sexual Misconduct Investigator (see listing above), as well as:
  - a. Any other information submitted by the complainant or respondent and deemed relevant to the complaint. The chairperson, in consultation with the Sexual Misconduct Investigator, will make determinations as to the relevance of information submitted;
  - b. Any other information that may be relevant to the complaint;
  - c. Witness list and witness accounts/statements. The Sexual Misconduct Investigator will confer with both the complainant and the respondent regarding which of their identified witnesses will be included in the hearing. The chairperson, in consultation with the Sexual Misconduct Investigator, will make the final determination as to which witnesses have relevant information.

NOTE: Certain evidence is not permitted to be presented which includes but is not limited to:

1. Questions or evidence pertaining to the complainants prior sexual conduct with anyone other than the alleged perpetrator; and
2. Evidence of a prior consensual dating or sexual relationship between the parties does not imply consent nor does it preclude a finding of sexual misconduct.

The hearing general allows for cross-examination; however, both parties should expect to issue their questions through the Panel in order to preclude the respondent from personally cross-examining the complainant.

5. Provide complainant, respondent, and support persons an opportunity to review, but not retain, all information prior to the hearing; all materials must be reviewed on CIM premises and may not be removed or copied.
6. Arrange a hearing date, time, and location and notify all hearing participants in writing;
7. Advise members about the complaint and the hearing procedures.

### ***Administrative Hearing Rules***

In addition to the procedure set forth above, certain rules will govern at the hearing:

1. The Chairperson will convene the hearing by introducing the participants and explaining the sexual misconduct hearing purpose, procedures, and standard of proof. Standard of proof is the preponderance of evidence, which means that the panel must determine, in light of all the information presented, that it is more likely than not that the respondent violated the sexual misconduct policy.
2. An audio recording of the hearing will be made.
3. The Chairperson may determine that a complainant and/or the respondent may participate by telephone or video conference.
4. The complainant will be invited to make a statement to the panel.
5. The respondent will be invited to make a statement to the panel.

6. Title IX Committee members will be permitted to ask questions at the conclusion of each statement. The complainant and the respondent may then ask questions of each other by submitting written questions to the Chairperson.
7. Witnesses will be invited to make a statement before the panel. The panel members, the complainant, and the respondent will be invited to ask questions of each witness.
8. The complainant, the respondent, and their support persons will be permitted to sit in the hearing during all statements and questioning. Witnesses will be permitted to attend only during their own statements and questioning.
9. The panel may ask further questions of the complainant and the respondent after it has heard from all witnesses.
10. After all statements and questioning are completed, the panel will excuse the complainant, the respondent, and their support persons from the hearing and meet to discuss the finding.
11. The panel will consider all information received as part of the hearing process. The panel will issue one of the following findings, based on a preponderance of the evidence:
  - a. The respondent violated the Sexual Misconduct Policy; or
  - b. The respondent did not violate the Sexual Misconduct Policy.

In addition, the panel may determine that the respondent's actions may violate some other CIM policy. In those circumstances, the Chairperson will refer the matter and all relevant information to the appropriate institutional process.

12. If the panel determines that the respondent violated the sexual misconduct policy, the panel members will determine sanctions. Sanctions will be based on the nature and severity of the offense and/or on the respondent's prior violation(s) of institutional policy. The panel may consider the statements of the complainant and respondent regarding the impact of the behavior/incident during the sanction process. In general, sanctions may include, but are not limited to, one or more of the following:
  - a. Apology;
  - b. Participation in educational, skills or management training;
  - c. Written warning or letter of reprimand;
  - d. Alternative work and/or living arrangements, class schedules, advisor/supervisor arrangements;
  - e. Limited contact between respondent and complainant;
  - f. Limited contact between the respondent and other members of the CIM community;
  - g. Faculty and staff may face suspension without pay, consideration of or denial of advancement or pay raise, demotion, removal or suspension from administrative or honorary duties or appointments, or termination for cause;
  - h. Students may be suspended from the institution, CIM housing, and/or selected activities or organizations; placed on probation; or expelled from CIM.
13. Prior to determining a sanction, the panel will normally consult with the CIM Cabinet, which consists of the President and certain other officers or administrators of the President's choosing. Should the President or Cabinet member be either the complainant or respondent in the case, then he or she shall not sit on the Cabinet. No Cabinet member with a material conflict of interest or demonstrable bias in the particular case shall sit on the Cabinet for such purposes. Should no Cabinet member be able to serve for consultative purposes due to material conflicts of interest and/or demonstrable biases, then the Title IX Coordinator may refer the matter to the Board of Trustees for consultation.

## ***Report of Findings***

1. The Chairperson, in consultation with the panel, will draft a written report that includes the panel's finding of either that:
  - a. The respondent violated the CIM Sexual Misconduct Policy, specifying the type of sexual misconduct violation under this policy's definitions; or
  - b. The respondent did not violate the CIM Sexual Misconduct Policy.
2. The report will also include the reason for the finding and sanctions if applicable.
3. The Chairperson will simultaneously communicate the finding, as well as appeal procedures, to the complainant and respondent; and will also communicate the finding to the Title IX Coordinator in writing. The finding may be communicated to the respondent's department chair, dean/supervisor, and appropriate supervising Cabinet member as appropriate. A copy of the report will be kept on file in the Title IX Office.
4. The chairperson will identify and notify the appropriate individuals to carry out the respondent's sanctions, if applicable.
5. Sanctions are imposed immediately unless the Title IX Coordinator stays the implementation pending the outcome of any appeal.
6. If the Title IX Coordinator stays implementation, and neither party appeals the decision within the allotted time, the President (or other appointee) will make a final determination as outlined in the Appeal Process below. If no stay is requested, and no appeal filed, the decision of the Title IX panel and Coordinator will be final.

## ***Appeal Process***

Either the respondent or the complainant may appeal the decision and/or the sanction to the Title IX Coordinator within five (5) business days of receipt of the written decision. The appeal must specify the grounds for appeal. The grounds on which an appeal may be filed are limited to the following:

1. New information not available to the panel which, if available at the time of the hearing, may have affected the decision;
2. Evidence that established procedures were not followed in a manner that may have affected the decision, and/or;
3. The sanction was inappropriate for the violation.

The Title IX Coordinator will provide the appeal to the Chief Academic Officer and Dean or his/her designee, who will then evaluate the merit of the appeal.

In reviewing the appeal, the Dean or designee shall review the panel's report and the sanctions to be imposed and may review the recording or transcript of the hearing, and any documents, statements, or materials presented to the panel. The Dean or designee shall consult with the Title IX Coordinator, and may confer with any other constituency deemed appropriate.

The Chief Academic Officer and Dean, or designee, may accept or reject the finding and/or sanction based upon any of the three grounds for appeal. The Chief Academic Officer and Dean or designee will make the final decision regarding the finding and the sanction.

The Chief Academic Officer and Dean or designee will communicate the decision, in writing, to the respondent, the complainant, the panel members, and to any appropriate constituencies as deemed necessary.

The decision of the Chief Academic Officer and Dean or designee shall be final.

Should the appeal involve a case where the Chief Academic Officer and Dean or the President is either the complainant or the respondent, then the Title IX Coordinator shall provide the appeal to the Board of Trustees, who shall appoint either a Board member or other designee without a material conflict of interest or demonstrable bias to evaluate the merits of the appeal and make a final decision.

Please note that CIM will not require a party to abide by a non-disclosure statement, in writing or otherwise, that would prevent the disclosure of information related to the outcome of the proceeding.

### **False Allegations**

No complaint will be considered “false” solely because it cannot be corroborated. However, CIM reserves the right to discipline members of its community who knowingly bring false complaints of sexual misconduct. In such cases of proven false allegations, discipline may include up to, but not limited to, suspension or termination.

### **Support Resources**

The following resources and options are available for individuals reporting sexual misconduct. Similarly, CIM recognizes that a person being accused of sexual misconduct may also utilize the following resources and options as appropriate and applicable.

### **Alternative Housing & Academic Accommodations**

CIM will accommodate requests for alternative living, working, and academic arrangements as available and appropriate. This is available with all reporting options and in both informal and formal choices of action. CIM reserves the right, based on the circumstances, to determine the most appropriate course of action in making alternative housing arrangements.

### **Counseling**

Counseling is available and may be pursued following an incident of sexual misconduct, no matter how much time has elapsed since the incident. CIM offers a free, 24-hour telephone hotline for privileged and confidential conversations about sexual assault and relationship violence. Students should call (216) 368-7777. Faculty and Staff should call IMPACT Solutions (800) 227-6007.

On-campus counseling services are available for students at University Health and Counseling Services [UH&CS] counseling center in the Sears building; two days a week in Cutter House; UH&CS health center; and the Women’s Health Advocate at the Flora Stone Mather Center for Women. There is no charge to students, and the services entail privileged communications. Counseling services are also available for faculty and staff through the Employee Assistance Program (IMPACT Solutions).

### **Emergency Room Examination/ Preservation of Evidence**

Any person who suffers physical sexual violence, including sexual conduct, is urged to go directly to the Emergency Room at any local hospital for medical attention. For a list of hospitals close to campus, including those with a SANE (Sexual Misconduct Nurse Examiner) Unit or staff specially trained for sexual misconduct examination and evidence collection, refer to the appropriate Confidential Support Resource charts in this policy or go to CIM’s Sexual Misconduct pages on the website for more information, including <https://www.cim.edu/students/policies>.

It is important to note that the preservation of physical evidence is critical in the event of criminal prosecution and may also be useful if institutional action is pursued. To obtain the best evidence, a person who has experienced sexual violence should not wash her/his hands; shower or douche; brush her/his hair or teeth; or change her/his clothes immediately following the incident. If a victim goes to the hospital, local police will be called, and if the name of the accused is provided, the police will investigate; but the victim is not obligated to talk to the police or to pursue prosecution. Having the evidence collected in this manner will help to keep all options available to a victim but will not obligate him or her to pursue any course of action.

### **University Health Service**

Students can seek treatment or advice at the University Health Service for any medical concerns, including a physical exam, sexually transmitted infections, pregnancy testing, and to obtain emergency contraception. All medical information and services are privileged and confidential. There is a nurse and physician on-call 24 hours a day, 7 days a week at (216) 368-2450.

If a student decides to file criminal charges, the student must sign a *University Health Service Medical Information Release Form* if the student wishes to allow the police, CIM, or his or her representative to gain access to medical information applicable to the sexual violence.

### **Retention of Documents**

All records will be retained for at least as long as the respondent and/or the complainant(s) are members of the CIM community. For students, records will be kept for five (5) years after the student graduates. For faculty and staff, records will be kept for at least six (6) years after the matter is closed and after the individuals are no longer members of the campus community. Records will be kept in a confidential and secure location and only made available to Designated Reporting Representative(s), other appropriate CIM officials, or other authorized individuals as determined by law. In determining when it is appropriate to make available records regarding informal and formal complaints, the following provisions will apply:

#### **Informal Complaints:**

Information about all informal complaints will be kept both on file in the offices of the Designated Reporting Representatives and in a confidential file in the appropriate Dean's office. Information concerning informal sexual misconduct complaints will not be considered in processes concerning future CIM misconduct unless the new matter also involves an allegation of sexual misconduct.

#### **Formal Complaints:**

If the respondent is found to have violated the sexual misconduct policy, a copy of the decision letter will be retained in the individual's official file. If a future complaint of sexual misconduct is referred to a formal process, information regarding the previous sexual misconduct complaint(s) may be considered by the Title IX Committee hearing panel.

In the event that the respondent is involved in and found responsible for other institutional violations unrelated to sexual misconduct, information about formal sexual misconduct violations and sanctions will be shared with the appropriate individuals during the sanctioning phase.

If the person found in violation is a faculty or Staff member, the information will be kept on file in the Office of Human Resources.

If the person found in violation is a student, the information will be kept on file in the Office of Student Affairs.

If the respondent is found not to have violated the sexual harassment policy, a copy of the decision will be retained in the appropriate office as listed above.



### **Prevention, Education, and Awareness Programs**

The Cleveland Institute of Music provides programming and educational activities to its students, faculty, and staff throughout the academic year. These include orientation programs, Residence Life programs for first and second year undergraduates, sessions in the Freshmen Colloquium course, faculty/staff discussion groups, and the ongoing development of a Bystander Intervention Program open to all in the CIM Community.

## Appendix A

### Title IX Coordinator:

#### **Tamatha Belton: Senior Director of Human Resources/Title IX Co-Coordinator**

CIM 246  
11021 East Blvd  
Cleveland, OH 44106  
216.791.5000, ext. 219  
[Tamatha.Belton@cim.edu](mailto:Tamatha.Belton@cim.edu)

### Other Designated Reporting Representatives

#### **David Gilson: Associate Dean for Student Affairs**

CIM N102A  
11021 East Blvd  
Cleveland, Ohio 44106  
216.791.5000, x 299 or 216.795-3163  
[David.Gilson@cim.edu](mailto:David.Gilson@cim.edu)

#### **Brian Sweigart: Senior Associate Dean**

CIM N106A  
11021 East Blvd  
Cleveland, Ohio 44106  
216.791.5000, x 441  
[Brian.Sweigart@cim.edu](mailto:Brian.Sweigart@cim.edu)

#### **Madeline Lucas Toliver: Senior Director, Artistic and Facilities Operations**

CIM 102B  
11021 East Blvd  
Cleveland, Ohio 44106  
216.791.5000, ext. 413  
[Madeline.Lucas@cim.edu](mailto:Madeline.Lucas@cim.edu)

### Title IX Coordinators at CWRU and CIA

As CIM is located on a campus shared by CWRU and the CIA, the offices which deal with Title IX issues work in close relationship with one another. While members of the CIM community are encouraged to report and issues to the CIM Designated Reporting Representatives, for any situations which involve CWRU or CIA personnel or students, the role, contact information for the appropriate reporting offices at CWRU and CIA respectively are:

#### **For Student Concerns at CWRU:**

Darnell T. Parker; Associate Vice President, Title IX Coordinator  
110 Adelbert Hall  
(216) 368-3066 (M-Fri) 8:30 a.m. to 5:00 p.m.

#### **For Faculty Concerns at CWRU:**

Faculty Diversity Officer, Adelbert Hall 315  
(216) 368-8877 -- (M-Fri) 8:30 a.m. to 5:00 p.m.

#### **For Staff Concerns at CWRU:**

Equal Employment Opportunity & Diversity Manager, Adelbert Hall 315  
(216) 368-8877 -- (M-Fri) 8:30 a.m. to 5:00 p.m.

**For Student Concerns at CIA:**

Nancy Neville, Dean of Student Affairs  
Cleveland Institute of Art  
216.421.7427 [nneville@cia.edu](mailto:nneville@cia.edu)

**For Faculty/Staff Concerns at CIA:**

Lisa Schumann, Assistant Director of Human Resources  
Cleveland Institute of Art  
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**CIA Title IX Officer**

Raymond Scragg, Vice President of Human Resources and Inclusion  
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**Position Descriptions:****Title IX Coordinator**

The Title IX Coordinator is responsible for monitoring, oversight, and overall implementation of Title IX Compliance at the Cleveland Institute of Music, including coordination of training, education, communications, and administration of grievance procedures for faculty, staff, students and other members of the CIM community.

**Designated Reporting Representative**

The Designated Reporting Representative is responsible for coordinating the sexual misconduct process. An initial investigation is conducted by the Designated Reporting Representative and may include interviews with the complainant and the respondent and a review of relevant documents. Following the initial inquiry, the Designated Reporting Representative will determine whether the information gathered during the initial inquiry indicates that the complaint falls within this policy and will utilize criteria outlined in this policy to determine what process will be used to bring resolution to the sexual misconduct case.

**Sexual Misconduct Investigator/ Deputy Title IX Coordinator**

The Sexual Misconduct Investigator serves as the investigator for sexual misconduct matters and conducts a prompt and thorough investigation of alleged sexual misconduct complaints, which includes identifying and interviewing witnesses, gathering and securing relevant documentation, and identifying other relevant information.

**Training**

The Title IX Coordinator and Sexual Misconduct Investigators/Deputy Title IX Coordinators receive training on an annual basis on topics including but not limited to sexual assault and misconduct, this policy, and the complaint, investigation, informal process, and formal hearing process.

**Other Sources for Information:**

Office for Civil Rights, U.S. Department of Education

***Cleveland Office***

1350 Euclid Avenue

Suite 325

Cleveland, OH 44115

Telephone: (216) 522-4970

Facsimile: (216) 522-2573

TDD: (800) 877-8339

Email: [OCR.Cleveland@ed.gov](mailto:OCR.Cleveland@ed.gov)