

# SFCM Title IX Discrimination, Sexual Harassment, and Sexual Violence Policy

<p>These Procedures will be used to investigate and resolve complaints of sex harassment brought by SFCM students and employees. These include Title IX Grievance Procedures.</p>	<p><b>Effective Date:</b> 7/26/2024 <b>Revised Date:</b> 5/19/2026 <b>Category:</b> Nondiscrimination <b>Contact:</b> Title IX Coordinator</p>
---	--

## I. Non Discrimination Statement

The San Francisco Conservatory of Music (“SFCM”) prohibits discrimination based on sex in employment and education programs and activities both on and off campus. This policy applies to all students, employees, and volunteers; to conduct that occurs on school grounds, off-campus, and at school-sponsored activities; to conduct that occurs at school-owned, leased, or controlled facilities; and, to conduct carried out through technology resources provided by or used at SFCM.

Title IX of the Education Amendments of 1972, as amended, and its implementing regulations, 34 C.F.R. Part 106 (“Title IX”); the Violence Against Women Reauthorization Act of 2013 (20 U.S.C. 1092(f)) (VAWA), also known as the Campus Sexual Violence Elimination Act (Campus SaVE Act); and Title VII of the Civil Rights Act of 1964, as amended, prohibit discrimination on the basis of sex in employment and education programs and activities. Title IX protects all persons from sex discrimination, which includes sexual harassment and sexual violence.

SFCM will process all sex discrimination complaints it receives, including complaints of sexual harassment and sexual violence, regardless of where the conduct occurred, to determine whether the conduct occurred in the context of an employment or education program or activity or had continuing effects on campus. If alleged off-campus sexual harassment or sexual violence occurred in the context of an education program or activity or had continuing effects on campus, the complaint will be treated the same as a complaint involving campus conduct. This policy applies to complaints of sexual harassment under Title IX as defined by 34 C.F.R. § 106.30(a). This includes complaints of sexual assault or harassment involving students, employees, volunteers, vendors, contractors, and third parties.

## II. Title IX Policy

SFCM is committed to promoting a safe and healthy educational and work environment and must respond when notice is received by the Title IX Coordinator or the following expressly designated officials with authority to institute corrective measures in response to conduct prohibited by Title IX, including but not limited to sexual harassment .

### a. Reporting

All faculty and staff who become aware of known or suspected violations are required to report them to the Title IX Coordinator or a deputy coordinator. If an employee fails to report consistent with these obligations, a referral to Human Resources will be made and disciplinary action may be taken.

Complaints of sexual assault, sexual harassment, or other conduct prohibited under this policy, and any questions about filing a complaint under this policy, the grievance process, or Title IX or its regulations should be directed to the Title IX Coordinator or the Deputy Coordinators listed below:

**Title IX Coordinator**

Molly O'Malley

Phone: 650-383-4753 x176

Email: [momalley1@sfc.edu](mailto:momalley1@sfc.edu)

**Deputy Title IX Coordinators for Students:**

Timothy Dunn, Associate Dean for Student Affairs

Phone: 415-503-6281

Email: [tdunn@sfc.edu](mailto:tdunn@sfc.edu)

Bowes Center for the Performing Arts Room 116B

Sydnee Turrentine-Johnson, Manager of International Student Services and Community Belonging

Phone: 415-425-7334

Email: [sjohnson@sfc.edu](mailto:sjohnson@sfc.edu)

Bowes Center for the Performing Arts Room 116A

**Deputy Title IX Coordinators for Faculty and Staff:**

Amanda Shields, Human Resources Manager

Phone: 415-503-6292

Email: [ashields@sfc.edu](mailto:ashields@sfc.edu)

Getty Center for Education Room 405

Michael Patterson, Associate Vice President of Human Resources and Administration

Phone: 415-503-6237

Email: [mpatterson@sfc.edu](mailto:mpatterson@sfc.edu)

Getty Center for Education Room 407

The Title IX Coordinators' responsibilities include overseeing the investigation of incidents of alleged sexual assault or harassment; ensuring that consistent standards and practices apply to all investigations; being available to meet with

students, employees, and volunteers who believe sexual assault or sexual harassment has occurred; and assisting campus security or law enforcement as needed.

Reports can also be made by using the online reporting tool at the following web address: <https://sfc.edu/discover/campus-life/campus-safety/forms>

Confidential reports may be made to the following:

On Campus Counseling: (415) 503-6325; [rawilliams@sfc.edu](mailto:rawilliams@sfc.edu)

Rape and Trauma Services 24 Hour Helpline: 415-206-8256

National Domestic Violence Hotline: 800-799-7233

National Sexual Assault Hotline: 800-656-4673

## b. Policy Definitions

1. **Incapacitated** means an individual is incapable of appraising or controlling their conduct due to the influence of a narcotic, anesthetic, alcohol, or other substance administered with or without consent, being asleep, being a minor, an intellectual or other disability, or due to any other act committed upon the person without consent.
2. **Consent** means intelligent, knowing voluntary consent and does not include coerced submission. "Consent" shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance. Once consent is withdrawn or revoked, all sexual activity must stop immediately.
  - a. Consent must be **affirmative**, meaning affirmative, conscious, and voluntary agreement to engage in sexual activity and must continue throughout the sexual activity.
  - b. Consent must be **voluntary** and given without coercion, force, threats, or intimidation.
  - c. Consent can be **withdrawn or revoked**. Consent to one form of sexual activity (or consent to sexual activity a previous occasion) does not constitute current or ongoing consent. The fact that two people are or were previously involved in a dating relationship, sexual relationship, and/or consensual sexual acts does not constitute consent to subsequent or other sexual activity or other sexual acts. Past consent or consent on a prior occasion is not current consent or ongoing consent to engage in sexual activity.
  - d. Consent cannot be given by a person who is **incapacitated, as defined above**
  - e. Being intoxicated by drugs or alcohol does not diminish a person's responsibility to obtain consent from the other party before engaging

in sexual activity. Factors to be considered when determining culpability include whether the person knew, or whether the a reasonable person in the accused's position should have known that the victim could not give, did not give, or revoked consent; was incapacitated; or was otherwise incapable of giving consent.

**c. Prohibited Conduct**

1. **Sexual Harassment** means conduct on the basis of sex that satisfies one or more of the following:
  - a. An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
  - b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
  - c. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v) and below, "dating violence" as defined in 34 U.S.C. 12291(a)(10) and below, "domestic violence" as defined in 34 U.S.C. 12291(a)(8) and below, or "stalking" as defined in 34 U.S.C. 12291(a)(30) and below.

Sexual Harassment includes unwelcome verbal, nonverbal or physical conduct including but not limited to unwelcome sexual advances; requests for sexual favors; and other verbal, nonverbal, or physical conduct of a sexual nature, such as sexual violence, sexual advances, requests for sexual favors, and indecent exposure, where:

- i. Submission to, or rejection of, the conduct is explicitly or implicitly used as the basis for any decision affecting a student's academic status or progress, or access to benefits and services, honors, programs, or activities available at or through SFCM; or
  - ii. Submission to, or rejection of, the conduct by a SFCM employee is explicitly or implicitly used as the basis for any decision affecting a term or condition of employment, or an employment decision or action; or
  - iii. Such conduct is sufficiently severe or pervasive to create a hostile educational or employment environment.
- d. Sexual harassment includes acts of verbal, non-verbal, written, and physical aggression, intimidation or hostility based on sex or gender stereotyping, even if these acts are not sexual in nature. Sexual harassment must be unwelcome conduct that is so "severe,

pervasive and objectively offensive” that it effectively denies a person access to the school’s education programs or activities.

2. **Sexual Assault** is a form of sexual violence and means (1) forcing or coercing an individual to engage in any non-consensual sexual contact or sexual penetration; or (2) an attempt to commit an unlawful act that places another person in reasonable apprehension of immediate, non-consensual physical contact for sexual purposes. Sexual assault does not need to satisfy the severe and pervasive standard
3. **Rape** is a form of sexual violence that may or may not involve force or a threat of force, coercion, violence, or immediate bodily injury, threats of future retaliation, or duress. Rape means nonconsensual sexual intercourse or sexual penetration, which, in addition to intercourse, means nonconsensual oral or anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body. Any sexual penetration is sufficient to constitute rape. Sexual acts are considered non-consensual when they involve a person who is physically incapacitated
4. **Statutory Rape** is unlawful sexual intercourse with a minor under 18 years old, even if the intercourse is consensual.
5. **Sexual Contact** is the intentional, nonconsensual touching of the clothed or unclothed body parts of another person for the purpose of sexual degradation, sexual gratification, or sexual humiliation. Sexual contact also includes forced, nonconsensual touching by the victim of the actor's clothed or unclothed body parts for the purpose of sexual degradation, sexual gratification, or sexual humiliation.
6. **Incest** is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
7. **Domestic violence** is a form of sexual violence and means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense, based on sex, resulting in physical injury or death of one family or household member by another family or household member. "Family or household member" means spouse, former spouse, and persons who are parents of a child in common regardless of whether they have been married.
8. **Dating violence** is a form of sexual violence and means violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors:
  - a. A dating relationship must have existed within the past 6 months;

- b. The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and
  - c. The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and continuously during the relationship.
  - d. "Dating violence" does not include violence in a casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social context.
9. **Stalking** means a course of conduct based on sex, directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. For purposes of this definition:
- a. "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose.
  - b. "Substantial emotional distress" means significant mental suffering or anguish that may, but not necessarily, require medical or other professional treatment or counseling.
  - c. "Reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim.
10. **Cyberstalking** means to engage in a course of conduct, based on sex, to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.
11. **Sexual Exploitation** means a person taking sexual advantage of another person for the benefit of anyone other than that person without that person's consent, including, but not limited to, any of the following acts:
- a. The prostituting of another person.
  - b. The trafficking of another person, defined as the inducement of a person to perform a commercial sex act, or labor of services, through force, fraud, or coercion.
  - c. The recording of images, including video or photograph, or audio of another person's sexual activity or intimate parts, without that person's consent.
  - d. The distribution of images, including video or photographs, or audio of another person's sexual activity or intimate parts, if the individual distributing the images or audio knows or should have known that the

person depicted in the images or audio did not consent to the disclosure.

- e. The viewing of another person's sexual activity or intimate parts, in a place where that other person would have a reasonable expectation of privacy, without that person's consent, for the purpose of arousing or gratifying sexual desire.
- f. This policy specifically includes electronic communications, including but not limited to phone calls, text messages, email, and communications using social media.

**d. Training and Impartiality**

- 1. Any individual designated as a Title IX Coordinator, investigator, or decisionmaker, or to facilitate an informal resolution process, cannot have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
- 2. Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process must receive training on the definition of sexual harassment, the scope of SFCM's education programs and activities, and how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes.
- 3. Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process must receive training on how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.
- 4. Decision-makers must receive training on any technology to be used at a live hearing and issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.
- 5. Investigators must receive training on issues of relevance and creating an investigative report that fairly summarizes relevant evidence.
- 6. Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

**e. Confidentiality**

SFCM will make reasonable and appropriate efforts to preserve complainants' and respondents' privacy and to protect the confidentiality of information. SFCM will only disclose information regarding complaints under this policy on a need to know basis, primarily to persons who are responsible for its investigation and any reporting requirements.

SFCM cannot require the complainant or respondent to maintain confidentiality, as restricting the ability of either party to discuss the investigation (e.g., through "gag

orders”) is likely to deprive them of the ability to obtain and present evidence or otherwise to defend their interests.

In cases involving any of the prohibited conduct above, even if a complainant requests that SFCM not move forward, there may be circumstances that require SFCM to take action. If a complainant requests confidentiality, the Title IX Coordinator will determine whether SFCM can honor this request while providing a safe and nondiscriminatory environment for all students and employees, including the individual who reported the sexual violence. Because a request for confidentiality could preclude a meaningful investigation, SFCM will consider whether there are circumstances present that demonstrate a risk that the respondent may commit additional acts of sexual violence or other violence. These include whether other sexual violence complaints have been received about the same Respondent; whether the Respondent has a history of arrests; whether the Respondent has records from a prior school indicating a history of violence; whether the Respondent threatened further sexual violence or other violence against the Complainant or others; and whether the sexual violence was committed by multiple perpetrators. Other factors include whether the sexual violence was perpetrated with a weapon, and the age of the individual subjected to sexual violence.

If the complainant asks that the complaint not be pursued, SFCM must nonetheless promptly contact the complainant to discuss the availability of supportive measures and consider the complainant’s wishes with regard to supportive measures. Once a formal complaint has already been filed, if the complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or the allegations therein, SFCM may dismiss the formal complaint or any allegations therein.

Even when a complainant asks that a complaint not be pursued or that information be kept confidential, if necessary, SFCM will take action to protect the complainant. This includes providing support services and changing living arrangements or course schedules, assignments, or tests as appropriate.

### III. Grievance Procedures

- a. **The Grievance Process** includes: (1) initial response; (2) initial assessment concerning whether the Title IX policy applies to the alleged conduct; (3) filing of a formal Title IX complaint by the complainant or the Title IX Coordinator; (4) a determination regarding whether mandatory or discretionary dismissal of the complaint under Title IX applies; (5) the application of the formal complaint investigation and resolution process or informal complaint resolution process; and (6) the appeal process.

**b. Delegation of duties.** SFCM has sole discretion to appoint or utilize internal or external Title IX Coordinators, investigators, decisionmakers, and appellate officers.

**c. Initial Response**

After receiving a report of sexual harassment, the Title IX Coordinator or designee will promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint, provide a copy of this policy, and explain the following:

1. The Title IX grievance process;
2. The importance of seeking immediate medical attention for sexual assaults;
3. The importance of preserving evidence;
4. The right to report a crime to campus or local law enforcement;
5. The right to *not* report a crime to law enforcement or file criminal charges;
6. The right to simultaneously file both a criminal complaint with campus security or local law enforcement and an institutional Title IX complaint;
7. The right to assistance from SFCM officials with filing a criminal complaint if assistance is requested;
8. Informal and formal resolution;
9. Available health care, advocacy, academic support, mental health, legal assistance resources, and/or counseling services available both on and off campus;
10. Even if a Complainant asks SFCM not to take any action, SFCM may be obligated to investigate the complaint in circumstances in which SFCM has actual knowledge of a pattern of alleged sexual harassment by a respondent in a position of authority;
11. Prohibitions against retaliation;
12. Supportive measures that may be put in place, including a no-contact order pending the outcome of the investigation, providing support services, changing living arrangements or course schedules, assignments, or tests, and temporary removal of the Respondent from the campus community pending the outcome of an investigation; and
13. Options for avoiding contact with the respondent(s), including being allowed to change academic and extracurricular activities and living, transportation, dining, and working situations as appropriate.

**d. Initial Assessment**

After meeting with the complainant, the Title IX Coordinator or a designee will make an assessment concerning whether this policy applies to the alleged conduct. They will also make a determination concerning supportive measures.

**e. Supportive Measures**

1. "Supportive measures" are non-disciplinary, non-punitive individual

services offered to the complainant or respondent as appropriate, as reasonably available, and without fee or charge. before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment.

2. Supportive services include services such as counseling, extensions of deadlines or other course- related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. Determining appropriate services is the responsibility of the Title IX Coordinator. The Title IX Coordinator must consider the complainant's wishes, but SFCM retains discretion to determine what supportive measures are appropriate based on the unique circumstances of each request. the recipient must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

3. The following resources are available to SFCM students and/or employees:

- a. **Health and Wellness**

- i. **On Campus Counseling**

<https://sfc.edu/discover/campus-life/health-and-wellness/counseling-services>

[rawilliams@sfc.edu](mailto:rawilliams@sfc.edu)

(415) 503-6325

- ii. **Carbon Health**

<https://carbonhealth.com/>

All collegiate students receive a membership with Carbon Health, which provides high-quality, patient-centered primary and urgent care services with same-day/next-day appointments. Carbon Health also provides access to 24/7/365 virtual care by phone, email, and video conference. Carbon Health's services also include mental health, women's health, LGBT health, COVID care, and more.

- iii. **GoHealth Urgent Care**

<https://www.gohealthuc.com/>

415-746-1812

SFCM has partnered with GoHealth Urgent Care to provide easy, convenient access to health care for students, faculty, and staff.

**iv. SHIP Benefits**

812-360-2313

With its inclusive benefits and comprehensive coverage, the SFCM SHIP plan ensures that students have access essential healthcare services, including vision care, emergency assistance, preventive vaccines and mental health support. Additionally, the SFCM SHIP plan includes benefits such as telemedicine and telehealth services provided by HealthiestYu from Teladoc. All members have online access to licensed medical professionals 24/7 with no fees associated with the services.

**b. Other Supportive Services**

Housing Accommodations, On and Off Campus

Timothy Dunn

Associate Dean for Student Affairs

[tdunn@sfc.edu](mailto:tdunn@sfc.edu)

415-503-6281

**c. Outside Reporting & Crisis Support**

U.S. Department of Education, Office for Civil Rights  
(800) 421-3481 or [ocr@ed.gov](mailto:ocr@ed.gov).

San Francisco Women Against Rape (Legal), 415-861-2024

4. Supportive services are not provided for witnesses. SFCM has discretion to continue providing supportive measures to a complainant or respondent after a determination of no responsibility.
5. Supportive measures must be confidential unless maintaining confidentiality would impair SFCM's ability to provide them.
6. The Title IX Coordinator or designee will consider the appropriateness of supportive measures on an ongoing basis to ensure the well-being of the parties throughout the process. Long-term measures may include extending or making permanent any interim supportive measures or implementing additional measures tailored to achieve the goals of the Title IX policy. Many of the remedies a complainant might need after a finding of responsibility will have already been provided as supportive measures, including but not limited to academic accommodations, short-term counseling, and housing

arrangements. The Title IX Coordinator will, in all cases, consider whether there is a need for additional remedies. Additional remedies or supports may be included in the sanctions, such as reassignment or removal of the respondent from a class.

**f. Formal Complaint**

1. A formal Title IX complaint must be in writing, signed, and provided to the Title IX Coordinator. The signature may be physical or digital.
2. Complainants may file a formal complaint with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed for the Title IX Coordinator at: [momalley1@sfc.edu](mailto:momalley1@sfc.edu).
3. The formal complaint must include the following information, if known: the name(s) of the Respondent(s), the date of the alleged conduct, the location of the alleged conduct, and a description of the conduct as it relates to the prohibited conduct described above.
4. A formal complaint as a whole or sections of a formal complaint can be dismissed should the allegations within the formal complaint not meet the definition of sexual harassment or jurisdiction of Title IX as written in the policy. Should a dismissal occur, the Complainant or Respondent can appeal, in writing.
5. SFCM reserves the right to decide whether to withdraw a formal complaint or continue with an investigation of a violation of the Title IX policy where a respondent has withdrawn, transferred, or resigned from SFCM. If a respondent resigns during an investigation, the process may continue in their absence. If a student withdraws from SFCM while charges against the student are pending, readmission will be considered only after the charges have been resolved and to the extent that it is consistent with the hearing decision, including any sanctions.

**g. Emergency Removal**

Although it is not a supportive measure, Emergency Removal of a respondent is an option where a respondent poses an immediate threat to the physical health or safety of the complainant or anyone else. In that instance, they are subject to temporary emergency removal prior to the conclusion of the grievance process or where no grievance process is pending. An employee respondent who poses an immediate threat to the physical health or safety of the complainant or anyone else may be placed on administrative leave, paid or unpaid, while a grievance is pending. The Emergency Removal process imposes a high threshold to justify the emergency removal of a student or employee respondent from an education program or activity. However, SFCM recognizes that removal may be appropriate for the institution to avoid a deliberately indifferent response.

**h. Informal Resolution**

At any time after a formal complaint has been filed and before a hearing to reach a determination regarding responsibility, upon the parties' request and voluntary

agreement, SFCM may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that:

- a. The parties receive written notice of the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations;
  - b. The parties receive a written notice of the requirements of the informal resolution process;
  - c. The parties receive written notice that at any time before agreeing to a resolution, each has the right to withdraw from the informal resolution process and resume the grievance process, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared; and
  - d. The parties provide voluntary, written consent to the informal resolution process.
  - e. Informal resolution is not available to resolve allegations that an employee sexually harassed a student.
  - f. Supportive measures are available during the informal resolution process.
1. Procedure for Informal Resolution
    - a. Determine eligibility for informal resolution:
      - i. A formal complaint must have been filed.
      - ii. Both parties must voluntarily agree to the informal resolution process.
      - iii. Informal resolution is not permitted for allegations of an employee sexually harassing a student.
    - b. Provide written notice to the parties:
      - i. Disclose the allegations.
      - ii. Explain the requirements of the informal resolution process.
      - iii. Describe any consequences of participating in the informal resolution process.
      - iv. Inform parties of their right to withdraw from the process at any time prior to agreeing to a resolution.
    - c. Obtain voluntary, written consent from both parties to enter the informal resolution process
    - d. Assign a trained facilitator:
      - i. The facilitator should be free from conflicts of interest or bias.
      - ii. They should be trained in conducting informal resolutions for Title IX cases.
    - e. Conduct the informal resolution process
      - i. This may involve mediation, shuttle diplomacy, restorative justice practices, or other agreed-upon methods.
      - ii. Ensure the process is fair, voluntary, and conducted in a reasonably prompt timeframe.

- f. Reach a resolution or terminate the process
  - i. If a resolution is reached, document the agreement.
  - ii. If no resolution is reached, or if a party withdraws, return to the formal grievance process.
- g. Implement the resolution
  - i. Ensure all parties understand the terms of the resolution and their obligation to comply.

**i. Investigation**

Complaints under this policy will be investigated by an assigned investigator. Individualized supportive measures will be offered to the respondent and complainant before an investigation and while an investigation is pending.

**1. Notice of Investigation**

- a. Once a formal complaint has been filed with the Title IX Coordinator that may lead to disciplinary action against a responding party, a written Notice of Investigation must be provided to the respondent and the complainant.
- b. The written Notice of Investigation must include the following:
  - i. Notice of SFCM's grievance procedures, including the informal resolution process;
  - ii. A summary of the allegations of prohibited conduct. This will generally include the parties involved, the specific section(s) of the Title IX policy allegedly violated, and if available, the date and location of the incident.
  - iii. For sexual harassment complaints, a notice of the allegations potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. "Sufficient details" include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known.
  - iv. For sexual harassment complaints, notice to the parties that they may have an advisor of their choice, who may be, but is not required to be an attorney, and that they may inspect and review evidence as described in section (b)(5)(vi) of title 34, § 106.45. The written notice must inform the parties of any provision in the SFCM code of conduct that prohibits knowingly making false statements or knowingly submitting false information during an investigation or the grievance process.
  - v. The range of potential violations under the Title IX policy;
  - vi. On- and off-campus supportive resources;
  - vii. Rights of the respondent and complainant;
  - viii. Potential sanctions;
  - ix. Potential remedies;
  - x. Notice that suspension or expulsion is a potential sanction

and that expulsion precludes matriculation (where appropriate);

- xi. Notice that separation is a potential sanction (where appropriate); and
- xii. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- xiii. The investigation does not begin until the parties receive a Notice of investigation.

2. **Information for the Investigation.** The Title IX Investigator may collect and consider the following types of information:

- a. Statements by the complainant and respondent about the alleged incident(s);
- b. Statements by witnesses to the alleged incident(s);
- c. Statements or reports from expert witnesses;
- d. Evidence about the credibility of the complainant and respondent;
- e. Evidence that the alleged harasser has been found to have harassed other victims;
- f. Evidence that the complainant has made false allegations against other individuals;
- g. Evidence as to the complainant's reaction or behavior after the alleged harassment or other misconduct;
- h. Evidence as to whether the complainant filed a complaint or took other action to protest the conduct soon after the incident occurred; and
- i. Other evidence of the harassment (e.g., reporting conduct to parents, counselors, or friends, or medical records.
- j. The fact of a current or previous consensual dating or sexual relationship between the parties will not imply consent or preclude a finding of sexual violence.

3. **Evidentiary/fact Relevance Determinations.** The Title IX Investigator has broad discretion in determining whether a proffered witness or documentary information would be relevant or helpful to a determination.

4. **Evidentiary Standard.** A "preponderance of the evidence" standard will be used to determine whether there was a policy violation.

5. **Presumption that the Respondent is not responsible.** The respondent is presumed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

6. **Cooperation.** Complainant, Respondent, & Witnesses, including faculty, staff, volunteers, vendors, contractors, and students are encouraged but cannot be compelled to cooperate in the investigation process. Complainant, Respondent, & Witnesses are protected from retaliation for participating in or refusing to participate in the investigation.

7. **Pending Criminal Matters.** The internal investigation will proceed whether a related criminal matter is pending or not. If there is an ongoing criminal investigation, SFCM will *not* wait for the conclusion of the criminal

investigation or criminal proceeding to begin its own Title IX investigation. However, SFCM may temporarily delay the fact-finding portion of a Title IX investigation while the police or other law enforcement officials are gathering evidence.

**8. Conducting the Investigation.**

- a. The investigation is designed to provide a fair and reliable gathering of the facts by a trained and impartial investigator. All individuals, including the complainant, the respondent, and any third-party witnesses, will be treated with respect throughout the investigation. The investigation will safeguard the privacy of the individuals involved in a manner consistent with federal law and SFCM policy.
- b. SFCM will provide an equal opportunity for the parties to identify witnesses, including fact and expert witnesses, and provide inculpatory and exculpatory evidence. SFCM will not restrict the ability of any party to gather and present relevant evidence.
- c. During the investigation, the complainant and the respondent each have the right to have an advisor of their choice present during interviews and other meetings. The investigator will gather or receive information that is relevant to the determination of an appropriate sanction or remedy, including information about the impact of the alleged conduct on the parties. The investigator will also gather evidence, including seeking prior statements by parties or witnesses, any communications between the parties, email messages, social media materials, text messages, audio or video recordings, and other records as available and feasible.
- d. The investigator must perform an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence
- e. The investigator has discretion to determine the relevance of any witness statement or other evidence to the finding of responsibility and may exclude information if the investigator determines that the information is irrelevant. The investigator may also exclude statements of personal opinion by witnesses and statements as to general reputation for any character trait, including honesty.

**9. Timing of the Investigation**

- a. SFCM will seek to conclude the investigation within ninety (90) business days after the issuance of the Notice of Investigation, exclusive of weekends, holidays, breaks, and other institutional closures. The time frame for completion of the investigation, or any designated time frames of steps in the investigation, may be extended for good cause.
- b. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.
- c. Temporary delay of the grievance process or limited extension of time frames for good cause requires written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement

activity; or the need for language assistance or accommodation of disabilities.

**10. Review, feedback, and finalization of the investigation report**

- a. Before the completion of the investigative report, the investigator will send to each party and the party's advisor, if any, the evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the recipient does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source in an electronic format.
- b. The parties will have 10 business days to submit a written response that the investigator will consider before completion of the investigative report;
- c. All evidence that is subject to the parties' inspection and review must be available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for cross-examination;
- d. The Title IX Investigator may redact portions of the Final Investigative Report that is not directly related to the allegations (or that is otherwise barred from use under § 106.45, such as information protected by a legally recognized privilege, or a party's treatment records if the party has not given written consent) contained within documents or other evidence that are directly related to the allegations, before sending the evidence to the parties for inspection and review.

**11. Final Investigation Report**

- a. The Final Investigation Report must state whether, for each allegation, there is sufficient evidence to proceed to a hearing to determine whether the respondent is responsible for violating the Title IX policy.
- b. The Title IX Coordinator will provide a link for secure review of the Final Investigative Report to both parties concurrently, as well as notice of whether the allegations constitute sexual harassment and will be referred for a hearing. A live hearing with cross-examination is required as part of the grievance process. As a precondition to receiving the Final Investigation Report, all parties and their respective advisors must sign and agree to comply with a non-disclosure agreement.
- c. The Final Investigation Report must be completed at least ten (10) days before a hearing if a hearing is required under this section.
- d. Any allegations that, even if true, do not comport with the definition of sexual harassment must be dismissed through the Title IX Policy, but may be pursued independently as violations of other SFCM disciplinary policies or conduct codes.

**j. Hearing**

1. **Hearing Procedure.** If allegations are referred for a hearing, they may be heard by a hearing officer or decisionmaker. The decisionmaker's role is: (i)

to determine whether the preponderance of the evidence establishes that a violation of SFCM's Title IX policy occurred, and if so, (ii) to determine what sanction is warranted.

2. **Decisionmaker.** After issuing a Notice of Hearing, the Title IX Coordinator or designee will designate one decisionmaker. The decisionmaker cannot be the same person as the Title IX Coordinator or the investigator(s). Any individual who serves as a decisionmaker must have all training required to serve in this capacity, including training on relevance. A decisionmaker shall not participate if they have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. The decisionmaker will consider the facts presented, applicable Title IX policies and procedures, and the range of available sanctions, use a preponderance of the evidence standard, and draft a determination that separately addresses each allegation and states whether the respondent is or is not responsible for a policy violation.
3. **Pre-Hearing Meeting.** The first step in the Hearing Process will be separate meetings with the Title IX Coordinator and/or the decisionmaker and each party and their advisor to resolve any pre-hearing concerns. At this pre-hearing meeting, the parties will each have the opportunity to identify the witnesses (who have already been identified and interviewed by the Investigator) they wish to call at the hearing; and identify any new information that was not provided during the investigation due to not being available through the exercise of due diligence. The parties will also have the opportunity to address questions about the process. If the complainant is not participating in the hearing, they are not required to attend this meeting. The Title IX Coordinator, or designee will also notify the complainant that they may make an impact statement following a determination of responsibility.

Any party needing disability accommodations shall request it at this meeting. If a complainant has a disability accommodation in place, they should request that the Associate Dean for Student Affairs and Section 504 Coordinator be involved.

Both parties can object to the decisionmaker based on an actual conflict of interest, bias, or lack of impartiality. The request must be submitted in writing, raised no later than the date of the pre-hearing meeting, and clearly state the grounds to support a claim of bias, conflict of interest, or an inability to be fair and impartial. Failure to object before the date of the pre-hearing meeting eliminates the possibility of appealing the outcome of the

hearing based on the assertion that the decisionmaker had a conflict of interest, was biased, or lacked impartiality.

4. **Hearing Process.** The hearing will be conducted in accordance with the procedures outlined below.
  - a. Closed session. The hearing shall take place in a closed session. The decisionmaker will determine whether the preponderance of the evidence establishes a Title IX policy violation occurred. In reaching a determination, the decisionmaker(s) may solicit information from the Investigator, the complainant, the respondent, and any witness(es). This information shall be provided in the presence of the parties unless a party waives their right to participate. Absent good cause, failure to appear at the hearing will be deemed a waiver of attendance.
  - b. Advisor. The complainant and the respondent have the right to have an advisor of their choice present during the hearing, at their own expense. The advisor, who may be an attorney, may privately consult with and advise the party and cross-examine the other party witnesses. An advisor who becomes disruptive or does not abide by the limitations on their participation may be removed.
  - c. Providing an advisor to parties who do not have one. At the hearing, a party must have an advisor to conduct cross-examination. Parties can select their own advisor, who can be a lawyer. If a party does not have an advisor, the institution must provide one. In selecting an advisor, the institution does not have to find someone who is aligned with the interests of the party, but the advisor cannot be biased, must be trained, and must be provided at no cost.
  - d. Witnesses. The complainant and the respondent, as well as the decisionmaker, have the right to request the attendance of witnesses who were interviewed by the investigator. Each party must provide a list of potential hearing witnesses and the reason for the request of the witness to attend to the Title IX Coordinator and/or the decisionmaker no later than the pre-hearing meeting to allow the requested witnesses to be contacted, and notified, and to make any schedule or other changes necessary to attend the hearing. The Title IX Coordinator or a designee will provide the confirmed witness list to the decisionmakers. Character witnesses will not be permitted. SFCM cannot compel the attendance of any witness. If a witness or party does not attend, the hearing may proceed without them.
  - e. Evidence. All evidence each party wishes to be considered should have been presented to the investigator during the investigation process. If evidence was not provided to the investigator during the

investigation process, the presentation of such evidence during the hearing generally will only be allowed based on new information not known during the investigation process. All materials the complainant or respondent wants to be considered at the hearing must be submitted to the Title IX Coordinator or a designee at least four (4) business days before the hearing. The presentation of education records shall be consistent with FERPA or any other privilege, legal requirement, or regulation governing disclosure of education records. Any materials submitted fewer than four (4) business days before the hearing will not be considered.

- f. The complainant and respondent may appear before the decisionmaker if they wish and make an oral statement regarding the facts. The complainant may also make an impact statement following a determination of responsibility. Each party's advisor can cross-examine the other party and examine and cross-examine any witnesses directly, orally, and in real time. Cross-examination is limited to relevant questions, including questions related to credibility. The decisionmaker(s) must decide whether a question is relevant before it is answered and must explain any decision to bar a question as irrelevant.
- g. Questioning of parties and witnesses will be conducted through the parties' advisors, and both the complainant and respondent advisors will be permitted to ask any relevant questions of the other party and any witnesses. A party shall not question or cross-examine another party directly.
- h. The decisionmaker will determine the relevancy of all questions presented, and, if they are deemed relevant, will pose those questions to the other party. The decisionmaker has discretion to modify the wording of any proposed question. The decisionmakers may also independently question the parties, witnesses, and/or investigator to elicit relevant information.
- i. Separation of the Parties/Remote Attendance. The institution will provide for the entire hearing to be conducted remotely, with the parties able to see and hear each other in real time.
- j. Recording. SFCM must record all hearings, even if the hearing is in person. Except for an approved reasonable disability accommodation, a respondent, complainant, advisor, and/or witness may not bring electronic devices that capture or facilitate communication (e.g., computer, cell phone, audio/video recorder, etc.) into a hearing room. The Title IX Coordinator will make a transcript of the hearing to be kept on file per SFCM's document

retention policy. Reasonable care will be taken to create a quality transcript and minimize translation problems; however, technical problems that result in inaudible sections will not be a valid argument for appeal.

**5. Determination regarding responsibility (Notice of Hearing Outcome)**

After consideration of all of the relevant information, the decisionmaker will decide whether the preponderance of the evidence establishes a Title IX policy violation. If the decisionmaker determines that a violation occurred, sanction(s) will be imposed. The decisionmaker must issue a written determination (Notice of Hearing Outcome) regarding responsibility.

The Notice of Hearing Outcome must include:

- a. Identification of the allegations potentially constituting sexual harassment as defined in § 106.30;
  - b. The procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with the parties, and witnesses, site visits, methods used to gather other evidence, and hearings held;
  - c. For each allegation, findings of fact supporting the determination;
  - d. Conclusions regarding application of any applicable Title IX policy provisions to the facts;
  - e. For each allegation, a statement of, and rationale for, the result, including a determination regarding responsibility, any disciplinary sanctions the recipient imposes on the respondent, and whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the recipient to the complainant; and
  - f. The procedures and permissible bases for the complainant and respondent to appeal.
  - g. The Notice of Hearing Outcome will be provided to the complainant and the respondent concurrently.
  - h. The complainant and respondent are responsible for providing an email address that the Title IX Coordinator will use to notify them that a decision has been reached and the specifics of the decision.
6. **Impact Statement.** The decisionmaker will not receive an impact statement or impact information until after a determination of a finding of Title IX policy violation is made.
7. **Sanctions.** In determining appropriate sanctions, the decisionmaker may solicit information from the complainant, the respondent, and any other individual who can provide information relevant to a determination regarding potential sanctions. Sanctions are designed to eliminate prohibited conduct

under the Title IX policy, prevent its recurrence, and remedy its effects. Sanctions may include educational, restorative, rehabilitative, and punitive components. Some behavior is so egregious, harmful to the individuals involved, or so deleterious to the educational process that it requires severe sanctions, including suspension or expulsion from SFCM

When determining sanctions, the decisionmaker(s) shall consider the following factors:

- a. The nature of the conduct at issue;
- b. The impact of the conduct on the complainant;
- c. The impact or implications of the conduct on the community or SFCM;
- d. Prior misconduct by the respondent, including the respondent's relevant prior discipline history;
- e. Maintenance of a safe and respectful environment conducive to learning; and
- f. Any other mitigating, aggravating, or compelling circumstances to reach a just and appropriate resolution in each case.
- g. The decisionmaker may also consider restorative outcomes that allow a respondent to develop insight into their responsibility for the behavior, learn about the impact of the behavior on the complainant, and identify how to prevent or change the behavior.

Sanctions may be imposed individually or in combination and include the following:

- h. Expulsion. This means the student is removed from SFCM permanently and may not seek readmission.
- i. Suspension. Suspension can be for a definite or indefinite period. This means the student must leave SFCM for a definite or indefinite period. This form of suspension anticipates that the student may eventually return if applicable conditions are satisfied.
- j. Probation. Probation can be for a definite or indefinite period. This means the student is not in good standing for a definite or indefinite period and may remain at SFCM but may be required to satisfy conditions or requirements.
- k. Change of studio.
- l. Music probation.
- m. Removal from ensembles and programs.
- n. Educational Requirements (students only). Completion of projects, programs, or requirements designed to help a student respondent manage behavior and understand why it was inappropriate.



appeal, the appeal documents from each party will be considered together in one appeal review process.

The Appeals Officer has discretion to meet separately with the respondent and the complainant. The Appeals Officer may agree with the determination, disagree with the determination, or request additional information. If the Appeals Officer determines additional information is needed before they can make a decision, the Title IX Coordinator will assist in obtaining any necessary additional information.

The Appeals Officer will issue a written decision to both parties concurrently within ten (10) business days of receipt of the request for review. This timeframe may be extended for good cause. In this instance the delay and the reason for the delay should be communicated to the parties in writing. The decision of the Appeals Officer will be final and not subject to further appeal.

The imposition of sanctions pursuant to a Notice of Final Outcome shall be stayed during an appeal unless a respondent poses an immediate threat to the physical health or safety of the complainant or anyone else. In this instance, the respondent is subject to temporary emergency removal or placement on administrative leave prior to the conclusion of a grievance process.

## II. Prohibition on Retaliation

Retaliation against a student, employee, or other individual who reports or complains about sex discrimination to an appropriate school official or participates in a report, investigation or proceeding involving a claim or allegation under this policy because he or she made a complaint, testified, or participated in an investigation or proceedings is prohibited. Retaliation will be addressed in accordance with the Equal Employment Opportunity, Sexual, Gender, and Other Unlawful Harassment and Whistleblower Protection Policy.